

## **Cabinet Member decision**

**Tender Approval for CDM-C Services through Lewisham Framework (Lot 12) OJEU Ref 2012/S 641033 Contract No 034642**

**Wards:** All

**Report Authorised by:** Strategic Director Commissioning: Helen Charlesworth-May

### **Contact for enquiries:**

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## **Report summary**

Lambeth Living delivers CDM-C Services as part of the Arm's Length Management Organisation (ALMO) management agreement to provide sufficiency of skills, resources and expertise to undertake to particular stock on a responsive basis. Approval is sought to award the contract for CDM-C Services across the borough for a proposed three year programme.

### **Finance summary**

Funding for the related professional services will be met from the approved Lambeth Housing Standard Programme.

The funding stream will derive from the approved delegated LHS capital budgets. These budgets are approved between Lambeth Living and Lambeth Council on an annual basis,

The budgets will be distributed as package works. The aforementioned professional services will be resourced by the specific works package where they are applied to.

The estimated cost of the CDM-C services required are £166,000 for 2014/15 across the borough, for a proposed three year programme we would require in £500,000 for the overall programme of works.

The scope of works has been included in the three year procurement plan.

## **Recommendations**

Those three contracts for CDM-C Services are awarded to;

- Playle & Partners
- Artelia Group
- Resource projects

Each contract will run for three years from 1st July 2014 to 30<sup>th</sup> June 2017. Each contract will have a cumulative value of £166,000.

## 1. Context

- 1.1 Following the expiry of Lambeth Consultancy Framework Agreement in December 2012, Lambeth Living Ltd sought approval by Procurement Board on 28<sup>th</sup> August 2013 to access professional services through a contract start date of September 2013 until 30<sup>th</sup> April 2016 via Lewisham Framework OJEU reference 2012/S64 1033 to obtain assistance in delivering an effective wide range of construction related projects to adhere to the Lambeth Housing Standard deadline of 2017. The reason for this time span was to allow Lambeth sufficient time to explore other options for carrying out these services, in the long-term.
- 1.2 The role of CDM-C is an independent role and as such will be expected to work in conjunction with other Consultants being either multi-disciplinary teams from a single Consultant or a team of Consultants who are separately appointed. The CDM-C Services will provide services to any dwelling, building or site within North, Central and South Areas. They will be responsible to advise the Client (Lambeth Living) of their Statutory obligations and to coordinate and facilitate all key duty holders to comply with their responsibilities as outlined in the Approved Code of Practice of CDM regulations 2007 across all programme of works (internal modernisation refurbishments, estate programmes, street property programmes, mechanical and engineering programmes and other refurbishment works) to Council's stock in response to requests received from ARR, Technical Services, Local Area Housing Offices, Home Improvement Agency, Legal Services and TMO's or any other constructed related projects. There is a statutory/mandatory requirement to provide CDM-C for works. The 2014/15 program requires a CDM-C to be allocated to each scheme.

Using a mini competition tender invitation for CDM-C Services on the 19<sup>th</sup> February 2014 the Council asked the following six Consultants to submit bids using the Lewisham Framework.

- Tony M Strickett
- Gleeds
- Resource Projects Partnership Ltd
- Playle & Partners LLP
- Artelia Group (part of Appleyards Ltd)
- Capita Symonds Ltd

- 1.3 By the tender deadline of 4<sup>th</sup> March 2014 three of the six companies had completed the process. Feedback was sought from companies who did not submit bids.
- 1.4 The tenders submitted have been evaluated and approval is sought for all proposed Consultants to be allocated to deliver the services across the borough.
- 1.5 Utilising the Lewisham Framework has enabled Lambeth Living Ltd to undertake a mini competition process drawing down the consultants listed from the Framework for the services. This has ensured efficiency and value for money. The works will be allocated geographically across the borough to our North, Central and South areas.

1.6 The reasons for using the tender mini competition process are:

- Lewisham's Framework is tried, tested framework that is already in existence and is working well
  - The Framework meets OJEU compliancy
  - It will enable Lambeth Living to undertake the proposed scope of works more promptly and efficiently
  - To provide continuity for Civil and Structural Engineering Services
  - The procurement tool. EU Supply was used to undertake the mini competition in accordance with the Lewisham Framework. Through this competitive process, better value for money is promoted through Consultants' varied rates, ensuring greater transparency and trail of audit.
- 1.7 The scope of works links with Lambeth Community Plan 2013-16 as it will improve its services to Residents and assist in effective delivery of Lambeth Living construction related projects valued at £370 million and adhering to the Lambeth Housing Standard's strict deadline of 2017. This will provide quality homes for Lambeth residents.

