

London Borough of Hammersmith & Fulham

Report to: Strategic Director for the Economy

Date: 05/01/2021

Subject: Approval of the Procurement Strategy for lift repair and replacement at 4 locations (Lyric Theatre, Hammersmith North Area Housing Office, West London Coroner's Court, and Haven Children's Centre)

Report author: Nilesh Pankhania, Head of Capital Projects, Economy

Summary

This report seeks approval of the Procurement Strategy for the lift repair and replacement programme at 4 locations which are:

1. The Lyric theatre
2. Hammersmith North Housing Office, New Zealand Way
3. West London Coroner's Court, 25 Bagley's Lane
4. 120 Dalling Road (Haven Children's Centre)

These projects, which the Council has committed to deliver as part of the Capital Planned Maintenance Programme approved by Cabinet, will now be completed during the next financial year, although work will commence in early 2021.

Recommendations

1. That the Strategic Director for the Economy, in consultation with the Cabinet Member for Finance and Commercial Services, approves the Procurement Strategy, attached at Appendix 1, to use the Fusion 21 Framework Agreement to appoint a contractor for the lift repair and replacement programme at the four aforementioned locations.
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Wards Affected: North & West

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	The procurement strategy will require the supplier to demonstrate their commitment to social value including how they can support local businesses.
Creating a compassionate council	The importance of providing disabled access to all users and staff is to be ensured
Doing things with local residents, not to	Residents will be consulted where this is

them	viable to ensure repair and replacement work is carried out without causing undue noise and disruption
Being ruthlessly financially efficient	The use of the Fusion21 Framework with direct award by negotiation will allow for the contract to be awarded to a contractor who is able to demonstrate that they can complete the project within the timeframe in a cost-efficient manner as set out in the procurement strategy. There will be robust contract management and an experienced site personnel to ensure quality standards and value for money are maintained
Taking pride in H&F	Contractor will be required to give details of its approach to energy consumption, use of sustainable materials, transport plan, site waste management, and noise pollution
Rising to the challenge of the climate and ecological emergency	It will be encouraged as part of the tender process to reduce carbon emissions as much as possible and to use materials that are obtained from an accredited source

Financial Impact

As part of the rolling capital planned maintenance programme, there is sufficient budget within this financial year for the lift repair works outlined in the appendix, plus any associated costs across these 4 sites once the procurement strategy is agreed and the framework is completed.

A separate decision paper will be required on the contract award once the award negotiations have been completed.

Legal Implications

The contract value for this works contract is above £189,330 and will be considered a High Value Contract in terms of the Contract Standing Orders ('CSO'). However, the contract value is below the EU threshold for works under the Public Contracts Regulations ('PCR') which is currently £4,733,252. Therefore, the PCR do not apply in full.

Although the value of the proposed contract is below the EU threshold, the Council is required to comply with the general principles of transparency, equal treatment, non-discrimination and proportionality. Some parts of the PCR in relation to below threshold procurements will also apply.

All high value contracts are required to:

- have a Service Review Team established to oversee the procurement (CSO 17);
- have a Procurement Strategy reviewed at the Contracts Assurance Board and approved by the relevant decision maker before the procurement process commences (CSO 18); and
- have a Tender Appraisal Panel established following approval of the procurement strategy (CSO 19.3).

This report fulfils the requirement for a procurement strategy. Further, under CSO 19.1 (table 3), a high value works contract requires either the use of an existing framework agreement or an opportunity listing on the Council's e-tendering portal (capitalEsourcing) and publication of a contract notice on Contracts Finder.

This report is recommending the approval of the Procurement Strategy for the procurement of a supplier to provide replacement or refurbishment of lifts across 4 sites in the Borough. This Procurement Strategy proposes the use of the Fusion 21, Lifts, Lot 3 (Passenger/Goods Lifts – Installation, Refurbishment and Upgrading) framework. Fusion21 confirms that the framework was procured in accordance with the EU public procurement rules and all local authorities fall within the class of permitted users. The Council is therefore entitled to access the framework.

