Contract

Affordable Homes Guarantee Scheme 2020 (AHGS20)

DEPARTMENT FOR LEVELLING UP, HOUSING AND COMMUNITIES

F20: Modification notice

Notice identifier: 2024/S 000-002072

Procurement identifier (OCID): ocds-h6vhtk-042edf

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Section I: Contracting authority/entity

I.1) Name and addresses

DEPARTMENT FOR LEVELLING UP, HOUSING AND COMMUNITIES

2 Marsham Street

LONDON

SW1P4DF

Email

commercialtenders@levellingup.gov.uk

Country

United Kingdom

Region code

UK - United Kingdom

Justification for not providing organisation identifier

Not on any register

Internet address(es)

Main address

https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Affordable Homes Guarantee Scheme 2020 (AHGS20)

Reference number

CPD4120017

II.1.2) Main CPV code

- 66100000 - Banking and investment services

II.1.3) Type of contract

Services

II.2) Description

II.2.3) Place of performance

NUTS codes

- UK - United Kingdom

II.2.4) Description of the procurement at the time of conclusion of the contract:

The Department for Levelling Up, Housing and Communities (the "Department") entered into a concession arrangement with Saltaire Housing Limited (the "Concessionaire") on 16 October 2020.

On 6 November 2019, the Department published a contract notice to appoint a concessionaire to deliver the Affordable Homes Guarantee Scheme ("AHGS20"). The contract notice explained that the concessionaire was required to raise £3bn of capital from investors (with a potential £3bn top up at the Department's sole discretion) and on-lend to registered housing providers ("RPs") and manage the resulting loan portfolio over the lifetime of the borrowings (which shall continue to be a maximum of 30 years from the date the relevant loan is advanced). The estimated total value of the concession contract was stated to be in the range of £80m-£125m.

The purpose of the AHGS20 was to enable the Secretary of State for Housing, Communities and Local Government to provide guarantees covering scheduled interest and scheduled principal payable to investors by the capital-raising special purpose vehicle established by the successful tenderer and the corresponding loans made to RPs under the scheme. The scheme seeks to maximise the benefit of the guarantee, by reducing RPs' cost of borrowing, thereby enabling them to deliver more new affordable homes. Management of the concession agreement would be delegated to Homes England.

At the time of award, the concession arrangement was restricted to the granting of loans in connection with the development of new affordable housing. However, due to recent macro-economic events as described below, the Department identified that the scheme required (i) expansion to broaden the range of delivery undertakings which may be eligible for funding, to include improvements relating to energy efficiency and housing decency as well as the construction of new-build and additional affordable housing; and (ii) clarify or in some cases modify the current rules of the scheme, to increase its accessibility to a broader range of RPs and confirming that particular types of transaction are permitted.

The Department believes the modifications referred to in this notice were necessary due to the fact that the required delivery undertakings under each loan as originally designed no longer meets RP, or government, requirements due to financial and non-financial issues that have had a significant impact on the affordable housing sector since it was launched. The original scheme required all funding to be spent on new development, which has been deprioritised by many of RPs in favour of expenditure on decarbonisation and decency works to their existing stock. This reprioritisation occurred towards the end of 2022 in light of rising inflation, interest rate rises, capital expenditures, maintenance costs, potential rent caps, the urgent need to address decency standards and health and safety issues in respect of their existing social housing (e.g. discovery of mould/damp within social housing accommodation which have resulted in health issues, and ongoing fire safety concerns) and a desire to improve energy efficiency of housing (both for environmental and anti fuel-poverty reasons).