## **2 Proposal and Reasons**

- 2.1 The tender was competitively tendered, using the Lewisham Framework. It was advertised by using electronic tool the EU Supply as a mini competition among the Consultants listed within the framework for Lot 12, CDM-C Services. Companies were invited to make an offer to provide CDM-C Services to any dwelling, building or site within North, Central and South Areas.
- 2.2. The tender procedure included a specification of works, a schedule of rates form for pricing and KPIs. The specification of works was tailored to meet Lambeth Living requirements. The contract will be a fixed price with a schedule of rates or lump sum and best value for money which was determined by the evaluation criteria below.
- 2.3 The tender evaluated on the basis of bid which would be most economically advantageous to Lambeth Living Ltd based on an evaluation of "price 60% and quality 40%". The contract will be awarded on the basis of the Tender which was most economically advantageous to Lambeth Living Ltd based on an evaluation of "price 60% and quality 40%". The criteria which Lambeth Living Ltd used to determine that a tender is the most economically advantageous are in terms of the quality evaluation:
- Technical merit of the Tenderer(s) proposal
  - H&S & CDM Competency of the Tenderer(s) proposal
  - Quality of the Tenderer(s) proposal
  - Price

2.4 60 quality points have been awarded for quality based on the questions and weightings in the 'Award Criteria' table. All questions have been marked according to the following scoring criteria.

Score	Rating
0	No information provided.
1	Insufficient information provided/unsatisfactory.
2	Fails to meet the minimum standard, some major concerns
3	Achieves the minimum standard, acceptable, no major concerns
4	Good, full and robust response, gives confidence
5	Outstanding, exceeds expectations, adds value, full confidence

2.5 The Tender was assessed on a 60:40 quality/price split and the relative weightings for each criterion.

2.6 Approval is sought to allocate these works to the below Consultants to deliver the services across the borough for the proposed three year programme of which the value is based on priced % fee of 3M construction value as per indicative programme as per tender documentation.

CONSULTANTS	RANKING
Playle & Partners	1
Artelia Group	2
Resource Projects	3

All three contractors met minimum price and quality thresholds and the panel decided that given the scale of the program all three contractors would be awarded contracts with each project being awarded on a rotational basis. This will provide Lambeth Living flexibility, enable Lambeth Living to maximise resources and ensuring statutory requirements are met if at any given point in time there are issues with quality or capacity within all proposed Consultants.

### 3 Finance

- 3.1 The pricing under the Lewisham Framework has been fixed at the Tendered prices % for the lifetime of the framework agreement, creating value for money in future procurement exercises.
- 3.2 Prices for Lot 12 have been provided for a number of project value ranges and there are options for a fixed lump sum fee or a percentage fee where applicable.
- 3.3 Funding for the related professional services will be met from the approved Lambeth Housing Standard Programme.
- The funding stream will derive from the approved delegated LHS capital budgets. These budgets are approved between Lambeth Living and Lambeth Council on an annual basis,
- The budgets will be distributed as package works. The aforementioned professional services will be resourced by the specific works package where they are applied to.
- 3.5 As a guide we utilised information from actual spend from the previous year's framework agreement and the projected scope of works.
- 3.6 The estimated cost of the CDM-C services required are £166,000 for 2014/15 across the borough, for a proposed three year programme we would require in £500,000 for the overall programme of works. The works are responsive therefore will be recharged to the relevant project.
- 3.7 The procurement has been included in the 3 year procurement plan.
- 3.8 Consultant fees are funded through the scheme costs and allocated on project/scheme basis across the capital programme.
- 3.9 Budget Monitoring will be undertaken as part of the department's ongoing capital monitoring reviews. This review is the responsibility of the Department's Capital Leadership Team, chaired by the Divisional Director of Housing Property Services to ensure value for money and efficiency of services.
- 3.10 KPIs will be project specific and have been defined at time of tender mini competition. Lambeth's essential KPIs in relation to these related services, include quality and consistency of work, value for money to budget and budget control, communication, environmental sustainability and community benefit issues. The benefit of tailoring Lewisham's framework is that the Council's right to use KPIs to regulate actual performance of consultants on the framework, is still reserved.

### 3.11 **Value for Money**

Lewisham Framework has been tried and tested framework that is already in existence, and is working well.

The Framework meets OJEU compliancy.

The Framework is flexible in that it has allowed Lambeth Living to undertake our own mini competition process as an additional layer of ensuring efficiency and value for money. Through this competitive process, better value for money is promoted through Consultants varied rates, ensuring greater transparency and trail of audit.

There is a statutory requirement to provide CDM-C services across a range of services, as a guide £399,750 is estimated to account for 2013/14 works value. At 0.22% this represents good value for money which has been obtained by using the Lewisham Framework unlike previous financial years at 0.40%; this is a cost saving of 0.18%.

