

MAYOR'S EXECUTIVE DECISION MAKING

Thursday, 31 October 2013

Mayor's Decision Log No. 44


1. **NEW COUNCIL HOMES - PROCUREMENT OF EMPLOYERS AGENT
FOR GLA - BUILDING THE PIPELINE (Pages 1 - 16)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: John S. Williams, Service Head, Democratic Services

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Agenda Item 1

Individual Mayoral Decision Proforma Decision Log No: 44	 TOWER HAMLETS
Report of: Aman Dalvi, Corporate Director, Development & Renewal	Classification: [Unrestricted]
New Council Homes Procurement of Employer's Agent for the GLA– Building the Pipeline	

Is this a Key Decision?	Yes (Report author to delete as applicable)
Decision Notice Publication Date:	29 th August 2013
General Exception or Urgency Notice published?	Not required
Restrictions:	None.

EXECUTIVE SUMMARY

In July 2013 LBTH/THH was advised by the GLA that they had been successful in securing London Mayor Investment funding for two development schemes – Bradwell Street (12 homes) and Ashington House East (53 homes). THH will require an Employer's Agent/Cost Consultant (EA/CC) to become part of the Project Team that will drive forward delivery to meet time, cost and quality targets. This role will be particularly important during the early stages of programming scheme delivery.

In order to start work immediately on the project, the use of existing procurement frameworks was considered in LBTH legal and procurement terms. Most existing frameworks required a lengthy mini competition process to be adopted except for the existing Decent Homes framework which had been procured within OJEU regulations which adopt the principles of best value and quality. It was also an opportunity to develop relationships with existing programme partners. All partners were invited to tender with three firms declining to bid and three firms submitting bids. The attached report is based upon this process and the outcomes.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Assistant Chief Executive (Legal Services); implications for One Tower Hamlets; Risk Assessment;

Background Documents; and other relevant matters are set out in the attached report.

DECISION

1. Approve the recommended Appointment of Pellings LLP
2. Authorise the Corporate Director Development & Renewal to settle the terms and conditions of the contract in consultation with Legal Services
3. Authorise the execution of all necessary documents by an authorised officer from Legal Services

APPROVALS

1. Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Mayor.

Signed  Date 25/10/2013

Print Name: Aman Dalvi

2. Chief Finance Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 23/10/13

Print Name: Chris Holme

3. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only – delete as applicable)

I confirm that this decision:-

(a) has been published in advance on the Council's Forward Plan
OR

(b) is urgent and subject to the 'General Exception' or 'Special
Urgency' provision at paragraph 18 or 19 respectively of the Access to
Information Procedure Rules.

Signed  Date 25/10/13


Print Name: Jill Bell

4. Mayor

I agree the decision proposed in paragraph above for the reasons set
out in paragraph 2 in the attached report.

Signed  Date 30/10/13

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<p style="text-align: center;">Individual Mayoral Decision 23rd October 2013</p>	
<p>Report of: Aman Dalvi, Corporate Director, Development & Renewal.</p>	<p>Classification: Unrestricted</p>
<p>Procurement of Employer's Agent GLA– Building the Pipeline Bid (New Council Homes)</p>	

Lead Member	Cllr R Khan
Wards affected	Mile End & Globe Town & Bethnal Green South
Community Plan Theme	A Great Place to Live
Key Decision?	Yes

1.0 Executive Summary

- 1.1 In July 2013 LBTH/THH was advised by the GLA that they had been successful in securing London Mayor Investment funding for two development schemes – Bradwell Street (12 homes) and Ashington House East (53 homes). THH will require an Employer's Agent/Cost consultant (EA/CC) to become part of the Project Team that will drive forward delivery to meet time, cost and quality targets. This role will be particularly important during the early stages of programming scheme delivery.
- 1.2 In order to start work immediately on the project, the use of existing procurement frameworks was considered. Most existing frameworks required a lengthy mini competition process to be adopted except for the existing Decent Homes framework which had been procured within OJEU regulations which adopt the principles of best value and quality. It was also an opportunity to develop relationships with existing programme partners. All six partners were invited to tender with three firms declining to bid and three firms submitting bids. This report is based upon this process and the outcomes.

