



Haringey Council

Report for:	Cabinet on 12 November 2013	Item number	
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Title:	Major Capital Works Contractor Framework
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Report authorised by :	Mun Thong Phung, Director of Adult & Housing Services
	Signed: _____ Date: _____

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Wards affected: All	Report for: Key Decision
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1. Describe the issue under consideration

- 1.1 This report seeks approval to establish a four year Constructor Partner Framework to undertake major capital works including the delivery and completion of the Decent Homes Programme. The Framework will expire in 2017/18 but the call-off arrangements allow for works to be carried out up until 2019/20.
- 1.2 The recommended Constructor partners were chosen by a competitive tender process that complied with both the Public Contracts Regulations 2006 (as amended) (the "Procurement Regulations") and the Council's Contract Standing Orders.



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2. Cabinet Member Introduction

- 2.1 Improving the Council's stock is a high priority, and it is important that work continues to ensure that the stock complies with required standards and that the grant funding allocated to Haringey by the Greater London Authority can be secured.
- 2.2 I welcome and support the award of this framework agreement as a means of delivering the Decent Homes Programme and achieving the GLA targets for 2014/16.

3. Recommendations

- 3.1 That Cabinet approves the award of the Framework Agreement to the four Constructors named in paragraph 3.6 below based on the Most Economically Advantageous Tender, to deliver the Decent Homes and Capital Works programmes.
- 3.2 That the 1st and 2nd ranked Constructors, Keepmoat Regeneration (Apollo) Ltd (Note: Apollo completed the Form of Tender as Apollo Property Services Group Ltd T/A Keepmoat but they have since changed their name to Keepmoat Regeneration (Apollo) Ltd) and Mulalley and Co Ltd respectively are appointed to deliver the first two years of the Framework, 2014/15 and 2015/16.
- 3.3 That the 3rd and 4th ranked Constructors, Wates Construction Ltd and Mears Ltd respectively be held in reserve for the first two years of the programme.
- 3.4 That a mini tender exercise be carried out after two years and again after four years of the Framework Agreement to enable all the four Constructors to tender for works beyond the first two years of the Framework.
- 3.5 That the approval of the individual Agreed Maximum Price (AMP) for the contracts let under this Framework for the first two years (2014/15 and 2015/16), up to the value of £6.5m, and any necessary subsequent adjustments to the programme (due to the availability of funding, wider stock investment priorities and/or other unforeseen issues that affect delivery) is delegated to the Director of Adult & Housing Services, after consultation with the Cabinet Members for Regeneration and Housing and for Finance, Employment and Carbon Reduction.
- 3.6 That the following four Constructors are awarded a place on the Framework Agreement for Major Capital Works Contractor Framework (Housing) for four years:



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Keepmoat Regeneration (Apollo) Ltd
Mulalley and Co Ltd
Wates Construction Ltd
Mears Ltd

(refer to paragraphs 5.2 to 5.12 for full details).

4 Alternative options considered

- 4.1 Consideration was given to extending the Decent Homes Framework which expired in December 2012, but this was not possible as to do so would be a breach of the Procurement Regulations. Consideration was also given to using the Council's existing Major Works Framework but it was not Section 20 compliant and would not allow the cost of works to leaseholders' property to be recovered.

5. Background information

- 5.1 One of the key priorities in Haringey is to increase the number of homes which comply with the Government's Decent Homes Standard and the slightly enhanced "Haringey standard". In February 2007 Cabinet Procurement Sub Committee approved the award of Framework Agreements to four Decent Homes Constructor Partners to deliver the planned programme. These original frameworks expired at the end of the 2012/13 programme and temporary arrangements were put in place to enable work to continue during 2013/14. The new framework that has now been procured will enable Homes for Haringey as agent for the council to complete the delivery of the Decent Homes Programme. The framework can also be used for other major Housing capital works as approved by the Council and will provide the Authority with the flexibility to provide non Decent Homes type work such as Mechanical & Electrical works not generally covered under Decent Homes programmes. The procurement strategy for inclusion of non-Decent Homes type work under a Major Capital Works framework was agreed by the Council 18 months ago.
- 5.2 The Council intends to enter into an overarching Framework Agreement ("the Framework") with four constructors to deliver the Council's Major Capital Works programme including Decent Homes work to the Haringey housing stock. The Framework will run for four consecutive years from around January 2014 to around March 2018. The expected capital spend is £40 million in year one (2014/15) and £34m in year two (2015/16). The planned works include works to roofs, windows and doors, planned preventative maintenance, kitchens & bathrooms, mechanical and electrical works, statutory housing health and safety rating system (HHSRS) works and energy efficiency works.