CDM-C services will be funded through the delegated budgets allocated for LHS programme of works.

#### **4 Legal and Democracy**

4.1 The Public Contracts Regulations 2006 apply to the proposed award and the Council is obliged to publish a contract notice in the Official Journal of the European Union if the value of the services exceeds £172,514. However, there is no requirement to publish a notice when calling-off a properly procured framework which has been procured in compliance with the regulations provided the Council is named, or is part of an identifiable group cited, in the OJEU notice published in respect of the framework.

4.1 As the author has explained in this report the services were put to a mini-competition

4.2 The authors state that they are currently working with the Council's external legal advisers Sharpe Pritchard in drafting a NEC3 Contract for all Lots provision via the Lewisham Framework. The contracts will be specific to each Lot as the scope of services will vary across the Lots. The Council must adhere to the provisions of the framework in awarding contracts from it and the contracts must be tailored within these bounds. It is stipulated within the framework that on approach to consultants or placing an order/contract the framework agreement OJEU reference number 2012/S 64-103344 must be quoted.

4.4 The authority to award contracts in excess of £500,000 in the aggregate is vested in the Departmental Cabinet Member, following recommendation by the by Procurement Board.

4.5 The proposed key decision was entered in Forward Plan on 29<sup>th</sup> May 2014 in order to give the necessary 28 clear days' notice. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken.

4.6 A further period of five clear days – the call in period must then elapse before the decision is enacted. If the decision is called in during this period, it cannot be enacted until the call-in has been considered and resolved.

#### **5 Consultation and co-production**

5.1 Utilising an already established framework via Lewisham enables Lambeth to meet its statutory requirements for health and safety related works, as well as the option to accessing other Construction related professional services as and when it's required for LHS prioritised works.

5.2 The content of the report and the requirement for these services was backed through the Procurement Board on 28<sup>th</sup> August 2013.

5.3 **Section 20 Notices**

Date of issue of Notice of Intent	July 2014
Date of service of Section 20 notices	Section 20 Notices will be served separately on a project by project basis
Date of expiry of Section 20 Notice	Section 20 Notices will be served separately on a project by project basis

5.4 As appointments under this framework agreement will be made on a project by project basis, residents (tenants and leaseholders) will be consulted in accordance with Housing Property Services Procedures for Major Work schemes.

5.5 Leaseholder observations (summarise the observations received or consultation proposals (may be officer comments if report is by a member).

## **6 Risk management**

6.1 Day to day operational management of consultants will be undertaken by Housing Property Services primarily through the Major Works Manager. The proposed framework agreement does not provide a guarantee of work to any Consultant. The framework agreement provides adequate flexibility for the appointment of an alternative Consultant in the event of failure or poor performance. The risk to the Council of any appointment made under this framework agreement is therefore deemed low.

6.2 Failure to have a CDM-C in place for schemes where there is a requirement is a statutory breach of Health and Safety Legislation. Schemes will not be able to proceed without sign off the pre-construction and construction phase management plan by the CDM-C.

6.3 Due to delay in confirmation of these services the programme and budgets are back loaded for delivery but will be delivered within a rolling 3 year procurement programme.

6.4 Management of Consultants work and performance will be carried out through monthly meetings with our internal CDMC Team and review programme and KPIs. Additionally, quarterly assessments of Consultant's performance will be undertaken and this information will be relayed to the host organisation (Lewisham) for their review.

6.5 CDMC changes are to take place from 1<sup>st</sup> April 2015. It would put Lambeth Living at risk if we were to secure the CDMC Framework beyond that date as the changes effectively do away with the current CDMC Role. The CDMC Role will become the responsibility of the Main Designer.

## **7 Equalities impact assessment**

7.1 An EIA was undertaken for Lambeth Property Contracts which included the delivery of Technical Services and the rating was considered "Low".

## **8 Community safety**

8.1 None as the contract service is for the provision of Consultancy Services for CDM-C

matters.

- 8.2 The scopes of works are based ensuring that the external and internal environment is safe for our residents and adjoining owners.

## **9 Organisational implications**

There are no additional ICT requirements for this procurement.

There are no other implications resulting from this decision.

### **9.1 Environmental**

Since the agreement relates to Consultancy Services, it promotes consultation between the council, residents and developers in relation to scope of works. As a result disputes, noise and dust and unsocial working hours are prevented.

