

Community Wealth Building
Islington Town Hall
London N1 2UD

Report of: Corporate Director of Community Wealth Building

Date: 19 April 2023

Ward(s): Arsenal, Finsbury Park, Highbury, Mildmay, St Mary's & St James', St Peter's & Canalside

Subject: Procurement Strategy for Replacement of Automated Public Conveniences

1. Synopsis

- 1.1. The Community Wealth Building (CWB) directorate within Islington Council is seeking to appoint a specialist contractor for the supply, installation, cleaning, and operation of seven automated public conveniences (APCs), located around the borough.
- 1.2. A condition survey carried out on all seven APCs in the borough advised they are either in need of urgent repairs or they must be decommissioned.
- 1.3. This work forms part of the Council's wider accessible public toilets strategy. The Council wants all residents and visitors to fully benefit from all our borough has to offer. It is therefore essential that essential facilities across our borough is accessible and inclusive. The provision of a comprehensive network of accessible toilets is key to this ambition.
- 1.4. This strategy brings together planned work to modernise our existing public toilets and better publicise other facilities, external funding for Changing Places facilities, and a business engagement strategy, into an integrated programme to deliver a network of accessible toilets and facilities across the borough.

2. Recommendation

- 2.1. To approve the procurement strategy for design, build and operate services for the replacement and ongoing maintenance and cleaning of seven APCs, as outlined in this report, in accordance with Procurement Rule 2.8.

3. Date the decision is to be taken

- 3.1. 28 April 2023.

4. Background

4.1. Nature of the service

- 4.1.1. This contract relates to the supply, installation, cleaning, and operation of seven APCs, including removal of existing prefabricated toilet pods. The APCs are part of the public toilet provision of the Council, along with the more traditionally built public toilet blocks that are found in parks, markets, and other public areas managed and owned by the Council.
- 4.1.2. The condition surveys completed in April 2022 found that all the existing APCs in need of urgent repairs or they must be decommissioned. Five of the seven APC models being replaced are dated pre 2000s and do not meet current accessibility standards. Due to the age of the existing APCs, replacement parts are hard to find, consequently becoming more challenging to maintain.
- 4.1.3. Maintenance needs mean the APCs work intermittently, do not provide a reliable service and may pose risks to users e.g. from malfunctioning automated doors. The new APCs will reduce the risk of recurring maintenance issues.
- 4.1.4. The new APCs will be compliant with accessibility standards and regulations, such as the Approved document M2 of the Building Regulations. The existing APCs at Newington Green and Islington Green are below the minimum width of those regulations. Replacement APCs will be more accessible to people with disabilities, those with prams etc.
- 4.1.5. Replacement of the APCs is more cost effective than refurbishment of the existing APCs. The indicative cost for refurbishing each APC is £94,000. The estimated cost for replacement is £74,000, excluding transportation and landscaping.
- 4.1.6. Replacement of the APCs can be completed in the fastest possible timeframe, as the existing APCs can be lifted and removed for disposal, whilst the new APCs will be built off-site, delivered and installed.

4.1.7. Pre-planning applications have been submitted in January 2023 for the APC sites which require planning approvals.

4.2. **Estimated value**

4.2.1. The total estimated project budget for the capital works to replace the APCs and for their ongoing maintenance and servicing for a full five-year contract term is £1,270,000.

4.2.2. The main source of funding for this project will come from the Council's Corporate Landlord capital budget.

4.2.3. A contribution of about £50,000 is from the Government's Department for Levelling Up, Housing and Communities (DLUHC) grant for the provision of a changing place at Islington Green for people with enhanced accessibility needs.

4.2.4. The costs for the purchase, installation and associated construction works for the seven APCs, including additional design costs for planning purposes, consultants' fees and project contingency is estimated to be £970,000.

4.2.5. Construction works are scheduled to start in August 2023, with the last location projected to be completed in October 2023. The APCs will be delivered and handed over singularly, as soon as they are completed.

