

# Brighton & Hove City Council

## Housing & New Homes Committee

## Agenda Item 25

**Subject:** Housing Investment & Asset Management – Major Works Framework review of procurement options (Lot 2 – works over £300k)

**Date of meeting:** 20 September 2023

**Report of:** Executive Director Housing, Neighbourhoods & Communities

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**Ward(s) affected:** All

### For General Release

#### 1. Purpose of the report and policy context

- 1.1 The Housing Revenue Account contains the income and expenditure relating to the council's social landlord duties covering approximately 11,900 rented properties and approximately 2,300 leasehold properties. The Housing Revenue Account (HRA) capital programme provides substantial investment in the council's housing stock and improvement in the quality of our homes. This forms a key part of implementing the main aims of our long-term asset management approach, which seeks to maximise investment in council dwellings and support reductions in responsive repairs whilst providing safe, good quality, sustainable housing. For 2023/24 the total HRA capital budget investment in existing council housing stock is c £35m.
- 1.2 The HRA capital programme includes major works. These are major capital projects including the design and delivery of larger schemes for the council's housing stock, using the council's capital investment, for example refurbishments of blocks, cladding, structural works or whole estate works.
- 1.3 Following the expiry of the contractual arrangements with Mears in March 2020, Housing & New Homes Committee and Policy & Resources Committee (26th September 2018 & 11th October 2018) approved the procurement of contracts for major capital works to council housing stock via a multi-contractor framework. The framework consists of two lots, works to the value of up to £300,000 and works over that value, details of which can be found on the contracts finder portal; BHCC Major Capital Projects - Contracts Finder. The lower value lot is currently working well. However, the higher value lot for larger contracts is not currently generating sufficient interest from contractors in our major works projects to meet the expectations of this element of the framework. We therefore wish to increase the number of contractors to invite to tender to ensure that we are maximising competition.
- 1.4 The report recommends replacement of this element of the framework with the procurement of a compliant alternative framework and /or formation of a suitable list of approved contractors for each project to ensure that we receive sufficient tender bids for assurance of value for money and cost comparison.

- 1.5 This report seeks delegated authority to the Executive Director, Housing, Neighbourhoods and Communities to enter into contracts procured through the alternative compliant procurement routes identified subject to budget approval.

## **2. Recommendations**

- 2.1 That Committee delegates authority to the Executive Director Housing, Neighbourhoods & Communities to procure a Framework Agreement for major works over £300,000 and to enter into call-off contracts for works under that Framework Agreement.
- 2.2 That Committee grants delegated authority to the Executive Director Housing, Neighbourhoods & Communities to procure and award contracts for major works over £300,000 using other routes to market where the use of a Framework Agreement is not available or appropriate.

## **3. Context and background information**

- 3.1 Major works are part of the capital investment programme which is planned, agreed at Committee and delivered on an annual basis to ensure our housing assets are maintained, improved and kept in a good state of repair. A major project may consist of a combination of multiple work streams, for example new roof, windows and external repairs, or a single piece of more specialist work such as a new roof covering to a high-rise block of flats which typically has increased costs due to the complexity of the project. Major works also include structural and exterior works to our blocks such as concrete repairs and external wall insulation. Major capital projects are more extensive than planned programmes of work, which may include replacement of roofs, doors, windows and external repairs and decorations, and cover all elements of works. Major works will also consider energy saving elements.
- 3.2 The council's Housing Investment & Asset Management service (HIAM) identify the need for major capital works project through our stock condition and asset management information and undertake detailed condition surveys ahead of commissioning any work specifications. The team then consider what works are required and engage with tenants and leaseholders on the potential scope of the project. Following consultation with tenants and/or leaseholders on the nature of the works, HIAM develop a specification of works and competitively tender each project by way of a mini competition under the framework. Working closely with Corporate Procurement, HIAM are responsible for the procurement processes as well as the quality assurance, quantity surveying and associated contract management of all major capital works projects.
- 3.3 The current Major Works Framework Agreement was established in 2020 and formalised in April 2021 and comprises two lots:
- Lot 1 works up to £300,000. This lower value lot was designed to attract local SME's (Small Medium Enterprises) and allows for mini-competitions between the approved contractors.

- Lot 2 works over £300,000. This higher value lot includes larger contractors competing for more substantial works ensuring the optimum capability and capacity is employed.
- 3.4 Each lot comprises six contractors who were admitted onto the framework after an open tender process which included an evaluation of quality and price. Under the framework:
- All works are competitively tendered.
  - All contractors within that lot are invited to tender.
  - All tender returns are reviewed both on price and quality.
  - After robust review and approval by BHCC, the highest scored contractor will be offered the works.
  - Once acceptance given the contractor will be procured under the NEC4 (New Engineering Contract).
- 3.5 Lot 1 of the framework has proved to be successful with a consistent number of tender bids being received and this will continue with the existing contractors for the full term of the framework of 4 years which is due for renewal March 2025.
- 3.6 However, experience and review of Lot 2 has shown that of the six contractors on the framework only two bidders have returned tenders on our current projects.
- 3.7 Corporate Procurement colleagues have investigated why only two bidders have been returning tenders and have reported that three contractors are not interested in the nature of the works currently on the framework and would therefore not tender.
- 3.8 The feedback received indicates that the scope and nature of the projects which make up the mainstay of major works required to our homes, partial property refurbishment, are not attractive to three of the six contractors currently on the framework. We are advised that current market conditions mean that while these three contractors may have bid for this type of work in the past, as the market has changed, they are now being significantly more selective in the works they will tender for.
- 3.9 The current construction market is suffering from several pressures; inflation, employment issues and high credit costs. These pressures are resulting in a large number of construction related businesses becoming insolvent and going into administration. Contractors are therefore becoming more selective with projects they will undertake and in particular the materials supply chain has become far more selective in who they will open credit lines with.
- 3.10 Increasing the number of contractors to invite to tender for our major capital works will better ensure that we are tendering in a more competitive manner.

