

Item No.	Classification: Open	Date: 15 April 2014	Meeting Name: Strategic Director of Housing & Community Services
Report title:		Gateway 2 Newington Estate Warm, Dry and Safe works	
Ward(s) or groups affected:		Newington	
From:		Head of Major Works	

RECOMMENDATIONS

1. That the strategic director of housing and community services approve the award of the Newington Estate Warm, Dry and Safe works contract to Axis Europe Plc in the sum of £3,128,340 for a period of 52 weeks.

BACKGROUND INFORMATION

2. The planned procurement strategy was the subject of a Gateway 1 report which was approved on 11 June 2013. The approved competitive tendering procurement strategy was followed.
3. This is a Key Decision
 - The tendered cost of the contract is £3,128,340 for a period of 52 weeks (plus a four (4) week lead in period).
 - There is no specific extension built into the contract.
 - The contract price is not index linked.
4. It was intended that all major refurbishment works in Borough and Bankside and Walworth be allocated to the council's Major Works partnering contract for Lot 1 (Borough & Bankside & Walworth) with Breyer Group Plc during the anticipated initial 5 year duration of the contract running to 2015.
5. Unfortunately, the Major Works partnering contract for Lot 1 with Breyer Group Plc was ended by mutual agreement on 15 February 2013. The necessary approval, which detailed the reasons for this action, was approved on 15 February 2013. This included details of the proposals for delivery of outstanding and future works including the proposal to tender the Newington Estate Warm, Dry and Safe works (WDS).
6. External consultants, Baily Garner LLP (BG) were appointed on 08 May 2013, via 3 quotes, to provide the full building surveying functions including lead designer (LD), quantity surveyor (QS) function and CDM Co-ordinator (CDM-C) required on this contract in accordance with Contract Standing Orders 5.2. BG's contract is up to tender and award stage of the project only, after which there will be formal hand over to Potter Raper Partnership (PRP) who will deliver the project on site.
7. On 01 November 2013, PRP were appointed, by way of an order from the council's Long Term Agreement, to provide the full building surveying functions, the CDM Coordinator's role (CDM-C) and the quantity surveyor (QS) function

required for this project which will commence from award and construction phase to end of defects period.

8. There have been delays to the original project timings that were advised within the Gateway 1 report. The main reasons for the slippage to the original project plan was delays with completion of BG's feasibility survey document and further delays with BG's preparation of the tender documents, resulting in several revisions before the documents could be tendered.

Procurement project plan (Key Decision)

Activity	Completed by/Complete by
Forward Plan for Gateway 2 decision	April 2014
Approval of Gateway 1: Procurement Strategy Report	03 June 2013
Issue Notice of Intention	23 July 2013
Invitation to tender	11 Oct 2013
Closing date for return of tenders	08 Nov 2013
Completion of evaluation of tenders	18 Nov 2013
Issue Notice of Proposal	20 Jan 2014
DCRB Review Gateway 2:	24 Mar 2014
Notification of forthcoming decision	01 April 2014
Approval of Gateway 2: Contract Award Report	04 April 2014
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	14 April 2014
Contract award	17 April 2014
Add to Contract Register	17 April 2014
Contract start	15 May 2014
TUPE Consultation period	N/A
Contract completion date	14 May 2015
Contract completion date – if extension(s) exercised	N/A

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

9. The works will affect:
- Canterbury Place 10 -24
 - Hughes House 1-32 (Sheltered Housing Scheme)
 - Lucy Ashe House 1-20
 - Marlborough Close 1-78
 - Searson House 1-25
 - Wesley Close 25-107

- Winchester Close 2-96 & 98-10

Street Properties:

- Crampton Street (tenanted street properties only)
- Canterbury Close (tenanted street properties only)
- Hampton Street (tenanted street properties only)
- Wesley Close (tenanted street properties only)

10. The properties listed above have always been included within the project, however due to an oversight in the Gateway 1 report, the street properties and Canterbury Place block were not listed.

