

Report for: Cabinet Meeting – 9th July 2019

Title: Award of Highway and Street Lighting Term Contracts

Report authorised by : Stephen McDonnell – Director of Environment & Neighbourhoods

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Ward(s) affected: All

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration

- 1.1. On 31st August 2018, in accordance with the Public Contract Regulations 2015, and in accordance with Contract Procedure Rule (CSO) 9.01.1 (Contracts to be let following an appropriate advertisement), an OJEU notice was published for competitive tender (using Open Procedure) to identify suitable economic operator(s) for the delivery of the Council's Highway and Street Lighting Term Maintenance Contracts.
- 1.2. This report seeks the approval to award a Street Lighting Term Contract, in accordance with CSO 9.07.01(d) (All contracts valued at £500,000 (five hundred thousand pounds) or more at the time of award may only be awarded by Cabinet), for an initial term of four years, with an option for two further two year extension periods; thereby the maximum term of the contract being eight years. The maximum value of the contract will be £12 million, if the contract remains in existence for the maximum eight year term.
- 1.3. The report further seeks approval in respect of the recommendations for the Highways Term Contract, as stated in the Exempt section (Part B) of this report.

2. Cabinet Member Introduction

- 2.1. Transport plays a pivotal role in our daily lives and Haringey is one of London's best-connected boroughs and the transport network is used by our residents, businesses and by people from across the City and beyond; either passing through or interchanging at a station or bus stop.
- 2.2. Maintaining and improving our road network plays a key in enabling the achievement of our wider economic aspirations for the borough. This report recommends the award of a Street Lighting Term Contract to deliver the Council's planned and reactive works for the coming years.

3. Recommendations

Cabinet approves:

- 3.1. Pursuant to CSO 9.07.01(d) the award of a contract for Street Lighting Term Contract to Bidder SL 1 (identified in the exempt part of the report), for an initial four (4) year term, with an option to extend (at the Council's absolute discretion as contained with the terms and conditions of the Contract) for two further two year extension periods.
- 3.2. The withdrawal of Lot 1 (Highway Maintenance and Minor Highway Improvement Works) from the procurement process, resulting in no award for Lot 1, for the reasons set out in exempt section (Part B) of this report.

4. Reasons for decision

- 4.1. Officers have undertaken a competitive tendering exercise, in accordance with the Public Contract Regulations 2015, in relation to a Highways and Street Lighting term contract. Through this process Bidder SL 1 submitted the Most Economically Advantageous Tender in respect of the Street Lighting Term Contract, and therefore, in compliance with the Public Contract Regulations 2015, can be awarded the Street Lighting Term Contract.
- 4.2. The delivery of highways and street lighting works, both planned and reactive, contribute to the delivery of a number of Council priorities, as well as supporting the Council in complying with its statutory duties arising out of the Highways Act 1980 and Traffic Management Act 2004.

5. Alternative options considered

5.1. In 2018 the council drafted a Highway Commissioning Strategy which investigated eight options as to how the Council should provide its Highways and Street Lighting services over the next eight years. These options included the full or partial insourcing of the service. They were:

- a) Continuing with the existing London Highways Alliance Contract (LoHAC);
- b) The use of other existing contracts;
- c) The use of the London Borough of Ealing term contract (open to all boroughs);
- d) A new term contract;
- e) A new multiple operator framework agreement;
- f) A new design and build contract;
- g) Externalising the complete highways function;
- h) Bringing construction works in house (in full or part).

5.2. Each option was subjected to three tests before being considered further. Those three tests included the following considerations that the approach:

1. Had the capacity to deliver the councils requirements;
2. Could meet the performance requirements of the Council;
3. Could be achieved in the timeframes the council was working to.

Options passing the initial testing were scored against several other criteria Procuring a new term contract (Option d)) passed all three initial tests and scored highest in the second part assessment. In-house provision of these services was excluded, as it failed to meet the required timescale.

5.3. Our benchmarking also confirmed that none of the 75 members of the APSE Highways service delivery group or other North London boroughs were delivering, or would consider delivering, a totally in-house service. This has been confirmed recently that no metropolitan borough is providing the whole of a highways service in house. The reason for this is that some elements of work would be inefficient and cost prohibitive to directly deliver these types of works (i.e. planned resurfacing 9 weeks work c. £1Mn).

