



Report of Head of Strategy and Investment
Report to Director of Resources and Housing
Date: 9th January 2020
Subject: Windows and Doors framework – Report to seek approval to undertake a call-off in competition from the framework for 2020/21 housing planned works

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- This report seeks approval to undertake a call-off in competition from the council's housing Windows and Doors framework agreement established in April 2018 in order to select and subsequently appoint two contractors for year 3 to undertake planned works in 2020/21
- Replacements of windows and doors to residents' properties as required are an ongoing part of the housing capital programme, funded by the Housing Revenue Account (HRA)
- The current estimated value of works in 2020/21 to be undertaken by external contractors is approximately £2m
- The Windows and Doors framework agreement was procured during 2017 – it commenced 1st April 2018 and is for a period of 4 years and has a contract value of £8m. The framework contains four contractors with no guarantee to them of work. The annual contracts for works are expected to be placed with two contractors each year following a price only evaluation procedure. LBS were consulted as part of the development of this procurement strategy and declined the opportunity to deliver these works as the manufacture, supply and installation of windows and doors did not align with the business / growth strategy. We are now entering year 3 (2020/21) of this 4 year framework

- In line with the Council's Contract Procedure Rule (CPR 3.1.6), a separate key decision is required to be approved to carry out a call-off in competition from the existing framework.
- Thereafter, the evaluation and award of these works to 2 contractors on the framework to be used to deliver works from 1st April 2020 will be the subject of a separate tender evaluation report leading to contract award will be a resulting Significant Operational Decision.

2. **Best Council Plan Implications** (click [here](#) for the latest version of the Best Council Plan)

- This falls into line with the sphere of improving tenants' homes to make them both energy efficient by replacing the windows and by making sure that the houses are of good quality and meet the needs of the tenants.
- This will also help with having safe, strong communities in that the council will be responding to the local needs

3. **Resource Implications**

- Should Leeds City Council not call-off for 2020/21 this will cause issues in that we will not be fulfilling our obligation under the Landlords and Tenants Act 1985 Section 11 in making sure homes are fit for purpose and not replacing old windows and doors will cause issues in and to homes
- Changing suppliers from one year to the next can cause issues in both time and resources as we would need to apply the TUPE process. An initial letter asking for TUPE information has been sent to our current suppliers. Any transfer of employees will be contractor to contractor so each party will have to undertake their own legal advice in regard to this.

Recommendations

- a) The Director of Resources and Housing is recommended to approve the call-off in competition for year 3 works for approximately £2m for the financial year 2020/21 from the Windows and Doors framework agreement established in April 2018 for housing planned works.
- b) The Director of Resources and Housing should note that a separate report on the tender evaluation process resulting in the recommendation on award of contracts for 2020/21 will be brought for approval in February / March 2021.

1. **Purpose of this report**

- 1.1 This report seeks approval to carry out a call-off in competition from the Windows and Doors framework agreement established in April 2018 for contractors to deliver the annual planned works in relation to windows and doors under the housing capital programme for 2020/2021

2. **Background information**

- 2.1 Planned works are the undertaking of required renewals and maintenance works that have been planned in advance and included in a works programme e.g. doors, windows, or roofs as appropriate to our circa 53,500 council homes (including leasehold but excluding PFI & BITMO homes).

- 2.2 Replacement of windows and doors to residents' properties as required are an ongoing part of the planned works within the housing capital programme and is funded by HRA.
- 2.3 A four year framework agreement has been created for housing planned works related to windows and doors (DN23442), for works from April 2018 onwards, following an openly advertised OJEU compliant competitive procurement exercise. The four contractors appointed to the framework agreement are:
- Anglian Windows Ltd
 - Kier Services Ltd
 - Kingfisher UPVC Windows and Doors Ltd
 - Liberty Group
- 2.4 To maintain competition within the framework agreement it was set up to anticipate that two of the four appointed contractors will deliver two packages of work each year, up to an estimated £1m each, with these starting on the 1st April each year.
- 2.5 The framework agreement sets out a clear selection procedure to be followed to identify contractors for the two annual packages of work, as well as providing for a process for any additional packages to be subject to mini-competition if needed.

3. Main issues

- 3.1 CPR 3.1.6 requires that a call-off from the framework agreement is not to be treated as a consequential decision of setting up that agreement, and therefore this is a separate decision. Given that the value involved under this call off for the 2020/2021 planned works is over £500,000 then this is a key decision
- 3.2 The framework sets out a clear procedure for year 3 works (2020/21 spend) onwards. This is noted below

For subsequent years (years 2, 3 and 4 of the framework), Contractors will review and re-submit the Pricing Schedule, which will be evaluated (on a price-only basis) and ranked by the Employer. The two framework Contractors that are ranked first and second place according to their revised Pricing Schedule will be selected to deliver works for that financial year.

It should be noted that in evaluating costs, the Employer will consider the viability of the price submitted. If the Employer believes the cost is abnormally high or low, they will seek clarification to understand further the basis of the price submitted. If clarification does not satisfy their concerns, the Employer reserves the right to discount the proposal from further evaluation. It should be noted that prices cannot be altered after they have been submitted.

