

ABERDEEN CITY COUNCIL

COMMITTEE	HOUSING and ENVIROMENT
DATE	11 January 2010
DIRECTOR	Pete Leonard
TITLE OF REPORT	Procurement Method for Phase 2 Housing New Build Programme
REPORT NUMBER	H&E / 09 / 132

1. PURPOSE OF REPORT

This report provides an overview of three possible procurement routes for phase two of the New Build Housing Programme. It evaluates each method in its own right and makes a recommendation in the way forward.

2. RECOMMENDATION(S)

It is recommended that the Committee:

- Note and consider the procurement options and recommend that Option 2 i.e. Design & Build (RIBA stage B/C) as the way forward for Phase 2 of the New Build Council House Programme
- Instruct officers to report back at a future Housing & Environment Committee providing an update of the Phase 2 New Build Programme.

3. FINANCIAL IMPLICATIONS

Provision has been made in the capital programme for the New Build Programme phase 2 over the next two financial years (2010 – 2012) for circa £4.5 million plus £0.5m fees i.e. £5m total expenditure. This money will to be complimented by the “Kick Start” Scottish Government funding. Aberdeen City Council submitted an application for second round grant funding in September 2009, for £875,000 (35 units at £25,000) and this was confirmed as an award by the Scottish Government, on 11 December 2009.

4. SERVICE & COMMUNITY IMPACT

Our Single Outcome Agreement that was produced in response to the Concordat that was agreed between the Scottish Government and local authorities in March 2008 and highlights the local outcomes for housing as follows:

- To increase the number of new build affordable houses;
 - To meet the targets for the SHQS for social housing;
 - To increase the number of new built houses across all tenures;
 - To meet the 2012 Homelessness targets set by the Scottish Government;
- and

The delivery of the council new build programme is a key objective of the administration as identified in the Vibrant Dynamic & Forward Looking Programme

- To increase the provision of sheltered housing for communities across the City.
- Work with Registered Social Landlords to develop affordable housing including 2000 new affordable houses.

5. OTHER IMPLICATIONS

- 5.1 Legal – The preferred procurement method will be compliant with The Official Journal of the European Union regulations and accordance with full consultation and advice from Legal colleagues. The Central Procurement Unit in Corporate Governance.
- 5.2 Resources – A fully resourced, multi-disciplinary design team is key to the successful delivery of this project. A range of in house and external resources have been identified for phase 2.
- 5.2.1 In House resources would consist of Architects, Planners, Quantity Surveyors and Project Managers with the assistance of Planners. The approved Property Manager (New Build post has not been filled to date as existing resources in house were identified i.e. two of the Community Initiative Officers have been acting up as Project Managers for phase 1 to date alongside the capacity of Robinson Low Francis (construction and property consultants) who are acting as the Employer’s Agent for the Construction Programme.
- 5.2.2 External resources for Building Services, Health and Safety, Quantity Surveyors and Structural Consultants will be required within the phase 2 programme.
- 5.3 Property the addition of new build council houses will help ease pressure on our housing waiting list whilst providing good quality and sustainable homes for the citizen’s of Aberdeen.
- 5.4 Equipment – none arising from this report.
- 5.5 Sustainability and Environment – Building homes that are eco friendly will have a positive impact on the environment and add to the sustainability of our communities. The sustainability criteria in line with Council policy will aim to reach level 5 of the sustainable homes standard.

- 5.6 Health and Safety – The design and construction will be fully compliant with all legislative aspects of new build housing.
- 5.7 Risk Management – All management of risk will be monitored and mitigated in accordance with the ability to meet risk policy and programme objectives. All risks identified will be responded to by evaluating a range of options for treating risks and preparing and implementing a project risk management plan.

6. LESSONS LEARNED FROM PROCUREMENT ROUTE OF THE NEW BUILD PROGRAMME PHASE 1 (DESIGN & BUILD TO ROYAL INSTITUTE OF BRITISH ARCHITECTS (RIBA) STAGE E)

- 6.1 The following lessons learned have been identified from the current Phase 1 project.
 - 6.1.1 Additional time within the programme would have been beneficial for the preparation of tender documents and client requirements to ensure potential contractors have a clear understanding of Aberdeen City Council's aims and objectives of its New Build Programme.
 - 6.1.2 All external consultants (i.e. electrical, mechanical and structural, employer's agent) should be appointed in parallel with design development.
 - 6.1.3 Tendering timescales should be extended in the programme to the full period of 8-12 weeks (OJEU process) to allow potential contractors sufficient time to submit comprehensive designs and costs that meet Aberdeen City Council's objectives.
 - 6.1.4 Tendering evaluations, interviews and reporting to committee needs to be adequately resourced and timed in accordance with overall programme plan.
 - 6.1.5 Consistency of the project team has been key to ensuring that timescales have been met throughout each stage of phase one.
 - 6.1.6 Value and Risk Management techniques will be built into the project programme.