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- 5.3 After entering into the Framework with the four constructors, Haringey intends that the programme of work will be let in two year stages as “call off” contracts. Those contracts will take the form of the Project Partnering Contract PPC2000 (“the Partnering contract”). It is intended that the work for the first two year stage will be awarded to the two highest scoring constructors from the procurement process for the Framework.
- 5.4 At the end of the first two year stage (around March 2016) there will be a mini-competition between all the Framework constructors for the next two year programme of works. It is intended to award the work to the two highest scoring bidders. This will involve the four Framework constructors providing preliminaries, overheads and profits based on specific work value bandings.
- 5.5 It is intended to conduct a final stage mini tender towards end of the four year Framework period (prior to March 2018) with PPC2000 Partnering call off contracts being awarded for a further two years.
- 5.6 The Council is not obliged to use any of the Framework constructors to do works under Partnering Agreements. Entering into Partnering Agreements either by way of call off or mini tender will be at the complete discretion of the Council, none of the constructors appointed to the Framework will be automatically entitled to work. It is assumed that planned mini-tenders in 2016 and 2018 will ensure that the constructors are more competitive in terms of price because of the possibility that work may be awarded to another Framework constructor following mini tender competition.
- 5.7 The Constructors will deliver the Major Capital Works programme via the Supply Chain Management Group (SCMG) process and utilise the SCMG Work Package Schedule of Rates to build up the annual programme AMPs.
- 5.8 The SCMG is a consortium procurement group operated by the London Boroughs of Haringey, Hackney, Newham and Lambeth in order to obtain competitive prices for construction work through volume purchase which has been used successfully in previous years for the delivery of Decent Homes work.
- 5.9 There are potential savings from using the SCMG approach on those elements which make up the bulk of our expenditure on Decent Homes type works (kitchens, bathrooms, roofs, windows, scaffolding and heating).
- 5.10 SCMG costs showed overall savings of between 6% and 26% when applied to a sample block of 30 flats having internal and external Decent Homes works carried out.



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5.11 SCMG is not just about price, although obtaining the best price for the quality of materials or services required is obviously a high priority. The approach also recognises that non-cashable benefits which leave an asset management, local training and employment and environmental sustainability legacy must be part of the outcomes required by partners.

5.12 The key features of the approach of SCMG are as follows:

- Differs from many other consortia in that it does not procure goods or services, it provides a process with major benefits for the Client.
- Working with Constructor partners, the process improves upon tendered costs and/or non-cashable benefits offered by the supply chains.
- The process does not affect the contractual relationship between the Client and the Constructor, nor between the Constructor and the Supply-Chain. The Constructor remains responsible for the supply chain appointments and management.
- The process is not affected by procurement legislation or by statutory leaseholder consultation requirements; these issues have been addressed by the individual Clients in appointing the main Constructors.
- The process is a method of delivering a Partnering contract which emphasises an open and honest relationship between all partners, without the need for expensive and time-consuming validation processes.
- The process emphasises the role and responsibilities of the Supply Chain, under the management of the Constructor, in delivering the project.
- The process recognises that the bulk of the work in specifying, costing and implementing the required works are carried out by the supply chain and it is in this area that the bulk of cost savings and long-term non-cashable benefits can be obtained.
- It does not require all partners to adopt the same goods or services. Clearly there are volume savings to be had where all SCMG members adopt the same materials or services but such a situation is not likely to exist initially, bearing in mind the commitments and strategic views of the individual partners. The process will have significant benefits however, without all of the potential volume savings.



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- It is a means of making the post-tender construction procurement process transparent and to the benefit of all partners.
- It enables Clients to maximise the long term benefits of investment in their area by means of:
 - Extended and robust guarantees on materials supplied
 - After-care arrangements to maintain the life of products
 - Access to data on-line, which will assist in future maintenance
 - Local training and employment opportunities
 - Simplified basket of rates approach
 - Simplified costing matrices to agree AMPs
 - Web-based IT solutions provided by supply chain members
 - Common contract management processes, resulting in less disputes and speedier settlement of Final Accounts
 - Training for Client staff, Constructor and Supply-Chain staff in operating the process
 - Benchmarking other group members and peers
 - Regular audit of the application of the process by partners to ensure compliance and maintain credibility and probity
- It will deliver the benefits claimed by the introduction, maintenance and development of common systems and procedures for all partners;
- When properly enforced and managed by partners the adherence to the process will lead to greater cost certainty, improved KPIs and the likelihood of more work being carried out within the same budget.