11. The proposed works following full surveys comprise of:

All blocks:

- Surveying, testing and reporting of elements of the building.
- Repairs to structure and fabric of the building.
- Repairs and renewals of dwelling windows.
- Repairs/upgrades and renewal of existing flat entrance doors.
- Repair /upgrade and renewal where required of rising and lateral mains supply.
- Elemental bathroom repairs / replacements to tenanted dwellings.
- Electrical upgrades / rewires to tenanted dwellings.
- Health and Safety works for cooker locations under Housing Health & Safety Rating System (HHSRS)
- Fire safety works to all blocks.
- Sundry minor repairs.

Works to specific blocks:

- Extensive fire safety works within communal areas and residents' common room and communal kitchen facilities to Hughes House - Sheltered Housing Unit.

12. This scheme is a capital scheme which was drawn up by BG to bring the external elements on the properties up to standards required to meet current legislation. The carrying out of these works will make all properties compliant with the current Warm, Dry and Safe (WDS) standard.

Key/Non Key decisions

13. This report deals with a key decision.

Policy implications

14. This proposed contract for refurbishment of properties on the Newington Estate maintains the council's obligations to make all properties warm, dry and safe by 2016 as set out by cabinet.

15. Planning permission is required for window replacements for those properties identified for window renewal. Planning permission was granted for Hughes House, Wesley Close and Marlborough Close on 12 February 2014. Two (2) further applications for Winchester Close and Canterbury Place are under

consideration and due for expiry in late March. The Planning Section has indicated that these will be approved.

16. Building Control Approval will only be required for specific elements and as such will be sought by way of a 'Building Notice' once work commences.

Tender process

17. As outlined in the Gateway 1 report approved on 11 June 2013, Contract Standing Orders requires a minimum of five (5) contractors to be invited to tender from the council's works Approved List. Tenders were issued to five (5) contractors on 11 October 2013 with instructions to return a completed tender by 12 noon on 08 November 2013 - all from the general works category on the council's works Approved List.
18. Although the Gateway 1 report outlined that six (6) contractors would be invited from the council's works Approved List, Finance and Corporate Services advised that only five (5) contractors would be required.
19. No nominations were made by leaseholders.

Tender evaluation

20. Four (4) tenders were returned to 160 Tooley Street on or by 12 Noon on 08 November 2013 and were opened on the same day. One (1) contractor (AJS Ltd) did not return a tender and officers received no further contact from AJS Ltd.
21. Tenders were evaluated on the basis of M.E.A.T (most economically advantageous tender) using a weighted model of 70:30 price and quality.
22. The tender evaluation process was undertaken by BG's LD, QS and Health & Safety Co-ordinator in conjunction with officers from the council's Major Works Team who were consulted in regards to evaluation outcomes before final approval of the tender report.
23. Tenderers were required to provide information to support their quality submission. The quality assessment was weighted in relation to the level of importance put upon each criterion and is detailed in the Tender Evaluation Methodology issued within the tender documents in the closed report. The results of the quality assessment are summarised in a table in paragraph 39.
24. Tender prices submitted are as follows:

<u>Contractor</u>	<u>Tender Price</u>
Axis Europe Plc	£3,145,648.00
Contractor 1	£3,274,561.29
Contractor 2	£3,488,541.50
Contractor 3	£3,653,787.02
Contractor 4	No Tender Submitted

25. The estimated costs of the works provided in the Gateway 1 report, which was based upon the current stock condition data, was £1,940,651.00. Stock condition is a planning tool that allows prioritisation and estimates of costs of work. Due to omissions in the stock condition database, a more detailed stock condition survey was commissioned and carried out by BG. A pre-tender estimate was

then provided for this project by BG in October 2013 in the sum of £2,870,740.55.