II.2.7) Duration of the contract, framework agreement, dynamic purchasing system or concession

Duration in months

468

Section IV. Procedure

IV.2) Administrative information

IV.2.1) Contract award notice concerning this contract

Notice number: 2019/S 214-526473

Section V. Award of contract/concession

Contract No

CPD4120017

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract/concession award decision:

16 October 2020

V.2.2) Information about tenders

The contract/concession has been awarded to a group of economic operators: No

V.2.3) Name and address of the contractor/concessionaire

Saltaire Housing Ltd

4th Floor Phoenix House, 1 Station Hill

Reading

RG1 1NB

Country

United Kingdom

NUTS code

- UKJ - South East (England)

Companies House

12674461

The contractor/concessionaire is an SME

No

V.2.4) Information on value of the contract/lot/concession (at the time of conclusion of the contract;excluding VAT)

Total value of the procurement: £192,000,000

Section VI. Complementary information

VI.3) Additional information

The Department published a voluntary ex-ante transparency notice ("VEAT") on 1 December 2023 with reference 2023/S 000-035560, outlining its intention to incorporate the modifications referred to within this modification notice. The Department entered into the amendments proposed after observing a 10 day period following publication of the VEAT notice.

VI.4) Procedures for review

VI.4.1) Review body

Department for Levelling Up, Housing and Communities

2 Marsham Street

London

SW1P4DF

Country

United Kingdom

Section VII: Modifications to the contract/concession

VII.1) Description of the procurement after the modifications

VII.1.1) Main CPV code

- 66100000 - Banking and investment services

VII.1.3) Place of performance

NUTS code

- UK - United Kingdom

VII.1.4) Description of the procurement:

Since the award of the concession, a more hostile macro-economic environment and a growing and urgent need for RPs to address decarbonisation and decency issues resulted in RPs deprioritising delivery of new affordable homes in favour of investment in existing assets. By allowing lower-cost scheme funding to be split between new development (with a minimum of 50% of each loan to be used for this purpose) and decarbonisation and remediation, RPs are now incentivised to carry on developing while simultaneously addressing issues with their existing stock, rather than pausing or significantly cutting back on development. The modifications to the concession agreement were therefore necessary to achieve the scheme's primary objective of providing lower cost debt to enable RPs to develop more homes than they would otherwise have done in circumstances where for both economic and technical reasons as described further below it is not possible to change the concessionaire in order to facilitate the Tranche B lending.

The Department required changes to be made to the Scheme Rules so as to broaden the range of delivery undertakings which may be eligible for funding (referred to as "Scheme Expansion"), to include improvements relating to energy efficiency and housing decency as well as the construction of new-build and additional affordable housing. Those improvements will be facilitated via 'Tranche B' loans (while an amount equal to 'Tranche A' loans must continue to be spent on the delivery of new affordable housing). Changes were also made to the concession agreement to clarify or in some cases modify the current rules of the scheme, to ensure it remains accessible to a broad range of RPs whose business plans incorporate a degree of new development (referred to as "Scheme Acceleration").

As part of the Scheme Expansion and Scheme Acceleration, consequential changes have been made to the concession agreement and programme documentation (as more particularly described in section VII.2.1 below). This included an increase to the Cumulative Guarantee Amount to £6bn and an extension to the application window to April 2026.

In respect of the increase to the Cumulative Guarantee Amount and the extension of the guarantee application period, the concession agreement contained provisions contemplating these particular modifications (clauses 3.1 and 7.2 respectively). To that end, the Department's view was that such modifications are justified on the basis that they are compliant with the requirements of Regulation 43(1)(a) of the CCRs.

In respect of the remaining modifications referred to elsewhere within this notice, the Department viewed that such changes are justified on the basis that they are compliant with the requirements of Regulation 43(1)(b) of the CCRs for the reasons set out below.

