

London Borough of Hammersmith & Fulham

Report to: Cabinet Member for Housing – Councillor Lisa Homan

Date: June 2020

Subject: Procurement Strategy – Spandrel Panels Replacement Works

Report of: Richard Buckley (Assistant Director for Property & Compliance)

Responsible Director: Strategic Director for The Economy Department

Summary

In October 2018, following the Grenfell tragedy, MHCLG issued ‘*Advice Note 19*’ to all owners of buildings 18 meters in height or above. The Note related to ‘*Spandrel Panels*’, which are insulated panels forming part of the external wall of some buildings. The panel can be fixed to masonry or incorporated into window frames. The intent of such panels is to provide thermal insulation and aesthetics. ‘*Advice Note 19*’ requires owners to establish locations where such panels have been fitted, establish fire safety and if the latter point cannot be ascertained, replacement is noted as the most relevant course of action.

The Council appointed Baily Garner to undertake a detailed review on the ‘*Spandrel Panels*’ in all 26 blocks that were noted as having some form of insulated panel. Baily Garner produced a specification and a cost estimate for the replacement of panels on the identified blocks as shown in Appendix 1. This was demarcated into High, Medium and Low risk, allowing the Council to prioritise based upon this (i.e. phase 1 will be the blocks demarcated as High risk).

This report seeks approval for the Procurement Strategy for appointing a contractor to carry out the High Risk works at the properties identified in Appendix 1. Separate arrangements are being made for those noted as medium and low risk.

Due to concerns about health and safety to the listed properties in Appendix 1, it is essential for the Council to procure an experienced contractor for carrying out the Replacement Works of Spandrel Panels at these properties. The total pre-tender estimate for the works in the High Risk identified blocks is £2,030,000.

Blocks at both Charecroft and Edward Woods have also been found to have insulated Spandrel Panels. However, work to replace these have already been incorporated into other capital works projects. As such, they are removed from those blocks listed in Appendix 1.

Recommendations

1. The Appendices to this report are not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. To approve the Procurement Strategy to use Southeast Consortium's *Fire Remedial Works* framework as detailed in Appendix 2 (Procurement Strategy) to the value of £2,030,000;
3. To delegate authority to the Strategic Director of The Economy Department to award the contract procured in accordance with the Procurement Strategy at Appendix 2.
4. To delegate authority to the Strategic Director of the Economy Department to amend or make changes to the proposed works in Appendix 2 for operational reasons, where such amendments can be contained within the overall approved budget envelope and available resources.

Wards Affected: All

H&F Priorities

It is expected that procuring these works will have an impact on the following Council priorities as shown in the table below:

Our Priorities	Summary of how this report aligns to the H&F Priorities
Creating a compassionate council	This project will ensure that the Council fulfils its duty of care towards residents by following a compliance-based programme of works to ensure homes in the identified properties (see Appendix 1) are safe.
Being ruthlessly financially efficient	Carrying out this project demonstrates the Council's commitment to invest where it matters most to ensure the health and safety of its residents.
Taking pride in H&F	The Council's number 1 priority is the safety and welfare of all its residents. Carrying out this project demonstrates the Council's commitment to keep resident homes safe.

Financial Impact

A budget of £3,996,000 for spandrel panels replacement works was approved by Cabinet on 1st July 2019. This is sufficient for the proposed works contract value of

£2,030,000 with Kier and the consultancy support Baily Garner will provide. Bailey Garner have already been appointed and their fee for this value of works is £104,200 (5.133%) of which £39,599 has already been paid.

A credit report was produced for Kier via CreditSafe. Their score is 53 out of 100 which is deemed as low risk and their suggested contract limit is £371 million. However, their financial position has worsened over the last 18 months with their credit score reduced from a high of 87 in 2018 and a reduction of pre-tax profit of 331% in their latest financial statements. This has coincided with sharp falls in their share price and the London Stock Exchange making two profit warnings for the company in 2019. The Project Team and the Assistant Director for Property & Compliance are aware of this and currently consider this not to impact on Kiers ability to deliver this contract. Notwithstanding this the following mitigations are place should Kiers financial position worsen to the point that deliverability of these works is compromised:

- The contract is set up as measured term to have flexibility for the council to be able to exit should the need arise.
- The contractor due to be appointed to deliver the councils responsive capital repairs contract scheduled to start in July/August 2020 should have the capability and capacity to step in to finish the works if needed.
- As explained in paragraph 4.2 of Appendix 2 the Service expects that the Contractor will be supported by the UK Government as part of its Covid-19 special measures. Alternately, in the event the contractor ceases trading, the Council will only pay them for the work completed and, as highlighted above, the uncompleted works will be transferred to the new contractor that will be appointed under the new Responsive Capital Works contract that is expected to commence in July/August 2020.