### **9.2 Community Benefit**

This is an added criterion within Lewisham Framework selection process, reinforcing its significance. Additionally, the framework also encourages provision for small and medium enterprises local to the South East London Area. It has been procured collaboratively through the South East London Procurement Consortium (of which Lambeth is a member) to support Council objectives towards local businesses, such as apprenticeships and given local businesses the opportunity for prospective tenders. The potential benefit to Lambeth residents and businesses is enormous.

- Use and monitoring of FSC Timber
- Use of recommended insulation materials
- Re-cycling of renewal windows, kitchen and bathrooms
- Achieving “Secure by Design” standard on windows and roofs
- Green Roof renewals
- Brown Roof renewals

### **9.3 Staffing and accommodation**

There are no staffing and accommodation implications.

### **9.4 Procurement**

Delivery of works will be monitored by our CDM-C Team from the Property Services section of Lambeth Living. This will be achieved by monthly progress meetings with the Consultants. Comparison of the delivery performance against the agreed programme, projected cash flows and KPIs. The contract will be reviewed and reported under Gateway 4 management process on completion of the contract works.

When a provider is called off from the framework, Lambeth Living is obliged to provide feedback on their service, most probably via the project closure report. This gives

Lewisham the opportunity to monitor the performance of consultants over the time period.

**9.5 Health**

The CDM/H&S competency of tenderer(s) submission have been reviewed by Lambeth Living Health and Safety Team in Property Services.

**9.6 Social Sustainability**

At PQQ stage, all consultants endured intense assessment and scrutiny and only those who passed are part of this Framework agreement.

**9.7 Economic Conditions and Sustainability**

All participants agreed that levels of pay will be above the London Living Wage and comply with working hours, freedom of association and written forms of contract.

Consultants on the agreement have vowed to comply with ethical practices around personal conduct, conflict of interests, disclosure of sensitive or commercial information, misrepresentation and payment of incentives, bribery or receipt of gifts or hospitality. The framework contract makes clear that all goods, works and services “be procured by mini competition. As this avoids favouritism and discourages monopolies”.

**9.8 Discrimination**

The agreement fully endorses the Equality Act, in terms of the absence of bias on grounds of age, religious belief, sex, sexual orientation, gender and race.

**10. Timetable for implementation**

Procurement Board Approval	12.06.14
Online Decisions & Scrutiny	01.07.14
Returned signed contract	15.07.14
Contract Start Date	15.07.14
Gateway Four due date	Oct 2014

<b>Audit trail</b>				
<b>Consultation</b>				
<b>Procurement Board</b>	<b>Lambeth cluster</b>	<b>Date Sent</b>	<b>Date Received</b>	<b>Comments in para:</b>
<b>London Borough of Lambeth</b>				
Helen Charlesworth-May -	Commission Strategic Director	22.05.14	27.05.14	All

Michael O Hora	Legal Services Governance and Democracy	22.05.14	27.05.14	4
Tim Stephens	Governance and Democracy	22.05.14	27.05.14	4
Councillor Matthew Bennett	Cabinet Member: Housing and Regeneration	13.06.14 16.06.14 01.07.14	22.07.14	All
Andrew Sternberg	Procurement Enabling Cluster	22.05.14	30.06.14	For Information
<b>Lambeth Living Ltd Cluster</b>				
Ola Akinfe	Lambeth Living Director of Property Services	31.03.14 25.04.14 15.05.14	06.05.14	All
Mark Sanger	Lambeth Living Assistant Strategic Contract Manager	25.04.14 15.05.14	06.05.14	For Information
Beverley Williams	Acting Health and Safety Manager	14.05.14 15.05.14	06.05.14	All
Terry Gallagher	Lambeth Living Director of Resources	31.03.14 25.04.14 15.05.14	06.05.14	3
Patrick Pedder	Lambeth Living Head of Finance	31.03.14 25.04.14 15.05.14	06.05.14	3
<b>Internal Officer Board</b>	<b>Date of meeting</b>			
Procurement Board	12.06.14	15.05.14	01.07.14	All
<b>Report history</b>				
<b>Original discussion with Cabinet Member</b>	25.04.14			
<b>Report deadline</b>	05.06.14			
<b>Date final report sent</b>	22.05.14			
<b>Report no.</b>	/13-14 Democratic Services to complete			
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	Yes			
<b>Key decision report</b>	Yes			
<b>Date first appeared on forward plan</b>	TBA			
<b>Key decision reasons</b>	Expenditure, income or savings in excess of £500,000			
<b>Background information</b>	Cabinet report held on 28 <sup>th</sup> August 2013 for approval of draw down and use of Lewisham Framework			
<b>Appendices</b>				

**APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION**

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Post:** Councillor Matthew Bennett

CABINET MEMBER: Housing and Regeneration

**Any declarations of interest (or exemptions granted):**

**Issue**

**Interest declared**