

| | | |
|---|-----------------------------|----------------|
| 9 January 2024 | | ITEM: 8 |
| Housing Overview and Scrutiny Committee | | |
| Update on Procurement of Housing Contracts for Works Through a Partnership Model | | |
| Wards and communities affected: ALL | Key Decision: N/A | |
| Report of: Cllr Barry Johnson, Cabinet Member for Housing | | |
| Accountable Assistant Director: Ewelina Sorbjan, Assistant Director of Housing and Development | | |
| Accountable Director: Ian Wake, Executive Director of Adults, Housing & Health | | |
| This report is Public | | |

Executive Summary

On 8th November 2023 Cabinet approved the procurement of a single delivery partner to consolidate all housing works contracts through a partnership delivery model. Since Cabinet approval, procurement activities have progressed leading up to the publication of the Contract Notice on the Government Tender Portal on Friday 15th December 2023.

This report is intended to provide members with an update on progress to date for the procurement process. For brevity the report to Cabinet in November 2023 will be referenced but not replicated in this report.

Commissioner Commentary

Commissioner's commentary has been received and changes introduced to the main body of the report to address the points.

1. Recommendation(s)

1.1 Members are requested to note and comment on the contents of this report.

2. Introduction and Background

2.1 As was outlined in the November Cabinet Report, a number of housing works contracts are coming to an end within the next three years. The procurement of a single delivery partner will enable the Council to consolidate a wide array of works contracts and benefit from cost efficiencies, enhance customer experience and secure best value for residents.

- 2.2 The Contract Notice was issued on the Government Tender Portal on 15th December 2023. The description of the procurement notice is included below:

Thurrock are seeking expressions of interest from suitably skilled and experienced suppliers to be their Strategic Delivery Partner for Housing, the Tasks of this Contract are anticipated to comprise all the repairs, compliance and planned investment Tasks and services to the Thurrock housing stock (and designated corporate properties). Thurrock will require quality and cost to be managed principally by the Provider. Thurrock anticipates this can unlock savings through removing duplication between a traditional client and contractor relationship. Day to day management and responsibility for the Tasks will sit with the Provider, with Thurrock providing oversight, standards and policy, and necessary approvals. The successful Provider will enter into a TAC-1 Terms Alliance Contract (with break clauses) for an initial term of 10 years, with 2 possible extensions of 5 years each. Thurrock are following the competitive dialogue procurement procedure in accordance with the Public Contracts Regulations 2015. Following completion of the Selection Questionnaire and associated appendices prospective bidders will be shortlisted with six bidders anticipated being invited to submit outline solutions. Following evaluation of the quality proposals only, prospective bidders will again be shortlisted and invited to participate in dialogue with Thurrock. It is anticipated that three bidders will be invited. On completion of dialogue sessions the bidders will be invited to submit final Tenders for the full solution for evaluation.

- 2.3 An extensive suite of documentation has been issued with the public Contract Notice. Further details of which can be accessed using the link below:

<https://www.find-tender.service.gov.uk/Notice/036922-2023#object-1>

3. Legal Advisors

- 3.1 From the commencement of planning this procurement the Housing team have been advised by its appointed Housing Partnering consultants as well as professional legal advice on the Prior Information Notice which was issued on the government Find A Tender portal which sets out a contracting authority's purchasing intentions.
- 3.2 Following the publication of the PIN notice Thurrock procured external legal advisers to support all legal aspects of the wider procurement process. Following a competitive process Trowers & Hamlins LLP were appointed in November 2023. The scope of the legal advisers is to provide full array of legal advice pertaining to the drafting of documentation and contracts for the procurement of a lead delivery partner. This includes the following activities:
- The preparation of initial drafts of each of a Term Contract based on the TAC-1 Term Alliance Contract with bespoke amendments
 - A review of a consolidated set of comments and responses back from bidders and any legal implications

- The production of revised versions of each contract incorporating Thurrock's comments.
- The production of further revised versions of each contract incorporating any changes required following our review of the pricing and technical documents.

