

# LONDON BOROUGH OF NEWHAM

## MAYORAL PROCEEDINGS

<b>Is it a key decision?</b>	Yes
<b>Is it in the Forward Plan?</b>	Yes
<b>Date report published</b>	23/11/11
<b>Date of meeting</b>	01/12/11

**Subject:** Tall Block Refurbishment Programme – Acceptance of Tender

**Source:** Environment

**Wards affected:** Boleyn, Stratford and New Town, Plaistow North, Plaistow South, Little Ilford, West Ham

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### Exempt Information

Appendices 1 and 2 are exempt from publication by virtue of paragraph 3 of the Access to Information Procedure Rules set out in the Constitution pursuant to Schedule 12A Local Government Act 1972, as amended. It is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing it as, if the council disclosed information about bids for works, it is likely to affect its ability to receive competitive bids in the future.

### Purpose of Report

The purpose of this report is to –

1. Provide details of the EU Restricted Procedure procurement process for refurbishment works at the following blocks –
  - Lot 1 - Priory Court
  - Lot 2 - Henniker Point
  - Lot 3 - Scott House and Willett House
  - Lot 4 - Arthur Walls House
  - Lot 5 - Twelve Acre House
  - Lot 6 - Blakesley House
  - Lot 7 - Castle Point
  - Lot 8 - 8-118 Seymour Road
  - Lot 9 - 46-134 Paul Street
2. Seek Mayoral approval to accept tenders submitted by the successful tenderers

for Lots 1, 2 and 9.

3. To delegate to the Executive Director Environment in consultation with the Executive Director Resources to award contracts to the tenderers identified in the Exempt Appendix to the report for Lots 3 – 8 if and when funding becomes available and the appropriate leaseholder consultation is conducted.

## **Recommendations**

The Mayor is asked to:

1. Approve the acceptance of the tender submitted by the successful tenderer for refurbishment works at Priory Court.
2. Approve the acceptance of the tender submitted by the successful tenderer for refurbishment works at Henniker Point.
3. Approve the acceptance of the tender submitted by the successful tenderer for refurbishment works at 46-134 Paul Street.
4. Delegate to the Executive Director Environment in consultation with the Executive Director Resources authority when funding is available to make further awards for to the tenderers identified in the Exempt Appendix 1 for 6 further projects at Scott and Willett Houses, Arthur Walls House, Twelve Acre House, Blakesley House, Castle Point and 8-118 Seymour Road **subject to funding being available to enable the projects to proceed and to leaseholder consultation.**

## **Reasons for the Recommendations**

The recommendation to accept the tenders follows a competitive procurement process in compliance with EU Procurement Directives and including both price and qualitative elements.

The works included in the projects are essential to meet the maintenance needs of the blocks and Decent Homes standard and are consistent with commitments to residents.

**NAME OF LEAD OFFICER:** Jackie Belton

**POSITION:** Executive Director Environment

Originator of report: Andy Wyatt, Partnering and Procurement Manager, Housing Property Services.

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**Local Government (Access to Information) Act 1985**

