

Report of: Mechanical & Electrical Service Manager

Report to: Director of Environment and Housing

Date: 23rd November 2015

Subject: Award of Gas Fuelled Domestic Heating Lot 1 – South & Lot 2 - East

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): South – Ardsley & Robin Hood, Beeston & Holbeck, City & Hunslet, Crossgates & Whinmoor, Garforth & Swillington, Harewood, Kippax Methley, Middleton Park, Morley North, Morley South, Rothwell, Temple Newsam. East – Alwoodley, Burmantofts & Richmond Hill, Chapel Allerton, Gipton & Harehills, Harewood, Killingbeck & Seacroft, Moortown, Roundhay, Temple Newsam, Wetherby		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: Appendix number: 1 Appendix 1&2 to this report have been marked as confidential under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council.		

Summary of main issues

1. The current contracts to deliver Gas Servicing, Repair & Installations in the South, East and West areas of the city are due to expire, and have been advertised as an EU tendering opportunity:
 - 1.1. **Lot 1 – South Leeds (11,800).** Currently delivered by Mears. This provision is due to expire 31st March 2016. The provision for extension has been considered, however the decision was made to re-procure as part of a citywide procurement exercise. The current annual value for this provision is **c.£3.33m.**
 - 1.2. **Lot 2 – East Leeds (14,000).** Currently delivered by Liberty Gas. This provision is due to expire 30th June 2016 with no opportunity to extend. The current annual value for this provision is **c.£4.35m**

- 1.3. **Lot 3 – West Leeds** (11,000) currently delivered by Mears. This provision is due to expire 1st April 2017, following a 12 month extension provision being implemented. The provision for further extension has been considered, however the decision was made to re-procure as part of a citywide procurement exercise. The value of this provision is **c.£2.39m**
2. A key decision was made by the Director of Environment and Housing in April 2015 to procure three lots as a single EU, openly advertised procurement to re-procure the current contracts. This decision was not called in.
3. A procurement was undertaken as per the recommendations in the key decision report which obtained approval to the procurement route and authority to spend. The evaluation of Lot 1 & Lot 2 submissions has now been concluded, and has identified 2 providers to proceed to contract award.
4. To facilitate staggered mobilisation periods for the new contracts and allocate resources effectively, the PQQs for Lot 3 (West Leeds) will be returned to the Council in February 2016 and tenders submitted by shortlisted tenderers in May 2016. In line with the procurement strategy, the preferred providers for lots 1 and 2 will not be eligible to submit a PQQ for this opportunity. A separate decision report will be produced to seek approval to award Lot 3, following the evaluation process.
5. Both contracts have a duration of 4 years with the provision to extend by 4 x 12 months. Lot 1 will commence on the 1st April 2016 and Lot 2 on the 1st July 2016.
6. Efficiencies have been identified across the two contracts which will allow for additional capital works to be completed. The new specification also increases the quality of the service offer to tenants.

Recommendations

- 1.1 It is recommended that the Director of Environment & Housing approves the award of contracts for Lot 1 & Lot 2 to the providers identified below:
 - 1.1.1 Lot 1 – South – Mears Limited. This contract will commence 1st April 2016 for duration of 4 years, with the option to extend for a further 4 x 12 month periods. The value of this contract is **c.£3.28m p/a**
 - 1.1.2 Lot 2 – East – PH Jones British Gas Social Housing Limited. This contract will commence 1st July 2016 for duration of 4 years, with the option to extend for a further 4 x 12 month periods. The value of this contract is **c.£3.62m p/a**

1 Purpose of this report

- 1.2 The purpose of this report is to document in detail the procurement processes undertaken to identify the preferred providers for Gas Fuelled Domestic Heating Lot 1 & Lot 2.
- 1.3 To obtain approval to award contracts to the preferred providers without delay to ensure that adequate mobilisation periods are available for both contracts.

