

London Borough of Hammersmith & Fulham

Report to: Cabinet Member for Housing

Date: 13/08/2020

Subject: CONTRACT AWARD REPORT: ASBESTOS SURVEYS

Responsible Director: Tony Clements, Strategic Director for Economy

Report author: William Shanks, Governance and Commissioning Manager, The Economy

Summary

A Cabinet report of 7th October 2019 approved a procurement strategy to procure long term contracts for the repairs and maintenance of the Council's housing stock. These are the contracts that will replace the 'interim model' repairs and maintenance contracts that were put in place following the termination of the Mitie contract, and that were to last for 15 months.

The report now recommends the appointment of a contractor to deliver Asbestos surveys to the Council, across the whole borough. The contract is for a period of 5 years with the option to make two x 1-year extensions.

Recommendations

1. That Appendix A is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that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. Approves the award of the Asbestos surveys contract for five years from 28th September 2020 to 27th September 2025 with a provision to extend for up to two 12-month periods, to Tersus Consultancy Limited for the value of £450,000 per annum equating to £2,250,000 over the five year life of the contract (consisting of estimated spend for variable volume work, priced against bespoke prices).
3. Agrees the award of a reserve contract to Riverside Environmental Services Limited.
4. Agrees that for 2020/21, the part-year costs of this contract of £225,000 are funded from existing revenue budgets within the Housing Revenue Account.
5. Agrees that from 2021/22 onwards, the full-year costs of this contract of £450,000 are funded from existing revenue budgets within the Housing Revenue Account.

Wards Affected: All

H&F Priorities

Our Priorities	Summary of how this report aligns to the H&F Priorities
Building shared prosperity	Well maintained and safe homes are an important foundation for our tenants' prosperity. The new contractors have made social value commitments relevant to this priority – around apprenticeships, training and employability schemes.
Creating a compassionate council	The Asbestos surveys contractor has been chosen partly on the basis of qualitative questions including those that focus on customer experience. The contract sets high standards around customer experience, dignity and respect, and equality, that the contractor must abide by.
Doing things with local residents, not to them	Residents' forums and Tenants' Associations have been involved in the design of the long-term repairs model since the summer of 2018, through workshops and consultations.
Being ruthlessly financially efficient	The Asbestos Surveys contractor has been chosen partly on the basis of their price (a 70:30 quality to price ratio was applied). The procurement process involved a two week negotiation period to ensure there was absolute clarity about the commercial model and payment terms in the contract, to ensure bidders priced correctly and the risk of future disputes are minimised. The commercial model in the long term Asbestos surveys contract has been carefully designed to reflect lessons learned from the interim model and ensure greater value for money for LBHF.
Taking pride in H&F	The new Asbestos Surveys contract has a focus on IT integration, data analysis and

data-driven decision making that is innovative and is intended to help LBHF achieve an exemplary Asbestos Survey service.

Financial Impact

Summary

A summary of the financial costs and funding of this contract, and associated repairs contracts, is set out below. Further detail and explanation is provided following the table.

Expenditure Category	Annual Costs				Funded by:	
	Estimated Annual Contract Cost	Existing HRA Revenue Budgets ¹	Existing Housing Capital Programme Budgets*	Additional HRA Savings Plan / Drawdown from HRA General Reserve	One-off Mobilisation Costs	HRA General Reserve
	£000s	£000s	£000s	£000s	£000s	£000s
General repairs and voids	8,549	6,472	200	1,877	295	295
Gas servicing and maintenance	5,896	2,682	2,469	745	190	190
Electrical servicing and works	2,968	1,108	1,860	0	0	0
Asbestos removals	200	200	0	0	0	0
Asbestos - surveys and other costs	450	520	0	(70)	0	0
Out of hours support	46	70	0	(24)	0	0
LTRM contracts being procured	18,109	11,052	4,529	2,528	485	485
Other contracts		1,616				
In-house costs		10,131				
Total Funding		22,799	4,529	2,528		485
Total Funding over 5 years		113,995	22,645	12,640		485
Part-year effect	12,073	7,368	3,019	1,748	485	485

The part-year effect savings requirement is and estimated £1.633m. A drawdown from the HRA General Reserve of £0.115m will also be required. However, if the savings target cannot be met this year, up to estimated £1.748m will need to be drawn from the HRA General Reserve plus a further drawdown of up to £0.485m to cover mobilisation costs.

