

Executive Decision Report

Decision maker and date of Leadership Team meeting	Leadership Team 25 July 2018 Forward Plan reference: 05287/18/K/AB Portfolio: Cllr Kim Taylor-Smith (Deputy Leader, Grenfell and Housing)	 THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
Report title	Technical health and safety advice/support in relation to Grenfell Tower	
Reporting officer	Robyn Fairman, Executive Director for Grenfell	
Key decision	Yes	
Access to information classification	Public (Part A) with confidential/Exempt (Part B) Appendix. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	

1. EXECUTIVE SUMMARY

- 1.1. This report asks the Leadership Team to approve the award of a contract for health and safety advice and support in relation to the Grenfell Tower site, following the completion of a competitive procurement process.
- 1.2. The procurement exercise was undertaken in response to a formal recommendation made to the Council by the Health and Safety Executive (HSE) as to how the Council, as landowner, should discharge its legal duties relating to the site under the Health and Safety at Work Act 1974 and other relevant statutory provisions.
- 1.3. The Grenfell Tower site is currently under the control of the Metropolitan Police Service and the day-to-day management is overseen by an independent Site Management Group, chaired by the Chief Executive of the London Borough of Bromley. The appointment of this contractor will have no effect on these arrangements and the independent Site Management Group will continue to ensure that Health and Safety risks are being controlled. The appointment is being made purely to ensure that the Council is discharging its statutory duties in relation to the site.
- 1.4. The appointed contractor will provide appropriate technical advice and support, working closely with the Site Management Group and other agencies and briefing the Council on its statutory responsibilities.

2. RECOMMENDATIONS

- 2.1. This report recommends that the Leadership Team approve the award of the contract for health and safety advice/support in relation to Grenfell Tower to Derisk UK in accordance with the rates tendered for a period of up to two years and up to a value of £160,000.

3. REASONS FOR DECISION

- 3.1. Earlier this year, the Health and Safety Executive (HSE) formally recommended that the Council appoint an appropriate specialist to provide technical advice and support in relation to the Grenfell Tower site. This was to ensure that the Council, as owner of the site, was discharging its legal duties under the Health and Safety at Work Act (1974) and the Construction (Design and Management) Regulations 2015.
- 3.2. The Leadership Team is asked to approve the award of this contract in order to fulfil this requirement.

4. BACKGROUND

- 4.1. Following the Grenfell tragedy, independent arrangements were put in place under the emergency London Local Authority Gold framework to manage the Grenfell Tower site. This included an independent Site Management Group, chaired by the chief executive of another London borough and responsible for overseeing the day-to-day management of the site, including health and safety, site maintenance and site security.
- 4.2. These arrangements remain in place while the Metropolitan Police Service is conducting its forensic investigation. Access to the site is controlled and managed by the Police, in conjunction with the Grenfell Tower Inquiry team. The Council is working closely with all parties to ensure that the independent site management arrangements continue for the foreseeable future.
- 4.3. Notwithstanding these arrangements, the Council, as landowner, continues to have the ultimate statutory duties under Health and Safety legislation and Construction (Design and Management) regulations. In early 2018, the Health and Safety Executive wrote to the Council's Chief Executive recommending that the Council appoint a specialist contractor to work closely with the Council and the independent Site Management Group (SMG) to ensure compliance with all health and safety and other statutory requirements and advise all parties where further measures were required.
- 4.4. To comply with the instructions of the Health and Safety Executive, the Council's Chief Executive instructed officers to undertake a procurement exercise to identify a suitable specialist contractor to fulfil this role. This is now complete and a suitable contractor has been identified.