2.0 Recommendations:

The Mayor is asked to:

1. Approve the recommended Appointment of Pellings LLP
2. Authorise the Corporate Director Development & Renewal to settle the terms and conditions of the contract in consultation with Legal Services
3. Authorise the execution of all necessary documents by an authorised officer from Legal Services

2.1 REASONS FOR THE DECISIONS

- 2.1.1 To ensure the timely appointment of a key member of the Project delivery team within an existing fully OJEU compliant framework.
- 2.1.2 To deliver the schemes to the tight programme of the Building the Pipeline supply funding allocation, ensuring compliance with GLA funding conditions. Failure to adhere to the GLA programme means that grant will be lost.
- 2.1.3 To ensure robust and appropriate work streams for all aspects of the project including:
- due diligence
 - design development
 - financial modelling
 - assistance with constructor procurement
 - risk management
 - overarching project management from start onsite to final account
 - compliance with the terms and conditions of the GLA funding agreement and financial management systems

3.0 ALTERNATIVE OPTIONS

- 3.1 Direct recruitment of a full time Employer's Agent/Cost Consultant was considered. The time this would take, the procurement costs and the length of time leading to the appointment posed too great a risk to delivery programmes.
- 3.2 Consideration was given to using the HCA Panel for professional services. The panel specifies a prescribed tender programme spanning approximately 14 weeks from initial expressions of interest to tender returns. These timescales were also deemed too long for the timetable for the development of Bradwell Street.

4.0 DETAILS OF REPORT

- 4.1 This appointment is made as part of the Project Team being established to deliver the New Council Homes initiative. This initiative is the delivery element of the Estates Capacity Project (ECP). The ECP commenced in March 2012 with the objective of identifying opportunities within existing estates to produce more new homes. Stage I of the work was completed in December 2012 and identified the potential to produce approximately 320 new homes.
- 4.2 In March 2013 the London Mayor's prospectus "The Housing Covenant – Building the Pipeline" was published and invited a range of organisations to bid for investment funding. The Council in conjunction with THH bid for funding for three schemes, Shadwell Gardens, Ashington House East and Bradwell Street.
- 4.3 The Mayor of London informed LBTH on the 22nd July 2013 that the Building the Pipeline bid had been successful in respect of Bradwell Street (12 affordable rent homes - £360,000 GLA Grant) and Ashington House East (53 affordable rent homes - £1,590,000 GLA Grant).
- 4.4 The schemes are 100% affordable, responding to the housing priorities of the borough and will be let at POD affordable rents.
- 4.5 The two schemes are now being reported on, with a first report on the development at Bradwell Street due to go to Cabinet on the 6th November 2013. Ashington House East will be considered by Members at a later date.
- 4.6 Cabinet will be asked to:
- Note the total grant of £1,950,000. from the GLA towards the development of 65 Council homes for rent at the Bradwell Street and Ashington House East sites under the Building the Pipeline Supply programme
 - Agree the resulting contribution from the Council of £1,991,000 for the development of the Bradwell Garage site
 - Adopt a total capital estimate of £2,451,000 in order to deliver the Bradwell Street scheme. This represents the total scheme costs of £2,351,000 plus a suggested contingency of £100,000 (paragraph 1.8).
 - Authorise the Director, Development & Renewal to take the necessary actions to deliver the scheme within the timescale of the funding programme including negotiating with Network Rail for the acquisition of amenity land for the Bradwell Street project and dealing with the settlement of any existing rights on both projects
 - Authorise officers to proceed with the procurement of the required professional and technical services and works contracts and utilising suitable procurement frameworks available to the public sector.

- Agree to set aside £200,000 of funding from within available existing HRA Overcrowding Initiatives / Affordable Housing budgets in order to complete the preliminary design, site assembly and survey costs on the Ashington House East project pending a future report to Cabinet.
- Authorise the Director, Development & Renewal in consultation with Legal Services to agree the terms of
 - i) the GLA Funding Agreement
 - ii) the contracts for the required professional and technical services for both schemes
 - iii) the works contracts for both schemes, (subject to funding being agreed for Ashington House East scheme)
 - iv) the land transactions with Network Rail
 - v) the settlement of any existing rights over land to be used for the schemes
- Authorise the execution of the documents referred to above on behalf of the Council

4.7 The tendering methodology for this appointment was through a competitive process based upon weighting of 80% quality and 20% price.

The price component was based on pre-tendered rates submitted through the framework procurement for project management and cost consultancy, with an additional cost of design services added.

