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|  | Officer Key Decision |
| | Report to the Operational Director of Property & Assets |
| Authority to Award a Contract for the Multidisciplinary Technical Services for Phase Two of the School Asset Management Programme | |

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| Wards Affected: | All |
| Key or Non-Key Decision: | Key Decision |
| Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act) | Part Exempt – Appendix 1 is exempt 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)” |
| No. of Appendices: | 2 |
| Background Papers: | n/a |
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1.0 Purpose of the Report

1.1 This report concerns the multidisciplinary technical services required to deliver Phase Two of the School Asset Management Programme (AMP). This report requests approval to award a contract in respect of the multidisciplinary technical services required to deliver Phase Two of the AMP Programme as required by Contract Standing Order (CSO) 88.

2.0 Recommendation(s)

- 2.1 That the Operational Director of Property & Assets, following consultation with the Lead Member for Schools, Employment and Skills:
- a) Approves the award of a contract for the multidisciplinary technical services for Phase Two of the School Asset Management Programme to McBains Cooper Consulting Ltd for the total price of £441,735.22 with

a fixed contract term of four (4) years (comprising the project phase of 3 years referred to in paragraph 3.2 below plus an additional year to cover any post-construction issues) (the 'Contract').

3.0 Detail

- 3.1 Brent Council (the Council) is the responsible body for 42 community and foundation schools and has a duty to undertake major projects at these schools to ensure the buildings are weather tight and provide a safe environment for education. Funding is provided to responsible bodies to carry out these works by the Education and Skills Funding Agency (ESFA) via the School Condition Funding (SCF). This funding is provided each year based on an assessment by the ESFA of high level building condition need and is provided to meet the responsible body's own local condition priorities across their schools. The Council places SCF monies in a specific capital budget, the School Asset Management Programme (AMP) budget to meet its statutory requirement.
- 3.2 A five-year programme was agreed by Capital Investment Panel in October 2017 to address condition improvement priorities across the schools. The five-year programme was agreed to be split into two phases; years 1 and 2, and years 3 – 5. These projects are considered the most vital and cover boiler replacement, fire safety, electrical distribution upgrades and roof and window improvements. This programme is in line with the Council's responsibilities for schools in terms of major replacement or renewal projects. Making improvements to school buildings will enhance the teaching and learning environment that will enable the schools and the Council to deliver a superior learning experience for Brent school aged children.
- 3.3 In order to complete the identified projects in Phase 2, the Council requires the services of a multidisciplinary consultancy organisation to assist the Council in delivering the projects. In accordance with Contract Standing Orders 88 and 89, pre-tender considerations were set out and approved by the Strategic Director of Regeneration & Environment on 16 July 2019 and the tender process followed these approved considerations.
- 3.4 The Council estimated the cost of the services, based on comparable work and fee percentage rates for commissions of this size at £646,409. As noted in paragraph 2.1 above however, the agreed price for the Contract is £441,735.22. Therefore, pursuant to CSO 82, the Contract is classified as a Medium Value Contract for services (£181,302 - £2,000,000).
- 3.5 Officers initiated a call-off using a mini-competition from the Crown Commercial Services Framework Agreement for the provision of Project Management and Full Design Team Services (RM3741), specifically, in respect of Lot 1 Multi-Disciplinary Services Lot (the 'Framework'). The tender was issued via the London Tenders Portal on 8 August 2019 and was managed by officers in Procurement with assistance from officers in the Capital Programme Team.

3.6 In accordance with the Framework’s mini-competition guidance, all 16 suppliers on the Lot were invited to bid for this opportunity. The Council received six bids by the deadline of noon on 6 September 2019 from the organisations listed in Appendix 1.

Tender Evaluation

3.7 The instructions to tenderers document stated the contract would be awarded on the basis of the most economically advantageous offer to the Council based on the following evaluation criteria:

- Price: 50%
- Quality: 40%
 - Approach to supply chain
 - Approach to service delivery
 - Key personnel
 - Delivery Methodology
 - Mobilisation and Management of personnel in the timescales required
 - Mobilisation and management
 - Leave cover
- Social Value: 10%

3.8 The tender evaluation of the bids was carried out by a panel of officers from the Council’s Capital Programme Team (Property & Assets, Resources) and was moderated by the Council’s Procurement Team. Table 1 below shows the summary ITT evaluation scores of the bidders and Appendix 2 provides a more detailed breakdown of the full tender evaluation outcome.

| Bidder | Price Score % (max. 50%) | Quality Score % (max. 40%) | Social Value Score % (max. 10%) | Total Score % (max. 100%) | Ranking |
|----------|-----------------------------|-------------------------------|------------------------------------|------------------------------|---------|
| Bidder 1 | 38.02 | 26.40 | 4.00 | 68.42 | 5 |
| Bidder 2 | 44.70 | 27.60 | 4.00 | 76.30 | 3 |
| Bidder 3 | 43.89 | 27.60 | 4.00 | 75.49 | 4 |
| Bidder 4 | 50.00 | 25.60 | 4.00 | 79.60 | 2 |
| Bidder 5 | 47.70 | 29.20 | 4.00 | 80.90 | 1 |
| Bidder 6 | 37.24 | 18.80 | 4.00 | 60.04 | 6 |

Table 1 - Tender Evaluation Outcome

3.9 Bidder five was the highest scoring bidder, scoring 80.90% overall. Their quality score was 29.20%, their social value score was 4.00% and their pricing submission is £441,735.22 which scored 47.70% and is within the budget assigned to the project. Officers confirm the bids was compliant.

3.12 The highest scoring bidder has submitted a compliant programme approach and adequate resources to complete the projects on time (throughout 2020, 2021 and 2022) at tender stage.

