

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Cabinet Member for Housing and Homelessness, Councillor Frances Umeh

Date: 14/10/2024

Subject: Procurement Strategy approval of a contract for the provision of water hygiene and legionella management services in communal, domestic water systems.

Report author: Mara Akivlelli, Commissioning and Contracts Lead

Responsible Director: Richard Shwe, Director of Housing

SUMMARY

Officers in Housing, including the Head of Mechanical and Electrical, Assistant Director of Residents and Building Safety, as well as the Director of Housing have highlighted the need for the renewal of the contract for provision of water hygiene and legionella management to ensure we are compliant with Health and Safety, Control of Substances Hazardous to Health and Approved Code of Practice (ACOP) L8 – Prevention of Legionella regulations and guidance.

This report seeks approval of a procurement strategy and contract award approval to compliantly direct award a contract via the Southeast Consortium's, Heating and Water Hygiene Framework, Lot 5 to Icom Estate Solutions Ltd.

The contract will encompass a systematic management control system evidenced through regular inspections, necessary remedial works, written scheme and other records. For this works to be undertaken, it is important that the contractor staff are suitably qualified, accredited and experience in Legionella Management.

The contract will include water hygiene remedial works and temperature monitoring to all communal blocks, sheltered schemes and tenant halls. The provision will also include quarterly shower head cleans, cistern replacements and system disinfection, relining of storage tanks, insulation, valve and stopcock replacement, hoses and spray taps and the replacement of defective ones as well as bacteria sampling.

We are proposing a three-year contract with a provision of a two-year extension (actioned via 12-month blocks). The total contract value will be £3,277,860. The yearly spend will be equally apportioned at £655,572 per annum.

RECOMMENDATIONS

- 1) That the Cabinet Member for Housing and Homelessness approves the procurement strategy to compliantly direct award a contract to the highest ranked interested bidder- Icom Estate Solutions Ltd, via the Southeast Consortium's, Heating and Water Hygiene Framework, Lot 5.

- 2) That the Cabinet Member for Housing and Homelessness approves the contract award of a Legionella term-service contract to Icom Estate Solutions Ltd. This will be for a period of 36 months plus two 12-month extensions and a total value of up to £3,277,860.

Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Corporate Plan and the H&F Values
Building shared prosperity	Maintaining health and safety through the effective monitoring and management of the legionella bacteria is fundamentally important for public health and the wellbeing of H&F residents. Additionally, the inclusion of social value in the contract will ensure that the supplier will commit to delivering social value outcomes which will benefit the local communities and contribute to a shared prosperity.
Creating a compassionate and inclusive council	The Council as a social landlord has an obligation to ensure the health and safety of its residents, some of whom are particularly vulnerable due to age, disability, ill health and low income. Managing a potential public health risk such as legionellosis effectively will safeguard the residents' health and wellbeing, enabling them to thrive. Furthermore, it creates a people centric, caring and compassionate authority.
Doing things with local residents, not to them	The contract will stipulate high standards of resident communication throughout the lifetime of the contract.
Being ruthlessly financially efficient	The proposed supplier has been assessed for both quality 70% and cost 30% on SEC's Framework. Based on assurance from robust contract management, it is anticipated that high quality standards and value for money will be achieved.
Taking pride in H&F	The Council is actively working to promote health and safety and wellbeing of its residents and visitors. This is achieved by ensuring the necessary systems are in place to prevent and minimise potential, serious

	risks to health such as legionellosis so that the public have assurance that living or visiting H & F is a positive experience.
Rising to the challenge of the climate and ecological emergency	Throughout the lifetime of the contract the Mechanical and Electrical service will look at improvement opportunities within the contract to drive improvement in this area. The proposed supplier can offer a remote monitoring system which will result in fewer physical visits to the site and a more positive carbon delivery model.

Financial Impact

The works are anticipated to commence in the 2024/25 financial year for up to 5 years. The estimated cost of the works is £3,277,860, with an average annual cost of £655,572.