2 Background information

- 2.1 The Gas (Installation and Use) Regulations 1998 make it mandatory that gas appliances and installations are maintained in a safe condition at all times. Landlords are required by the regulations to ensure that all gas appliances are adequately maintained and that an annual safety check is carried out by a registered tradesperson. The requirement is to provide annual servicing, as well as responsive repairs and maintenance and new installations to dwellings within the respective area of responsibility; this equates to approximately 25,800 properties (Lot 1 – 11,800 & Lot 2 – 14,000).
- 2.2 A full options appraisal was carried out to identify the procurement strategy, this process identified that there was no ISP or established framework which would suit the requirements of these contracts. Market sounding identified that a large market was available to ensure the procurement obtained a high level of competition.
- 2.3 The strategy aims to ensure that the Council delivers the mandatory requirements as a social housing landlord with regards to Gas fuelled Domestic Heating. Following this process it was identified that 3 contracts were to be advertised as a single procurement and would encompass Gas Servicing, Repairs & Installations with all 3 elements being managed by 3 providers, 1 in each area of the city. This strategy was adopted to ensure an appropriate mix of service provision across the city and reduce risk for the Council. The Public Contracts Regulations 2015 (“the Procurement Regulations”) confirm the ability to restrict lots to a specified number of providers under one procurement exercise.
- 2.4 An OJEU Prior Information Notice was published in February 2015 alongside a market sounding document to provide notice of the opportunity to the market at the earliest opportunity.
- 2.5 Once approval was obtained for the proposed procurement route, PQQs were advertised for all 3 lots within 1 EU notice published in May 2015.
- 2.6 Following the deadline for Lots 1 & 2, 20 submissions were received. The PQQ evaluation then identified 11 organisations to be invited to tender. The PQQ instructions specified that 10 organisations would be invited to tender, however, 2 organisations obtained the same score, finishing ‘joint 10th’ resulting in 11 shortlisted tenderers. The PQQ shortlist was approved by the Chief Officer, Property and Contracts on the 21st July 2015.

- 2.7 The tender deadline was 16th September 2015. Prior to the deadline 2 organisations opted out of the opportunity, and 9 compliant bids were received and evaluated by the nominated evaluation panel members. A full breakdown of the assessment can be seen within appendices 1 & 2.
- 2.8 Draft tender documentation was provided to all tenderers who registered interest at the PQQ stage including tender instructions, contract terms and conditions, preliminaries, preambles and the specification. There were minimal changes to the documentation at Invitation to Tender (ITT) stage.
- 2.9 The Chief Officer, Property and Contracts approved the evaluation methodology and criteria prior to procurement in line with Contract Procedure Rules.

3 Main issues

- 3.1 Complete tender documentation for the contracts was issued to shortlisted tenderers who subsequently submitted completed tenders for final evaluation by the panel. These were scored using a 50% price, 50% quality split. The procurement process was overseen by a PPPU Project Manager and Procurement Officer. All information relating to this process and the weightings applied to the scoring were detailed in full within the published tender documentation.
- 3.1 No tenderers failed to attain the minimum thresholds outlined in the tender documentation relevant to both Quality criteria and Price criteria. A minimum threshold was included for price to ensure that submissions were not unsustainably low.
- 3.2 The evaluation criteria focused on gas compliance; mobilisation; achievement of KPIs; quality and audit; management of materials and supply chains; maximising first time fix rates; IT benefits and interfaces; access, safeguarding and vulnerable tenants; reducing energy consumption; equality and diversity and employment and skills.
- 3.3 Following completion of the evaluation 2 organisations were identified as preferred providers for the 2 lots:
- 3.3.3 Lot 1 – South – Mears Limited. The anticipated annual cost of this provision is **c.£3.28m**. Following application of the 50/50 price/quality split, their overall position was ranked as 1st.
- 3.3.4 Lot 2 – East – PH Jones British Gas Social Housing Limited. The anticipated annual cost of this provision is **c.3.62m**. Following the application of the 50/50 price/quality split, their overall position was ranked as 1st.
- 3.4 The overall evaluation/due diligence process has not identified any significant risks in terms of awarding the contracts to the successful bidders. They have both the capacity, resource and experience within this operational field of work deemed necessary to deliver the service requirement.
- 3.5 Prior to award each of the preferred organisations will be assessed to ensure adequate policies are in place to support the delivery of this provision, including

Insurance, Health & Safety & Safeguarding. A financial check will also be carried out to ensure they are not a risk to the authority. Results of this process will be kept on file. Should any issues be identified that would restrict the team from awarding these contracts to either of the providers, the award would be abandoned and the next ranked provider approached. A revised award report would be submitted at this stage.

