

Homes and Neighbourhoods
222 Upper Street, N1 1XR

Report of: Corporate Director of Homes and Neighbourhoods

Date: 11th October 2022

Ward(s): All

Subject: Contract award for: Water systems (legionella control) monitoring, testing, servicing and associated remedial works.

1. Synopsis

- 1.1. This report seeks approval for the contract award for Water systems (legionella control) monitoring, testing, servicing and associated remedial works.
- 1.2. This contract is to deliver a planned testing and servicing of mechanical and engineering installations comprising of water systems for the control and prevention of legionella. The service will include planned sampling and testing, cleaning and disinfecting of water tanks and preventative and remedial maintenance works. The remedial works may also include tank replacements, conversions to mains water systems and alterations to existing pipework. The resulting contract will be made available to other council departments who will be able to access the services from it.

2. Recommendation

- 2.1. To award the contract to HSL Compliance Limited for an initial term of 48 (forty- eight) months with the option to extend for a further two periods of up to of 36 (thirty-six) months each. Any extension will be subject to satisfactory performance and available funding.

3. Date the decision is to be taken

- 3.1. 11 October 2022.

4. Background

4.1. Nature of the service

- 4.1.1. The council provides water sampling, testing, monitoring and servicing to approximate 1142 communal tanks located in 415 residential sites, 47 community centres, 7 Tenant and Resident Association offices, 6 concierge offices, 10 Boiler rooms, 3 reception centres and 113 caretaker's lodges. The existing housing stock comprises of approximately 23,700 rented and 9,246 leaseholder units. New build projects will be added to the programme throughout the contract therefore the workload will likely increase.
- 4.1.2. Housing Property Services has a directly employed in-house Cyclical Testing team responsible for ensuring the council meets its regulatory obligations with regards to water management and the control of legionella. The in-house Cyclical Testing team require additional support from an external contractor to undertake the specialist testing service, monitoring and remedial works which we cannot do in-house as this is a specialised area requiring specialist services and equipment such as the services of a water testing centre and testing equipment.
- 4.1.3. The existing contract with our existing provider HSL Compliance Limited is due to end 31 May 2023.
- 4.1.4. On 10 February 2022, Executive agreed the procurement strategy for this tender exercise. The Executive also agreed to delegate authority for the award of contract following completion of the tender exercise to the Corporate Director of Homes and Neighbourhoods following consultation with the Lead Member for Housing and Development.

4.2. Estimated value

- 4.2.1. This contract will be funded from an existing budget for Water Management from the Housing Revenue Account (HRA). Other departments in the council accessing this service will need to find funding from their own internal budgets.
- 4.2.2. The estimated total value of this contract is £4,550,000 (£455,000 per annum) based on a maximum contract term of 120 months. The estimated annual spend is broken down to £223,000 for testing and Risk Assessments and £232,000 for remedial works.

4.3. Timetable

- 4.3.1. The new contract will start 1 June 2023.

4.3.2. Once this decision is taken and the contract is awarded, we anticipate a two (2) month mobilisation period will commence.

4.3.3. The council has consulted with leaseholders in accordance with the Landlord and Tenant Act

4.4. **Options appraisal**

4.4.1. The following options were considered to determine the most appropriate procurement route for this contract: insource the service; procure via a competitive tender; a direct call-off from an existing framework agreement; collaboration with a neighbouring borough; or using an existing repairs contractor.

4.4.2. An appraisal of each of these options was included in the procurement strategy report that went to the Executive on 10 February 2022.

4.4.3. Part of the service has already been brought in-house, however due to the specialist nature of the work it is not currently possible to insource the entire service. The limitations of the alternative options meant that to carry out a competitive tender was the recommended route. Based on the market knowledge and a limited number of companies offering the required service, it was expected that only a small number of organisations would respond. Therefore, a competitive tender using the open procedure was chosen as the procurement route that would generate the best result.

4.5. **Key Considerations**

4.5.1. Social value (SV) was allocated a weighting of 20% of the award criteria.

4.5.2. The social value offers of contractors formed a significant proportion of the tender evaluation. This offer will be a contractual obligation for the successful provider. Their performance will be monitored at regular contract meetings and will be a consideration in any decision on contract extension. Expectations will include to take on one apprentice water process operative giving them training specifically in the water waste management sector and a total of three apprentices over the full period of the contract.