26. A separate exercise in reconciling out turn costs and the stock condition data is being undertaken across the Major Work team as the current works show marked increases across both the partnering and tendered projects from the stock condition estimates. This exercise, although in its infancy, has already identified some major areas of omission in the stock condition data around scaffolding and access and asbestos.
27. The June 2013 Major Works report to cabinet identified an average of 82% increase in the approved budget costs against the original programmed estimated costs, the estimates were based on the information available at that time. The increase in costs for the lowest received tender compared to the estimated Gateway 1 report costs for Newington Estate, Warm Dry Safe Project, is approximately 61.2% higher.
28. The estimated works completion timescale proposed in the Gateway 1 report was 34 weeks. However, there has been an increase of 18 weeks, bringing the expected completion time to 52 weeks. This is due to the complexity and volume of the works required.
29. All priced documents submitted were checked for arithmetical errors and general compliance with the tender requirements by BG's QS.
30. All Tenderers were requested to provide a price for each schedule of works item. It should be noted that Section 7 of the pricing schedule of the tender documents, included provision for a schedule of rates (SOR), which incorrectly showed a collection heading to be carried forward, therefore three (3) contractors (Axis Europe Plc, Contractor 1 and Contractor 3) carried over the SOR costs within Section 7 to the final summary page.
31. BG's QS who evaluated the tenders, revised the costs by omitting the SOR costs from the submitted tenders, where this error had occurred. The results of the revisions are shown in the table as follows:

<u>Contractor</u>	<u>Tender Price</u>
Axis Europe Plc	£3,128,340.00
Contractor 1	£3,245,107.61
Contractor 2	£3,488,541.50
Contractor 3	£3,653,787.02

32. The tender document requested that the contractors carried forward their SOR costs to the main summary, which was an error in the document. However, Contractor 2 did not carry the cost of the SOR over to the main summary page, which was correct but was not requested in the document, therefore the tender submission from Contractor 2 remains at £3,488,514.50.
33. All received tenders were checked for arithmetical errors by BG's QS and numerous arithmetical errors were found in the tender submitted by Contractor 3 and BG's QS noted that the tender submission from Contractor 3 contained an anomaly of approximately £600,000 and was unable to confirm how the applied omitted SOR revision would affect their tender submission.

34. BG's QS have subsequently contacted Contractor 3 and they have confirmed that their submission includes pricing errors due to double billing a section of the specification amounting to £599,545.06. Their tender submission also contained a calculation error of £4,999.19. Contractor 3 email of 19 March 2014, confirms that they will stand by their original submitted tender price £3,653,787.02 (inclusive of pricing errors).
35. BG's QS has requested confirmation from Axis Europe Plc and Contractor 1 as the two lowest contractors who carried the SOR rates to collection incorrectly, to confirm that they agreed to the revised tender costs, both agreed verbally, however only Axis Europe Plc supplied written confirmation to that effect by way of an email dated 28/11/13.
36. Three (3) requests have been made to Contractor 1 by BG's QS for their written confirmation of the revised tender costs but Contractor 1 has not provided this so far.
37. The summary results of the evaluation is shown in the schedule below:

Summary Cost and Quality Evaluation				
Rank	Organisation	Quality Score (out of 30)	Price Score (out of 70)	Total Score (out of 100)
1	Axis Europe Plc	28	70	98
2	Contractor 1	14	67.20	81.20
3	Contractor 2	19	62.37	81.37
4	Contractor 3	22	58.66	80.66

38. Five (5) contractors were invited to tender for the works and only four (4) contractors returned tenders. The council considers, after taking advice from BG, that the market was adequately tested. The cost/quality evaluation concludes that Axis Europe Plc offers the most economically advantageous compliant tender. It is therefore recommended for the acceptance of the tender submitted by Axis Europe Plc in the sum of £3,128,340.
39. The date for acceptance of the above tenders will expire on 08 May 2014.
40. A Risk Pot allocation of 5% of the contract sum was agreed at the Gateway 1 approval stage.

Plans for the transition from the old to the new contract

41. Not applicable.

Plans for monitoring and management of the contract

42. The contract will be managed on a day to day basis by PRP who will provide full consultancy services for the Newington Estate WDS project, following formal hand over from BG who was originally providing the consultancy services.
43. In addition to PRP, there will be a contract manager, a customer relationship officer and a project manager from the council's Major Works team allocated to this scheme. These council officers will monitor PRP and the performance of the

Axis Europe Plc, arrange regular meetings with the residents' project team at which contractor performance will be discussed.