4.2.6. The contract will be for an initial term of three years with the option to extend for two further 12month periods.

4.2.7. In addition to the supply and installation of the new APCs during year one, the contract will include provision for the ongoing maintenance and servicing of the APCs for the remainder of the contract. The costs for the ongoing maintenance and servicing of the APCs are estimated to be in line with the costs of the current provision, which amount to £60,000 per year. This totals £300,000 for the five years of the full contract term.

4.2.8. Whilst operational costs will remain the same, the service will improve with more of the APCs working reliably. Routine maintenance and daily cleaning will be in line with current arrangements. However, savings are expected from the reduced additional maintenance from the condition of the APCs.

4.2.9. Currently, users of the APCs are charged a small amount (presently 20p) per use of the facilities. The existing service provider is contracted to collect and bank this cash. The collected cash is not returned to the Council. The cash is retained by

the service provider covering their costs for undertaking this duty, and this income is taken into account as part of determining contract value. It is not proposed to change this arrangement under the new contract. The new supplier will be required to advise the council of the cash collected through an open book arrangement. An appropriate gain share of the receipts will be considered in negotiation with the supplier.

4.3. **Timetable**

4.3.1. Maintenance and servicing arrangements for the APCs are in place until the new contract commences.

4.3.2. The indicative timetable is:

- Procurement Strategy April 2023
- Planning approvals May 2023
- Publication of tender May 2023
- Contract Award June 2023
- Works to start on site August 2023
- All ACPs completed October 2023

4.3.3 The Council has taken various proactive steps to engage local businesses around the importance of access to toilets and to encourage them to sign-up to the Toilets4London mobile phone app. The Toilets4London app is an independent service which can be used by members of the public to let them know where they can access local toilet facilities. A number of local businesses have signed and the Council will continue to encourage this.

4.4. **Options appraisal**

4.4.1. In-house delivery of the APCs is not possible, as the Council does not have capacity nor the expertise to refurbish or build the APCs. Technical specifications and functioning of the prefabricated APCs are very specific to each manufacturer. Maintenance is undertaken directly by the manufacturers or their approved maintenance providers, specific to the manufacturer's products.

4.4.2. It has not been possible to directly collaborate with other boroughs due to time constraints. However, we have reviewed collaboration through external framework agreements. A suitable framework agreement for this specific need could not be identified. Manufacturers in the APC industry are generally small-medium enterprises. Known maintenance suppliers confirmed they do not provide services via a framework agreement.

4.4.3. In terms of possible procurement routes, we have considered either going to tender using either an open or restricted procedure:

- the open procedure will help to ensure that we receive as many tender returns as we can because all who applies will be invited to submit a bid. This is beneficial as the number of suppliers providing the services in scope is very limited, with just a handful operating in London.
- the restricted procedure would include an application followed by a limited invitation to tender. The market for the APCs is highly specialised. The restricted procedure would take longer to procure. An open tender is likely to attract a manageable number of tender returns in a shorter timeframe.

4.5. **Key Considerations**

4.5.1. New APCs will restore a valuable service to the community. An APC at Islington Green will be upgraded to include a changing place for people with advanced accessibility needs. In addition to the current arrangements, the new APCs will also include showerheads for the WC pans, to address menstruation and religious needs.

4.5.2. The London Living wage will apply to this contract.

4.5.3. Sustainability principles, such as use of responsibly sourced materials, and reuse and recycling of construction materials will be part of the quality requirement.

4.5.4. Bidders will be encouraged to employ or commit to employ local residents for the maintenance and servicing of the units as part of the quality evaluation.

4.5.5. There are no TUPE, Pensions, and staffing implications. Contractor's staff delivering current arrangements are not specifically assigned to one council.

4.6. **Evaluation**

4.6.1 The tender will be conducted in one stage, known as the Open Procedure, as the tender is 'open' to all organisations who express an interest. The Open Procedure includes minimum requirements which organisations must meet before the rest of their tender is evaluated.