Legal Implications

1. This report recommends approval of the procurement strategy for Spandrel Panels Replacement Works at properties identified as High Risk in Appendix 2 (Procurement Strategy) of this report, at an estimated value of £2,030,000 and for a proposed contract period of 2 years.
2. This estimated value does not exceed the current EU Works threshold of £4,733,252 as set out in the Public Contracts Regulations 2015 ("PCR"), therefore the procurement exercise is not subject to the full remit of the PCR. However, the chosen procurement process must be conducted in accordance with the EU treaty principles of equal treatment, non-discrimination, transparency and proportionality.
3. Appendix 2 of this report details the procurement strategy and confirms that calling off a third-party framework would be best suited to meet the Council's needs. Officers have identified that a direct award under the South East Consortium Fire Remedial Works Framework ("SEC") under Lots 1 and 4 is the preferred option to meet the Council's needs. Officers shall apply the direct award procedure in accordance with the Framework conditions, to ensure that a valid call-off contract is entered into.

4. The value of the works exceeds £25,000. Therefore, Regulation 112 of the PCR requires the Council to publish on contracts finder within a reasonable time providing the name of the winning bidder, the date on which the contract was entered into, the value of the contract and whether the contractor is an SME (small or medium-sized enterprise) or VCSE (voluntary, community, and social enterprise).

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Background Papers Used in Preparing This Report

Sr.	Description of Background Papers	Date
1.	Asset Management Compliance Strategy and Capital Programme	1 July 2019
2.	H&F Housing: Compliance and Asset Management Strategy	3 December 2018

DETAILED ANALYSIS

Proposals and Analysis of Options

1. The Council conducted an assessment of spandrel panels in accordance with the guidance issued by MHCLG (Advice Note 19). As part of the assessment of risk, the Council appointed *CS Todd and Associates* to independently review relevant risk factors in order to determine blocks with a higher risk.
2. Following this, the Council appointed Baily Garner to undertake a site assessment. This included access (scaffolding), specification of the work and replacement panel requirements. It also produced the cost estimate as shown in paragraph the below. Further details of the Cost Estimate are available in Appendix 1.

3. The pre-tender Cost Estimate for the works is £2,030,000 and this has been demarcated into risk in order to prioritise the works.

Estate	Block	Estimate (£)	Risk Classification
Townmead Road	Barton House	£110,000	High-risk
West Kensington Estate	Churchward House	£220,000	
West Kensington Estate	Desborough House	£220,000	
West Kensington Estate	Fairburn House	£220,000	
West Kensington Estate	Lickey House	£220,000	
William Church Estate	Drake Court	£180,000	
William Church Estate	Shackleton Court	£180,000	
Barclay Close	Barclay Close 61-106	£50,000	
Clement Attlee Estate	Michael Stewart House	£630,000	
TOTAL		£2,030,000	

4. It should be noted that Medium and Low Risk Blocks (shown below) will be delivered via a new Fire Safety Capital Works contract, currently being procured and thus not yet available to utilise:

Estate	Block	Estimate (£)	Risk Classification
Clement Attlee Estate	Herbert Morrison House	£150,000	Medium / Low risk
Bulow Estate	Jepson House	£540,000	
Field Road/Margravine	Muscal House 9-67	£60,000	
Walham Green Court	Walham Green Court 112-126	£70,000	
Non Estate	Standish House 1-28	£100,000	
Non Estate	Verulam House	£530,000	
West Kensington Estate	Sharnbrook House	£220,000	
Field Road/Margravine	Cox House	£470,000	
Field Road/Margravine	Horton House	£470,000	
Non Estate	Ash Lodge	£190,000	
Non Estate	Cedar Lodge	£210,000	
Non Estate	Cobbs Hall	£40,000	
Non Estate	Linacre Court	£83,000	
Lytton Estate	The Grange / Lisgar Terrace	£113,000	
Bayonne Estate	Lampeter Square	£136,000	
Springvale Estate	Thackeray Court	£107,000	
Sullivan Court Estate	Sullivan Court (5 blocks)	£437,000	
TOTAL		£3,926,000	

5. The source of funding for the above shall be capital funds via the designated Fire Safety Plus budget. Phase 1 will be the High-risk blocks at £2,030,000. Phase 2 will be the Medium/Low-risk blocks at £3,926,000 and will be subject to a separate procurement process.
6. Replacement of the Spandrel Panels would negate fire risk from these as any new panel will be tested and proven to be non-combustible.

7. To address the issues, Spandrel/Infill Panels Replacement Works must be carried out by an experienced contractor because of the specialist nature of the works.
8. Different procurement routes have been explored as set out in Appendix 2.
9. Whilst works of this nature would ordinarily be recharged to Leaseholders on a contribution basis set out in the lease, works forming part of the Fire Safety Plus investment programme are not recharged. Accordingly, the formalities of leaseholder consultation on the basis of recharge are not required. Resident consultation at the appropriate time will still occur.

