

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Councillor Lisa Homan, Cabinet Member for Housing

Date: 24 September 2021

Subject: Contract award for major refurbishment works to Sullivan Court estate SW6 - Phase 2

Report author: Vince Conway, Senior Programme Manager, Capital Delivery

Responsible Director: Jonathan Pickstone, Strategic Director for The Economy

SUMMARY

This report seeks approval to award a contract for the major refurbishment of thirteen residential blocks forming part of the Sullivan Court estate SW6. The project is one which the Council has committed to deliver as part of the Asset Management Compliance Strategy and Capital Programme approved at Cabinet on 1 July 2019. A previous award approved on 4 August 2021 has been rendered null and void by the subsequent decision of the first-ranked contractor to withdraw their tender.

RECOMMENDATIONS

1. To note that Appendices 1, 2 and 3 are not for publication on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that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. That the Cabinet Member for Housing approves the appointment of Axis Europe PLC via the South East Consortium Internal and External Works Framework Lot 1b (Major Refurbishment over £1m) ("SEC Framework"), to undertake major refurbishment works to the Sullivan Court estate SW6 for a sum of £5,476,213.03 subject to the completion of consultation with affected leaseholders under Section 20 of the Landlord and Tenant Act 1985. The contract is expected to be awarded week commencing 22 October 2021 with a site completion date of 16 September 2022.
 3. That the Cabinet Member for Housing approves a contingency sum detailed in exempt Appendix 3 to deal with any unforeseen works that may arise during the delivery of the project.
-

Wards Affected: Sands End

| Our Values | Summary of how this report aligns to the H&F Values |
|---|--|
| Building shared prosperity | Axis Europe's tender includes commitments to social value including providing employment opportunities for local people and using local companies in its supply chain. |
| Creating a compassionate council | Investment in social housing enables the council to fulfil its landlord function and provide good-quality homes to local people that are safe, secure and genuinely affordable. |
| Doing things with local residents, not to them | Residents have been consulted in the preparation of this scheme including formal ballots to decide door styles and communal redecorations. The consultation will continue post-award to include site set-up arrangements and further information on the delivery stage. |
| Being ruthlessly financially efficient | The project has been competitively tendered and awarded on the basis of most economically advantageous tender as set out in the procurement strategy. There will be robust contract management and a strong site presence to ensure quality standards and value for money. |
| Taking pride in H&F | The evaluation criteria has required contractors to give details of their 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 | The project includes the installation of LED lighting to all communal areas. LEDs require significantly less power than regular forms of lighting, thereby reducing energy consumption. They are also cheaper to run and have a longer lifespan than traditional luminaires. In addition, four blocks will have windows replaced with new A-rated double glazed units. |

Financial Impact

The HRA Asset Management Compliance Strategy and Capital Programme latest budget approved by Cabinet on 1 February 2021 contains an allocation of £6,084,295 for the phase 2 refurbishment works at Sullivan Court estate. Apart from some preliminary expenses, this budget is largely uncommitted. The costs for the proposed works of £5,496,213.03 (contract value and allowance for miscellaneous costs) plus the contingency allowance as specified in the exempt Appendix 3 can be funded from this allocation.

A credit report was produced for Axis Europe PLC via CreditSafe on 23 August 2021 which shows they have a low risk credit score of 92. The average of their most recent two financial years' turnover is £167m, which is well above the Council's minimum requirement of double the contract value.

The Leasehold Services team's estimate of the cost chargeable to leaseholders for these works is set out in the exempt Appendix 2. Where any of these charges are not borne by the leaseholders, this will have to be funded from borrowing unless alternative funding sources are identified.

Legal Implications

This report has been reviewed in accordance with the Public Contract Regulations 2015 ("PCR 2015") and the Council's Contract Standing Orders ("CSOs").

The report requests approval to award a contract, following a mini-competition, for the major refurbishment of thirteen residential blocks forming part of the Sullivan Court estate SW6 to Axis Europe PLC via the SEC Framework for a sum of £5,476,213.03. This is the second report relating to the contract award, the first report (which was approved) sought approval to award to Mulalley and Company Limited ('Mulalley'). For reasons explained below, Mulalley are no longer in a position to be awarded the contract.