**Background papers used in preparing this report:**

- Technical Resources Quantity Surveying Team Tender Report

**List of enclosures / Appendices:**

- Appendix 1
- Appendix 2

## Report - Part A

### 1. Introduction and Background

- 1.1 The re-procurement of the Tall Block Enveloping Programme was approved on 22 July 2010 and included a 9 lot EU Restricted Procedure tender for the following refurbishment packages –
  - Lot 1 - Priory Court
  - Lot 2 - Henniker Point
  - Lot 3 - Scott House and Willett House
  - Lot 4 - Arthur Walls House
  - Lot 5 - Twelve Acre House
  - Lot 6 - Blakesley House
  - Lot 7 - Castle Point
  - Lot 8 - 8-118 Seymour Road
  - Lot 9 - 46-134 Paul Street
- 1.2 On 26 May 2011, the Mayor in consultation with Cabinet approved the continuation of the Housing Capital Programme for 2011/12 including the allocation of capital resources to the Tall Block Enveloping Programme. The refurbishment of Priory Court, Henniker Point and Paul Street forms part of this programme. The remaining work packages listed above may form part of the 2012/13 programme.
- 1.3 All works have been designed by the council's Technical Resources Service and comprise the refurbishment of the external and communal elements of the blocks and, in some cases, the renewal of the electrical services, the replacement of the rising and falling cold water mains system and the replacement of soil stacks.
- 1.4 A Contract Notice was submitted to the Official Journal of the European Union on 14 October 2010 inviting expressions of interest from contractors. Pre-qualification Questionnaires were made available via the NECTR electronic procurement system. Applicants were advised that the number of individual lots awarded to any one constructor would be limited to a maximum of 3 separate lots and were asked to indicate which lots they were applying for. The deadline for submission of completed questionnaires was 22 November 2010.
- 1.5 Following the evaluation of Pre-Qualification Questionnaires, contractors that met the minimum criteria were invited to tender for their selected lots on 9 March 2011. Contractors that failed to meet the minimum criteria were advised of this and provided with feedback on their submission.
- 1.6 Prior to issuing tender documents, it became evident that full funding may not be available for all lots. The tender documents, therefore, included a list of the 9 lots with Newham's priority for completing the works should funding be restricted. The priority list was based on technical urgency and applicants were required to rank the lots in order of award preference to ensure that,

should they be successful in multiple lots, they would be allocated their preferred projects.

- 1.7 The priority order is shown at Appendix 1 and it should be noted that any change to this order following the commencement of the tender process would have a significant effect on the outcome of the tender exercises and could result in a legal challenge.
- 1.8 Tenderers were advised that any resultant contract would be in the London Borough of Newham's name due to the planned integration of Newham Homes.
- 1.9 Tenderers were required to submit a priced schedule of works and responses to qualitative questions which were evaluated on a 70% price / 30% quality basis with a minimum quality threshold of 60%. The qualitative evaluation was carried out by a panel of officers from Procurement, Programme Delivery and Technical Resources teams. In addition, two Newham residents joined the panel to evaluate specific questions relating to their experience. The price evaluation was carried out by the Technical Resources Quantity Surveying Team. Further details of tenderers' price and quality submissions and the outcomes of the evaluations are included at Appendix 1.

## **2. Key Considerations and Sustainability**

- 2.1 The proposed works are essential to the maintenance of the stock and largely focus on the replacement of elements that have reached the end of their life. Where necessary, the works include window and door refurbishment and renewal which will contribute to residents' thermal comfort and reduce energy consumption and fuel poverty. Once works are complete, the properties will meet the Decent Homes Standard.
- 2.2 The recommended contractors have worked continuously in Newham since 2007 as partnering framework contractors to Newham Homes. During this time, the contractors have employed a high percentage of local labour and provided apprenticeship and training opportunities. As the volume of work through the partnering frameworks declines, award of these contracts will help the contractors to continue with these local commitments.

## **3. Service Delivery and Performance Issues**

- 3.1 These works are essential to maintain the quality of the housing stock and will prevent further deterioration of key elements that have a short remaining life.

## **4. Comments of the Finance Officer**

- 4.1 Cabinet of 26th May 2011 agreed a report on the Housing Capital Programme for 2011/12. Included within this report was an allocation of £5 million for new starts for the Tall Block Enveloping Programme. The projected costs, falling in 2011/12, for all new starts will be contained within this budget. The costs

falling in 2012/13 will be contained within the Decent Homes Backlog Funding allocated for that year.

