



Cabinet

Title	Authorisation to procure a Principal Contractor for energy saving works on operational assets using LBB's procurement processes.
Date of meeting	14 Nov 2023
Report of	Councillor Alan Schneiderman, Cabinet Member for Environment & Climate Change
Wards	All
Status	Public
Key	Key
Urgent	No
Appendices	None
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Summary	
Background:	

The Toward Net Zero (TNZ) Programme procured a lead contractor to manage retrofit works at selected sites through the GLA REFIT Procurement Framework in 2018. The GLA REFIT Procurement Framework is time expired.

The TNZ programme requires a lead (Principal) contractor to support LBB's journey to net zero, whereby the appointed contractor assumes responsibility for the energy and carbon savings that have been guaranteed for each tranche of work through the Energy Performance Contract which is agreed before any programme of work.

Requirement

The requirement is to enter a procurement process with immediate effect to secure the services of a lead contractor. The appointed contractor will begin new programmes of works to provide energy efficient and decarbonised buildings.

Decision

The Cabinet decision sought, is to authorise the commencement of the procurement process, and to delegate the subsequent appointment of a lead contractor.

The recommendation is to begin the procurement process as soon as possible, with a view to appointing a contractor by 28th February 2024.

The contract length is to be 5 years, to ensure adherence to value for money principles, with the opportunity to extend by a further 2 years, as necessary.

Recommendations

- 1. That Cabinet approve the decision to procure a lead retrofit contractor through a Council approved procurement route for a period of 5-years, with an option to extend for up to 2 years.**
- 2. That Cabinet delegates the authority to appoint a lead contractor and enter call-off contract(s), subject to the completion of the procurement process, to the Director of Growth.**
- 3. That Cabinet delegates authority to the Director of Growth, to extend the call-off contract(s) by up to a further 2 years, should that be required.**
- 4. To delegate authority to the Assistant Director, Estates and Decarbonisation to sign any Access Agreement as required by a framework provider and make the necessary arrangements to allow the Council to access a selected Framework Agreement as required.**

1. Reasons for the Recommendations

- 1.1 In August 2023, the Toward Net Zero Portfolio Board approved the decision to procure a lead contractor to support new programmes of works for the following reasons:
- Legal services advised that the existing REFIT procurement framework is time expired and any new works should be commissioned through a new framework or other suitable procurement vehicle.
 - The existing lead contractor was acquired in 2018 and since then company ownership has changed. Our contract is between LBB and Larkfleet. The new parent company is JCI Inc. Our re-procurement exercise will ensure that our contract will be associated with the correct business organisation.

- To ensure value for money, it is prudent and sensible to re-procure contracts every 5 years.
- To ensure that the Director of Growth is provided with the authority to proceed with the procurement, appointment and subsequent contract extension (should that be required) of the lead contractor.

2. Alternative Options Considered and Not Recommended

The alternative options are:

- 2.1 **Not to re-procure.** Failure to appoint a lead contractor to the Toward Net Zero programme of works will significantly limit the capability of the Council to achieve decarbonisation of the corporate estate.
- 2.3 **Use existing Estates Management contractors.** This option is not recommended due to the specialist nature of retrofit work, including undertaking calculations relating to carbon savings.

3. Post Decision Implementation

- 3.1 The Council will deal with any formalities, including signing the necessary forms and Access Agreement to access the identified Framework Agreement and liaise with the Framework Manager as required, internal legal, finance and procurement teams to ensure that the tender documents meet the TNZ Portfolio requirements, and that the selection process is carried out in accordance with the Council procedures.
- 3.2 Post-procurement, selection of the Principal Contractor will be approved in principle at the internal TNZ (Towards Net Zero) officer board and approved via a Delegated Powers Report.
- 3.3 The appointed contractor will then develop and manage programmes of retrofit works, subject to business case approval and grant / loan funding being allocated, with annual energy and carbon savings guaranteed

4. Corporate Priorities, Performance and Other Considerations

Corporate Plan

- 4.1 The procurement of a lead contractor is necessary, to develop programmes of works that support the achievement of the Council's Net Zero by 2030 objective. Programmes of works to be developed with the lead contractor are in line with the Council's vision to deliver responsible and sustainable investment and deliver energy cost and carbon savings across Council assets.

Corporate Performance / Outcome Measures

N/A

Sustainability

- 4.2 The objective of the procurement is to secure a contractor that can deliver energy efficient improvements to LBB buildings, which reduce carbon emissions and are powered, wherever possible, by renewable energy sources (solar). This proposal has been assessed through the Council's internal Net Zero Decision Making Tool and has scored a positive impact on Energy, Climate Positive Choices & Behaviours and Climate Adaptation and Resilience.

Corporate Parenting

4.3 N/A

Risk Management

If the procurement does not proceed and a retrofit contractor is not appointed, the following risks will arise:

- a) Only a limited number of retrofit projects may be delivered, resulting in reduced carbon savings. This is because LBB resource is unable to manage specialist programmes of works involving multiple contractors at multiple sites effectively. Lead contractors have this skill set.
- b) Grant funding may not be secured, resulting in financial pressure. This is because the lead contractor can support the Council in successfully securing grant funding.