The quality component was assembled through three elements:

- a programme method statement (20 marks)
- a design service method statement (10 marks)
- a formal interview and challenge/question and answer session (50 marks)
- Total 80 marks – 80%

4.8 Tender details were issued using the LBTH portal, with key tender details being set out in the formal tender document. These were:

- Return of tenders by Tuesday 24th September 2013
- Interviews on the 27th September 2013 and 3rd October 2013

4.9 Three tenders were returned and analysed. The winning bid is priced at £348,357 and was also ahead in relation to the quality element of the scoring. A formal Tender Report has been completed in accordance with standard Council Procurement Processes.

5.0 COMMENTS OF THE CHIEF FINANCIAL OFFICER

5.1 In November, Cabinet will consider a report updating Members on the outcome of the bid for GLA funding under the Mayor of London's Housing Covenant – Building the Pipeline scheme. The Council was successful in receiving grant funding for two

schemes, Ashington House East within the Collingwood Estate and the Bradwell Street Garages site on the Longnor Estate.

- 5.2 The November Cabinet will be asked to adopt a capital estimate of £2,451,000 to deliver the Bradwell Street scheme. This represents the total scheme costs of £2,351,000 plus a suggested contingency of £100,000. In addition to the grant, the scheme will be financed from approved earmarked capital resources.
- 5.3 In order to receive the grant income it is essential that the GLA grant conditions are met, including the specific delivery deadlines. The Bradwell Street development has to be 'on-site' by March 2014, with Ashington House East starting by March 2015. The Ashington House East scheme will be the subject of a separate Cabinet report in the new year.
- 5.4 Due to the tight timescales involved, certain activities need to be procured and undertaken in advance of the Cabinet consideration. This report therefore seeks Mayoral approval to appoint Pellings LLP to act as Employer's Agents on the scheme following a competitive procurement process.
- 5.5 The projected costs of the full appointments total £348,357, analysed and funded as follows.
- Bradwell Street Garages - £72,965.
These costs are incorporated within the capital estimate of £2,451,000 that will be sought in the November Cabinet report.
 - Ashington House East - £275,392.
In advance of the future Ashington House East report, the November Cabinet report will seek approval for £200,000 of preliminary works to be undertaken on that site, with an element of this relating to the initial Employer's Agent fees to develop the scheme to contract tender stage. The remaining Agent fees will be charged to the Housing Revenue Account and will be capitalised if the scheme proceeds.
- 5.6 If the schemes are ultimately approved by Cabinet, the costs will be incorporated into, and financed from, the Housing Revenue Account capital programme. If, however, the projects do not proceed, any abortive costs incurred must be financed from revenue and will be a call on existing HRA budgets earmarked for overcrowding initiatives or affordable housing.
- 5.7 The appointment has been undertaken in conjunction with the Council's Procurement section and followed an appropriate procurement route based on a competitively procured framework panel.

6.0 LEGAL COMMENTS

- 6.1 The procurement of the Employer's Agent/Cost Consultant has been undertaken using the established Decent Homes framework which has already followed an OJEU compliant process.

- 6.2 The appointment of the Employer's Agent/Cost Consultant will be made using the Decent Homes Framework which is based on the RICS Standard Form of Consultant's Agreement (as amended by LBTH legal team).
A separate contract is required for each call off under the over-arching Decent Homes Contract.
- 6.3 The Employer's Agent/Cost Consultant will review all legal due diligence, utilities, environmental and third party rights investigations that are currently underway. As soon as this work is completed the Employer's Agent will review the data, assess it against the Risk Management matrix and take any necessary actions to mitigate risk.
- 6.4 The Employer's Agent/Cost consultant will play a key role in negotiations with Network Rail in respect of transfer of land and joint/collaborative working with their developer/constructor/operator of their nearby Student Housing scheme. These negotiations will be led by the Council's Head of Asset Management.
- 6.5 The appointment of Pellings LLP will need to deliver housing and a Framework Order that:
- meets the requirement of Decency as has been established for the Decent Homes scheme;
 - complies with the Grant Agreement for this project and incorporates the obligations of the Grant (including the risks related to non-compliance with the Grant Agreement);
 - complies with the obligations of all approval process under the Grant Agreement;
 - incorporates a requirement that existing conditions relating to land acquisition, planning approval and other necessary consents have been met prior to the Council incurring liability for the totality of the total contract sums.
- 6.7 Separate approval shall need to be given for the entering into of any other relevant agreement beyond the appointment of an Employer's Agent / cost consultant.