Officers are proposing to direct award a contract with negotiation. Negotiation is required because the tendered schedule of rates is not sufficient to enable each lift installation or refurbishment to be priced. The use of this framework would not be advised if the contract value was above the EU threshold for works, but as the contract value is below the EU threshold for works, it can be considered, with the appropriate approval. The decision maker needs to be advised that there is still a risk of challenge based on a breach of the general duty to ensure fairness and transparency. The framework has internal rules about how to conduct a procurement using the framework and Officers will have to follow these rules.

It is important that value for money is considered and evidenced. The decision maker should satisfy themselves that the call off represents value for money.

The appropriate decision maker for procurement strategies for capital contracts between £189,339 to £1.5 million is the SLT Member in consultation with the relevant Cabinet Member. The decision maker therefore needs to be satisfied that the recommended decision is in the best interests of the Council. The implementation of this decision will then be in accordance with the EU procurement rules (insofar as these apply) and the CSOs.

When using direct award by negotiation, the JCT Prime Cost Contract is usually used. Please note that this contract will need to include the design elements that will flow from the Prime Cost relationship which should mean that there is likely to be a higher element of design than with a tendered contract.

Implications completed by: Harry Forsythe, Solicitor at Sharpe Pritchard hforsythe@sharpepritchard.co.uk and Deborah Down, Senior Associate at Sharpe Pritchard drown@sharpepritchard.co.uk, 020 7405 4600.

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Background Papers Used in Preparing This Report - None

DETAILED ANALYSIS

Proposals and Analysis of Options

1. The proposals and analysis of options are set out in Appendix 1. Works need to be undertaken to raise the standard of the lifts within these buildings to a satisfactory level and to ensure they are functioning in a safe and secure manner as well as allowing disabled access to all.

Property

2. There are 4 locations where it is intended to have works carried out on the lifts and these are of Lyric Theatre, Hammersmith & Fulham North Area Housing Office, West London Coroner's Court, and 120 Dalling Road, ("the Haven Children's Centre").

Proposed Works

3. The proposed works are to repair and/or replace lifts at these 4 locations in order to bring the assets to a very high of service. The programme is to repair lifts as well as replace for new where some lifts are not cost-effective to repair.

Reasons for Decision

4. This project is one which the Council has committed to deliver as part of the Capital Planned Maintenance Programme approved by Cabinet in September 2019. The development of the programme has been guided by the principles of the strategy and the priorities have been agreed by the Economy Department's Capital Board, chaired by the Assistant Director of Operations. The state of these lifts have caused a number of maintenance issues which often results in the lifts rendered out of action.

5. The decision is required to allow the use of the Fusion 21 framework agreement under a direct award with negotiation procedure. This will allow a contractor to be appointed quicker to curtail the overall programme.

Equality Implications

6. There are no anticipated negative implications for groups with protected characteristics, under the Equality Act 2010, associated with these proposals.
7. The repair and replacement of lifts outlined in this report will provide much needed longer-term accessibility for disabled and other residents / staff as lift users. Officers will ensure there are sufficient temporary arrangements in place around access whilst works are being undertaken.

Implications completed by: Fawad Bhatti, tel. 07500 103617

Risk Management Implications

8. The works are required to ensure that lifts operate within a number of council buildings safely, a key insurance consideration. A procurement strategy accompanies this report, attached as appendix 1, that identifies the principal risks to the project and how the contract will be managed. Works must be carried out in full consideration of Covid and guidance set out by the Industry, Health and Safety Executive and HM Government.

Implications verified by: Michael Sloniowski, tel 020 8753 2587

List of Appendices:

Appendix 1 – Procurement Strategy – Contract for Repair and Replacement of Lifts at 4 Locations

APPENDIX 1

Procurement strategy - Contract for Repair and Replacement of Lifts at 4 Locations

The following procurement strategy has been produced in collaboration with Andra Ulianov, Head of Contracts and Procurement

1. PROCUREMENT SCOPE – WHY THE PROCUREMENT IS NEEDED

The re-procurement is needed for the modernisation/repairs and full replacement of lifts in different locations. All sites are owned by the Council.

The Properties are:

1.1 120 Dalling Road (Haven Children's Centre), London, W6 0JE. The Haven is a 6-bedroom respite service for children and young people with disabilities aged from 9-18. Children and young people attend for both daytime and afternoon visits and for overnight respite. The lift has been surveyed recently and identified to be replaced.