The recommended mitigation to the risks above is to procure a new contractor via a compliant Framework Agreement.

Insight

4.4 The purpose of the procurement is to provide the Council with a lead contractor who is responsible for delivering interventions on the corporate estate, to improve energy efficiency and decarbonise the assets.

Sites are identified for inclusion in a programme of works, and the contractor then agrees to a contractually binding agreement regarding energy and carbon savings that will be achieved. Carbon and energy savings are calculated by accessing historical data to establish energy and gas consumption at sites. Values such as the heat loss and co-efficient of performance values of the various measures to be installed are used to identify expected savings.

The energy and carbon savings are measured annually, and the contractor will be responsible for ensuring that the savings identified are delivered. If discrepancies occur, then the contractor is required to make remedial changes at sites to ensure that the guaranteed savings are delivered.

Social Value

4.5 There are immediate benefits that arise after works at sites are completed:

- a) Reduced energy consumption at buildings leading to reduction in energy costs
- b) Reduced carbon emissions
- c) Healthier residents due to cleaner air

The social value impact can be measured through data analysis of energy consumption. The expected outcome of programmes of works is that both energy savings and carbon emission savings are realised as measured through meter reading analysis

5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)

- 5.1 At this stage, the procurement value is not defined. This is because value of the works across the Council's assets will be defined by the successful contractor, and subsequently will be reviewed by the Council (including developing business cases). The works will be undertaken by the appointed contractor.

The contractor is procured to support programmes of works to decarbonise a discreet number of buildings, involved within a programme, that have been identified by the contractor in consultation with the Council. The contractor details the energy efficiency and energy generation measures that are suitable for individual buildings and provides cost for the programme of works. The contractor also provides an Investment Grade Proposal which forms the basis for the Energy Performance Contract (EPC) with the Council. A signed EPC forms the contractual relationship where the contractor is committed to achieving the carbon and energy efficiency savings.

The carbon and energy savings that the works will achieve will be built into a business case.

- 5.2 The Council lead officer makes the decision to proceed with the proposed work programme, balancing cost of capital retrofit works with carbon and financial savings as a result of these works.
- 5.3 Any programme of works will not start until all governance processes have been completed to provide the authority to proceed. This includes subordinate contracts to define programmes of work (JCT or NEC will be used). Any financial implications arising from the proposed work programme requiring additional investment will be considered through the Council's financial regulations and any necessary approvals (including further Cabinet approval) will be sought.
- 5.4 This project will contribute towards the Council's financial sustainability, reducing the amount spent per annum on running costs (electricity, heating). Programmes of works also contribute towards environmental sustainability, as energy (and carbon) use will be reduced.

Programmes of works benefit the environment by reducing carbon emissions.

6. Legal Implications and Constitution References

- 6.1 The Council's power to enter into various arrangements to progress the decarbonisation programme, including engaging in associated procurement activity and seeking funding, is contained in the general power of competence under Section 1 of Chapter 1 of the Localism Act 2011. Section 1 of that Act provides local authorities with a broad power to do anything that individuals can do, subject to any specific restrictions contained in legislation.
- 6.2 The Council, as a public body, is subject to the Public Contract Regulations 2015 (PCRs), when procuring for works such as those mentioned in this report. Regulation 33 of the PCRs provide that eligible public sector organisations are entitled to award and access contracts based on Framework Agreements, on the provision that they follow the access and selection rules set out in the relevant Framework Agreement.
- 6.3 Part 4B (Contract Procedure Rules), Rule 5.4 of the Council's Constitution provides that, where the Council intends to access an existing Framework Agreement, due diligence checks must be carried out to demonstrate that the Council can lawfully access the Framework Agreement and that it is fit for purpose and provides value for money. The Service have indicated that they will engage with the Procurement Team, HB Public Law, Finance and the TNZ Board to ensure that any procurement strategy and implementation is carried out in accordance with the PCRs and the Council's Constitution.

6.4 Part 2D of the Constitution details the functions that Cabinet is responsible for, including (but not limited to) decisions involving expenditure or savings of an amount in excess of £1m for capital expenditure or £500,000 for revenue expenditure or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the Service in question. Although the signing of any Access Agreement and Energy Performance Contract (or similar) may not constitute a commitment to spend, the acceptance of subsequent works contracts under the Framework Agreement may be subject to further Cabinet approval once the Service has identified and intends to proceed with a programme of works in excess of the above values.

7. Consultation

Engagement with building stakeholders will take place both ahead of and during any proposed works. Stakeholder engagement plans for each site that is involved in a programme of works will be developed as part of the business case.

8. Equalities and Diversity

The procurement framework has assessed contractors to ensure that suitable Equalities and Diversity policies are in place and implemented by the contractor organisation.

9. Background Papers

[Authorisation to participate in the Mayor of Londons REFIT programme.pdf \(modern.gov.co.uk\)](#)