Procurement Process

- 5.13 The procurement followed an EU compliant tender process and complies with the Council's Contract Standing Orders (the "CSOs). A contract notice was published on 26 April 2013 in the Official Journal of the European Union (OJEU).
- 5.14 Tenders were invited on the basis of all the Constructors using the same SCMG supply chain work package schedule of rates, so that cost competition was based on preliminaries, overheads and profit for evaluation purposes. All the Constructors submitted a tender return and the tenders received were for preliminaries, overheads and profit alone.
- 5.15 Tendering Constructors submitted their preliminaries, overheads and profit percentage costs based upon 12 value bandings between £1m and £40m (2014/15) and £1m to £37m (2015/16).
- 5.16 They were calculated as % Value of Work within each work package banding. The anticipated optimum work value allocation for the 2014/15



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Major Capital Works programme was in the region of between £19m-£22m and for 2015/16 £16m-£19m for each Constructor and this included all works packages/work types delivered by means of a traditional D&B contract.

- 5.17 The Constructors total preliminaries costs were derived from the % preliminaries applied against the total derived (for the purposes of the evaluation) work package values. These figures formed the basis of the price evaluation and Constructor ranking.
- 5.18 Homes for Haringey awarded maximum marks to the lowest price obtained from the Preliminaries, Overheads and Profit assessment with marks then allocated to other bidders on a pro-rata basis based on 60% of the total price score available.
- 5.19 All tenders are open for acceptance for a period of six months from the tender return time and date of noon on 6 August 2013.
- 5.20 A quality assessment was conducted by an Evaluation Panel. The Qualitative submission was based on 5 Method Statements related to Decent Homes delivery and included in the Invitation to Tender (ITT) tender documents as part of the Qualitative Delivery Proposals (QDP). Each question was offered a score between 0 (for question not answered) to 5 (excellent) together with a weighted score.
- 5.21 The tenders were assessed based on weightings of 40% for quality and 60% for cost.
- 5.22 All of the 10 Constructors invited to tender submitted a tender.

Leaseholder Implications and consultation

- 5.23 The Council is obliged to consult leaseholders in accordance with the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 ("the Regulations"). The Regulations require the Council to send three notices to leaseholders before works are undertaken. The first Notice advising of the Council's intention to enter into the agreement was issued on 1 February 2013 before the OJEU advertisement was published.
- 5.24 Under the terms of their leases the lessees are required to make a contribution towards the cost of maintaining in good condition the main structure, the common parts and common services of the building. Such contributions are recovered by the freeholder through the lessee's service charge account.



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- 5.25 In accordance with the Regulations, Notifications of Landlord's Proposal ('second consultation Notices') have been issued to leaseholders by the Homes for Haringey Home Ownership Team.
- 5.26 The second consultation Notice informs leaseholders that the Council is proposing to enter into four Framework Agreements (Long Term Qualifying Agreements, LTQAs) and invites them to inspect the proposals and make observations. The statutory consultation period under the second notices ended on 24 October 2013. The Council is required to have regard to those observations in making its decision to award the Framework Contracts. Copies of those observations are included in the Exempt part of this report.
- 5.27 The third Notice will be issued on the completion of the design when the costs are known for the works to their block as described in their lease. It provides the leaseholder with 30 days to make observations about the works. Homes for Haringey will give due regard to the comments received and respond before the works are carried out.
- 5.28 The charges to leaseholders are limited to the estimates contained in their Offer Notices. Invoices for these works are included within the annual Certificate of Actual Services Charge that is sent to every leaseholder after the end of the financial year. Each invoice will be calculated on the basis of the final account cost of the works or the amount paid to the Constructor. The invoice will be payable interest free over a period of up to six years, depending on the amount invoiced and whether the leaseholder lives in the property. For longer periods interest is chargeable, currently at 7.46%.
- 5.29 Under the terms of the lease, leaseholders are advised of the total service charges payable as part of the annual Certificate of Actual Services Charge that is sent to every leaseholder after the end of the financial year. Final invoices will be calculated on the basis of the final account cost of the works or the amount paid to the Constructor.

6. Comments of the Chief Financial Officer and Financial Implications

- 6.1 The report seeks to approve the award of Framework Agreement to the four contractors named in paragraph 3.6. They will deliver the Decent Homes and Major Works Programmes to run up to 2017/18 with the opportunity to use call-off arrangements that allow works to be carried out up to 2019/20.
- 6.2 Tenders were evaluated using the Most Economically Advantageous Tender (MEAT) criteria. The tenders were weighted 40% based on quality and 60% based on price. The procurement process was conducted in



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compliance with European Union tender requirements and the Council's Contract Standing Orders.