*This includes an assumption that some of the unallocated budget within the Housing Capital Programme will be utilised to provide sufficient capital funding for the gas contract to deliver 1,000 boilers. The current estimate is that £0.797m per annum will be required for this.

¹This includes an adjustment to existing budgets to include a virement of £0.332m of budget from Electrical servicing and works to General repairs and voids. Also, this includes a virement of £0.130m from the Asbestos budget to the General repairs and voids budget to cover the £0.130m of estimated costs relating to asbestos removal on voids.

As the contract is expected to commence on 28th September 2020, the table above shows there will be a part-year effect associated with the costs and funding of the

new procurements during 2020/21. It has been assumed that the contract costs will be incurred on a pro-rata basis with the exception of the one-off mobilisation costs (not relevant in the case of this contract for the asbestos surveys) which will be wholly incurred within 2020/21.

The table also shows that there will need to be a further savings plan as a direct result of these long-term repairs model procurements in addition to the existing plan agreed at Cabinet in February 2020. An initial part-year additional saving of £1.75m will be required in this financial year and in subsequent years this will rise to £2.53m per annum as set out in the previous award reports.

Costs of the asbestos surveys contract

The estimated annual value of the contract is £0.45m. There are no associated mobilisation costs and all costs are revenue in nature.

Funding

Following Cabinet approval of a one-off annual revenue budget of £22.2m for the interim repairs model for 2019/20 in March 2019, this budget was made permanent for 2020/21 in the “Financial Plan for Council Homes: The Housing Revenue Account (HRA) Financial Strategy, 2020/21 HRA Budget, 2020/21 Rent Increase and HRA 40 Year Financial Business Plan” approved by Cabinet on 3 February 2020. The revised budget for 2020/21 including adjustments set out below:

Division	Expenditure Category	20/21 Budget (£000s)
	Customer Service Centre	2,223
	Out of Hours support	70
Place		2,293
	Gas	2,782
	Staffing	2,414
	Electrical / Security	1,740
	Asbestos	850
	Lifts	678
	Professional fees	537
	Water	438
	Legal costs	233
	Compensation payments	140
Property & Compliance		9,811
	General repairs	4,962
	H&F Maintenance	3,123
	Staffing	1,462
	Voids	1,048
	Drainage	100
Void & Repairs Total		10,695
Total Revenue Budget		22,799

The funding available to cover the costs of the asbestos surveys contract of £0.45m is included within the £22.8m set out in the table above (£0.52m of funding is available for asbestos surveys and other asbestos related costs).

Assuming that revenue costs are incurred in line with the estimated contract costs outlined above, this means that the available budget is sufficient to cover the annual costs.

Risks

Section 3 of Appendix A explains that estimates of volume were used to create an indicative price for the purposes of evaluation. This means that annual spend may differ from the estimated annual value of the contract and could lead to either an underspend or an overspend against the budget.

There are a number of other contracts awarded to successful tenderers under the Long-Term Repairs Model for gas and electrical testing, asbestos removal and general repairs and voids contracts. A further report for call handling support services is also being brought to the appropriate decision maker at this time. These procurements include estimated costs compared to the budget available, and there is a risk that it may be necessary to drawdown from the HRA general reserves until compensating savings can be delivered elsewhere in the HRA.

Reserves and Financial Sustainability

Given the estimated costs of the Long-Term Repairs Model based on current information, there is a significant risk that the current £22.799m revenue budget envelope will be insufficient.

Without additional savings or income this will have an adverse impact on the overall viability of the HRA business plan and the long-term financial sustainability of the HRA. The service has advised that there will be an annual contract review process, one outcome of which will be to ensure the delivery of savings on repairs costs.

The Chief Housing Officer has advised that any shortfall against the existing budgets is expected to be funded from other HRA efficiencies and these are being developed. The expected financial impact of the award of the long-term repairs contracts will mean increasing the annual budgeted drawdown from the HRA General Reserve for each of the next 5 years at least unless savings can be delivered to offset this.

