



## Delegated Authority Report

### Report for Strategic Director, Regeneration & Environment

For Action

Wards Affected:  
ALL

## Authority to Award Contract for the Supply of Street Lighting LED Luminaires

### Appendix A is Not for Publication

#### 1.0 Summary

- 1.1 On 23<sup>rd</sup> May 2016, Cabinet delegated authority, to award the contract to supply Light Emitting Diode (LED) street lighting luminaires, to the Strategic Director Regeneration and Environment, in consultation with the Chief Legal Officer, Chief Finance Officer and the Lead Member for Environment.
- 1.2 This report summarises the background associated with the contract to supply LED luminaires, the process undertaken in tendering this contract and, following completion of tender evaluation, recommends to whom the contract should be awarded.

#### 2 Recommendation

That the Strategic Director Regeneration and Environment (following consultation with the Chief Legal Officer, Chief Finance Officer and the Lead Member for Environment):

- 2.1 Awards the contract for the supply of LED Street Lighting Luminaires to DW Windsor Ltd, on the basis that its tender is the Most Economically Advantageous Tender.

### **3 Background**

- 3.1 On 14<sup>th</sup> April 2015, Cabinet endorsed the business case which proposed investment in Light Emitting Diode (LED) luminaires and a Central Management System (CMS) for the borough's street lighting, and authorised officers to invite tenders for their supply. The business case estimated that the investment could achieve savings of at least £750,000 p.a. from electricity costs, and make a significant contribution to reducing the council's carbon emissions once all the installations of LEDs and CMS technology combined were completed across the borough.
- 3.2 Advertisements were placed in the Official Journal of the European Union (OJEU) and on the London Tenders Portal on 31<sup>st</sup> July 2015 to seek initial expressions of interest. This elicited 58 initial enquires. Contractors were then invited to complete a shortlisting questionnaire, which was completed by 21 contractors.
- 3.3 Shortlisting was carried out on the basis of the contractors' financial viability, technical ability, and relevant experience. Eight contractors were subsequently invited to tender. Tenderers were invited to bid against three lots:
  - 1) For the supply of LED equipment;
  - 2) For the supply of CMS equipment and software; and
  - 3) A combined bid for both LED and CMS equipment.
- 3.4 The initial tender evaluation was carried out by officers supported by the Council's technical lighting consultant, Designs for Lighting (DfL).
- 3.5 All eight companies were invited to submit an initial offer, followed by a one to one individual meeting to discuss their offers and the Council's requirement before being asked to submit a Best and Final Offer (BAFO), revisiting initial prices and answering further questions for the purpose of re-evaluating quality. At the BAFO stage, bids were weighted for price and quality in the ratio 55:45.
- 3.6 The panel met on 8<sup>th</sup> December 2015. Each submission was marked by the whole panel against the award criteria. Bouygues E&S Infrastructure UK Limited had the highest scoring tender for Lot 1; and DW Windsor Limited had the highest scoring tender for Lot 2. The combined bid (Lot 3), was assessed against the merits of combining Lot 1 and Lot 2 tenders.
- 3.7 Following a lengthy tender process, Cabinet agreed to the recommendations made in the report of 20<sup>th</sup> January 2016 to award the contract for the supply of LED luminaires (Lot 1) to Bouygues E&S Infrastructure UK Limited; and award the contract for the supply of a lighting Central Management System (Lot 2) to DW Windsor Limited.

- 3.8 Following the Cabinet decision, officers proceeded to formalise the award of contracts to Bouygues and DW Windsor Ltd. All tendering companies were notified of the council's intention to award contracts, and the mandatory 10 day standstill period commenced.
- 3.9 During the standstill period officers received a formal request for clarification from an unsuccessful bidder. The main query concerned the calculations used by Bouygues to formulate their price. Subsequent technical analysis, and dialogue with Bouygues, revealed that arithmetical errors had indeed been made which prejudiced the savings proposals cited in their bid. The clarification also revealed some ambiguities in the council's specification which had been interpreted by bidders in different ways.
- 3.10 Officers subsequently reviewed a number of options on how the Council could proceed. On 23<sup>rd</sup> May 2016 Cabinet agreed:
- 3.10.1 To rescind the decision made by Cabinet on 20 January 2016 to award the contract for the supply of LED (Lot 1) street lighting luminaires to Bouygues E&S Infrastructure UK Limited,
- 3.10.2 To authorise officers to revert to the invitation to submit a Best and Final Offer (BAFO) stage in the Lot 1 tendering process for the supply of LED street lighting luminaires using a revised specification,
- 3.10.3 Delegate authority to the Strategic Director (Regeneration & Environment), in consultation with the Chief Legal Officer, Chief Finance Officer and the Lead Member for Environment, to sanction the award of a contract to the Most Economically Advantageous Tender.