- 6.3 The 1st and 2nd ranked Constructors were Keepmoat Regeneration (Apollo) Ltd and Mulalley and Co Ltd respectively. It is proposed that the two Constructors are appointed to deliver the first two years of the framework in 2014/15 and 2015/16.
- 6.4 The costs involved in the work are not known exactly as this is a framework agreement. The approval of the individual contracts let under this framework agreement will be on the basis of the Agreed Maximum Price (AMP).
- 6.5 There is £70.9m of capital programme funding for 2014-15 and 2015-16 in the currently approved programme (this includes £4.5m leaseholder contributions). Future year programmes have yet to be agreed but there is a reasonable expectation that capital funding will continue to be available from the HRA to fund Major Works.
- 6.6 Leaseholders will be liable for their share of charges falling due as a result of Major Works and Decent Homes Works carried out. The appropriate notices to date have been served to leaseholders. Under current arrangements leaseholders will be able to repay amounts falling due interest free over a period of up to six years and with interest at a rate of 7.46% for longer periods. A report is due to be presented elsewhere on the agenda that will consider enhancing repayments options.

7. Head of Legal Services and Legal Implications

- 7.1 The Framework which this report relates to has been procured in compliance with the CSOs, and the Procurement Regulations, and an OJEU tendering process using the Restricted Procedure has been followed.
- 7.2 The report recommends award of the Framework to the Constructors listed in paragraph 3.6 above. These Constructors have been selected based on the most economic tenders submitted, in accordance with the CSOs and Regulation 30(a) of the Procurement Regulations.
- 7.3 As the total estimated value of the call-off contracts to be awarded under the Framework will exceed £250,000 the award may only be approved by Cabinet in accordance with CSO 9.07.1(d).
- 7.4 The award of the Framework is a key decision and the Directorate has confirmed that it has been included on the Forward Plan.



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7.5 The Head of Legal Services is satisfied that the leaseholder statutory consultation conducted to date has been carried out in accordance with the requirements of the relevant Regulations.

7.6 Please see additional legal comments in Appendix A of the report.

8. Equalities and Community Cohesion Comments

8.1 Homes for Haringey's Asset Management Strategy, 2010-17 covers all investment in the Council's housing stock, including the Decent Homes Programme.

8.2 In compliance with the Council's public sector equality duty, an Equality Impact Assessment was undertaken as part of drawing up the Strategy.

8.3 The findings have been incorporated into Homes for Haringey's planning processes for delivering improvement programmes. This includes ensuring that all residents receive a standard of work that is consistent with the improvement policy, and that consideration of specific language and other needs are identified and addressed when drawing up the programmes of work.

8.4 The proposed works will benefit all residents living in these dwellings and visitors to the blocks.

8.5 The tender and selection process for this contract was carried out in line with the Council's procurement policy and guidelines which have equalities considerations at all the key stages.

9. Head of Procurement Comments

9.1 The requirement for a framework agreement to procure the Major Works Contractors Framework programme is necessary, as there is no other framework which is compliant in respect of Leaseholder Consultation. The current procurement is necessary to ensure that the programme of works is met.

9.2 The framework agreement has been advertised in the EU using a restricted procurement process and has been evaluated on the basis of 60% price and 40% quality.

9.3 The Head of Procurement notes the proposed recommended Constructors and that a Section 20 notification process is taking place for this work.



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10. Policy Implications

10.1 Homes for Haringey has in place an Asset Management Strategy and Environmental Sustainability Strategy which provides a strategic framework for the delivery of the Decent Homes Programme.

10.2 The objectives of these strategies are closely linked to the Council's Greenest Borough Strategy, the Sustainable Procurement Strategy, Regeneration Strategy and Asset Management Plan.

10.3 These improvement programmes will contribute to the achievement of Council Priorities:

- Improving the environmental performance of council housing stock;
- Providing a cleaner and greener environment for residents;
- Providing decent homes and improving well-being; and
- Delivering cost effective services.

11. Reasons for decision

11.1 A decision is required in order that Decent Homes and other Major capital Works can be delivered. The delivery of the Decent Homes Programme is a central element to the Council's Asset Management Strategy and the best method of delivering the programme and achieving the best value for money to the Council is via partnered frameworks.

11.2 The framework contracts proposed in this report will ensure that the remaining Decent Homes Programme 2014/16 can be delivered to target.

12. Use of Appendices

12.1 Appendix A is the exempt part of the report.

13. Local Government (Access to Information) Act 1985

13.1 This report contains exempt and non exempt information. Exempt information is contained in Appendix A of this report and is **NOT FOR PUBLICATION**. The exempt information is under the following categories (identified in the amended Schedule 12A of the Local Government Act 1972): Information relating to the financial or business affairs of any particular person (including the authority holding that information), and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.