4. Form of Contract with the Delivery Partner

- 4.1 The form of contract to be entered into with the delivery partner will be a Term Alliance Contract (commonly known as a TAC-1 form of contract). The Council currently has a Term Partnering Contract (commonly known as a TPC2005) for its existing repairs and planned maintenance contract and the TAC-1 follows the provisions of TPC2005 closely. TAC-1 is more in keeping with the partnering model the Council is procuring and supports planned, cyclical and responsive repairs in addition to the integration of capital and operational activities.

5. Contract Notice Value

- 5.1 The Contract Notice issued on 15th December 2023 set an estimated contract value at £1,082,110,000 over the entire twenty-year term of the contract (assuming extension options are taken up). The estimated contract value is calculated based on figures from HRA Finance with an assumed 5% inflationary uplift each year throughout the term. The estimated contract value also incorporates an additional in year capital allowance each year from year 6 onwards.
- 5.2 The governance process for committing and spending HRA funds will continue to follow the existing budget setting process on an annual basis through the rent setting and capital budget Cabinet reports.
- 5.3 For absolute clarity, the estimated contract value set in the Contract Notice is an estimate to enable the Council to exercise a wider scope of works within financial limits should it wish to do so. This is not a guaranteed contract value, there is no expectation in the contract to this effect and there is no obligation to spend the estimated contract value indicated in the Contract Notice. The estimated contract value merely provides the Council the ability to commit up to the estimated contract value without the requirement for further procurement activities in the future.

6. Procurement Process and Timescales

- 6.1 The Council will utilise the Competitive Dialogue Procedure for this procurement exercise. This process is consistent with and ensures that the procurement principles of transparency, integrity, openness, non-discriminatory and fairness are applied. The Council is working to the timetable listed below:

| Indicative Procurement Timetable | |
|---|----------------------------------|
| Activity | Indicative date or period |
| FTS Contract Notice sent for publication | 15/12/2023 |
| SQ deadline for Applicant clarification questions | 17:00 18/01/2024 |
| SQ submission deadline | 12:00 25/01/2024 |
| SQ Evaluation Period | 26/01/2024 – 09/02/2024 |
| SQ Notification letters issued | 20/02/2024 |
| Invitation to Submit Outline Solutions Issued | 21/02/2024 |
| ISOS Bidders Briefing | 04/03/2024 |
| Deadline for Bidder ISOS clarification questions | 17:00 20/03/2024 |
| ISOS submission deadline | 12:00 27/03/2024 |
| ISOS Evaluation Period | 28/03/2024 – 11/04/2024 |
| ISOS Notification letters issued | 29/04/2024 |
| Competitive Dialogue Period | 06/05/2024 – 05/06/2024 |
| Invitation to Submit Detailed Solutions | 02/07/2024 |
| Deadline for Bidder ISDS clarification questions | 17:00 26/07/2024 |
| ISDS Submission Date | 12:00 06/08/2024 |
| ISDS Notification letters issued | 13/09/2024 |
| Standstill Period | 16/09/2024 – 26/09/2024 |
| Mobilisation Period | 30/09/2024 – 28/02/2025 |
| Contract Go Live | 28/02/2025 |

6.2 A separate procurement exercise will be undertaken for the procurement of a Assurance and Audit partner. The role and purpose of the Assurance and Audit partner was set out in the report to Cabinet in November 2023.

7. Existing Contractual Arrangements

7.1 As highlighted in the report to Cabinet in November 2023, a review of all existing contractual arrangements for housing works has commenced. Prior to the Contract Notice being issued, all current suppliers were informed of Thurrock's intention to procure a single Delivery Partner and the implications this would have on existing contractual arrangements with the supplier. Any contract terminations, extensions or modifications will adhere to procurement governance processes, approvals and be in line with contractual terms. This process will conclude by the summer of 2024.

8. Procurement Risk Register

8.1 A risk register for this procurement exercise has been compiled and will be regularly reviewed and updated. Working Group members will be engaged as part of this review. A copy of the current risk register is appended to this report.

8.2 For ease of reference the top three risks to this procurement are summarised as:

- Market Capacity
- Potential suppliers submitting credible bids to meet the service specification
- TUPE Challenges

Potential mitigations for these risk items are addressed in the risk register.