4.6.2 Award criteria will be a combination of 50% price and 50% quality.

4.6.3 The 50% price criteria will include the costs for the construction works, the maintenance and servicing.

4.6.4 The 50% quality criteria will be broken down as follows:

- 10% for proposed approach for mobilising and delivering the works
- 10% for proposed approach to aesthetics in relation to the design solution being able to fulfil planning requirements
- 10% for proposed approach to maintenance and cleaning regimes
- 20% for proposed approach to social value (including energy and water usage performance, waste disposal, reuse and recycling practices, employment of local people).

4.7. **Business risks**

4.7.1 Some APCs require planning approval due to being located in conservation areas, which can create construction delay, redesign and additional cost. The Council has sought to mitigate planning stage risks by submitting a pre-planning application for all sites. If any of the planning applications required are delayed needing committee approval, works can be re-arranged and the sites that will have obtained planning permission first will be prioritised. Contingency funding is included in the project budget should delays result in additional costs.

4.7.2 In terms of procurement, there is a low risk of not receiving any tender return through the open procedure. Our market research demonstrates there is active interest in a potential tender. Should we not receive any tenders we will review and retender as soon as possible to minimise any delay. Should any successful bidder pull out in advance of the decision, we will consider the next suitable bidder. In the event no bidder is suitable, we will review and potentially retender or consider alternative options.

4.7.3 Regarding operational risks, there is a chance the performance of the supplier might not meet expected standards. This will be mitigated by having regular contract monitoring meetings with the supplier to resolve any concerns linked to their delivery of the contract.

4.8. 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.

4.9. The following relevant information is required to be specifically approved in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1. Nature of the service	<p>Contract for the supply, installation, refurbishment, cleaning, and operation of seven APCs.</p> <p>See paragraph 3.2 & 4.1</p>
2. Estimated value	<p>£1,270,000 for capital works, 5 years maintenance and cleaning service contract.</p> <p>See paragraph 4.2</p>
3. Timetable	<p>As outlined within the report. All work scheduled to be completed during 2023.</p> <p>See paragraph 4.3</p>
4. Options appraisal	<p>As outlined within the report. A competitive tender using the open procedure is recommended.</p> <p>See paragraph 4.4</p>
<p>5. Consideration of:</p> <ul style="list-style-type: none"> • Social benefit clauses. • London Living Wage. • Best value. • TUPE, pensions and other staffing implications 	<p>The details of the considered items are included within the body of the report.</p> <p>See paragraph 4.5</p>
6. Award criteria	<p>50% price and 50% quality, including 20% social value. The award criteria price/quality breakdown is more particularly described within the report.</p> <p>See paragraph 4.6</p>
7. Business risks	<p>As outlined in the report.</p> <p>See paragraph 4.7</p>

8. Any other relevant financial, legal or other considerations.

See section 5

5. Implications

5.1. Financial Implications

5.1.1. The total estimated project budget for the capital works to replace the APCs and for their ongoing maintenance and servicing for a full five-year contract term is £1,270,000. This includes capital costs of £0.970m which is funded by council funding of £0.962m (in the approved capital budget) and £0.050m contribution from the Government's Department for Levelling Up, Housing and Communities (DLUHC) grant for the provision of a changing place at Islington Green. The maintenance costs of £0.060m per year (£0.300m for 5 years) will be met from existing revenue budgets.

5.2. Legal Implications

5.2.1. This report seeks pre-tender approval for the procurement strategy to procure a contract for the replacement and ongoing maintenance and cleaning of seven Automated Public Conveniences (APCs) for a period of three years with a council option to extend for two further periods of up to 12 months each (a maximum total of five years) at a cost of £1,270,000. (£970k capital spend plus £300k revenue spend).

5.2.2. The council has the power to procure and enter into this contract under s.1 of the Local Government (Contracts) Act 1997, Section 1 of the Localism Act 2011, and s.111 of the Local Government Act 1972.

5.2.3. The Local Government Act 1999 requires the council to achieve Best Value in the exercise of its functions when considering a service provision which includes the work detailed in this report. A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness.