The value of the call-off contract is over the threshold for works, and therefore subject to the full remit of the Public Contracts Regulations 2015 ("PCR"). Legal services evaluated the SEC Framework and confirmed that it is compliant with the PCR and is appropriate for use.

The winning bidder was originally Mulalley with a tender of £4,841,874. SEC wrote to Mulalley to confirm that they had won the contract. It was a condition of tendering that bidders accepted that Post tender negotiations on price cannot take place and in the Form of Tender bidders undertook to maintain their pricing.

Nevertheless, more recently Mulalley notified the Council that it wished to increase the price set out in its tender. For the reasons set out above, this is not permissible. Therefore, on 31st August the Council wrote to Mulalley to formally confirm that the decision to award the contract to Mulalley had been withdrawn.

The second ranked bidder is Axis Europe PLC. Unlike LBHF procurement documents, the SEC Framework does not expressly reserve the right for the Council to award the contract to the second ranked bidder. However, there is an implied right to do this. Therefore, the recommendation to award to Axis Europe PLC is lawful provided that an exercise was carried out to check that when removing the

first ranked tender the scoring led to Axis Europe PLC being the winning bidder. Furthermore, a new standstill notice must be issued and another standstill period observed.

Under the CSOs, this call-off contract is a High Value contract. Under CSO 19, a call-off from a compliant framework satisfies the Council's procurement requirements for High Value contracts, provided that the rules of the Framework have been followed. In accordance with CSO 21.5, this contract award has been submitted to the Contracts Assurance Board.

The decision-maker needs to be satisfied that the recommended call-off contract award is being made to the tenderer which submitted the most economically advantageous tender on the basis of the criteria set out in the Framework, and an award that is in the best interests of the Council.

The SEC Framework requires the Framework's Call-off Contract to be entered into, and Contract Standing orders requires a formal contract to be drawn up for execution as a deed. Officers shall work with Legal officers to prepare the contract documentation. As the Contract is above £100,000 it will be sealed as a deed.

As the value of the call-off contract is above £300,000, the call-off contract award is a Key Decision and must be submitted to Committee Services for publication on the Council's website. In addition, a copy of the completed (dated) call-off contract must be uploaded to the Council's Contracts Register along with a copy of the award report.

As the value of the works exceeds £25,000, 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)).

Implications completed by: Angela Hogan, Chief Solicitor (Contracts and Procurement) 07919227585

Contact Officers:

Name: Vince Conway
Position: Senior Programme Manager, Capital Delivery
Telephone: 07776 672481
Email: vince.conway@lbhf.gov.uk

Name: Sudhir Kafle
Position: Housing Investment Accountant
Telephone: 0777 667 2451
Email: Sudhir.Kafle@lbhf.gov.uk
Verified by: Emily Hill, Director of Finance

Name: Angela Hogan

Position: Chief Solicitor (Contracts and Procurement)
Telephone: 07919227585
Email: angela.hogan@lbhf.gov.uk

Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Proposals and Analysis of Options

1. Works need to be undertaken to maintain a satisfactory standard to the external fabric and communal parts of the buildings and to ensure homes are safe, warm and weathertight.
2. The proposed works consist of structural and concrete repairs to private balconies and public walkways, new FD30/FD60 front entrance doors, new windows and balcony doors to four blocks, roof repairs, works to chimneys and rainwater goods, and general external and internal communal fabric repairs and redecoration. Additional fire safety works such as compartmentation, emergency lighting and new signage are included across all blocks as required.

Property

3. Sullivan Court is an estate built in the 1950s on the site of Hurlingham polo grounds. 13 blocks, providing 268 homes, are included in this project, the other six blocks on the estate have recently had works completed as part of a separate contract. The majority of blocks are five-storey deck access, the exceptions being Blocks A, J, and K which are six storeys and Block B, a three-storey mansion block. Block A provides commercial properties on the ground floor. The estate is in the South Fulham housing area and Sands End ward.