5. OPTIONS AND ANALYSIS

- 5.1. Given the recommendation of the Health and Safety Executive to appoint an appropriate specialist technical advisor, the option of not undertaking a procurement exercise was immediately discounted.
- 5.2. Specialist procurement advice was sought internally and externally, in close consultation with the Site Management Group, to fully understand both requirements and opportunities.
- 5.3. A number of options were reviewed in terms of procurement route and methodology, including open and restricted procedures, and supplier opportunities including a range of Frameworks.
- 5.4. Due to the unique nature of the Grenfell Tower site, issues of timing, urgency, sensitivity were of paramount importance. As a result, a fully open process was not considered appropriate, either in terms of time or cost, particularly due to the high profile nature of the appointment, which may have generated a large amount of supplier interest not relevant to the procurement exercise.
- 5.5. A broad range of Frameworks previously used by the Council across capital projects were reviewed. While use of a framework offered advantages of process and structure, it would also have required the sharing of sensitive information with a potentially large pool of suppliers, either not relevant or applicable, for the specific requirements of the appointment, over an extended period of time.
- 5.6. Instead, the use of the procurement tool Construction Line was considered appropriate to help to define parameters for the selection of a shortlist. This ensured that tender and site information would only be issued to the shortlist and not to a wider field of suppliers. The Council's Procurement and Legal teams confirmed that this would be compliant with the Council's own Regulations as the appointment was likely to be below OJEU cost levels.
- 5.7. Suppliers were required to demonstrate a suitable level of quality, financial and reputational standing, and risk cover. Requirements included expertise in their area of work, and familiarity either with the site or a site with similar levels of complexity and sensitivity.
- 5.8. Following the submission of tenders, evaluation of submission was undertaken by a panel chaired by the Chair of the independent Site Management Group, the Chief Executive of the London Borough of Bromley.
- 5.9. Suppliers were scored according to the Evaluation Criteria set out at Appendix 1. Written submissions were required which covered relevant experience and capacity to undertake the duties, range and depth of qualifications/experience of the team, methodology and evidence of effective communication and community engagement, including management and communication of sensitive issues.

- 5.10. Having evaluated the bids received, where the panel were satisfied that both bidders were appointable, the bidder recommended by the evaluation panel achieved a total score of 84%, with the second placed bidder scoring 69%.
- 5.11. One further consideration was the duration of the contract. The tower is currently being surveyed by independent structural engineers commissioned by the independent Site Management Group, but no decision has yet been made about its future. The contractor will provide ongoing technical advice to the Council and Site Management Group until such time as a decision is made. On this basis, it is considered appropriate that the contract should be awarded for a period of up to 2 years and will be subject to regular review throughout that period. Using this period as a guide, it is estimated that the contract value will be up to £160,000 over the two year period.

6. CONSULTATION and COMMUNITY ENGAGEMENT

- 6.1 Working closely with the Ministry of Housing Communities and Local Government, advice on the approach was sought from the Health and Safety Executive (which was involved in initial discussions and recommended this course of action) and the independent Site Management Group, including on the specification design and evaluation of tenders.
- 6.2 This is a Health and Safety requirement and so there was no scope for wider consultation.
- 6.3 This report will be circulated to Scrutiny Committee members and considered at its July meeting.

7 HUMAN RESOURCES AND EQUALITY IMPLICATIONS

- 7.1 None applicable.

8 LEGAL IMPLICATIONS

- 8.1 The Council has a statutory duty under The Construction (Design and Management) Regulations 2015 to appoint a Principal Designer where there is more than one contractor working on a project. The appointment recommended in this report will enable the Council to discharge this duty. The appointed contractor's main duty will be to plan, manage, monitor and co-ordinate health and safety during what is referred to in the CDM Regulations as the pre-construction phase.
- 8.2 The Council's Contract Regulations require that a minimum of 3 quotations are invited for a contract of the proposed value (up to 160k). There are other requirements in the Regulations – that quotations are published on capitalEsourcing's opportunities notice board and advertised on Contracts Finder, that the Director letting the contract must be satisfied of the financial standing of the successful company and the contract must be sealed and archived by the Director of Law.

- 8.3 The Council's Contract Regulations also state that the award of contracts of this value can be delegated to the relevant Director. However, there is no reason why the decision cannot be approved by the Leadership Team on the recommendation of the Director, as set out in this report.
- 8.4. The decision to award the contract for the appointment of a Principal Designer falls within the definition of a 'key decision' given the potential interest in the decision from survivors, the bereaved and residents of the local area. The decision has been published in the Forward Plan in accordance with the requirements for key decisions.