44. PRP are providing full quantity surveying services for the contract and all costs will be monitored by PRP and officers from the council's Major Works team.

Identified risks for the new contract

45. It is confirmed that Axis Europe Plc, has provided for a performance bond and the costs are included in the cost of the tender
46. Axis Europe Plc has confirmed that they do not have an ultimate holding company and as such a parent company guarantee is not applicable.
47. Specific risks identified, impact, likelihood and mitigation controls for this contract are outlined below:

Risk	Impact	Probability	Mitigation
Poor performance or poor quality workmanship.	Medium	Low	Regular meetings to review performance scheduled from the outset. Establish processes of quality control and works inspections before sign off. The contract provides for a 12 month defects liability period for all work undertaken.
Company goes into liquidation, administration or ceases trading.	High	Low	A performance bond will be obtained from Axis Europe Plc and the council will re-tender the works if necessary.

Other considerations (For Housing Department works contracts only)

48. This report seeks approval for the acceptance of the lowest most economically advantageous tender in accordance with Contract Standing Order 4.5.2. It is therefore considered that there are no alternative viable options.

Design Specification Compliance

49. A Specification has been drawn in compliance with the design guide wherever possible.

Leasehold Implications

50. Formal legal consultation with leaseholders has been undertaken by Specialist Housing Services.

Decent Homes

51. This scheme has been designed to ensure the blocks will meet the minimum WDS decent homes standards.

Community impact statement

52. The proposed works are for the refurbishment of council housing and as such will affect council tenants and leaseholders on the Newington Estate. The level of disturbance has been considered to be relatively low; it will not adversely affect any particular group and will not involve any resident being decanted.
53. The level of disturbance or disruption to the general public is considered negligible as the blocks sit within a council estate and the works will not impact the public highway.
54. The proposed works, which are for refurbishment of council housing, will not adversely affect any one particular group.

Economic considerations

55. The full cost of the contract (including fees and the like) is £3,522,411. The contract period is 52 working weeks.
56. Axis Europe Plc are a medium size building company based within London and will be encouraged to utilise local labour markets to deliver the works.

Social considerations

57. In February 2012, the Council Assembly introduced plans to ensure that, where appropriate, contractors pay staff at a minimum rate equivalent to the London Living Wage (LLW) rate. Axis Europe Plc has confirmed that they exceed the LLW requirements. On award, any quality improvements and costs implications will be monitored as part of the review of the contract.

Environmental considerations

58. The proposed works includes the replacement of windows which will provide a 30 year minimum life and provide increased energy efficiency through improved thermal performance, increased security and increased noise insulation. The new windows shall be safe to operate and clean, and shall be as maintenance free as possible.

Market considerations

59. BG believes that the market has been adequately tested based on the tenders received from the contractors taken from the council's works Approved List. BG's recommendations were considered and agreed by the Area Project Manager within the Major Works team.

Staffing implications

60. There are no specific implications.

Financial implications

61. The works are part of the Housing Investment Capital programme. Main works and fees costs will be coded to capital cost code H-1811-9222 from the Warm, Dry and Safe budget.
62. The costs for the fire safety works to Hughes House were allowed for as part of the pricing section of the tender documents and are included within the tendered sum submitted by Axis Europe Plc but will be charged to the Sheltered Housing fire safety works budget (H-5360-2504) held by Specialist Housing Services, as this work falls outside of WDS.
63. The cost of these works will be met from three budget allocation:-
 - a. H-1811-9222 "Newington Estate"
 - b. H-5360-2504 FRA works "Sheltered Housing Units"
 - c. WDS contingency budget allocation.
64. The total budget allocated to "Newington Estate" is £1,768,339 of which £46,068 was spent in 2012/13.
65. Extensive fire safety works to the dwelling and common areas of Hughes House, to are to be funded from the Sheltered Housing fire safety works budget (H-5360-2504) held by Specialist Housing Services, as this work falls outside of WDS works. The total budget for "FRA works Sheltered Housing Units" is £912,103, of which £261,307 will be allocated to "Newington Estate".
66. The remainder of £1,492,765 will be met from the WDS contingency budget. The total WDS contingency budget is £60,860,155 of which £44,576,088 has already been allocated to fund other parts of the WDS capital program. This leaves a balance £16,284,067 available to fund these works. Budgets will be transferred from the WDS contingency fund to the project code for accurate monitoring and reporting.
67. As part of the capital refresh and budget profiling exercise, budgets will be transferred between projects and re-profiled between the years to reflect the above expenditure for "Newington Estate WDS" works.