6. Background information

6.1 The Council currently delivers its highways and street lighting works through the London Highways Alliance Contract (LoHAC) framework that was established in 2013. Ringway Jacobs is the sole provider for the North East region of the framework. The

Council can commission services Highways and Street Lighting works from the framework to support planned and reactive works.

- 6.2 The Council had previously maintained term contracts for highway and street lighting works. In 2013 Transport for London (TfL) put in place a framework contract, the London Highways Alliance Contract (LoHAC), which was available to London Boroughs for highway and street lighting works and coincided with the expiry of the Council's term contract. Initial benchmarking of the respective costs of the contract were favourable and suggested that using LoHAC was likely to offer savings when compared to a borough specific contract.
- 6.3 Approval was sought at various stages since 2013 to extend the use of the framework, allowing for call-offs to be made for planned works until March 2022, during which the LoHAC contract remains in place. The Council only granted approval to use the framework for certain reactive works until September 2019. It was felt that whilst the Council continued with the current contractual arrangements, officers intended exploring other delivery options, primarily to reduce the Council's reliance on a single contractor, and to provide an additional incentive where performance and cost are concerned.
- 6.4 The Council adopted a commissioning-based approach in developing and evaluating those delivery options. The commissioning exercise concluded that appointing a single borough focussed term contractor for highways and street lighting was the best approach.

The Procurement Process

- 6.5 The procurement process adopted for establishing a term contract was the Open Competitive Tender process using Haringey's e-Sourcing Portal, HPCS (Haringey Procurement and Contract System).
- 6.6 The Council selected an Open Procedure procurement route, to maximise market interest. This procedure is a transparent procurement process that allows an unlimited number of suppliers to tender for the requirement.
- 6.7 Strategic Procurement supported the business unit in the tendering process. The opportunity was divided into two lots:

6.7.1 Lot 1 - Highways Term Contract

6.7.2 Lot 2 - Street Lighting Term Contract

- 6.8 Whilst it was possible for the same contractor to win both contracts, the services were separated into Lots to provide opportunities for smaller medium sized enterprises (SME), for the street lighting contract and thereby potentially deliver a better value for money solution.
- 6.9 On 31st August 2018, an OJEU Notice advertising the opportunity was published as required under the Public Contracts Regulation (PCR 2015). In accordance with the Open Procedure), the tender documents were issued via Haringey Procurement and Contract System (HPCS) – e-procurement portal. The tender documents clearly stated the procedure each tenderer was to follow for communications with the Council regarding the procurement process and the procedure to be followed for the submission of bona fide tender.
- 6.10 The OJEU Notice called for the return of tenders by 1300hrs GMT, Friday 26th October 2018. Following requests from several Tenderers and given minor changes to the requirements arising out of the clarifications received; the deadline date was extended to 1300hrs GMT, Friday 16th November 2018.,
- 6.11 Following the extension to the submission date, the tender clarification deadline date was also extended accordingly to Monday 5th November 2018. A total of one hundred and four (104) tender queries were raised and dealt with by the Council during the tender process.
- 6.12 Five (5) tender submissions were received for the Street Lighting Lot (2).

The Evaluation Process

- 6.13 The tender submissions were evaluated in a two-stage process as set out in the Invitation to Tender document. Stage One (1) considered the Tenderers' technical knowledge, capability/capacity, organisational and financial standing, on a pass / fail criterion, based on their responses to the Selection Questionnaire (SQ).

- 6.14 Stage One (1) evaluation was completed by an Officer within the Strategic Procurement team. The Financial assessment was validated by two (2) Officers within the Council's Finance Service. The outcome of Stage One assessment showed that all tenderers (for both lots) demonstrated adequate experience and capability to undertake the contracts and were taken through to Stage Two (2) of the process.
- 6.15 Under Stage Two (2), Tenderers' Quality and Price submissions were evaluated and scored by several evaluators. The evaluation criteria was based upon Most Economically Advantageous Tender of 70% Price and 30% Quality, as set out in the Invitation to Tender document.
- 6.16 Tenders were evaluated independently by the evaluation team. Following the individual quality assessments, moderation sessions were undertaken, led by an officer within the Strategic Procurement team.
- 6.17 The price evaluation was led by two Council officers from the Environment and Neighbourhoods Department and upon completion, validated by two additional officers within the Council's Finance Service. The overall assessment was undertaken as set out in accordance with the Invitation to Tender documentation.
- 6.18 Following the evaluation process, the total overall Quality and Price scores were combined to provide the ranking of the bidders in accordance with the Most Economically Advantageous Tender.
- 6.19 The information below summarises the overall tender scores in line with the tender evaluation criteria of 30% Quality and 70% Price as set out in the Invitation to Tender document.