7. PROCUREMENT OPTIONS OVERVIEW

- 7.1 It is Aberdeen City Council policy that procurement should be undertaken through open competition. Key principles of the procurement strategy for phase two of the New Build Programme should include:
 - 7.1.1 To enter into contracts through a competitive process

- 7.1.2 To achieve value for money which is defined as the optimum combination of whole life cost and quality to meet the customer's requirement
- 7.1.3 To fully comply with Council Standing Orders in respect of procurement including international obligations incorporated in the Public Contracts (Scotland) Regulations 2006
- 7.1.4 To undertake the procurement process to the highest ethical standards, treating all potential suppliers fairly
- 7.1.5 There are three options available for the New Build Project; namely traditional procurement i.e.
 - the full design will be undertaken by the client and construction by the successful contractor (Option 1),
 - design and build to RIBA Stage B/C of Design i.e. limited design by the client's design team empowering the contractor to carry out most of the design and construction of the homes (Option 2) and
 - Design and build to RIBA Stage D/E of Design i.e. extensive design concept by client's design team with more detailed design to completion and construction by the contractor (Option 3).
- 7.1.6 The procurement method to be adopted and type of contract will have implications for the 'plan of work' and in turn how the project programme will run. The Outline Plan of Work moves from pre-design stages (Feasibility) through design and construction (Pre-Construction Period) to post-construction (Construction Period) activities.

8. PROCUREMENT OPTIONS

8.1 Traditional Procurement (Option 1)

In the traditional approach, consultants (project managers, architectural, structural, electrical, and mechanical and quantity surveyor) are appointed for design, cost control, and contract administration. The contractor is responsible for carrying out the works. The responsibility of the latter extends to all workmanship and materials, including work by sub-contractors and suppliers.

The contractor is typically chosen after competitive tendering on complete drawn and specification documents.

8.1.1 Plan of Work - Traditional Procurement:

The client and the appointed professionals would be involved throughout the project, but the design and construction work stages are separated. This results in a linear progression through the plan of work undertaking each section of the plan stage by stage (see Appendix A).

8.1.2 **Issues to be considered:**

- A traditional lump sum approach requires the production of a full set of documents (drawings and specification) to be produced by consultants before tenders are invited. Adequate time must be allowed for this in the project programme.(see appendix A)
- Because the client appoints consultants to advise on all matters of design, and cost, the client thereby retains control over the design and quality required.
- The contractor depends heavily upon the necessary information and instructions from the architect being issued on time. There is a risk of claims if they are delayed.
- Development of the project brief requires to be undertaken at an early stage within a fixed period. Consultants require a full brief to commence detailed proposals. If the client delays brief development there will be a direct delay on the project programme unless consultants can absorb any delay in the design period.
- Although making design decisions before work has commenced may appear to bring a measure of inflexibility, changes or variations are possible during construction of the work, usually at a price in terms of direct and related costs and extra time.
- Completion of the project within the contract period is an obligation, although the contract administrator may need to revise the date for completion to take account of delays due to design revision or changes to the agreed programme.
- A significant element of the existing housing capital programme is procured on this basis.
- The programmed estimated start date for this option is November 2009.

8.2 **Design & Build to RIBA Stage C (Option 2)**

8.2.1 **Procurement using Design and Build methods:**

The client should appoint consultants to advise on his design requirements and costs. The contractor is responsible to a greater extent for design, as well as for carrying out the work. The arrangement will be for total design and construction (See appendix B) based on a design brief supplied by the client's.

8.2.2 **Plan of Work – Design and Build to RIBA Stage C:**

With design and build, although similar work stages are still present, they are not as compartmented as traditional procurement. The contractor will be involved at developing the design from concept to construction and completion and this is reflected in the project programme (see Appendix B).

8.2.3 Points to be consider for Option 2:

This is a straightforward design and build contract, in theory there is usually a single point of responsibility i.e. one contractor to develop design and carry out the construction of the development. The client therefore has the advantage of only one organisation to manage and be accountable for delivery of the project.