Financial status of the contractors

As part of the tender process, a credit check was carried out on 31 July 2020 on Tersus Consultancy Limited. This has indicated a low risk credit rating of 78% and the suggested contract limit of £4,065,294.40 and turnover of £8,686,527 is more than sufficient for the value of the proposed contract. Further,

finance officers have reviewed key accounting ratios within the contractors' financial statements and found these to be satisfactory.

Other risks and mitigations

The risk of commercial disputes arising has been mitigated by including within the negotiation process the need for the tenderers to understand payment terms and the commercial model.

Contractual inflation of CPI (Consumer Prices Index) is included within the contracts which will mean future inflationary increases in the budget will be required for each of the five initial years of these contracts. However, the service has advised that there will be an annual contract review process, one outcome of which will be to ensure the delivery of savings on repairs costs.

Once this contract is in place, Finance officers will work closely with the service to ensure costs are closely monitored and reported. It will be necessary to seek additional approval should any costs exceed the approved budgets.

There is also a risk that there may be other unexpected costs which will result in further pressure on the available budgets. For example, it will be necessary to ensure adequate controls are in place to ensure only approved contracts are used. This could also include any overspends on existing contracts this year which will be reported through the Council's revenue monitoring regime.

Legal Implications

This report recommends that a contract is awarded to Tersus Consultancy Limited for Asbestos Surveys for a period of 5 years with an option to extend for a further 2 periods of one year each for a maximum contract value of £2,250,000. The total value of the contract exceeds the EU threshold for services under the Public Contracts Regulations ("PCR"), which is currently £189,330. Therefore, the PCR applies in full.

The PCR requires the contract to be procured by either a new procurement competition or the use of a framework agreement. This is also the requirement under the Council's CSOs for this high value contract (CSO 19.1). In accordance with the procurement strategy a competitive procedure with negotiation was used. Details of the procurement process followed is set out in this report. The procurement was run in stages with selection stage, initial tender stage and final tender stage.

The tender documentation included award criteria which were applied at each stage. At the Final Tender Stage the evaluation criteria were applied to determine the most economically advantageous tenderer. It is recommended that the Contract is awarded to the highest scoring tenderer and a reserve contract is awarded to the second placed tenderer in accordance with the tender documentation.

The decision-maker needs to be satisfied that the recommended award of contract is to the tenderer submitting the most economically advantageous tender on the basis

of the award criteria set out in the Council's tender documentation. This will secure compliance with the PCR requirements and the Council's Contract Standing Orders.

A contract award notice must be published in the Official Journal of the European Union within 30 days of award of the contract and Contracts Finder 24 hours thereafter.

The Council's Legal Service will assist with preparing a formal contract. The tender was issued with a draft contract and will be entered into on those terms.

Implications completed by: Natasha Barlow, paralegal at Sharpe Pritchard nbarlow@sharpepritchard.co.uk and Sally Stock, partner at Sharpe Pritchard sstock@sharpepritchard.co.uk

Contact Officer(s):

Name: William Shanks
Position: Governance and Commissioning Manager, The Economy
Telephone: 0781 858 1911
Email: william.shanks@lbhf.gov.uk

Name: Danny Rochford
Position: Head of Finance (The Economy)
Telephone: 020 8753 4023
Email: danny.rochford@lbhf.gov.uk
Verified by: Emily Hill, Director of Finance

Background Papers Used in Preparing This Report

Cabinet report: 'Procuring and delivering a long-term Repairs and Maintenance model for Hammersmith and Fulham', 7th October 2019.

DETAILED ANALYSIS

Proposals and Analysis of Options

- 1 Following the Cabinet report of 7th October 2019, a fully compliant procurement process was initiated to put into practice the Procurement Strategy as set out in that report.
- 2 In order to draw the attention of the market to the new contracts before the procurement commenced, a 'Meet the Buyer' day was advertised and took place at St Paul's Centre on 26th September 2019. This provided the opportunity for contractors to learn about the Long Term Repairs Model and the contracts that would be put out to tender. The event was attended by more than 50 suppliers and was well received.
- 3 In line with the Procurement Strategy approved by Cabinet, a Competitive Procedure with Negotiation (CPN) was launched with a Contract Notice in the Official Journal. The Council's preferred online procurement portal CapitalEsourcing was used for the procurement.
- 4 A notice was submitted to Contracts Finder and the Official Journal of the European Union (OJEU) via the CapitalEsourcing portal in accordance with the Council's Contract Standing Orders on 19th December 2019 (contract reference number Reference Number: 2019-042913). The tender process then proceeded in four stages.