### **Best and Final Offer (BAFO2) stage in the Lot 1 tendering process**

- 3.11 Following the Cabinet decision on 23<sup>rd</sup> May 2016, all eight bidders were informed that the council intended to re-invite bids from them against a revised specification which sought to remove any perceived ambiguities in the council's technical requirements.
- 3.12 On 16th September 2016, all eight bidders were invited to submit a Best and Final Offer (BAFO2). Six bidders submitted tenders. None of the bids complied fully with the Council's technical specification, and clarification letters were sent to each supplier on December 9th 2016. Responses were received on December 15th 2016; and bids subsequently evaluated by officers on the basis of the responses received.
- 3.13 The evaluation criteria for BAFO2 awarded 55% of the overall score based on price and the remaining 45% based on quality. This split

between price and quality is consistent with the original BAFO stage and reflects what was agreed in the April 2015 Authority to Tender Report to Cabinet.

- 3.14 **Price Evaluation:** The method for evaluating the tenderers' prices is a combination of capital outlay and ten years of projected energy savings. For absolute transparency, the bidder with the lowest price (capital cost plus ten year energy cost) has been awarded the maximum price score (i.e. the whole 55%). For other bidders, the lowest price has been divided by each bidder's price and multiplied by 55% to generate their score.
- 3.15 **Qualitative Evaluation:** the following themes have been used as the basis for evaluation, as they were at the original BAFO stage and are as detailed in the Cabinet report on 20 January 2016 when award following BAFO1 was originally sought:

No	Question	Score
1	Provide evidence that the solution offered represents the best return on investment for the Council	15%
2	Details as to how the tenderer would ensure the product will be optimised for individual roads, given the variety of road geometry and column spacings within Brent.	15%
3	Provide evidence of how the tenderer will supply luminaires on a call-off basis optimised for the lighting to the relevant BS5489-1 lighting class whilst minimising the energy consumption, and provide details of how the installer will identify the different luminaires required for different streets (i.e. having different photometric distributions); and provide details of distribution methods, packaging materials for lanterns and their possible recycling of material by the lantern supplier including reuse and recycling of packaging materials and taking away packaging after the lantern is installed	5%
4	Evidence of performance against supplied geometries	5%
5	Evidence of adding Social Value to the submission.	5%

In the case of all these sub-criteria, the weightings used have been identical to those used in the original procurement exercise. This is to address any concern that weightings might have been adjusted in the light of the original tenders – which could have been interpreted as being to the advantage/disadvantage of any of the original tenderers.

- 3.16 To provide reassurance on the issue of impartiality, a qualified independent lighting consultant was engaged to undertake a thorough analysis of the technical merits of each bid. The consultant has used industry-standard software to replicate the energy savings which form part of each bidders' price, using the road geometries supplied by the council and the luminaire performance submitted in the tender. The consultant also carried out an initial evaluation of the qualitative questions, in accordance with the evaluation methodology included within the 'Invitation to Submit Best and Final Offers' pack.