4.0 Financial Implications

- 4.1 The budget for the Phase 2 consultancy services is £646,409. This budget has been approved as part of the wider AMP programme approved by CIP and Cabinet through the 2018/19 budget setting report.
- 4.2 All pricing submissions were well within the budgeted amount with a number of bidders including discounts against the Framework rates. The highest scoring bidder's contract price is £441,735.22 which is 32% within budget. Therefore, there is enough capacity within the School AMP budget to cover the spend. The surplus will be moved into the Programme Contingency which enables the Council to respond to any emergency works across the school portfolio if required.
- 4.3 The highest scoring bidder's financial strength has been checked and approved as sufficient for this commission.
- 4.4 Insurance limits (as minimums) will be set as follows and the highest scoring bidder has confirmed these insurance levels are in place:
- Public Liability Insurance: £10,000,000
 - Employers Liability Insurance: £10,000,000
 - Professional Indemnity Insurance: £10,000,000

5.0 Legal Implications

EU Regulations

- 5.1 The Contract falls within the definition of a 'services contract' under the Public Contracts Regulations 2015 ('EU Regulations') and the value of the Contract is above the EU procurement threshold for services (currently £181,302). The award of the Contract is therefore governed by the EU Regulations.
- 5.2 In this case, an OJEU compliant framework agreement established pursuant to the EU Regulations was used to procure the Contract (namely, the Framework referred to in paragraph 3.5 above). This procurement route is permitted under Regulation 33(8) of the EU Regulations, which sets out the circumstances in which an eligible contracting authority may award a contract based on a framework agreement through reopening or partly re-opening competition amongst the economic operators which are party to the framework agreement. In this respect, it is noted that the Contract was competitively procured by Council officers using the aforesaid Framework in accordance with the Framework rules (as referred to in paragraph 3.6 above) and that this was in conformance with the requirements of the EU Regulations.

- 5.3 In accordance with Regulation 85(5)(c) of the EU Regulations, the rules on standstill set out in Regulations 86 and 87 (relating to the observation of a mandatory minimum 10 calendar day standstill period before an above-threshold contract can be awarded) do not apply to contracts awarded under framework agreements. As such, there is no mandatory standstill period which the Council must observe before entering this Contract. However, Officers will be observing a 5-day call-in period once the award decision has been made.

Council CSOs

- 5.4 The award of the Contract is subject to the Council's own CSOs in respect of Medium Value Contracts and Financial Regulations. In this respect, it is noted that, in satisfaction of CSO 86(e)(ii), the Council's participation in the Framework has been confirmed as legally permissible by the Director of Legal, HR, Audit & Investigations (by way of report dated 17 November 2017) and considered appropriate for use in respect of this Contract (as provided in report dated 16 July 2019). The relevant Chief Officer (Strategic Director Regeneration & Environment) also approved the pre-tender considerations raised in respect of this Contract as set out in CSO 89 and the inviting of tenders for the Contract in accordance with CSO 88, and has confirmed there is sufficient budgetary provision for the Contract as required by CSO 86(e)(ii) (as provided in the report dated 16 July 2019).

Authority to Award

- 5.5 Under Part 3 of the Constitution, at paragraph 9.5 in section 3(a) of the table therein, approval to award Medium Value Contracts for services is delegated to the Chief Executive and Strategic Directors. Pursuant to paragraph 9.7 thereof, officers designated as Operational Directors have delegated to them (subject to the same restrictions as would apply to their Strategic Director (or the Chief Executive as applicable) all the powers of their Strategic Director (or the Chief Executive if the Operational Director reports directly to her) in so far as they relate to the services for which they are responsible (and save in so far as that is inconsistent with any other part of the Constitution or their Strategic Director (or the Chief Executive) has directed them not to exercise particular powers). As the Contract relates to services for which the Operational Director Property & Assets is responsible, it is considered that you have delegated the power of the Strategic Director Regeneration & Environment to award the Contract, and this is not inconsistent with any other part of the Constitution and Legal Services is not aware of any direction given by the Strategic Director Regeneration & Environment (or the Chief Executive) to the Operational Director Property & Assets not to exercise this power.

Contract Terms & Conditions

- 5.6 The form of agreement for this Contract is the CCS Template Call Off Agreement as given under the Framework, with additional and amended terms and conditions required by the Council (and approved by Legal Services) which

strengthen the Council's overall position and which the highest winning bidder has accepted without qualification.

6.0 Equality Implications

6.1 The AMP Programme detailed in this report has been subject to screening and officers believe that there are no equality implications.

7.0 Human Resources/Property Implications (if appropriate)

7.1 This service will be provided by an external consultancy organisation and there are no implications for Council staff arising from awarding the Contract.

7.2 The appointment of the multidisciplinary technical consultancy organisation will lead to enhanced school buildings where the Council is the responsible body. These improvements will include, but not limited to boiler and associated heating and hot water plant replacements, roof renewals and replacements as well as window and door replacements.

7.3 The works are predominately programmed for school holidays and so will not involve school closures or temporary accommodation in order to complete the works.

8.0 Public Services (Social Value) Act 2012

8.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

8.2 Ten per cent of the evaluation criteria is assigned to evaluating the bidders' social value proposals. The highest scoring bidder included a number of initiatives in their bid including:

- Work Experience / Work Shadowing
- School Events
- Upskilling/training workshops
- Environment Workshop to LBB Staff
- Support the Council on its Sustainability Strategy
- Staff & Sub-Contractors paid London Living Wage

Report sign off:

Neil Martin
Senior Capital Programme Officer.