Selection Questionnaire (SQ) stage:

- 5 Economic Operators were required to complete the SQ which required them to provide information to satisfy certain legal and financial requirements (for example passing certain mandatory criteria and evidencing their economic and financial standing). Economic Operators were also required to respond to certain questions to evidence their technical and professional ability primarily concerning their IT capacity and holding the relevant licences to carry out required works. The ability for contractors to interface with the Council's Housing Management system (Northgate) in real time is a key requirement of many of the long-term repairs and maintenance contracts.
- 6 Lot Asbestos Surveys received 16 SQ submissions before the deadline of 14th February 2020. Following evaluation of the responses 4 suppliers subsequently passed the SQ stage and were invited to tender.

Initial tender:

- 7 The shortlisted economic operators invited to tender were required to submit a formal bid featuring answers to Qualitative/Technical questions set by LBHF, and a set of prices that would constitute their Commercial Offer.
- 8 These bids were evaluated on the basis of the published evaluation criteria which were a 70:30 quality to price weighting. The tender documents stipulated that the highest scoring 3 firms would be invited to negotiate, so 1 supplier was rejected at initial tender stage.

Negotiation:

- 9 The 3 remaining bidders took part in a 2 week-long negotiation process with LBHF officers. The aims of the negotiation were:
- a) To ensure the bidders fully understood the scope of the contract and LBHF's requirements, so as to be able to offer a service solution that would be of maximum value to LBHF. There was a particular objective to ensure bidders understood the commercial model and payment terms of the contract, to minimise the risk of future commercial disputes.
 - b) Identify areas where bidders could offer additional value beyond the requirements of the contract, and where these aligned with LBHF objectives, to confirm that LBHF would welcome these offers in the final bids.
- 10 The format and guidelines for the negotiation were planned in advance with the input of the Council's legal advisors, Sharpe Pritchard. The officers leading the negotiation were trained in these guidelines.
- 11 The negotiation period lasted for two weeks in June 2020 and involved one meeting with each bidder. The meetings with each bidder were structured in the same way to ensure fair and equal treatment. The meeting focused on the bidders plans for managing contract mobilisation and transition to full capacity, for delivering Social Value, and for bringing innovation into the service. The meeting involved presentations from bidders and LBHF. Between the meetings, additional information was circulated online to all Bidders (via CapitalSourcing).
- 12 The negotiation period was judged a success by the LBHF officers involved because they felt it led to bidders gaining a fuller understanding of LBHF's priorities: effective mobilisation, customer experience, firm Social Value commitments, carbon reduction, and innovative use of data in order to manage future demand and deliver savings. It was felt that the quality of all bids would improve as a result LBHF would ultimately procure a higher quality service.
- Final tender:
- 13 On 15th July 2020 the 3 bidders were invited to prepare their final bids. Final versions of the contract documents (specifications, pricing schedules) were published. The deadline for bids was 27th July 2020.
- 14 A team of five evaluators was put together to mark the bids. The team was comprised of the Managing Director for the DLO, the Asbestos Manager, the department's Asbestos Consultant, Project Manager (Corporate ICT) and Project Manager (Economy Department ICT). The evaluators were trained by the procurement project team and by Corporate Procurement to ensure compliance with the Council's standards. Tenders were opened virtually on the 27th July 2020 with representatives from Corporate Procurement in attendance.