#### **4. Analysis and consideration of alternative options**

- 4.1 The current Major Works Framework was intended to provide value for money and competitive tendering opportunities for works of over £300,000. However, with only one or two of the contractors willing to provide a tender bid we are unable to

recommend continuing with the current arrangements concerning Lot 2 of the Framework.

- 4.2 We could continue with the Framework Lot 2 through to the end of the current term and renewal in March 2025. However, given the concerns raised in this report, maintaining the current position risks hampering our capacity to deliver major capital works and our assurance around a competitive process resulting in sufficient bids to offer the best price and quality for major capital works.

## **5. Community engagement and consultation**

- 5.1 We continue working closely with residents to help increase levels of resident satisfaction with the quality of their homes and neighbourhood and to support proactive investment in and maintenance of the council housing stock to enable a preventative approach that allows for the ongoing reduction in the level of responsive repair needs. Resident consultation is undertaken for all major projects work.
- 5.2 We will be consulting with residents on our forthcoming review of the HRA Asset Management Strategy and on matters related to the new regulatory framework arising from the Social Housing (Regulation) Act 2023.

## **6. Conclusion**

- 6.1 In order to support completion of the required volume of work in this area of our major capital works programme, the recommendation of this report is to procure additional contractor resource in order to increase major works contractor capacity and support greater assurance around cost comparison, quality and value for money.

## **7. Financial implications**

- 7.1 The 2023/24 capital programme includes budget of approximately £8m for major works, this budget requirement is reviewed on an annual basis and is based upon the expected delivery over the medium term. The recommendations in this report don't impact on the budget approved for 2023/24, the 2024/25 budget paper will include the plan to deliver major projects over the next 5 years based on the increased capacity.

As referred to in the main body of the report, Lot 2 has not delivered sufficient tenders from the contractors on the framework. The recommendation to replace the current framework arrangement will help to ensure that sufficient tender bids are received to allow greater comparison and improve value for money.

Name of finance officer consulted: Michael Bentley

Date consulted: 12/07/23

## **8. Procurement Implications**

The Threshold for the Public Contract Regulations for works is currently £5,336,937.00 under this value the applicable rules are the Contract Standing Orders.

The Framework Lot 2 was to cover procurements with an estimated value of £300,000.00+, currently the contract standing order dictate that outside of complaint frameworks / Dynamic Purchasing Systems the council should seek a minimum of 5 quotes for projects over £75,000.00.

Giving delegated authority to the Executive Director for Housing, Neighbourhoods & Communities to enter into contracts on the basis of a complaint procurement processes for these works will allow the service area and procurement colleagues to tailor the approach to contractors based on the nature of the works.

The route to market for each project would seek to deliver best value by approaching the market for each project either through;

- an existing compliant framework from either a partner authority or trusted public sector purchasing organisation.
- Inviting at least 5 local (BHCC and the South East) contractors to bid, ensuring that the 5 requests are from specialists in the relevant field.

The majority of the works are building refurbishments to which there are several contractors in the South East who are specialist in or generalists with strong refurbishment experience. The current framework is inclusive of at least one of these contractors who are consistently bidding but the inclusion of further contractors will provide us with the benefits of more tenders being returned to enable better competition and value for money comparison.

Name of procurement officer consulted: Robert Sullivan

Date Consulted: 12/07/2023

## **9. Legal implications**

9.1 The contractors were not guaranteed any work under the existing Framework Agreement and the Council is therefore not under any obligation to use it. It is open to the Council to procure another Framework Agreement and/ or to let contracts using other routes to market.

9.2 Decisions to enter into contracts over £500,000 have to be taken by Committee. The recommendations above will, if approved, enable officers to procure all major works contracts (including those over £500,000) without bringing further reports to committee. As set out in the body of the report, the capital investment plan is approved annually at committee.

9.3 Using a Framework Agreement is a route to market which complies with both the Council's Contract Standing Orders and the Public Contracts Regulations 2015.

9.4 If the Framework Agreement is not used, officers will need to comply with the Council's Contract Standing Orders and if the contract is over the threshold for works contracts will need to carry out a procurement which complies with the Public Contracts Regulations 2015.

Name of lawyer consulted: Alice Rowland Date consulted 14/8/23.

## **10. Equalities implications**

- 10.1 The tender documents will include questions that ensure the bidders address all equalities considerations, both as a business and through evaluation of how they will engage with residents to ensure they give consideration to the diversity of the city's population.
- 10.2 Contractors will be expected to carry out their works in line with the Council's Fair & Inclusive Action Plan.

## **11. Sustainability implications**

- 11.1 Bidders proposals will be evaluated for the sustainable practice and delivery which will be weighted at a minimum of 10% of the quality evaluation.

## **12. Other Implications**

### **Social Value and procurement implications**

- 12.1 Bidders will be asked to submit a Social Value proposal against the relevant criteria from the Social Value framework which will be evaluated at a minimum of 10% of the quality criteria.
- 12.2 This weighting may be altered through requests for specific Social Value outcomes such as delivery of a fixed number of apprentices.