- The client may lack control over detailed aspects of design as design is not developed in house.
- Construction work can be started early as a great deal of detailed design work can proceed in parallel. It is mainly the contractor, however, who benefits from the operational flexibility.
- Responsibility for completing on time rests wholly with the contractor. There should be little risk of claims because of allegations that information from the client is late. The contractor is responsible for the flow of necessary information.
- There is greater certainty of cost, even to the extent that, if required, responsibility for investigating site and sub-soil conditions can be made entirely the contractor's.
- The contractor must be given adequate time to prepare his proposals, together with an analysis of his tender figure. It should also be remembered that evaluating tenders for design and build may be difficult, because design proposals need to be balanced against price, and it is vital to check that the proposals fully satisfy the client's requirements.
- In the absence of any stipulations to the contrary, the contractor's design obligations are absolute.
- There will be a need for a two stage process i.e. Selection of a restricted number of bidders and a process for award of contract.
- The feedback from bidders from the first phase of the New Build project is that this is their preferred method of procurement
- The estimated start date for this project is November 2010.

8.3 **Design & Build to RIBA Stage E (Option 3)**

The client should appoint consultants to advise on design requirements and costs. The contractor is responsible to a lesser extent for design as development and production information of the scheme design will be supplied by the client's requirements (see appendix C). Although design drawings are taken to stage E, the contractor will be responsible to meet the client's requirements and ensure final designs adhere to building standards.

8.3.1 **Plan of Work – Design and Build to RIBA Stage:**

As a detailed design is produced on behalf of the client and is embedded in the "client requirements" documentation at tender stage, the project programme outlines the stages and timescales which are relevant to this option (see appendix C).

8.3.2 **Points to consider for Option 3:**

- Although the risk element is usually transferred to the contractor, in practice, however, the client's requirements are often detailed to the extent that the contractor's design contribution, and therefore liability, is diminished.
- As detailed designs need to be produced (i.e. RIBA stage D/E), in house resources will be utilised to carry out each stage of the process.
- All external consultants i.e. electrical, mechanical, structural and employer's agent should be appointed in parallel with design development.
- The contractor must be given adequate time to prepare proposals, together with an analysis of tender figures. It should also be remembered that evaluating tenders for design and build may be difficult, because design proposals need to be balanced against price, and it is vital to check that the proposals fully satisfy the client's requirements.
- The client/consultants must also allow adequate time to prepare the "Client Requirements" documentation in order to specify detailed design criteria to be adhered to by the contractor.
- This method of procurement was adopted from the first phase of the new build project.
- The estimated site start for this project is also November 2010.

9 SUMMARY

The summary of the findings are as follows:

- 9.1 Selection of the procurement method depends on what the client views as a priority (i.e. cost, quality and time); the procurement method should therefore be selected with this in mind.
- 9.2 The method of procurement has been discussed with the contractors who bid for phase 1. The general consensus from their perspective was for Option 2. It should be recognised that there are benefits and weaknesses with each of the available option. e.g. there will be abortive costs for any unsuccessful contractor but this can be mitigated by a two step process with a restricted bid list.
- 9.3 Option 1 - Traditional procurement would ensure that copyright of designs would rest with Aberdeen City Council and therefore could be used for future phases.
- 9.4 For the design and build Options 2 and 3 Building Warrant would not be submitted by the in-house design team – this would be undertaken by the appointed Design & Build contractor. The Housing and Environment design resources would be required up until appointment of the Design and Build contractor; a client liaison service would also still be required up to completion.
- 9.5 Under Option 3 Design and Build (RIBA stage D/E) procurement Aberdeen City Council will only have copyright of designs up to stage E – copyright of the contractor's designs could in theory be obtained post stage E but this will be at a premium. Under Design and Build (RIBA stage c) procurement, Aberdeen City Council will have no copyright of contractors developed designs.
- 9.6 Option 2 (RIBA Stage C) allows for more innovation and potentially more economic solutions than the other options.
- 9.7 Compiling the brief for Option 3 Design and Build (RIBA stage D/E) could be more onerous (detailed clients requirements are required to be prepared and issued to selected contractors) but provides more control over design specification.
- 9.8 Whilst the first phase is on track to deliver the homes on time and within budget there are advantageous of assessing the success of other methods of procurement. There is information on how projects are undertaken on traditional procurement projects therefore the recommended option for the procurement is Option 2 (RIBA Stage B/C) innovation of design by the service provider and potentially more economic solution.

9.9 The option will also consider the appropriate ratio of quality/price approach with consideration given to a target cost incentivised pain/gain arrangement.

10 AUTHORISED SIGNATURE

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