The service estimates that up to £1,612,360 (£322,472 pa) will be spent on upgrade works and will therefore be capitalisable. These costs will be funded from the safety works improvement schemes budget contained in the Housing Capital Programme (approved by Cabinet in February 2024).

The revenue costs of £333,100 per annum / £1.67m across the 5-year period will be funded from the Maintenance Programme budgets in the Residential & Building Safety Division.

A Credit Safe Report run on 17th September 2024 on the supplier Icom Estate Solutions Ltd provided a credit score of 42 (moderate risk) and a suggested annual contract limit of £325,000. Payments are expected to be made to the contractor only upon the satisfactory completion of the works, which will mitigate the financial risk to the Council.

Implications completed by: Anjeli Chadha, Principal Accountant – Housing Capital, 20th September 2024 & Mark Collins Principal Accountant – Housing Revenue 20th September 2024

Verified by: Danny Rochford, Head of Finance (Housing) 8 October 2024

Legal Implications

The Council has a duty to prevent outbreaks of legionella, as part of its duties as a landlord under the Landlord and Tenant Act 1985. The proposals in this report would enable the Council to be compliant with the Health and Safety Executive guidance Approved Code of Practice (ACOP) L8-Prevention of Legionella.

The value of the contract means that it is a public services contract under the Public Contracts Regulations 2015 (PCR) and subject to the advertising and competition requirements in these regulations.

The South East Consortium framework was procured in accordance with the PCR and the Council is entitled to call off contracts under it. The terms of the framework allow for both mini-competitions and direct awards. Direct awards need to be made to the highest ranked provider on the framework unless there are exceptional reasons. Icom is the highest ranked of the suppliers who expressed interest and the award of the contract to is therefore compliant with the PCR.

This is a high value contract under the Council's Contract Standing Orders. The use of a suitable third-party framework in accordance with its terms is a compliant method of procuring a contract of this value. The requirements of the CSOs have therefore been met.

The approval of this procurement strategy and award of this contract is a key decision under the Council's constitution and needs to be included in the key decision list on the Council's website.

John Sharland, Assistant Director of Legal Services
16th September 2024

Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Proposals and Analysis of Options

Current statutory legislation requires duty holders to be aware of their individual and collective responsibility for the provision of safe hot and cold-water supplies, storage and distribution systems in the council's residential premises, including communal blocks, sheltered schemes and tenant halls. This will be implemented by applying a systematic management control system and evidenced through risk assessments, written schemes, maintenance, and other records. The water hygiene and legionella contract places the responsibility for the monitoring of risks of legionella and servicing of the systems on the appointed contractor.

The contract, currently held by HSL, expires on the 15 October. Due to the restrictive timeframe, it is important that the procurement process is completed swiftly and reliably. For this reason, Southeast Consortium was selected as a compliant framework provider to source an accredited, specialist supplier who is also economically advantageous to meet H & F standards. South East Consortium has been operating for many years and is a well-established, compliant procurement vehicle for local authorities. The suppliers on the Heating and Water Hygiene Framework, Lot 5, were ranked competitively based on a 30% cost, 70% quality split. The quality element comprised of three questions around commercial stability, alliancing contracts and building information management. A high-level review was undertaken by the SEC's procurement manager and head of procurement to ensure satisfaction with the standard of evaluation. The cost element was evaluated by the SEC's technical partner and technical partnerships manager.

1. One of the options available under the South East Consortium's, Lot 5, Heating and Water Hygiene Framework, is to undertake a mini-competition exercise. Whilst this offers strong cost and quality competition, it can take an average of 3-6 months to conclude this process. This is therefore not an option as we need a new contractor in place by mid-October 2024.
2. The second option the framework provides is a direct award call off and the main benefit of this being speed. A direct award saves time and offers a strong level of quality assurance and cost competition. This is because the suppliers have already passed the minimum eligibility criteria (e.g. such as the financial standing and health and safety requirements) and competed for a ranked place on the relevant LOT based on a quality versus cost basis.
3. With this in mind, we have engaged with the framework to determine via an 'expression of interest' process, which bidders want to be considered for the opportunity.
4. The highest ranked interested bidder was 'Icom Estate Solutions Ltd'. Icom are ranked first on the Heating and Water Hygiene Framework, Lot 5. Icom was invited to submit a proposal based on their capability and capacity to deliver the services.
5. Upon consideration of the supplier's proposal and framework pricing, the service now want to proceed to a direct award.