Street Lighting

Bidder	Quality Score	Price Score	Total Score
SL 1	17.0%	70%	87.4%
SL 2	20.8%	62.5%	83.3%
SL 3	20.3%	52.7%	73.0%
SL 4	9.4%	53.8%	63.2%
SL 5	18.5%	33.7%	52.2%

- 6.20 A comparison of costs was made against our existing LoHAC rates for the same works, to validate competitiveness. This demonstrated that efficiencies in the region of 2% would be made for street lighting.

7. Contribution to strategic outcomes

- 7.1. The Environment and Neighbourhoods Operations Services will be commissioning services during the contract period, as determined annually through the Local Implementation Plan (LiP) submission plan and Sustainable Transport Works Plan to support the delivery of Borough Plan objectives as well as transport and air quality strategy plans.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 8.1 This report seeks approval to award the contract for the Street lighting Service to preferred bidder SL1.
- 8.2 The length of the contract is initially a 4 year period with an option to extend for a further 2 plus 2 years, therefore over a potential contract lifecycle of 8years the expected total costs may be in the region of £12m, which will be funded through existing service budgets.
- 8.3 The tender process followed ensures that value for money will be achieved and the street lighting works through this contract is expected to realise a reduction in costs compared with the existing contract.
- 8.4 Contract delivery costs and monitoring procedures will be continuously reviewed with a view to the delivery of savings as part of the Medium-Term Financial Strategy.

Strategic Procurement

- 8.5 Strategic Procurement confirms a compliant procurement process has been conducted in respect of this tender. The award criteria, as stated in the invitation to tender

documentation, is to award the Contract to the Most Economically Advantageous Tender. In applying this criteria, Bidder SL 1 is the first ranked Bidder for Street Lighting Lot 2.

- 8.6 Strategic Procurement confirms that the procurement of the services was undertaken using an Open Procedure in compliance with the Public Contracting Regulations 2015.
- 8.7 Strategic Procurement comments relating to Highways Term Contract (Lot 1) are contained in the Exempt part B of this report.
- 8.8 Strategic Procurement supports the recommendations made in this report and confirms compliance with 9.01.1 (Contracts to be let following an appropriate advertisement).

Legal

- 8.9 The Assistant Director of Corporate Governance notes the content of the report.
- 8.10 This procurement has been conducted in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015 (as amended).
- 8.11 Pursuant to CSO 9.07.1(d) Cabinet has the power to award a contract where the value is £500,000 or more and as such Cabinet has the power to approve the award of the contract in this report.
- 8.12 The Assistant Director of Corporate Governance sees no legal reasons preventing Cabinet from approving of the recommendations in this part of the report.

Equality

- 8.13 The Council has a Public Sector Equality Duty under the Equality Act 2010 to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relationships between people who share those protected characteristics and people who do not

- 8.14 The three parts of the duty applies to the following characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.
- 8.15 The decision is to award contracts for term services in relation to street lighting assets. The terms and conditions will require suppliers to comply with Council duties in any works they undertake under the contracts. Equalities formed a key element of the quality assessment process of the tender award to make sure that the successful tenderers will meet the requirements of the council.
- 8.16 Additionally, equality will be a key issue considered in undertaking the design of future schemes / works to be implemented under the contract.

9. Use of Appendices

Exempt Appendix B -

NOT FOR PUBLICATION is by virtue of paragraphs 3 &5 of Part 1 of Schedule 12A of the Local Government Act 1972.

Part of this report is not for publication as it contains information classified as exempt under Schedule 12A of the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

10. Local Government (Access to Information) Act 1985

None