7.0 ONE TOWER HAMLETS CONSIDERATIONS

- 7.1 The New Council homes initiative directly addresses the overarching aim of One Tower Hamlets by creating New Council Homes at affordable POD rents.
- 7.2 Applicants will be from the Council's housing list. The mix of housing is focused on providing large family units and will include 10% of wheelchair units. Aids and adaptations will be provided prior to letting increasing the chances of these dwellings being suitable for the applicants. Prior to practical completion of the schemes, the units will be allocated and the Occupational Therapists will be involved in the final specification of the units in the light of the specific needs of the housing applicants.
- 7.3 Local communities in Tower Hamlets prefer families to have the use of separate kitchens and living rooms as large families have children of varying age groups with family members often involved in different activities at any one time. This arrangement is beneficial to children who have living space away from the kitchen,

both for play and for studying. The internal lay-out specification of the new homes will reflect that local preference.

- 7.4 The duties of the Employer's Agent/Cost Consultant are widely drawn and will encompass maximising the use of the local supply chain, employment and training for local people, ensuring Secured by Design principles are embedded into the scheme design development and adherence to the Council's sustainability policies.
- 7.5 A key part of the delivery of New Council Homes is to ensure the involvement of local people into the design and delivery of new homes in their neighbourhood. The duties of the Employer's Agent/Cost Consultant will also include a responsibility for design services and consequently will play a pivotal role in engaging stakeholders into these elements of the delivery programme.
- 7.6 Wider community benefits will be incorporated into the delivery of these new Council Homes in the form of procurement through local supply chains wherever possible and also engagement with organisations that can assist in maximising local employment and training initiatives not only during the construction period but also as part of the Employer's Agent's appointment. These benefits will be targeted at the entire community from school age (work experience programmes – encouraging developing a career in construction and related areas of work) through young people (apprenticeships and opportunities that are currently being promoted amongst BAME groups, especially women) o long term unemployed adults (work experience placements, training opportunities, up-skilling etc).
- 7.7 Pellings LLP are aware of the emphasis put on these key work streams and will build on their existing contacts formed during their Decent Homes work. Outcomes will be pro rata'd against the criteria already enshrined in the Decent Homes tender. This element of the initiative will be benchmarked against KPIs so that we can try to improve outturns scheme on scheme.

8.0 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 Schemes delivered under the New Council Homes initiative will make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions. At a strategic level, the climate change policies as set out in Chapter 5 of the London Plan 2011 and London Borough of Tower Hamlets Core Strategy (SO24 and SP11), will ensure compliance as part of the planning process.
- 8.2 The schemes will be required to meet the London Mayor's energy hierarchy which is to :
- Use Less Energy (Be Lean);
 - Supply Energy Efficiently (Be Clean); and
 - Use Renewable Energy (Be Green).
- 8.3. The Employer's Agent will be responsible for delivery of the Council's key sustainability and climate change requirements on a site specific basis. The key areas are set out in the following paragraphs.
- 8.4 The London Borough of Tower Hamlets' Managing Development 'Development Plan Document' Policy DM29 includes the target to achieve a minimum 35% reduction in

CO2 emissions above the Building Regulations 2010 through the cumulative steps of the Energy Hierarchy.

Policy DM 29 also requires sustainable design assessment tools to be used to ensure the development has maximised use of climate change mitigation measures. At present the current interpretation of this policy is to require all residential developments to achieve a Code for Sustainable Homes Level 4 which is also a GLA funding requirement for these developments.

- 8.5 Policy SO3 of the Core Strategy (2010) seeks to incorporate the principle of sustainable development, including limiting carbon emissions from development, delivering decentralised energy and renewable energy technologies and minimising the use of natural resources. The London Borough of Tower Hamlets Core Strategy Policy SP11 requires all new developments to provide a 20% reduction of carbon dioxide emissions through on-site renewable energy generation where feasible.

9.0 RISK MANAGEMENT IMPLICATIONS

- 9.1 The risk to procurement is being managed by the current appointment of the Employer's Agent which is the focus of this report. The use of the Decent Homes framework is the mitigation of the risk to time-table posed by the process of a totally new procurement exercise.
- 9.2. The management of risks will be part of the Employer's Agent's responsibility. Pellings LLP are a multi-disciplinary organisation and are able to allocate professional human resource to meet the changing needs of the project. This resource will be drawn from the practice structure for the delivery of new homes and will not, therefore, have an adverse impact on their current Decent Homes contract.
- 9.3 Risks with regard to securing planning permission will be managed by the architects and the Employer's Agent in delivering a scheme which meets planning requirements. The Employer's Agent will also have responsibility for compiling a comprehensive Risk Register. This will be reviewed at each project/site meeting.
- 9.4. Risk to project delivery will be mitigated by THH and the Employer's Agent/Cost Consultant through the adoption of a hands-on approach to contract management, being aware of key stages in the delivery process and tracking progress of works on site.