1.2 Hammersmith & Fulham North Area Housing Office, New Zealand Way, London, W12 7DE. The building has been used as a housing centre for residents with queries relating to their housing rental needs. The lift has been earmarked to be modernized.

1.3 Lyric Theatre, London, W6 0QL. The building was re-built in 1979 and is fully equipped with 4 lifts to two theatres, the Main House and Studio, and to the Reuben Foundation Wing, where most classes and activities take place. The lifts have been identified to be either replaced and modernized.

1.4 West London Coroner's Court, 25 Bagley's Lane, London, SW6 2QA. The lift in this building has been assessed to be replaced.

2. MARKET ANALYSIS

2.1 The current market under Covid-19 environment is quite uncertain, although there appears to be a momentum gathering since the Government announcement of 12th June 2020 that allowed non-essential businesses to open from 15th June. The Government has indicated that construction is one sector that can continue during the new 'lockdown' that came into force from November 5th 2020 until December, 2nd 2020. Those working during this period have to adhere all guidance on safe working.

2.2 Prior to this date, many contractors have been working under very strict distancing guidance, where there is little or no interaction with the public. Prior engagement with all stakeholders and residents will be undertaken to ensure key points are implemented.

2.3 With the current circumstances in mind, it is our proposal to deploy the Fusion 21

Framework Agreement as it will allow a direct appointment of a vetted contractor.

3. PROCUREMENT ROUTE OPTIONS AND CONSIDERATIONS

3.1 In reviewing the route to the market, the following options were reviewed:

- Option 1: Do nothing

This option will result in the continuing deterioration and decline in the quality and standard of the lifts. A preventive planned maintenance regime will provide a certain degree of assurance but will not address replacement of keys part and equipment that could result in lifts breaking down more often.

- Option 2: Open Procedure Tender

This would allow us to open the competition to the entire market. The value of the contract is below the EU threshold of works so, if chosen, the opportunity will be advertised only on Capital e-Sourcing and Contracts Finder. This option is not considered necessary because there is a more agreeable option to use a Framework to appoint a contractor by way of direct award with negotiation, which is less onerous upon the Council.

- Option 3: Restricted Procedure Tender

This is like Option 2 in that it would also open competition to the market, but with a pre-qualification stage when unsuitable tenderers are eliminated. This is not considered necessary because the lift replacement market is small.

- Option 4: Deliver by a Fusion 21 Framework Agreement (Preferred Option)

This option allows an external provider to facilitate the procurement process so that a contractor can be awarded by way of a direct award (with negotiation), provided the terms & conditions are adhered to. On advice from our legal advisers, we have identified Fusion 21, Lifts, Lot 3 as a suitable framework. It is our recommendation to implement Option 4.

4. RISK ASSESSMENT AND PROPOSED MITIGATIONS

4.1 Market under Covid-19 conditions dampen the interest from potential suppliers.

Proposed Mitigation Strategy: As part of the Fusion 21 framework, contractors on the framework have been vetted for their competency and suitability before being considered.

4.2 Costs are higher than they would otherwise be due to uncertainty of pre-tender estimate and the uncertainty of working conditions (including the imposition of strict social-distancing working conditions as a result of the Covid-19 pandemic). The direct award route requires the use of a prime cost contract (whereby the client pays on the basis of actual costs plus a mark-up for profit, central overheads and management) which means that a contract is awarded only on the basis of a contract estimate.

4.3 Proposed Mitigation Strategy: The schedule of rates is based on benchmark criteria set by Fusion 21 and it is expected these to be competitively priced. The estimated prices will be assessed as further set out in an award report.

5. FINANCIAL INFORMATION

- 5.1 Funding for the full tender will be made available from the capital planned maintenance programme budget for this and next financial year based on completion dates for the works outlined in this report.
- 5.2 The budgets are adequate to carry out the anticipated works currently proposed to be implemented.
- 5.3 The pre-tender estimate is circa £500k. In addition, it is expected that Fusion 21 will charge 2% of the contract value as an administration fee, which will be paid by the contractor initially. This will then be added to the overall cost of the contract sum.