OPTIONS

Option 1: Procure a 6-month interim Legionella contractor. This is not a viable option as the administration costs associated with procuring a short-term provider whilst immediately sourcing a longer-term provider would be very high. There would be significant risks in relation to market interest as the short length of contract would be very undesirable for a contractor.

Option 2: Re-procure for a long-term contractor by conducting an open tender exercise: This is not a viable option as an open tender can take several months to seek tenders and evaluate the results, before contract award Governance can begin. We do not have sufficient time to assess and plan our commissioning and contract route to market. Therefore, proceeding with a procurement at this stage would negatively impact future quality/value for money outcomes. Also, via this route, there is insufficient time to ensure effective mobilization and demobilization of the new and incumbent contracts. Again, inadequate mobilization/demobilization will negatively affect quality outcomes in both the short-term and long-term.

Option 3: Procure using a compliant mini competition off a framework

It is considered that there isn't sufficient time to carry out a mini competition as the process would take three to six months to complete which would disrupt the service provision and increase risk continuity of service for the authority.

Option 4: Procure using a compliant direct award off a framework (preferred option)

The direct award call-off method under the Southeast Consortium Framework was selected as the preferred option to meet the Council's needs. This will enable the rigour in relation to quality assurance, value for money, expediency and continuity of service provision.

Reasons for Decision

6. The monitoring of the Legionella bacteria and remedial works must be undertaken under the Landlord and Tenant Act 1985, the Health & Safety at Work Act 1974, the Control of Substances Hazardous to Health Regulations 2002 and the supporting Approved Code of Practice (ACOP) L8-Prevention of Legionella Regulations. It is a requirement that regular inspections and maintenance of communal hot and cold-water systems are carried out to minimise the risk of the proliferation of Legionella bacteria and to carry out any associated remedial works. The contract will ensure that all communal hot and cold-water installations within H&F housing properties comply with these regulations.
7. Maintenance of safe water systems in the Council's housing portfolio is dependent on the appointment of a suitably accredited and experienced Legionella Management contractor. The recommendation in this report is to appoint a suitably accredited contractor compliantly via the Southeast Consortium's Heating and Water Hygiene's Framework, Lot 5, direct award option.
8. As the current contract expires on the 15th of October 2024, we have insufficient time to run a lengthy competitive tender exercise.

Contract Specifications Summary

9. The contract will include water hygiene remedial works and temperature monitoring to all communal blocs, sheltered schemes and tenant halls. The provision will also include quarterly shower head cleans, hoses and spray taps and the replacement of defective ones as well as bacteria sampling.
10. The recommended length of the contract is three-year contract with a provision of a two-year extension (actioned via 12-month blocks).

Market Analysis, Local Economy and Social Value

11. The market for legionella contractors is very well established as the provision of legionella maintenance services have been a commissioning need of local authorities for many years. There are many small and medium-sized legionella maintenance companies in the market.
12. As a commissioning entity, we have a good knowledge of acceptable rates that resemble value for money and the necessary components required by contractors to deliver a compliant and effective service.

13. This procurement will follow the Council's Social Value requirements. The contract will contain clauses to ensure that the appointed supplier delivers a 10% social value.