10.0 CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 The two schemes being delivered under the New Council Homes initiative will incorporate Secured by Design principles. Secured by Design is the official UK Police flagship initiative supporting the principles of 'designing out crime'. which aim to ensure new housing developments focus on crime prevention of homes and promotes the use of security standards.
- 10.2 The principles have been proven to achieve reductions in the risk of crime by combining minimum standards of physical security with well-tested principles of natural surveillance and defensible space.

- 10.3 An objective within the New Council Homes initiative is to reduce burglary and crime in our neighbourhoods by designing out crime through physical security and a review of design at an early stage.

11.0 EFFICIENCY STATEMENT

- 11.1 The scope of the Employer's Agent/Cost Consultant role will include the production of Benchmarking and Key Performance Indicator tools to measure, contrast and compare all activities to ensure not only efficient delivery but also value for money.
- 11.2 The procedures described above will cover a wide range of activities from analysis of procurement from local suppliers, job creation, design efficiency, construction cost comparisons, resident consultation and resident satisfaction with the new homes. The process will be inception to completion and be used to benchmark future schemes in the New Council Homes initiative.
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Linked Reports, Appendices and Background Documents

Linked Report

- Report to Cabinet 6th November 2013

Appendices

- **NONE.**

Officer contact details for documents:

- Geeta Le Tissier – 0207 364 6094

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INDIVIDUAL MAYORAL DECISION – DECISION LOG 44

NEW HOMES – BRADWELL AND ASHINGTON EAST

APPENDIX 1- LOCAL ECONOMY AND COMMUNITY BENEFITS

1. Paragraphs 7.4 and 7.5 of the main report describe the community benefits and the training opportunities that will be offered resulting from the appointment of the Employer's Agent and Cost Consultant. This appendix details these benefits.
2. The community benefits from this contract will be as follows:
 - Employment and Work Support Opportunities
 - Training Opportunities
 - Assistance to Small Local Firms
 - Donations to local charities
 - Resident Engagement
 - Local Supply Chain
3. The Employer's Agent contract fits within the Decent Homes Framework. The consultants will be required to deliver benefits over and beyond the benefits they signed up to for the framework. The New Homes contract is worth £348,357. and benefits proportional to the contract value will be sought.
4. Over the duration of the contract, the consultants will provide 2 x work experience placements lasting 2 weeks each to school age young persons for each of the three years of the contract. Total: 12 weeks.
5. The consultants will make three donations of no less than £100. each to clubs, teams and training programmes over the duration of the contract. Total: £300. minimum.
6. The contract will provide 2 x Paid and 2 x Unpaid Work placements to young people unemployed for more than 6 months, capable of being cumulated.
7. A job fair will be organised as part of the New Homes project with all the consultants and contractors employed in delivering the project employers participating to set it up and to provide advice and information on careers. This fair will be organised jointly by the Employer's Agent and the contractor once appointed. The fair will highlight the professions linked to the building industry, providing information on career paths and the professional specialist expertise required in addition to the traditional trades.
8. A community event will also be held for local residents of the Longnor and Collingwood Estates, raising awareness of local health issues and nutrition advice. This event will link in with local schools and will be aimed at parents.

9. ConstructionLine is a key procurement route used by LBTH and many other Local Authorities for procuring construction related contracts below the OJEU threshold. LBTH has highlighted the low take-up of ConstructionLine among local firms. In response to this, the consultants and contractors of the New Homes project will use their expertise in assisting the LBTH Procurement Section in putting together training material and guidance for the intention of local firms. The focus of the guidance will be about how to go about preparing winning tenders and how to maximise their chances of getting selected for tender lists on ConstructionLine.
10. All consultants and contractors will be required to provide opportunities to local firms in sourcing 50% of all sub-contracts locally.
11. The Employer's Agent role will include ensuring that the works contractor delivers meaningful local economy benefits and will monitor the provision of these as part of the responsibility as Employer's Agent.