- 4.2 The estimated leaseholder contribution to the schemes is as below. This will be recovered from leaseholders via invoices issued once the work has been completed and contributions received will reduce the net cost of the work to the capital programme.
- Priory Court – £708,111.14
  - Henniker Point - £253,618.92
  - 46-134 Paul St - £174,303.68

## **5. Comments of the Legal Officer**

- 5.1 The Mayor is asked to approve the recommendations in the report for the award of a contract to a number of tenderers for enveloping works to the blocks identified in recommendations 1 – 3 of the report. The Mayor is also asked to approve delegated authority to the Executive Director Environment in consultation with the Executive Director Resources for future awards subject to funding becoming available, leaseholder consultation for the blocks listed in recommendation 4.
- 5.2 The Council is a Local Housing Authority as defined in Section 1 of the Housing Act 1985 and has powers to provide housing under Section 9 and to properly maintain dwellings it rents out in accordance with the Landlord and Tenant Act 1985. It is further required where there are occupants who have exercised their right to buy to comply with any landlord obligations in the lease as contained in the Commonhold and Leasehold Reform Act 2002 (CLARA). It also has obligations in terms of energy conservation. The Council further has, as a power of first resort under Section 2 of the Local Government Act 2000 in respect of the social, economic and environmental well-being of its residents subject to this being supported by the Council's Sustainable Communities Strategy. The recommendations in the report are in line with the said legislation.
- 5.3 The report confirms that the tender process was originally commenced by Council's ALMO (Newham Homes Ltd) through an OJEU notice using the restricted procedure for all the blocks identified in the report. The report further confirms the tender documents issued to the market confirmed that Newham would stand in place of the ALMO for the award of contracts. The procurement process appears to have been conducted in compliance with EU Procurement rules and the Council's Contract Procedure Rules and Contract Standing Orders (CSO).
- 5.4 The report at paragraph 1.6 advises that prior to inviting tenders it became evident that full funding of all lots identified in the report for this financial year was unlikely to be available. The report confirms this position was communicated to all selected tenderers and only recommendations 1 – 3 seeks approval for an award of a contract to the tenders identified in the Exempt Appendix to the report.

- 5.5 In respect of the blocks identified in recommendation 4 no funding is currently identified or available. CSO 2.4 states that “no procurement shall proceed unless the expenditure required has been fully considered, approved and sufficient money allocated in the relevant budget”. At this time no contract can be made by the Council for the blocks identified in recommendation 4. In view of the uncertainty of funding the report seeks authority for the Executive Director Environment in consultation with the Executive Director Resources if and when funding becomes available, subject to proper leaseholder consultation in line with CLARA to award contracts identified in the Exempt Appendix. Any correspondence with these tenderers should reflect the position that a contract cannot be awarded and is subject to the availability of funding and tenderer prices being held open. There is further legal advice included in the Exempt Appendix 2.
- 5.6 There are likely to be legal issues associated with recommendation 4 but there are no further legal or propriety issues to the report at this time.

## **6. Risk Management**

- 6.1 Prior to commencement of the works, risks will be identified and recorded in the form of a risk register. Risks will then be monitored and re-assessed throughout the project at regular meetings including the client and contractor teams.
- 6.2 A key risk on some of the projects is the failure to gain timely access to individual dwellings to connect to the replacement soil stacks and electrical mains. This will be mitigated through the contractor’s previous experience of similar projects and enhanced Resident Liaison Officer involvement.
- 6.3 The risk of the contractor’s non-performance, particularly through financial failure, is mitigated through monitoring of financial performance and the provision of a Performance Bond. The bond will be for 10% of the contract value and will remain in force until the defects liability period is completed to the Council’s satisfaction.

## **7. Consultation**

- 7.1 The first stage of the statutory leasehold consultation for all blocks was completed by 17 September 2010. The second stage consultation will be complete on 20 November 2011 and any observations will be reported at Mayoral Proceedings.
- 7.2 Ward Councillors have been consulted through the usual e-consultation channels and any comments received will be reported orally at Mayoral Proceedings.
- 7.3 Detailed resident consultation on project delivery will follow immediately upon Mayoral approval.