Following completion of the evaluation as detailed above, if the second placed Contractor is about to be awarded one of two Work Packages, the Employer shall analyse the second placed Contractor score against the highest scoring submission. If the second placed Contractor overall score is more than 15% lower than the overall score of the highest scoring submission the Employer reserves the right to award both Work Packages to the highest scoring submission

- 3.3 It is proposed to take forward the call-off in line with the selection procedure to identify the two contractors (or possibly just one if there is a large difference in the prices as set out above in the last paragraph of 3.2) for the 2020/21 works.
- 3.4 These contractors will then each price for half the approximate £2m of works, submit their tendered prices based on a range of archetypes for agreement, prior to award of contracts.
- 3.5 These contractors will continue to be required to comply with the technical and quality requirements of the framework agreement, including their method statement

in relation to qualitative working practices submitted as part of their initial tender and built into the framework award.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Appropriate consultation and engagement was previously undertaken for the development and procurement of the framework agreement, including in relation to tenants and lease holder (see the framework order report).
- 4.1.2 Where leaseholders will be receiving specific works to their properties in 2020/21 by the agreed contractors, further consultation will be undertaken in line with legal notices required under the Leaseholder Consultation Requirements (England) Regulations 2003.
- 4.1.3 The Head of Service for LBS and union colleagues have been consulted and they have confirmed that they support the recommendations as set out in this report.

4.2 Equality and diversity / cohesion and integration (EDCI)

- 4.2.1 There are no equality and diversity or cohesion and integration issues related specifically to the framework call off for the windows and doors.
- 4.2.2 Please note an EDCI assessment was completed for the competitive procurement of this and two other planned works frameworks and informed the requirements we place on the contractors, such as in relation to the contractor's Resident Liaison Role. This and the completed Privacy Impact Assessment also informed how we make sure appropriate resident information is provided to contractors in a safe and secure way.

4.3 Council policies and the Best Council Plan

- 4.3.1 Investment in these planned works and resulting activity contribute to the council's Best Council plan, in that it will improve the housing stock and help reduce energy poverty with more efficient heat saving windows and doors.
- 4.3.2 For the framework agreement all tenderers had to complete social value plans for evaluation including Employment & Skills targets. These include a commitment to training days, workshops and work experience opportunities and a commitment that jobs will go through Employment Leeds. As well as in-kind of funding support for works of community led organisations.
- 4.3.3 The successful contractors for 2020/21 will be held to their social value plan commitments through contract management activity.

Climate Emergency

- 4.3.4 At Full Council on 27th March 2019, Leeds City Council passed a motion declaring a Climate Emergency. In addition, the Leeds Climate Commission have proposed a series of science based carbon reduction targets for the City so that Leeds can play its part in keeping global average surface temperature increases to no more than 1.5c.
- 4.3.5 The works programme will help and provide a positive impact on the climate emergency or emissions in the replacement of windows and doors will help in the

reduction of the need for gas and electricity in homes as they are warmer, thus leading to lower bills and emissions.

4.4 Resources, procurement and value for money

- 4.4.1 The original framework agreement was competitively tendered in 2017 to appoint four contractor organisations. Each year thereafter a separate competition exercise has been carried out to ensure value for money. This report is in relation to year 3 2020/21
- 4.4.2 The selection process under the Windows and Doors framework was designed to introduce additional competition between contractors. The form of contract used with each contractor is NEC3 ECC Option A, so a price and programme is agreed for works at the beginning of each year, enabling robust contract management of any agreed changes to this.

4.5 Legal implications, access to information, and call-in

- 4.5.1 This is a key decision and is subject for call in.
- 4.5.2 The annual call-off for each year's work for each contractor requires a separate contract award in line with the framework approach, this will be the subject of a separate report that will be treat as a Strategic Operational Decision.
- 4.5.3 The selection procedure for contractors under the new frameworks is set out in each frameworks contract documentation and an extract is provided in Section 3.2 above. The recommendations of this report are in line with this process.
- 4.5.4 Procurement and Commercial Services (PACS) have been consulted in the development of the content and recommendations of this report.

4.6 Risk management

- 4.6.1 The procurement of the framework agreement was undertaken in accordance with the Public Contracts Regulations 2015 and council's Contract Procedure Rules, with guidance and support from (PACS),
- 4.6.2 TUPE may apply and we are therefore following the appropriate approach by seeking TUPE workforce information, and making sure this is clear to the contractors involved in the call-off process.
- 4.6.3 The contractors will be managed in line with the contract and contract management plan to manage risks during operational delivery. Significant risks include failure to achieve programmed numbers of properties or agreed budgetary spend.
- 4.6.4 The timescale for the competitive procurement call-off is tight and it is key that we seek to maximise the time to ensure contractors are in pace and contracts awarded in sufficient time to mobilise and maximise spend from April 2020.

5. Conclusions

- 5.1 The planned procurement process to be undertaken for the call-off from the framework is in accordance with the council's contract procedure rules, with guidance of legal and Procurement & Commercial Services.
- 5.2 It is also in line with the selection procedure of the framework agreement
- 5.3 The call-off and selection of the contractors will enable the delivery of planned re-roofing and associated works under the housing capital programme for 2020/21,

funded by the Housing Revenue Account (HRA). To delay this call off would result in a major impact on the delivery of the capital programme and spend on Windows and Doors in 2020/21.

- 5.4 A separate report on the tender evaluation process resulting in the recommendation on award of contracts for 2020/21 (year 3) will be brought for approval in February / March 2021.

6. Recommendations

- 6.1 The Director of Resources and Housing is recommended to approve the call-off in competition for year 3 works for approximately £2m for the financial year 2020/21 from the Windows and Doors framework agreement established in April 2018 for housing planned works.
- 6.2 The Director of Resources and Housing should note that a separate report on the tender evaluation process resulting in the recommendation on award of contracts for 2020/21 will be brought for approval in February / March 2021.

7. Background documents¹

[Windows and Doors Tender Evaluation and Award Report](#) (December 2017 – for the Framework agreement)

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.