- 3.17 In respect of the *Social Value* question, this criterion has been evaluated by the Head of Procurement, in accordance with the proposal made in the 23<sup>rd</sup> May 2016 Cabinet report.
- 3.18 Due to limited availability and other commitments of the independent lighting consultant commissioned to support the evaluation phase, the completed evaluation of the six bids by officers has taken longer than anticipated. The initial assessment was completed on 16<sup>th</sup> February 2017. However, in order to ensure a robust decision, this has been further reviewed by the independent lighting consultant, and the Council's Finance, Legal and Procurement officers. DW Windsor Limited has been assessed as having the highest scoring bid and is therefore the most economically advantageous tender. The names of all the bidders are detailed in Appendix A and the scores of all the bidders are included in Appendix B.
- 3.19 Subject to the decision to award the contract to DW Windsor Ltd., each unsuccessful bidder will be issued a letter which will include a summary evaluation of how their bid compared with the winning bid. This is required to comply with Public Contract Regulations 2015.

#### **4 Financial Implications**

- 4.1 The 20<sup>th</sup> January 2016 Cabinet report concluded that energy savings of at least 70% would be achieved after and only if the whole project was let and completed on time against the 'do nothing' baseline option.
- 4.2 The council's agreed revenue budget anticipates £0.75m of savings p.a. from the Street Lighting LED project, commencing in the 2017/2018 fiscal year increasing to £0.85m in 2018/19 and future years. The Council's agreed savings targets also assume additional savings of £2m from 2018/19 associated with the letting of this contract and the subsequent Maintenance contract replacing the existing PFI arrangement.
- 4.3 Due to the delay in commencing this project, the earliest point at which installation could be expected to commence is in June 2017. Assuming installation is completed within 14 months, the anticipated savings for 2017/18 would be £0.246m, leaving a shortfall of £0.504m. If installation commences in June 2017 but is completed within 12 months, the anticipated savings for 2017/18 would be £0.286m, leaving a shortfall of £0.464m. Further detail is contained within Appendix C.
- 4.4 If the recommended bid is accepted the total cost of implementing the contract will be £6.017m per the below table against the current capital programme budget of £7.82m, a variance of £1.803m. The original estimated capital costs were based upon the results of soft market testing undertaken in 2013. Lower capital costs have resulted from the

competitive tendering exercise, and further advances in technology in the intervening four years.

	£'m
Supply of LED Street Lighting Luminaires	2.894
Supply of Central Management System	0.959
Installation	1.914
Contingency	0.250
<b>Total Capital Cost</b>	<b>6.017</b>

- 4.5 There is an existing agreement with Salix Finance Ltd to provide an interest free loan of £4.9m towards the costs of implementing this scheme on the proviso that the council match fund to the balance of the capital costs. At the time that the agreement was entered into the contribution was based on a total cost of £6.5m and the contribution equated to 75% of estimated cost. Salix Finance Ltd have subsequently indicated that an increased monetary contribution may be available towards an increased capital cost, in a similar split, should this be required but will be subject to agreement once all costs are known. The match funding aspect of the total scheme cost will be met from Council resources.
- 4.6 Once full costs are agreed and the amount of contribution finalised there will be a requirement to agree an amended loan repayment schedule with Salix Finance Ltd.

## **5 Legal Implications**

- 5.1 The value of this contract over its lifetime is higher than the EU threshold for supplies and the award of the contracts therefore is governed by the Public Procurement Regulations 2006 (the "EU Regulations"). The award is subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.2 The Highways Act 1980 empowers the Council as Highway Authority to provide street lighting. The Council has a duty of care to the highway users and must ensure it can demonstrate it has systems and programmes in place to ensure the safety of all highway lighting equipment.
- 5.3 Following a decision to award the contract, the Council comply with the EU Regulations relating to the observation of a mandatory minimum 10 calendar day standstill period before the contract can be formally awarded. Therefore once the Strategic Director has determined which tenderer should be awarded the contract, all tenderers will be issued with written notification of the contract award decision. A minimum 10 calendar day standstill period will then be observed before the contract

is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the EU Regulations. As soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the contract can commence.