5.2.4. The estimated total value of the three-year contract with an option to extend for two further periods of up to 12 months each (a maximum total of five years) is £1,270,000. Under the Public Contract Regulations 2015 (PCRs) contracts over the relevant threshold must comply with the PCRs. This is a mixed contract for the supply of works and services with the predominant element being the supply of works. The contract is under the current PCRs threshold for works (£5,336,937 including VAT). Whilst the contract is sub-threshold and not caught by the procurement regime of the PCRs the retained EU law principles of equality of treatment, proportionality, non-discrimination and transparency must be followed.

5.2.5. This report recommends use of the Open procurement procedure which is compliant with both the PCRs and the council's own Procurement Rules (in particular Rule 1.7A.2.) The procurement must be published on Find a Tender and on Contracts Finder.

5.2.6. Under Procurement Rule 18 Corporate Directors have the power to procure and award contracts using capital spend of up to £5,000,000 and revenue spend of up to £2,000,000. The Corporate Director will in due course need to sign a Corporate Director's (Key Decision) Contract Award Report once the results of the Open competition are known.

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

5.3.1. The removal of the existing APCs will be carried out by lifting them up with a crane and transported away. This will reduce the amount of demolition works to carry out on site, thus minimising the production of dust and air pollution, and time to carry out demolitions significantly, compared to traditional, on-site construction settings.

5.3.2. The new APCs will be produced off site, meaning air pollution caused by the works will be significantly less compared to traditional, on-site construction methods.

5.3.3. Off-site construction will also minimise the time contractors will need to spend on site, thus limiting disruptions to traffic, and commuters. Material use will be minimised by prefabrication.

5.3.4. Given this tender is aimed at a niche market sector, where most of the operators are SMEs, bidders will be asked to work towards delivering services on a zero-emission basis such as using compliant vehicles for maintenance visits and ensuring maintenance visits are carefully planned and mapped out to minimise the need for travel between sites especially in heavy traffic.

It is not advised to set Net Zero Carbon as a strict requirement, as it would not be realistic in this setting.

5.3.5. Bidders will be asked if they have any environmental or sustainability plans in place that they can share. Bidders will also be asked to provide data on water consumption and energy consumption of the new pods and offer guidance on how this consumption is minimised.

5.3.6. Bidders will be asked to provide evidence that materials are covered by any responsible sourcing certification scheme (RSCS) recognised by BREEAM

(Building Research Establishment Environmental Assessment Method).

5.3.7. As the existing APCs need to be replaced with new ones, most of the materials cannot be reused on site.

However, bidders will be asked to maximise reuse and recycling of materials on and off site, and whether they are aligned with environmental management systems such as ISO 4001.

5.3.8. Facilities will be self-cleaning, to minimise maintenance/use of cleaning products.

5.3.9. Contractors will be asked to specify water saving solutions for sanitary fixtures; leak detection; smart metering solutions.

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 2022. The main findings are:

5.4.3. The positive impact of this programme will far outweigh the negative ones. The main detrimental effects of this programme are linked to the construction works, which will impact traffic and commuters, and the fact that current facilities will not be able to be used during construction, for approximately 8-10 weeks.

5.4.4. However, these detrimental effects will be minimised by:
Installing off-site pods, which will reduce construction times significantly, compared to traditional on-site construction;
The new facilities will provide a much more reliable service over time, as currently all the existing facilities are either condemned, or working intermittently.

5.4.5. The full Equalities Impact Assessment is appended.

6. Conclusion and reasons for the decision

- 6.1 To approve the proposed procurement strategy for the replacement of seven APCs across the borough that are no longer fit for purpose.
- 6.2 Replacement now will avoid further cost in the future for repairs, reinstate compliance with the current accessibility standards and restore the public toilet service to an acceptable level.

7. Record of the decision

- 7.1. I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Authorised by:

Corporate Director of Community Wealth Building

Date: 28 April 2023

Appendices:

- Equalities Impact Assessment.

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