Tender Process

4. A procurement strategy for this contract was approved by Cabinet on 2 November 2020.
5. The procurement has been undertaken through the SEC framework by way of a mini-competition under the Internal and External Works framework Lot 1b (major refurbishment works over £1,000,000). This is an OJEU-compliant framework awarded 23 October 2019 which expires 22 October 2023.
6. The invitations to tender were published on the mytenders portal on 11 February 2021 with a closing date for receipt of tenders of 25 March 2021. Tender submissions were received from four suppliers.

7. The tender appraisal panel evaluated all submissions in accordance with the mini-competition set out in the ITT using most economically advantageous tender (MEAT) criterion with a weighting of 60% to qualitative and technical aspects of the tender submission and 40% to price.
8. The Social Value offers from each supplier were evaluated by the Social Value Portal.
9. Quotes were invited and received on a fixed price basis and remain open for acceptance for six months from the closing date.
10. The tender process required the technical and commercial evaluation of all valid tenders. The table below sets out the scores achieved by each supplier as assessed by the evaluation panel. Further scoring information is provided at Appendix 1. As the original first-ranked contractor withdrew their tender post-evaluation the scores of the remaining bidders were recalculated. Axis Europe PLC, originally ranked second, are now adjudged to have provided the most economically advantageous tender.
11. Based on the evaluation process carried out in accordance with the approved procurement strategy and Invitation to Tender, officers therefore recommend acceptance of the tender submitted by Axis Europe PLC.

| Tender Appraisal | | | | | | | |
|-------------------------|-------------------|------------------------|--------------------|-------------------|----------------------|---------------------|-----------------------------|
| Overall Ranking | Contractor | Value of tender | Price Score | Price Rank | Quality Score | Quality Rank | Total Weighted Score |
| 1 st | Axis | £5,476,213 | 99.12 | 2nd | 86.00 | 1st | 91.248 |
| 2 nd | Tenderer 2 | £5,428,031 | 100.00 | 1st | 69.08 | 2nd | 81.448 |
| 3 rd | Tenderer 3 | £5,533,901 | 98.09 | 3rd | 67.76 | 3rd | 79.891 |
| N/A | Tenderer 4 | Withdrawn | | | | | |

Reasons for Decision

12. This project is one which the Council has committed to deliver as part of the Asset Management Compliance Strategy and Capital Programme approved at Cabinet on 1 July 2019. The development of the programme has been guided by the principles of the strategy and priorities have been agreed by the Economy Department's Capital Board chaired by the Assistant Director of Operations.
13. The decision above is required to appoint the successful contractor to carry out the works required in these buildings.

Equality Implications

14. It is not anticipated that the approval of these proposals, as set out in the recommendations, will have any direct negative impact on any protected groups, under the Equality Act 2010.

Risk Management Implications

15. Proposals made are in accordance with the Council's continuing ambition to improve fire safety and security for residents. Works should be undertaken in full consideration and application of HM Government, Health and Safety Executive, Public Health and Industry guidelines to maintain safe distancing at work and other measures to mitigate risks associated with Covid-19. Ensuring works of this nature happen will form a part of the recovery of the construction industry following the lockdown. The decision to award the contract to the first fully compliant tender is in line with the objective of being ruthlessly financially efficient, subject to officers ensuring that legal advice set out is followed.
16. Robust project controls and monitoring should be maintained throughout the programme of works to ensure timely delivery, within the financial envelope and to the appropriate quality standards required. Prior to commencement of works the contractor's emergency contact numbers will be checked to ensure they are operating as required by the contract.

Implications verified by: David Hughes, Director of Audit, Fraud, Risk and Insurance, tel: 07817 507 695

Climate and Ecological Emergency Implications

17. The scheme includes the replacement of existing block lighting with LED in line with the Council's current boroughwide specification. The energy savings gained from conversion of old CFL lighting to new LED represents 60% saving in energy consumption and 80% annual lamp maintenance costs,
18. Four blocks will receive new double-glazed windows achieving an A+ Window Energy rating.
19. Axis' Environmental Management System is ISO 14001 certified, which gives international recognition that the company is committed to environmental protection in all aspects of its activities.