VII.1.5) Duration of the contract, framework agreement, dynamic purchasing system or concession

Duration in months

516

VII.1.6) Information on value of the contract/lot/concession (excluding VAT)

Total value of the contract/lot/concession:

£213,000,000

VII.1.7) Name and address of the contractor/concessionaire

Saltaire Housing Ltd

4th Floor Phoenix House, 1 Station Hill

Reading

RG1 1NB

Country

United Kingdom

NUTS code

- UKJ - South East (England)

Companies House

12674461

The contractor/concessionaire is an SME

No

VII.2) Information about modifications

VII.2.1) Description of the modifications

Nature and extent of the modifications (with indication of possible earlier changes to the contract):

The changes to the Scheme Rules reflected in the concession agreement are primarily to enable the making of Tranche B loans to support energy efficient and housing decency improvements ("Existing Asset Investments"), alongside Tranche A Loans to support development of "Approved Pipeline Schemes". Loans will continue to be made for general corporate purposes, with amounts equivalent to Tranche A and Tranche B required to be spent on Approved Pipeline Schemes and Existing Asset Investments, respectively. Changes include:

- the addition of provisions to enable Approved Borrowers to request that up to 50% of a Loan be classified (or reclassified) as a Tranche B loan;

- the addition of provisions to enable up to 50% of an existing Loan to be recategorised as a Tranche A Loan (subject to Guarantor consent) giving borrowers who elect to take a Tranche B Loan the option for their minimum security value to be calculated by reference to the Tranche A amount only, in return for paying a non-refundable fee that will be for the guarantor's sole account. On any default, the security will be available to cover the aggregate Tranche A and Tranche B loan amount, and the aggregate loan amount also will be used as the basis for calculating the threshold for security releases;

- A replacement of the concept of Debt Service Cover with Interest Cover, to reflect how the scheme has operated in practice over the past three years;

- the Guarantee Application Period can be extended by a further year on a maximum of two occasions at the sole discretion of the Guarantor, which is in addition to the two year extension already granted under the terms of the Agreement pursuant to the exercise of the original option;

- an extension to end date of the concession to be the earlier of the date two years after the last date on which final repayment is due under a loan and 31 December 2063 (originally 31 December 2059), which is necessary to prevent the concession agreement ending prior to the final loan position being finalised;

- discrete changes to the Approved Borrower proposal which the Concessionaire submits to the Department to provide necessary details including in relation to any Tranche B loan;

- incorporating an additional obligation on the Concessionaire to ensure that each loan agreement provides that an amount equal to loan funds are utilised for projects that satisfy the eligibility requirements of the Scheme Rules at the time of the loan application;

- amending the 'Borrower Arrangement Fee' in respect of loans funded by on-lending the proceeds of a capital raising such that where a loan does not include a Tranche B Loan as well as a Tranche A Loan, the arrangement fee shall be 0.55 per cent of the nominal total committed amount of the Loan rather than 0.50 per cent. For the avoidance of doubt, if an Approved Borrower takes only Tranche A borrowing, the arrangement fee remains 0.50 per cent;

- amending the 'Borrower Management Services Fee' such that the 0.02 per cent step down (from 0.10 per cent per annum to 0.08 per cent per annum plus CPI on the loan balance) that would have applied to loans funded if the Cumulative Guarantee Amount increased from £3bn to £6bn, has been removed i.e. the 'Borrower Management Services Fee' is the same for all borrowers and all loans at 0.10 per cent per annum plus CPI from scheme inception on the loan balance;

- additional drafting to incorporate additional obligations on the Concessionaire in respect of reporting/attending meetings with the Department and monitoring/periodically calculating the asset cover amount in accordance with the loan agreements;

- revisions to the scheme rules to articulate the eligibility criteria for Tranche B loans;

- revision to the form of loan agreement which stipulates that borrowers must start on site within 3 years rather than 2 years (to provide additional time in light of the challenges outlined above in respect of RPs' prioritisation); and

- minor clarificatory changes to the drafting to ensure alignment throughout the scheme documentation and to reflect updated legislation.

VII.2.2) Reasons for modification

Need for additional works, services or supplies by the original contractor/concessionaire.