9 FINANCIAL IMPLICATIONS

- 9.1. This is an essential and unavoidable contract, the costs of which will be charged to the Grenfell site cost code. The Council has only a small budget for the site and limited control or influence over the site costs. For these reasons it will be asking central government for assistance in meeting these costs.
- 9.2. As this is a statutory requirement, the cost of this contract is an appropriate use of public funds. Since a competitive procurement process appropriate to the estimated contract value has been followed to secure the preferred contractor, the contract price is likely to represent the best value that the Council could be reasonably expected to attain given the unique circumstances of the Grenfell Tower.

10 CORPORATE PROCUREMENT

- 10.1. The Strategic Procurement Team provided advice in determining the most appropriate procurement route, given the anticipated value of the contract.

Robyn Fairman
Executive Director Grenfell

Formal Clearance requirements for all key decision reports:

Cleared by Communications and Community Engagement (officer's initials)	NT
Cleared by Director of Legal Services (officer's initials)	AH
Cleared by Finance (officer's initials)	FA
Cleared by Strategic Procurement (officer's initials)	RVG

Background Papers used in the preparation of this report:

None

LIST OF APPENDICES:

- Appendix 1 Evaluation criteria sent out to bidders
- Appendix 2 Evaluation of tenders received (Part B)

APPENDIX 1

Evaluation Criteria set out in the Invitation to Tender

1. Instructions were set out in the Invitation to Tender which identified how the evaluation panel would assess the bids received. The instructions regarding evaluation are summarised below.
2. The evaluation criteria focussed primarily on quality, given the complexity and sensitivity of the project and the work required to be undertaken by the contractor, based on 70% quality and 30% price.

Response requirements

3. Tenderers were assessed on both quality and price. The Quality Submission carried a weighting of 70% of the overall assessment. The Price Submission carried a weighting of 30% of the overall assessment. The successful consultant was selected on the basis of the most economically advantageous tender when assessed against the evaluation criteria set out below.

Evaluation Matrix for Final Selection Process	Weighting
Technical/ Quality	
Relevant experience of firm/ organisation, and capacity including resource to undertake duties	30%
Range and depth of qualifications and experience of team	30%
Methodology for process start up and initial evaluation phase	30%
Relevant experience and evidence of effective communication and community engagement, including regarding management and communication of sensitive issues	10%
Quality Weighting total	70%
Price Weighting total	30%

Quality submission (70%)

4. The intention of the Quality Submission was to assist in identifying the most suitable consultant for the project. The requirements below were intended to be clear and equitable to all candidates and to represent a reasonable amount of information to be provided within the tender period. It was the intention that the submissions would enable candidates to demonstrate excellence, expertise and

experience in the field relating to this commission. A compliant tender had to contain a quality submission as set out below.

1. Relevant experience with public institutions within the last 3 years, relevant experience of similar site or other related issues within the last 3 years.
2. Qualifications/ accreditation and experience of the proposed team of consultants, team structure, roles, responsibilities and demonstration of capacity, resources.
3. Outline methodology and detail as to how the proposed team and organisation would start the process of work from appointment up to the first three months, to evaluate the site and situation.

Price submission (30%)

5. A fee proposal was requested for Principal Designer services which would be inclusive of all normal expenses (deemed to be travel and subsistence to and from and within London, all printing except multiple copies of reports beyond that required for normal management of the project, and other consumables required in the course of the consultant's normal duties) but exclusive of VAT.
6. Pricing was to be presented in the form of a monthly fee to undertake the Principal Designer Services for Phase 1 and Phase 2. The Consultant with the lowest submitted total price would receive the maximum price score. The prices of the other Consultants would be scored based on the following formula: $\text{Lowest submitted total price} / \text{Tenderer's submitted price} \times 30\%$.