Options

10. The Health and Safety of all residents is the Council's prime concern. The assessment carried out by Baily Garner to the blocks shown notes complete removal and replacement of spandrel panel. There are no alternative options open to the Council. In accordance with risk assessment, the Council must carry out the works as soon as practically possible.
11. The Procurement Strategy (see Appendix 2) set out the following procurement options:
 - (a) Option 1 – Do nothing
 - (b) Option 2 - Carry out an end-to-end tender process
 - (c) Option 3 - Use SEC's Fire Remedial Works framework
12. After reviewing these options, the Procurement Strategy (see Appendix 2) recommends the use of SEC's *Fire Remedial Works* framework as the preferred option.

Reasons for Decision

13. To comply with the requirements contained in the Council's Contract Standing Orders (CSO) to seek approval for the Procurement Strategy to use SEC's *Fire Remedial Works* Framework to appoint the Rank One contractor.
14. The Council is the responsible landlord of the identified properties in Appendix 1. The objectives set out in the Housing Asset and Compliance Strategy, agreed by Cabinet in December 2018, prioritises work in respect of the delivery of the Fire Safety Plus, other health and safety compliance works and pre-agreed works.
15. The Council's number one priority is the safety and welfare of all its residents. This project will ensure that the Council fulfils its duty of care towards residents by following a compliance-based programme of works for the investment decisions in respect of the identified properties in Appendix 1.

Equality Implications

16. There are no anticipated negative implications for groups with protected characteristics, under the Equality Act 2010, by the approval of these proposals.

Implications completed by: Fawad Bhatti, Policy & Strategy Officer, Tel: 07500 103617.

Risk Management Implications

17. The Council is keen to ensure that safety works take place in accordance with relevant Building, Health and Safety, Public Health and HM Government guidelines, risk assessment including the contractor maintaining distancing at work during the Covid-19 outbreak. Works are urgent in their nature and it is therefore essential the Council procures an experienced contractor for carrying out the replacement of spandrel panels at these properties.

Implications verified by: Michael Sloniowski, Risk Manager, Tel: 020 8753 2587.

Procurement Implications

Approval

18. For high value Capital contracts between the £1.5M up to £5M, Contract Standing Orders (CSO's) states that the procurement strategy and the contract award approval is by the relevant Cabinet Member.

Procurement Strategy

19. CSO 36.2 provides that consideration should be made of the different procurement methods to most likely achieve the purchasing objectives. It is considered that the author of the report has addressed these requirements in the strategy.

Competition

20. CSO 19 states that the competition requirement for high value capital contracts is either :
- (a) Use of an existing Framework or DPS which is compliant with the Regulations; or
 - (b) Procedure selected in accordance with the Regulations as approved through the Procurement Strategy.
21. It is proposed that the council use the South East Consortium (SEC) framework. This is in line with the requirement set out in CSO's 19.

Award

22. The recommendation is for this Council to directly award a call-off contract to one supplier under the CES framework, Kier Group for Spandrel Panels replacement works with an estimated contract value of £2,030,000.
23. If a direct award is proposed officers must confirm that a direct award is allowed under the framework, provide reasons for proposing that company and demonstrate that the company offers the most economically advantageous solution. The author of the report has demonstrated that Kier Group are the topped ranked company under the framework.
24. The service area must arrange for the borough solicitor to seal the contract on behalf of the council and must comply with the requirements under Contract Standing Orders 21.8 and 21.9.

Implications completed by: Joanna Angelides, Procurement Consultant, 0208 753 2586.

IT Implications

25. No IT implications are considered to arise from this report. Should this change, for example, by requiring new systems to be procured or existing systems to be modified, Digital services should be consulted.
26. IM implications: All service providers will be expected to have a Data protection policy in place and staff will be expected to have received Data protection training. In line with Data protection law, a Privacy Impact Assessment (PIA) should be carried out to ensure that all the potential data protection and information security risks around carrying out these works are properly assessed with mitigating actions agreed and implemented.
27. Any contracts arising from this report will need to include H&F's data protection and processing schedule. This is compliant with Data protection law.

Implications verified/completed by: Tina Akpogheneta, Interim Head of Strategy and Strategic Relationship Manager, IT Services, Tel: 020 8753 5748.

Implications for Local Businesses

28. Contractors appointed through the third-party framework will be encouraged to use local businesses where possible. Suppliers will be made aware of the Council's business support programme, HF Brill Bizz Supply Chain, which assists local small and medium-sized firms to win contracts for works, supplies and services in the borough.

Implications verified/completed by: Dominic D'Souza, Commercial Manager, Tel: 07769 197655.

Consultation

29. As set out in Appendix 2 the Council will consult with residents and leaseholders. There is no statutory obligation to consult with leaseholders in order to recover cost, as the proposed work will be carried out without any resultant recharge to leaseholders.

List of Exempt Appendices:

Sr.	Reference
Appendix 1	Cost Estimate - LBHF Spandrel Panels Works (Source: Baily Garner)
Appendix 2	Procurement Strategy – Contract for Replacement of Spandrel Panels