- 15 Tenders comprised two sections. These were:
- A) Qualitative / Technical Questions:
- The weighting given to the qualitative section in the evaluation criteria was 70%. Bidders were required to submit a number of method statements which were then evaluated.
- A moderation session was held on 6th August 2020 to agree on a single score for each method statement for each Bidder. The overall weighted quality score was then calculated.
- B) Pricing / Commercial Offer:
- The weighting given to the commercial section in the evaluation criteria, was 30%. The evaluated price was based on a variable volume work programmes, priced against bespoke prices, using indicative volumes. Scores were allocated on a comparative basis – with the contractor with the lowest price receiving 30% and all other contractors being scored relative to the lowest price.
- 16 Following moderation, the weighted pricing and qualitative scores for each Bidder were combined. An overall score was achieved for each Final Tender response. The Final Tenders were then ranked – highest first. See Appendix A, section 1 for the combined final total scores.
- 17 The evaluation panel recommends that Tersus Consultancy Limited be awarded the contract and that Riverside Environmental Services Limited be appointed as the reserve contractor.
- Next steps
- 18 All bidders will receive written confirmation of the Council's decisions to award the contracts. These letters are prepared in line with the Public Contracts Regulations 2015 and will provide reasons for the decision together with the characteristics and relative advantages of the successful Tenderer.
- 19 After the letters have been issued via the CapitalESourcing portal, a standstill period of 10 calendar days must be observed by the Council in accordance with the Regulations. No activity to engage with successful bidders or to advance progress with the process may be carried out during this time.
- 20 After the conclusion of the standstill period, Privacy Impact Assessments will be carried out for the new contractors. Digital Services will carry out their standard checks, including a Security Questionnaire to ensure that new contractors have the right controls in place to gain access to our network.
- 21 Draft contracts were issued at the start of the procurement process in 19th December 2019, these will be completed and executed as a deed. This process should take approximately two weeks.

- 22 Mobilisation of the new contractors will commence after the statutory standstill period following contract award has finished – expected to be in the week commencing 17th August 2020. There will be six weeks to mobilise the new contractors before the new contracts start on 28th September 2020.
- 23 See Appendix A, section 2 for Social Value commitments and section 3 for the estimate of the cost of the contract.

Reasons for Decision

- 24 Hammersmith and Fulham Council has a legal obligation to ensure its properties are maintained and as a landlord it needs to carry out Asbestos surveys to identify Asbestos before invasive repairs are carried out. This is a vital service to maintain Health and Safety of residents and contractor staff.
- 25 The decisions are required to appoint a contractor to carry out these works as the two interim Asbestos Surveys contracts expire on 27th September 2020. These decisions are the most effective way to ensure continuity of Asbestos survey provision and legal compliance.
- 26 The decisions are based on a competitive tendering process in line with the Public Contracts Regulations 2015. The Final Tenders received were evaluated by the Council's evaluation team against published evaluation criteria. The Contractors recommended for appointment were identified as the most economically advantageous tenderers having applied the evaluation criteria.

Equality Implications

- 27 There are no direct negative implications for groups with protected characteristics, under the Equality Act 2010, by the approval of these proposals.
- 28 *Implications completed by: Fawad Bhatti, Policy & Strategy Officer, tel. 07500 103617*

Business Implications

- 29 The Economy department will work with the Business Development team to develop arrangements for monitoring these commitments and facilitating their realisation by, for example, connecting the contractor to initiatives that are already established.
- 30 *Implications verified/completed by: Albena Karameros, Economic Development Team, tel. 020 7938 8583*

Digital Services Implications

- 31 IT Implications: Digital Services has been working in partnership with the Economy on aspects of the procurement – with a project manager from Digital Services participating as a tender evaluator.
- 32 Digital Services must be consulted where proposals require new systems to be procured, existing systems to be modified, or IT enhancements to be considered. As such, the Economy and the new supplier should work closely with Digital Services to ensure the integration with Northgate (Housing Management System) is completed and all necessary safeguards, permissions and budget are in place.
- 33 IM Implications: As noted in the report, a Privacy Impact Assessment will be required to ensure all potential data protection risks are properly assessed with mitigating actions agreed and implemented.
- 34 The supplier will be expected to have a GDPR policy in place and all staff will be expected to have received GDPR training.
- 35 The contract should include H&F's data protection and processing schedule, which is GDPR compliant.
- 36 *Implications completed by: Karen Barry, Strategic Relationship Manager – 020 8753 3481*

List of Appendices:

Appendix A (Exempt)