

NOT FOR PUBLICATION BY
VIRTUE OF PARAGRAPHS 3 AND 5
OF PART 1 OF SCHEDULE 12A TO THE
LOCAL GOVERNMENT ACT 1972

Reasons for exemption

Publication of this report would involve the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The report provides information about prices. Disclosure of this information would be commercially sensitive, being of use to competitors. This would disadvantage the current contractor who would have no access to other contractors' prices thus hampering competitive tendering. It is not, therefore, in the public interest for it to be disclosed. The report also contains details of legal advice obtained by the Council which is subject to legal professional privilege.

Decision under Delegated Powers

INFLATION INCREASE FOR WATES LIVING SPACE FOR 2016/17

Officer Making the Decision

Christine Ansell
Head of Landlord Services

Recommendation

That base prices for year 3 core works (2016/17) of the contract for decent homes and associated works with Wates Living Space Limited be increased by an inflationary provision of 2.5%.

This decision will be made on the 21st April 2016 and, provided there is no call-in, will come into effect at noon on the 28th April 2016.

Reason

To reflect increased charges by the contractor based on inflation in this sphere of work

Authority for Decision

On 21st November 2013 the Cabinet awarded the contract for the delivery of the Housing Capital Programme for the period from 2014 to 2019 (minute 63 13/14 refers). Heads of Service are authorised to take such action that is necessary or appropriate in connection with the implementation of decisions properly authorised by the Cabinet (item (iii) in section 8.1 of the Council's Constitution).

Decision and Date

21 April 2016



Background

The Council entered into a four year framework contract with Wates Living Space Limited from April 2014. This expires in March 2018.

The contract requires the Council to call-off from the framework and award an annual contract each year for the works to be carried out. Negotiations have been taking place with the contractor over the price that the contractor wishes to submit for year 3. There are no clauses in the framework contract governing price increases which are, therefore, the subject of annual negotiation.

In accordance with the framework, it will be necessary to negotiate prices for year 4 (2017/18) in order to call-off and award the contract for that year. Discussions will commence on this in December 2016.

Cabinet previously approved an increase for year 2 (2015/16). Minute reference 30 and except minute 30(E). This represented an increase of preliminaries from 13.91% to 19.5%; an increase in bathroom unit costs of 20% and an increase in inflation on core works of 4%.

Initially for year 3, the contractor sought an increase in heating prices of 12% and inflation of 2.5%. The majority of the works carried out under the contract are replacement kitchens, bathrooms, heating, roofs and major adaptations for disabled tenants.

The final result of negotiations is a recommendation that inflation for year 3 be increased by 2.5% and that there be no increase in heating costs.

Although general inflation is low, the contractor advises that they are incurring inflation in gross labour costs and materials prices.

The inflation increase of 2.5% can be accommodated within budget and will not affect the intended programme of works. The same number of units will be delivered for the original budget set.

The Council sought legal advice about the price uplift for year 2 of the contract (see exempt background paper to the 16th July 2015 Cabinet report), which was that the provisional price increases negotiated with the contractor could be agreed as a 'permitted modification' to the framework agreement under The Public Contract Regulations 2015.

However, the Regulations specify the lower of a cumulative £4.3 million, or 15% aggregate limit for such permitted modifications against the initial contract framework value. The proposed price increases for year 2 were estimated to total £750k in that year and they carry forward into years 3 and 4 as well, resulting in an anticipated total value of £2.25 million over the three years.

The negotiated price increase for year 3 which is the subject of this decision is estimated to amount to £150,000 in that year, and will also carry forward into year 4. The anticipated total effect for the year 3 price increase for the two remaining years of the contract is therefore £300,000.

The overall anticipated aggregate value of the year 2 and 3 price increases over the period of the framework agreement is consequently £2.55 million, which is within the threshold for permitted modifications under the Regulations.

Consultation has been carried out with individual members of Housing Management Advisory Board and no concerns were raised.

Financial Implications

Based on estimated total spend of £6m in 2016/17, the additional costs total up to £150,000. The HRA Business plan inflation provision was set at 2.5% and this increase is affordable within existing resources.

Risk Management

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
Quality of heating installations will be affected as price increase not agreed	Unlikely	Moderate	100% post inspections will pick up and identify any issues
Risk of legal challenge due to	Possible	Moderate	Legal advice is that the variations

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
substantial variations to original framework contract			are permissible as long as they are permitted modifications as specified within the Public Contract Regulations 2015

Key Decision: Yes

Date included on Forward Plan 15 March 2016

Background Papers: None