Investment implications

68. Please refer to paragraphs 61 to 67 above.

Second stage appraisal (for construction contracts over £250,000 only)

69. An Experian credit check was obtained on 03 March 2014, Axis Europe Plc are a contractor and the report indicates they are creditworthy and there is a low risk of the company becoming bankrupt in the next 12 months.

Legal implications

70. In line with the requirements of Contract Standing Orders, the report confirms that tenders were invited from contractors from the general works category of the council's Approved List and that adequate financial provision has been made to fund the expenditure associated with the delivery of this project. There are no other specific legal implications arising at this stage.

Consultation

71. All residents (tenants and leaseholders) and absent leaseholders have been consulted with regards to the proposed works.
72. Formal legal consultation with leaseholders affected by these proposals has commenced and is undertaken by Specialist Housing Services.
73. Further consultation with residents will take place prior to award the contract and leaseholders have been formally consulted in line with legislative requirements by way of Notice of Intention and Notice of Proposal.
74. A project team incorporating both tenants and leaseholders will be formed to meet on a regular basis and act as a conduit for information between residents in general and officers.
75. Axis Europe Plc will issue regular newsletters to the blocks throughout the contract period.

Other implications or issues

76. Not applicable.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

77. As the value of this contract is below the current EU threshold for works no formal procurement concurrent is required.

Director of Legal Services

78. The legal implications are contained within the report.

Strategic Director of Finance and Corporate Services (CAP13/110)

79. The report is requesting delegated approval from the Strategic Director of Housing and Community Services to award the works contract package entitled "Newington Estate Warm, Dry and Safe" works to Axis Europe PLC at a cost of £3,128,340.
80. The report identifies the total cost of the works including fees and contingency to be £3,522,411. The financial implications as stated in paragraph 62 indicate that the costs of these works are to be funded from the budget allocation for "Newington Estate", "FRA Sheltered Housing Units" and "WDS contingency budget".
81. It is also noted that budgets will be transferred and re-profiled against the project as required for monitoring and reporting the contract costs against approved budgets.
82. Staffing and any other costs connected with this contract to be contained within existing departmental revenue budgets.

Head of Specialist Housing Services (For Housing contracts only)

83. These are works of repair and are therefore chargeable to leaseholders under the terms of their leases.
84. There are 83 leaseholders included in the contract that will be affected by the works. In accordance with the Landlord and Tenant Act 1985 (as amended) section 20 notices of intention were served on the 23rd July 2013 and the observation period expired on the 3rd September 2013. There were no observations received from leaseholders at this stage.
85. Section 20 notices of proposal were served on the 20th January 2014 and expired on the 20th February 2014. There were 7 observations received from leaseholders included in this package, none of these observations would lead to a delay in proceeding with these works. Leaseholder estimated charges are between £2,886.29 and £11,462.06 per leaseholder.

FOR DELEGATED APPROVAL

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature  Date 28.4.14.....
Gerri Scott, Strategic Director of Housing and Community Services

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Newington Estate Warm, Dry Safe Gateway 1 'open' report	Major Works, Housing and Community services	Joe Bannon 54812

APPENDICES

No	Title

AUDIT TRAIL

Lead Officer	David Markham – Head of Major Works	
Report Author	Joe Bannon- Contract Manager Borough & Bankside & Walworth	
Version	Final	
Dated	15 April 2014	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Head of Specialist Housing Services	Yes	Yes
Cabinet	N/a	n/a
Date final report sent to Constitutional Team		28 April 2014