- 5.4 As the LED replacement programme will be undertaken during the existing contract period of the PFI Contract, the PFI Contractor would be required to maintain such lighting under the PFI Contract for the duration. The Cabinet Report of January 2016 noted that Maintenance savings from this project will be subject to the council agreeing a contract variation with PFI Lighting Limited (PFIL). Discussions were held with PFIL, who were included in scoping the tender process authorised by Cabinet in April 2015. However discussions with the PFI Contractor have now led to PFIL requesting that the process be managed by means of a Service Adjustment instruction as a means of varying current provision rather than a formal contract variation.
- 5.5 Under the existing terms of the PFI Street Lighting Contract there are provisions which allow the Council to instruct “Service Adjustments” to the Contractor as and when required. Such Service Adjustments may include, in particular: ‘the implementing of new street lighting or illuminated signs (including new or revised highways schemes or the adoption by the Council of new standards of lighting or the lighting of previously unlit places)’ but do not envisage what is referred to in the PFI Contract as the Contractor’s CMS replacement. Therefore PFIL is not willing to support and operate a new CMS and negotiations regarding this aspect are currently under way.
- 5.6 Once a successful contractor has been identified following tender for the proposed manufacture and supply of the LED Luminaires and CMS, officers are entitled to instruct the PFI Contractor under the existing Street Lighting PFI contract to install and maintain the consumables. This would be considered additional work, as pre-empted at the start of the contract.

## **6 Diversity Implications**

- 6.1 There are no diversity implications arising from this report. Diversity implications associated with the implementation of LED and CMS were considered by Cabinet at the meeting in January 2016 and remain unaffected.

## **7 Staffing Implications**

- 7.1 No staffing implications arise as a result of this report.

## **8 Public Services (Social Value) Act 2012**

8.1 This is considered in paragraphs 3.16 above. The council will demand relevant social value from the award of this contract, with the Head of Procurement assessing the merits of the bids.

### **Background Papers**

- Cabinet, 14 April 2015: *Street Lighting Energy and Carbon Saving Proposals, and Authority to Tender.*
- Cabinet, 20 January 2016: *Authority to award contracts for the supply of Street Lighting LED lanterns and Central Management System.*
- Cabinet, 23 May 2016: *Authority to award contracts for the supply of Street Lighting LED lanterns.*

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## **Appendix A**

### **NOT FOR PUBLICATION**

This part of this report is not for publication as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"

## Appendix B – LED Supply Bid Scores

	Company A	Company B	Company C	Company D	Company E	Company F
<b>Price (Max 55%)</b>						
<b>Pricing Score</b>	54.42	52.00	44.76	43.14	55.00	46.99
<b>Quality (Max 45%)</b>						
Return On Investment 15%	10.25	10.25	10.25	7.5	10.25	7.5
Product Optimisation 15%	7.5	10.25	7.5	10.25	7.5	10.25
Supply of luminaires 5%	2.5	5	2.5	5	3.75	3.75
Evidence of Performance 5%	2.5	5	1.25	1.25	2.5	1.25
Social Value 5%	3.75	5	0	0	5	1.25
<b>Quality Score</b>	26.5	35.5	21.5	24	29	24
<b>Total Score</b>	<b>80.92</b>	<b>87.50</b>	<b>66.26</b>	<b>67.14</b>	<b>84.00</b>	<b>70.99</b>
<b>Ranking</b>	<b>3rd</b>	<b>1st</b>	<b>6th</b>	<b>5th</b>	<b>2nd</b>	<b>4th</b>

## Appendix C – Projected 17/18 Energy Savings

		June 2017 start (12 month install)	June 2017 start (14 month install)
Month		No of LEDs making savings	No of LEDs making savings
Apr-17	1	0	0
May-17	2	0	0
Jun-17	3	1750	1500
Jul-17	4	3500	3000
Aug-17	5	5250	4500
Sep-17	6	7000	6000
Oct-17	7	8750	7500
Nov-17	8	10500	9000
Dec-17	9	12250	10500
Jan-18	10	14000	12000
Feb-18	11	15750	13500
Mar-18	12	17500	15000
Apr-18	13	19250	16500
May-18	14	21000	18000
Jun-18	15		19500
Jul-18	16		21000
Aug-18	17		
17/18 Total LEDs making a 'full month' energy saving		96250	82500

% of LEDs making a 'full month' energy saving compared to all LEDs making an energy saving for a full 12 month period		38%	33%
Projected 17/18 Annual Savings		£ 750,000	£ 750,000
Forecast 17/18 savings		£ 286,458	£ 245,536
Shortfall		-£ 463,542	-£ 504,464