

Report of	Assistant Chief Executive	Author	Lynn Thomas
Title	External Painting and High Level Works Contract		
Wards affected	All wards		

This report sets out the procurement process for tendering the External Painting and High Level Works Contract for the Council's housing stock. The confidential report contains the recommendation for the contractor to be appointment to provide the service.

1. Decision(s) Required

- 1.1 To agree to appoint the contractor named in 1.1 of the report on Part B of the agenda to deliver the External Painting and High Level Works contract subject to references and following the successful completion of the section 20 process with Leaseholders. This is a requirement in accordance with the Commonhold & Leasehold Reform Act 2002, section 151.
- 1.2 To agree to enter with the successful contractor into a 4 + 2 year Joint Contracts Tribunal (JCT) Standard Form of Measured Term Contract 2011.
- 1.3 To agree that should the preferred supplier withdraw Cabinet endorse the appointment of the contractor in second place.

2. Reasons for Decision(s)

- 2.1 The original procurement approach agreed by Cabinet on 28 January 2009 was one of a full Official Journal of the European Union (OJEU) process with the Council acting as the awarding body for any contracts placed and Colchester Borough Homes (CBH) acting as the employer's agent (Contract Administrator). This contract was awarded in 2010 on a 4 + 2 year JCT Standard Form of Measured Term Contract 2006 Edition Revision 2 (2009). The full extension term has been used and this contract expired in July 2016.
- 2.2 A further procurement process was started by the Project Team placing an advert on Contracts Finder and conducting an open procedure utilising a suitability assessment questionnaire. Contracts Finder is the electronic procurement portal for contracts worth over £10,000 with the government of its agencies.
- 2.3 A full section 20 process was followed as the contract would involve working on Leasehold properties. This contract value was below the OJEU threshold so was not required to be compliant to the full OJEU process.
- 2.3 As a result of this exercise seventeen contractors were invited to tender for the works. Tenders were returned and opened by officers on 16 January 2017. An evaluation exercise took place based on the criteria set out in the tender documents which included

assessment of price and quality (method statements). As a result of this a final recommendation was concluded.

- 2.4 The procurement approach agreed by Cabinet on 1 December 2010 as part of the Asset Management Strategy is to let a JCT Form of Contract for this and similar types of work.

3. Alternative Options

- 3.1 There are few alternative options as this programme forms part of the Council Statutory obligations as a Landlord and protects both our customers and the housing asset. The procurement process followed complies with the Public Procurement Regulations 2015.
- 3.2 The principal alternative would be not to complete this work which could result initially in a decline in appearance of the housing stock and estates; longer term the council's assets falling into disrepair and losing value.

4. Supporting Information

- 4.1 The Project Team consisted of The Council's Housing Asset Manager and Senior Procurement Consultant, along with Colchester Borough Homes (CBH) Head of Asset Management and Building Surveyor.
- 4.2 The Project Team engaged the support of Ridge & Partners (property consultants) to assist with updating the original tender documents Ridge produced in the 2010 EU procurement process (OJEU).
- 4.3 The Suitability Assessment evaluates financial capacity, technical capability and relevant experience of interested contractors. Ridge evaluated these submissions based on previously agreed criteria.
- 4.4 In August 2016 a joint planning meeting took place with representatives from the Council and CBH to formulate a project plan and timeline to complete the procurement process.
- 4.5 In September 2016, part 1 of the section 20 notification (in accordance with the Commonhold & Leasehold Reform Act 2002, section 151) was sent to all leaseholders inviting comments on the proposed works and providing the opportunity to propose a chosen contractor to be invited to tender. None were received.
- 4.6 In October 2016 an advert was placed on Contracts Finder along with all the tender documentation. Prospective tenderers were invited to return a Suitability Assessment within 4 weeks.
- 17 contractors responded to the advertisement and completed the suitability assessment.
 - Ridge evaluated the suitability assessments and all 17 contractors passed were deemed suitable to tender for the works.
 - On the 16 January, 13 tenders were received electronically and opened by the project team and the Legal Services Manager. 1 tenderer did not submit the required documents and was disqualified from the process.
 - Ridge and the project team carried out a full evaluation of the returned tenders and contractors method statements. The contract was weighted 60:40, with 60%

of the overall score based on the contractor's price evaluation and 40% based on the evaluation of four method statements relating to quality.