Implications verified by: Hinesh Mehta, Strategic Lead – Climate Emergency 07960 470125

Procurement implications

20. The Procurement exercise has been reviewed and no risks have been identified. The mini-competition was run in a robust way using the mytenders portal and support from the SEC framework. The evaluation was carried out by suitable evaluators. The evaluation scores have been checked for arithmetical accuracy and have been calculated in accordance with the published evaluation criteria.

21. The tenders were opened on the mytenders portal in the virtual presence of the council's Head of Procurement and Contracting (Corporate) and prices recorded on the council's Form B.
22. Although mytenders portal has been used for the submission of tenders all documents will subsequently be uploaded to capital esourcing and the contract will be recorded on the council's contracts register.

Implications verified by: Will Shanks, Head of Contract Governance, The Economy Department, 0781 858 1911

Local Economy and Social Value

23. Axis Europe PLC has committed to 26.5% social value, beyond the Council's 10% minimum requirement. The contractor's highest commitments are around spend with local businesses and sub-contracting to MSMEs; creating local jobs and providing support for residents out of work. Axis has also committed to providing a financial or in-kind contribution to a local community project.
24. Social Value Portal evaluated social value responses and the winning bidder scored 40/100, which indicates a fair quality response, providing satisfactory information to demonstrate how they will deliver on their social value commitments. Axis will be required to set targets on Social Value Portal for effective monitoring and will be responsible to pay the relevant fee, as per the Instruction to Tender document published at the tender stage. Contract managers will need to work with the Council's Social Value Officer to develop a delivery plan with the contractor.
25. It is recommended the Commissioner will work closely with legal to ensure appropriate social value clauses are included in the contract, so that the Council can enforce its right to compensation if social value commitments are not delivered.

Implications completed by: Paul Clarke, Economic Development Officer (deputising for the Social Value Officer), 07776 673 004

Digital Services Implications

26. IT Implications: No IT implications are considered to arise from the proposal in this report. Should this change, Digital Services should be consulted.
27. IM Implications: A Privacy Impact Assessment will need to be completed to ensure all potential data protection risks arising from this proposal are properly assessed with mitigating actions agreed and implemented.
28. Suppliers appointed as a result of this report will be expected to have a Data Protection policy in place and all staff will be expected to have received Data Protection training.
29. Any contracts arising from this report will need to include H&F's data protection and processing schedule which is compliant with Data Protection law.

Implications verified by: Tina Akpogheneta, Interim Head of Strategy and Strategic Relationship Manager, Digital Services, tel 02087535748.

Consultation

30. There has been ongoing consultation with residents to explain the nature and scope of the works, programme, and broad timescales. Residents will receive further correspondence prior to work starting on site, updating them regarding the programme, the scope of works and the level of support in place for residents from officers within the Capital Delivery Team.
31. Officers will be mindful of current guidance on Covid-19 during proposed consultation events and will discuss options with the TRA. Remote consultations may include video, telephone, email and mobile messaging. Where face to face meetings are considered essential social distancing will be followed and appropriate PPE worn.
32. Leaseholders have been notified in accordance with statutory consultation legislation. Notices of intent were sent out on 16 October 2018 and expired 20 November 2018. The Notices of Estimate are expected to be issued week commencing 6 September 2021 with the consultation period expiring week commencing 8 October 2021. The contract will not be issued until expiry of the section 20 notices and the satisfactory resolution of any observations received.
33. As of 24 August 2021, a total of 112 properties have been sold under right to buy legislation with five applications currently pending.
34. The total estimated charges to leaseholders based on the recommended contract sum plus contingency and internal management fees is £2.3m. Further details are shown in Appendix 2.
35. The council offers a range of repayment options to leaseholders with extended interest free periods for those facing higher bills.

List of Appendices:

- Exempt Appendix 1: Details of tender analysis
- Exempt Appendix 2: Details of estimated leaseholder recharges
- Exempt Appendix 3: Risk Register Contingency Amounts