4.5.3. The bidder has proposed to reduce their carbon footprint by introducing low emission and electric vehicles. Their vehicles have trackers which manage fuel composition and consumption, driver skills and performance monitoring. They are trialling a system to inform the driver on how efficiently they are driving. The driver learns how to get the best from their vehicle and intuitively drives in a more fuel

economic manner. Overall, this will help lower CO2 emissions which will work in tandem with the bidder's system which schedules visits using local engineers and attempting to plan routes minimizing the miles travelled for each individual daily. The bidder also proposed recycling to minimise printing needs, and use of electronic PDAs rather than paper.

4.5.4. London Living Wage is included as a condition of the contract.

4.5.5. There are no TUPE implications resulting from this contract.

4.6. **Evaluation**

4.6.1. The tender was conducted using the Open Procedure. The tender was 'open' to all organisations who expressed an interest. The procedure included minimum requirements organisations had to meet before the rest of their tender was evaluated.

4.6.2. The Council's award decision was made based on the most economically advantageous tender (MEAT). MEAT was identified using 40% cost and 60% quality, of which 20% was social value.

4.6.3. The quality criteria were assessed by evaluating the following:

- 10% Proposed approach to managing the delivery of services according to contractual priorities with appropriate resourcing.
- 10% Proposed approach to ensuring value for money, with consideration to both cost and quality of work delivered.
- 10% Proposed approach to health and safety in the work environment including compliance with current legislation
- 10% Proposed approach to customer service (including managing customer expectations) and equality.
- 20% Proposed approach to social value including promoting opportunities for Islington residents and reducing carbon footprint.

4.6.4. We had received nine submissions in which two companies passed the suitability assessment section and had their method statements evaluated.

4.6.5. The winning organisation HSL Compliance Limited achieved an overall score of 80%.

4.7. **Business risks**

- 4.7.1. Islington Council is required to undertake water testing under Approved Code of Practice and guidance (ACOP) L8, 'The Control of Legionella Bacteria in Water Systems, HSG274 part 2, 'The Control of Legionella Bacteria in Hot and Cold-Water Systems and HSG274 Part 3 'The control of Legionella in other Risk Systems. This includes the monitoring and testing of residential locations, community centres and reception centres.
- 4.7.2. Residents are reliant on the council in ensuring that their water supply is safe and free from dangerous contagions and contamination. Failure by the council to discharge its responsibility could result adversely on residents resulting in serious health and safety implications and reputational risk to the council. Leaseholders pay service charges for relevant monitoring, testing and servicing and expect that works will be carried out effectively and efficiently.
- 4.7.3. These risks can be mitigated by ensuring this contract is concluded within the given timescales.
- 4.7.4. The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

5. Implications

5.1. **Financial Implications**

- 5.1.1. The annual value of the contract is estimated at £455k per year (£223k for water testing and servicing and £232k for water remedial works). As the contract is not an annually fixed priced contract, actual costs incurred each year may vary and is dependent on demand and the need for the service.
- 5.1.2. The contract would be awarded on an initial term of 48 (forty-eight) months with the option to extend for a further two periods of up to of 36 (thirty-six) months each, a maximum term of 10 years. Any extension will be subject to satisfactory performance and available funding.
- 5.1.3. Housing Water Systems monitoring, testing, servicing and associated remedial works are delivered through the repairs and maintenance service and has a budget allocation

of £307k per year (2022-23). In addition, as part of the re-integration of PFI 2 street properties to council management, a further £6.439m was provided to the repairs and maintenance service to meet the additional demand for servicing street properties. It is expected that Water systems (legionella control) monitoring, testing, servicing and associated remedial works cost will be met from both these budgets and thus should not create a pressure to the HRA.

- 5.1.4. To note, the contract would be subject to an annual inflationary uplift equal to the published CPI figure for the month prior to the contract anniversary date. Inflation rates are currently high and there is a risk that they could remain high for an extended period. Should it transpire, this is likely to cause a budgetary pressure to the service. It is expected that any future pressures will be managed from existing budget allocations for repairs and maintenance. This will need to be monitored closely to ensure appropriate management can be taken to manage risk arising.