6 COMPETITION PROCESS

- 6.1 As this is proposed to be a direct award, from a multi-supplier framework (Fusion 21) to the chosen supplier, which was ranked top in the framework provider's evaluation process, there is no competitive tendering to be conducted by the Council.
- 6.2 However, the direct award will only be made following a further period of negotiation for the reasons described in the Legal Implications. Such negotiation will follow the top-ranked supplier's visit to each site and its subsequent calculation of a bespoke price.
- 6.3 At the date of this report, the top-ranked supplier by the framework provider is Lift & Engineering Services Ltd as they are the top-ranked lift contractor as evaluated by Fusion 21. If this supplier does not have capacity to carry out the works, then the next-ranked supplier will be approached

Activity	Completed by
Submit specification and scope to Fusion 21 for review	2 December 2020
Submission of Award Report	2 December 2020
Draft JCT contract to be sent to contractor for comments	14 December 2020
Finalise and execute JCT Design & Build contract – Prime Cost	21 December 2020
Commence procurement of materials for long lead-in items for lifts. These items include motors, lift doors and require additional time to procure	11 January 2021
Commence installation at 4 locations	8 February 2021
Phased handover of lifts:	i) 19 March 2021

Activity	Completed by
i) West London Coroner's Court	ii) 7 May 2021
ii) Lyric Theatre	iii) 7 May 2021
iii) Hammersmith North Housing Office	iv) 16 July 2021
iv) 120 Dalling Road (Haven Centre)	

7 SELECTION AND AWARD CRITERIA

- 7.1 Fusion 21 have conducted an independent framework that was vetted and checked for competencies and financial rectitude. The selection criteria were based on 60 % Quality and 40% Cost. The Council will look to directly award to the first ranked supplier on the framework that meets the Council's requirements
- 7.2 Social Value will be included in line with the Council's Social Value policy and the winning supplier will be required to make a social value proposal, join the Social Value Portal and fill in the matrix to be managed accordingly during the lifetime of the contract

8 CONTRACT PACKAGE, LENGTH AND SPECIFICATION

- 8.1 At 120 Dalling Road Children's (Haven) Centre: Carry out a full replacement with the option of modernization. This is a single electric motor-room passenger lift.
- 8.2 At Hammersmith North Housing Office: Carry out a programme of modernization to the existing lift. The lift is a single hydraulic passenger.
- 8.3 At the Lyric Theatre: Carry out a programme of modernization and replacement works to the 4 lifts. The Duplex two-car electric passenger lift is to be modernized with full MRL replacement option. The Hydraulic goods/passenger lift is to be fully modernised. The Electric dumb waiter hoist is to be replaced with a new one.
- 8.4 At West London Coroner's Court: The Single hydraulic machinery directive is to be replaced with a new one.
- 8.5 All stakeholders have been consulted and we have received letters in support of the proposed works to be carried out.
- 8.6 Contract length is expected to be between 17 to around 26 weeks under a lump sum contract for all 4 sites without any break. It is expected the contractor will work on all sites simultaneously.

9 CONTRACT MANAGEMENT

- 9.1 The contract is to be managed by the Project Manager (Anthony Baffi) and overseen by Head of Capital Projects (Nilesh Pankhania). Quality control will be undertaken by an external consultant (Lift Consultancy) who will also issue a completion certificate once all works have been completed satisfactorily.
- 9.2 As part of the defects period, monthly site visits will be carried out in the 12

months following handover.

9.3 Payment of service will be based on a valuation basis to ensure progress is well-maintained. Final payment less retention will be made at the issue of a completion certificate. Retention is standard in JCT contracts to ensure there is a residual amount left in case defects remain unresolved and is released when defects are all signed off at the end of the defects liability period.

9.4 The installation works on sites are to be monitored on a weekly basis to ensure quality and progress are meeting criteria set.

9.5 The Council's main objectives when considering the contract terms to include are:

9.5.1 To ensure the key elements of the Council's Social Value policy will be adopted and implemented

9.5.2 The lifts are to be fully warranted and an insurance-backed guarantee is to be provided

9.5.3 Ability to be able to manage several schemes in different locations simultaneously