- 4.7 As part of the procurement process a robust tender specification was developed by CBC, CBH and Ridge to ensure the Council, its tenants and leaseholders receive best value on the evaluation criteria of price and quality. The documentation included a comprehensive schedule of rates and method statements relating to organisational structure, resident communications, resident satisfaction, management and quality assurance and environmental issues.
- 4.8 Upon the Cabinet's appointment of the recommended contractor the Council is required to notify leaseholders of the proposed appointment in Part 2 of the section 20 process. The notification allows Leaseholders to comment and raise objections on the tender process, evaluation methods and proposed appointment. The notification period is 30 days from the Part 2 letter being sent
- 4.9 The Form of Contract agreed by Cabinet on 1st December 2010 as part of the Asset Management Strategy to deliver this type of work is the Joint Contracts Tribunal (JCT) Standard Form of Measured Term Contract 2011 further amended as set out in the Tender Document. The successful contractors will be awarded a 4 year contract with an option to extend by agreement with the Council for a further period of 2 years, depending on their performance over the contract period.
- 4.10 The current robust controls and monitoring arrangements will continue as a minimum standard in the new contract. The formal monthly Capital Monitoring Group (CMG) attended by both CBC and CBH include progress against the agreed programme, monitoring of expenditure against agreed budgets, analysis of performance against KPI's, the quality and standard of the services provided to tenants by reviewing customer satisfaction reports and direct liaison with tenants.
- 4.11 CBH's role as the Contract Administrator (CA) has been key to the success of the current contract. CBH will continue to manage the contract on behalf of the Council which will include managing day to day issues/arrangements of the contract and act as the main point of contact for all parties through the nominated representative. The CA through the nominated representative will attend the monthly CMG to report on the contractor's performance. The role of CA is also clearly defined within the JCT form of contract.
- 4.12 Monthly operational meeting with the contractor and CBH will take place; in addition quarterly core group meetings between the Council (the Employer), CBH and the contractor. During the core group meeting performance and progress will be monitored and minuted.
- 4.13 Financial credit checks on each of the recommended contractors have been conducted and their individual rating does not give cause for concern

5. Proposals

- 5.1 To accept the recommendations of the Project team members by:
- 5.2 Awarding the contract to deliver the External Painting and High Level Works contract to the contractor referred to in the report on part B of the agenda , following the successful completion of the section 20 process.
- 5.3 To enter with the successful contractors into a 4 + 2 year JCT Standard Form of Measured Term Contract 2011, further amended as set out in the Tender Document.

6. Strategic Plan References

- 6.1 This decision is part of delivering against the Vibrant theme in the Council's Strategic Plan 2015-18 to 'Develop a strong sense of community across the Borough by enabling people and groups to take more ownership and responsibility for their quality of life' and the Welcoming theme to 'Improve sustainability, cleanliness and health of the place by supporting events that promote fun and wellbeing'

7. Consultation

- 7.1 CBH consulted with Tenants and Leaseholders through a Task and Finish group to assist with the evaluation of the method statements.
- 7.2 CBH have consulted with Leaseholder through the Section 20 process in accordance with the Commonhold & Leasehold Reform Act 2002, section 151.

8. Publicity Considerations

- 8.1 Good communication with tenants is vital and the Council working closely with CBH will need to issue information to our tenants to advise them of new contract arrangements, how it will affect them with ongoing updates as the programme progresses.

9. Financial implications

- 9.1 The financial implications are contained within the Background Papers on part 2 of the agenda because this contains commercially sensitive information it has been presented so as to not identify the individual contractors involved.

10. Equality, Diversity and Human Rights implications

- 10.1 The relevant Equality Impact Assessment for the CBC Procurement Strategy can be found [here](#) or by following the path: www.colchester.gov.uk > Your Council > How the Council Works > Equality and Diversity > Equality Impact Assessments > Commercial Services >
- 10.2 Through the Housing Procurement Strategy within the Asset Management Strategy staff ensure that all future procurement and purchasing documentation recognise, understand and support CBC and CBH policies with regard to equal opportunities, diversity and human rights.

11. Community Safety Implications

- 11.1 There are none directly arising from this report although through the procurement process all contractors will be aware of the specific needs of our customers and direct on site delivery will be managed by CBH to safeguard both customers and contractors.

12. Health and Safety Implications

- 12.1 Through the role of Contract Administrator CBH will ensure Health and Safety and Construction Design and Management Regulations 2015 (CDM 2015) requirements are fully complied with.

13. Risk Management Implications

- 13.1 By following a Public Procurement Directive 2105 compliant tender process and by implementing the controls and recommendations as set out in this report, the Council is seeking to mitigate against any potential risks or challenges.
- 13.2 To reduce risk and ensuring the Council are able to complying with their landlord obligation, it is proposed that should the preferred supplier withdraw (whether by choice or due to unforeseen circumstances) Cabinet endorse the appointment of the contractor in second place.