9. Human Resources Impact, TUPE, Council Retained Functions and Partnership Model Governance

9.1 As highlighted in the report to Cabinet in November 2023, the Council will create a small professional team within the Housing service to manage and deliver the new partnership model. In addition, the new team will be crucial in managing all transitional arrangements into the new partnership model.

9.2 Job descriptions for the new roles have been developed and are currently progressing through the HR processes. It is anticipated that the new roles will be recruited to in early 2024. All affected officers have had engagement sessions with senior management within the Housing service and will be consulted on TUPE proposals as these materialise.

10. Issues, Options and Analysis of Options

10.1 The Council appointed an independent housing partnering advisor to carry out a detailed options appraisal which includes the benefits and disadvantages of each approach. This report considered the different delivery models available to the Council and recommended an outsourced contract, which has since evolved into a more comprehensive partnership model.

11. Reasons for Recommendation

11.1 This report is intended to provide Members with a progress update on the procurement process and is for information purposes only.

12. Consultation (including Overview and Scrutiny, if applicable)

12.1 A Working Group of Members from Housing Overview & Scrutiny Cttee has been established prior to Cabinet approval in November 2023. Formal Working Group meetings were held on:

- 14th August
- 26th September
- 24th October
- 5th December

- 12.2 At the December meeting the Working Group discussed and offered feedback on the selection questionnaire which was issued with the Contract Notice and published on the 15th December.
- 12.3 Working Group meetings will continue as part of the ongoing engagement with members on the procurement of the new contract to offer the following input to the process as listed in its Terms of Reference:
- Act as a critical friend and collaborate in a constructive manner
 - Report on the outcome of soft market testing
 - Oversight of evaluation
 - Report back to Cabinet prior to key milestones, as per below timetable
 - Inform and appraise key documents
- 12.4 A follow up session also took place with a presentation from Housemark (a membership organisation for social landlords) to the Working Group to provide members with a broad overview of the direction of the industry, how value for money is measured and an overview of the Council's performance on relevant metrics benchmarked against other providers of social housing. Working Group members reported how informative they found the session with Housemark.
- 12.5 As the procurement exercise progresses further meetings are scheduled at regular intervals with the Working Group as well as regular updates to the Portfolio Holder for Housing, the Leader of the Council, Commissioners and the S151 Officer on the procurement process.
- 12.6 An internal senior officers group also provides regular oversight on the procurement process and related activities. Senior managers from housing finance, procurement, legal are part of this group. Future meetings will include managers from Risk and Audit services.
- 13. Impact on corporate policies, priorities, performance and community impact**
- 13.1 A comprehensive communications strategy and plan will be developed in line with corporate requirements and protocols in the run up to the go live of the new contract to engage with Members, wider council services and partners and residents.
- 13.2 As this is an update report the impact on corporate policies, priorities, performance and community impact remain as reported to Cabinet in November 2023.

14. Implications

14.1 Financial

Implications verified by: **Mike Jones**
Head of Finance

As this is an update report the financial implications remain as reported to Cabinet for this procurement in November 2023.

14.2 Legal

Implications verified by: **Kevin Molloy**
Principal Solicitor

As this is an update report the legal implications remain as reported to Cabinet for this procurement in November 2023.

14.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
Community Development Team

An initial Community Equality Impact Assessment has been completed for the Partnership Model and has been shared and commented on by internal officers. will be carried as part of the procurement process. Prior to the go live of the new contract a more comprehensive Community Equality impact Assessment will be completed with the Delivery Partner.

14.4 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

A Data Protection Impact Assessment will be undertaken, and a Data Protection Agreement entered with the successful Delivery Partner.

15. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

Cabinet Report: Procurement of Housing Contracts for Works Through a Partnership Model (November 2023)
<https://democracy.thurrock.gov.uk/documents/s41220/Procurement%20of%20Housing%20Contracts%20Partnership%20Model.pdf>

16. Appendices to the report

Appendix 1: Risk Register

Report Author:

Ewelina Sorbjan

Assistant Director of Housing and Development, Adults, Housing & Health

Mohammed Saheed Ullah

Housing Repairs and Planned Maintenance Manager