Description of the economic or technical reasons and the inconvenience or duplication of cost preventing a change of contractor:

Many RPs that would otherwise have been eligible for the scheme paused development activity and diverted their available funding towards existing stock improvements, which inevitably reduced demand for the existing scheme given its development focus. By allowing AHGS20 finance to be used both for new development (with a minimum of 50% of each loan to be used for this purpose) and decarbonisation and remediation, the scheme will be better aligned to RPs' current priorities, enabling them to access funding at lower rates than are available in the market (that can in turn be reinvested in delivering their business plans) and ensuring they can continue to develop new homes while addressing issues with their existing stock. Further, the political landscape has changed since the procurement was conducted in 2019/2020, such that there is a more intensive focus today in respect of tackling environmental and quality issues. The Department believes that the AHGS20 is the optimal vehicle to address these issues and the expansion of the required delivery undertakings under each loan and the limited range of associated variations to the benefit of RPs does not materially alter the services procured under the initial concession contract (i.e the raising of finance to lend to RPs and the subsequent underwriting and administration of that lending). Indeed, not only would the adjustment to the borrowing restrictions be optimal, but in respect of the health and safety issues referenced above, the Department believes it is entirely necessary for the AHGS20 to assist with this objective. Therefore, in order for the AHGS20 to continue to deliver its primary objective (i.e. support the delivery of new-build and additional affordable housing), it is necessary to ensure that the scheme facilitates safe practices and ensures that borrowers meet their contractual obligations and wider duties to comply with latest government guidance/regulations. Changes to the security arrangements (whereby borrowers will have the option to calculate the minimum value of their security by reference to the amount allocated to new development only) were required because, unlike new development, expenditure on decarbonisation and decency works does not necessarily lead to a corresponding increase in asset values. Requiring borrowers to provide security in the absence of such an increase would create a drag on their unencumbered asset base, prejudicing their ability to access finance from commercial lenders who require a more traditional security package. These factors, coupled with the other factors discussed below, means that the Department believes it is necessary to incorporate these modifications.

The Department also believes that a change of concessionaire could not be made for economic/technical reasons. Tranche A and Tranche B constitutes an integrated product, in that both are advanced to the same borrower at the same time and are secured by the same asset pool. If Tranche A/Tranche B were advanced by different lenders, and the Tranche B lender were unsecured, then in the event of a default on the Tranche B loan resulting in a call on the guarantee, the Department would have no recourse to the Tranche A security in relation to the Tranche B default. The Department cannot accept such a diminished security position. It would also involve operational complexity for all parties and would also result in the loss of efficiencies associated with utilising the existing bond programme to finance the Tranche B lending, leading to increased costs.

A change of concessionaire would also cause significant inconvenience and substantial duplication of costs for the Department. The 2019/2020 procurement process took some 18 months to ensure that bidders were provided with sufficient time to respond. Delaying the implementation of the above changes would have had a significant impact on RPs' ability to access funding necessary to enable them to deliver their business plans to support the delivery of new-build and additional affordable housing, thereby jeopardising the objectives of the scheme. It would have also incurred costs and the administrative burden on applicants because of the need to make separate applications and put in place separate loan and security agreements with separate entities depending on whether the loan was for new development or investment in existing stock, with a high degree of overlap/duplication. It would also have also required separate due diligence and approval processes within the Department which would have extended the timeline for making loans available. To that end, the Department took the view that the timescales and costs which would be involved in a further procurement process, and to operate a parallel scheme, would be significant and would lead to substantial duplication of public funds.

In respect of the increase in value to the original concession, the original contract value was estimated to be £105m (on the basis of the Cumulative Guarantee Amount being £3bn) and £192m (on the basis of the Cumulative Guarantee Amount being £6bn). The modifications described in this notice result in the Cumulative Guarantee Amount being £6bn and an increase to the estimated contract value to £213m in total, which is significantly below the 50% threshold.

VII.2.3) Increase in price

Updated total contract value before the modifications (taking into account possible earlier contract modifications, price adaptions and average inflation)

Value excluding VAT: £192,000,000

Total contract value after the modifications

Value excluding VAT: £213,000,000