5.2. **Legal Implications**

- 5.2.1. This report recommends a contract award for water systems works to HSL Compliance Limited for an initial term of 48 (forty-eight) months with the option to extend for a further two periods of up to of 36 (thirty-six) months each. Any extension will be subject to satisfactory performance and available funding.
- 5.2.2. The Council has regulatory obligations regarding water management and the control of legionella.
- 5.2.3. The council has power to carry out this work under section 111 of the Local Government Act 1972 which enables the council to carry out any activity that is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council has power to enter into such contracts under section 1 of the Local Government (Contracts) Act 1997.
- 5.2.4. The estimated value of the contract is £4,550,000 over 10 years, comprising an initial term of four years with the option to extend for a further two periods of up to three years each. The threshold for application of the Public Contracts Regulations 2015 (the Regulations) is currently £4,733,252 for works contracts. Contracts below this value do not need to be advertised in Find A Tender. However, such contracts need to be procured with due regard to the principles of equal treatment, non-discrimination and transparency that underpin the Regulations. The Council's Procurement Rules also require contracts over the value of £181,302 to be subject to a formal competitive tender process.

- 5.2.5. The procurement route used to procure the service was a competitive open tender process, which was in compliance with the principles underpinning the Regulations and the Council's Procurement Rules.
- 5.2.6. On 10th February 2022 the Executive decided that the procurement strategy be approved as outlined in the Corporate Director's Procurement Strategy Report and the Executive delegated authority to award the contract to the Corporate Director of Homes & Neighbourhoods following consultation with the Executive Member for Housing and Development. The contract may be awarded to the highest scoring tenderer subject to the tender providing value for money for the council.
- 5.2.7. NOTE: The proposed procurement is for a period in excess of 12 months and therefore will be a qualifying long-term agreement under section 20 of the Landlord and Tenant Act 1985. Accordingly, the Council will need to comply with the leaseholder consultation requirements applicable to long term qualifying agreements set out in the Service Charges (Consultation Requirements) (England) Regulations 2003 (as amended).

5.3. Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

- 5.3.1. The contract stipulates that the supplier will mitigate the impact on the environment, adhere to all appropriate legislation and follows the requirement of the Council's Housing Health Safety and Environmental Code of Conduct for Contractors.
- 5.3.2. The contractor must minimise the use of water, chemicals and materials, recycle waste where possible, and ensure that any waste disposal is done legally. In addition, the supplier will have to store, use and dispose of any chemicals following the manufacturer's guidelines and, where possible, use recycled or sustainably produced materials.
- 5.3.3. The contractors will be asked to source goods from sustainable sources and with recyclable packaging and ensure materials/equipment used is recyclable and repairable (including returning waste parts to suppliers). Ensuring any electrical equipment replaced is more energy efficient where possible. The contractor is also legally required to protect any roosting bats and nesting birds they encounter.
- 5.3.4. The contractor will also be encouraged to use low or zero-emission vehicles and install energy-saving replacement parts where possible and compatible.

5.4. **Equalities Impact Assessment**

- 5.4.1. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.
- 5.4.2. An Equalities Impact Assessment was completed on 9 December 2021. The main findings are it is anticipated that the delivery of the service will have neutral impact on any persons with the protected characteristics group and will benefit everyone.
- 5.4.3. The full Equalities Impact Assessment is appended.

6. **Conclusion and reasons for the decision**

- 6.1. Islington Council is required to ensure that adequate control measures, thorough identification and assessment of all potential sources of legionella are in place to minimise the risk of legionella and to ensure the safety of our residents and visitors as part of the regulatory requirements of ACOP L8.
- 6.2. Entering a contract with HSL Compliance Limited will ensure the delivery of planned testing and servicing of the mechanical and engineering installations comprising of water systems for the control and prevention of legionella are provided.

7. **Record of the decision**

- 7.1. The procurement strategy report has been reviewed and approved by the Executive Members.
- 7.2. I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Signed by:

Corporate Director of Homes and Neighbourhoods

Date:

Appendices:

Appendix 1: EQIA - Equalities Impact Assessment

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