Timetable

14. Please include an estimated timetable of the competition process through to contact commencing.

Key Decision Entry (Strategy and Award)	10 September 2024
Contracts Assurance Board (Strategy and Award)	25 September 2024
SLT/Cabinet Member/Cabinet Sign off (Strategy and Award)	2 October 2024
Contract engrossment	15 October 2024
Contract mobilisation and implementation	15 October 2024
Contract Commencement date	15 October 2024

Selection and Award Criteria

15. Please include:
- This Framework ranked suppliers based on 70% Quality versus 30% Cost basis.
 - The cost analysis considered costs relating to a comprehensive range of work areas relating to legionella such as: cistern and system disinfection, cistern replacements of varying sizes, relining of storage tanks, insulation, valve and Stopcock replacement and renewals, and pipework.
 - Quality was assessed on the contractor's commercial stability, supply chain management, understanding of Alliancing Agreements and collaborative contractual relationships and managing data.

Contract Management

16. This will be a JCT Medium Term contract. The Mechanical and Electrical client team will monitor and manage the contract.
17. In terms of inflation management, we will insert a clause in the contract that allows for annual inflationary uplifts to be applied on each yearly contract anniversary date. The uplift decision will be based on CPI.
18. In relation to performance management, the contract will be subject to a suite of KPIs that the client team will monitor, measure and report on. KPIs will include but are not limited to:
- Compliance Tests completed on time across testing programmes
 - Remedial actions completed on time – within PCAF requirements
 - Average time to complete a repair
 - Customer satisfaction – feedback presented from residents

- Monthly inspections completed on time – 100%
- Bi-annual inspection completed on time – 100%
- Risk Assessment reviews completed on time – 100%
- No accountable Legionella incidents
- PCAF orders completed within target – 100%
- Average time to complete a repair – 7 days

Equality Implications

19. As a landlord of social housing there is a higher proportion of vulnerable residents in the properties to which these services pertain to. The outcomes of this contract will ensure that safe housing infrastructure is in place for these residents.
20. 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

21. There is a set of associated risks relating to public health; that is that Icom Estate Solutions do not discharge their duties correctly resulting in public health, compliancy and reputational risks. Furthermore, that this contract is made directly and at pace has not allowed a reasonable amount of time to offset the risks as they stand as an adequate assessment of Icom Estate Solutions has not been made.
However to reduce the risks, it is proposed that regular independent checks are made of work completed, project management and communications as well as, and most critically to verify the absence of legionella in properties that have been worked upon by Icom Estate Solutions.

Jules Binney, Risk and Assurance Manager, 17th September 2024

Climate and Ecological Emergency Implications

23. Icom, part of BDR, is keen to work with its clients to help reduce their carbon emissions and assist with their energy reduction by working to make their energy usage as efficient as possible – by partnering with them on solar panel outlays across key distribution centres, conducting Energy audits and Efficiency projects and other green initiatives, with the aim of making clients' locations powered by 100% Renewable energy (REGO approved).
24. The following solutions and initiatives the supplier has taken align with H&F's climate and ecology strategy that can be incorporated into the contract.
 - Installation of charging points at their head office and continuation of more installations over the coming years to reduce carbon emissions
 - Procuring and arranging installations of charging points for their clients. Partnering with energy companies to work together to reach the government's 2030 Climate Target Plan.
 - Using technology to reduce energy waste in the workplace (digital signage, LED and automatic lights)

- Behavioural change – working with their staff and clients to find and implement solutions which are good for the environment and help reduce carbon footprint from green energy products to staff workshops.
25. Wherever possible the supplier should also minimise water use and hot water production, identify opportunities for energy efficiency, aim to use biodegradable and eco-friendly products, implement sustainable materials to reduce waste of single use items, and focus on sustainability for the replacement of defective products (repair, reuse, recycling).

Verified by Hinesh Mehta, Assistant Director Climate Change, 23/09/2024

Local Economy and Social Value Implications

26. It is a requirement that all contracts let by the council with a value above £100,000 propose and commit to social value contributions that are additional to the core services required under the contract. These contributions must amount to at least 10% in value of the price of the contract proposed.
27. It is recommended that the commissioner works closely with the Legal Service to ensure appropriate social value clauses are included in the contract so that the council can enforce its right to remedies if social value commitments are not delivered.

Implications completed by Oliur Rahman, Head of Employment and Skills, 5th September 2024