- 3.6 A contract management plan has been drafted for both lots, which is attached at Appendix 4. This will be approved by the Head of Maintenance Operations prior to the contract commencement. This will be maintained and used to manage the contract throughout the contract term.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Executive Board approved the citywide repairs and maintenance strategy in February 2015 which includes an overview of the gas procurement strategy.
- 4.1.2 The Chief Officer, Property and Contracts, Head of Maintenance Operations and Chief Officer PPPU were consulted on the contents of this report at a meeting on the 5th November 2015.
- 4.1.3 PPPU are represented on the Project Team and have provided advice throughout the procurement process. An information report was presented at the November 2014 Housing Contracts Board (HCB) and December 2014 meeting of the HCB Interim Panel which provided details of the proposed procurement approach.
- 4.1.4 The incumbent providers have also been consulted throughout the procurement process.
- 4.1.5 Soft market testing commenced in February 2015 with 42 organisations registering interest in the market sounding on YORTender and 16 organisations submitting completed questionnaires on the 13th March 2015. 14 organisations met with the project team to seek clarification on aspects of the market sounding document and to provide feedback. The market broadly supported the proposed strategy and the exercise confirmed significant interest in the opportunity.
- 4.1.6 Following tender submission a group of tenants were engaged as consultees to the evaluation panel on specific elements of the tender submissions. Their comments were considered by the evaluation panel and integrated into the scores and accompanying commentary where appropriate.
- 4.1.7 The evaluation panel included 'specialist' scorers and engaged with consultees on specific criteria where specialist input was deemed beneficial. This included ICT colleagues for the ICT questions, performance colleagues for the KPI question and a safeguarding colleague for the safeguarding question. Details of the evaluation panel and use of consultees was detailed within the tender instructions and remained consistent throughout the evaluation process.
- 4.1.8 It should be noted that formal leaseholder consultation is not necessary on this occasion as the value for an annual safety check falls below the threshold of £250

and it is not mandatory for leaseholder to accept 'safety checks' or services from LCC contractors.

- 4.1.9 These contracts involve the contractor to contractor TUPE transfer of staff. Some of these staff are former council employees. The unions were informed of this through JCC and TUPE legislation requires that staff are informed and consulted. The responsibility for informing and consulting with staff lies with the current and in-coming contractors but the council will seek to ensure that the contractors comply with their obligations through the contract terms.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The Equality, Diversity, Cohesion and Integration Screening (ECDI) document has been completed and there are no specific implications with respect to the award of the proposed contracts.

4.3 Council policies and Best Council Plan

- 4.3.2 The domestic heating strategy links to the Vision for Leeds 2011 – 2030, specifically the 'Best city... to live' objectives which state that "Leeds will be a great place to live with good housing..." where "houses to rent and buy will meet the needs of people at different stages of their lives" and "local people benefit from regeneration investment". The strategy also links to the City Priority Plan 2011 – 2015 which aims to "increase the number of properties with improved energy efficiency measures", and "increase the number of properties which achieve the decency standard".
- 4.3.3 Employment and Skills targets were included in the tender documents. Both of the preferred providers have committed to meeting these targets and have produced an Employment and Skills Plan to deliver these requirements. This includes a total of 16 apprentices and 16 people progressing into employment for each contractor in the 4 year contract period.
- 4.3.4 The successful contractors will be encouraged to promote a diverse workforce that is representative of the local community. This objective will be included in the contract management plans, following discussions with contractors about how this will be achieved, and will be discussed and monitored at contract review meetings.

4.4 Resources and value for money

- 4.4.1 The project team was kept consistent throughout the procurement process with representation from Housing Leeds and PPPU.
- 4.4.2 Due diligence was undertaken on price to ensure that the contract values are realistic and sustainable. Additional due diligence will be carried out with regards to Lot 3, to ensure that the proposed provider submits a price that can be practically delivered.
- 4.4.3 A revenue saving of c.£95k (3%) is anticipated for this provision.

- 4.4.4 Capital efficiencies of c.£680k (16%) can also be demonstrated. This effectively equates to an ability to install another 250 heating systems per year for the same budget.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This report is a subsequent decision of a previous key decision and is therefore a Significant Operational Decision and not subject to call in.
- 4.5.2 A 10 day standstill period will be carried out in accordance with EU regulations to allow unsuccessful providers to view the outcome of the procurement exercise in an open and transparent manner.
- 4.5.3 Separate Delegated Decision reports will be required to award lot 3 following the conclusion of this procurement process.
- 4.5.4 Appendix 1&2 to this report have been marked as confidential under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council.

4.6 Risk Management

- 4.6.1 A risk log has been produced and managed throughout this procurement process. The project team will continue to monitor the identified risks and consider any new risks moving forward through contract award. Some of the key risks still to be monitored regularly are:

- **Procurement of new Housing IT systems has a negative impact on the mobilisation and / or delivery of the new service.**

Mitigation: This will involve work to identify how the IT project will impact on the gas project timeline, meetings with Housing ICT to define requirements for the gas project. Project team members will also attend workshops to inform the specification for the new system. It should be noted that the current project plans suggest that all of the gas contracts will be mobilising on the current systems. This risk is also an opportunity as the new system may improve interfaces with other LCC systems such as Yortender and improve the quality of information available.

- **Accuracy of data shared with bidders causes liability concerns:**

Mitigation: Due to an inability to confirm the accuracy of LCC asset data the data provided to tenderers has not been warranted. As such, any risk associated with inaccurate LCC asset data has been transferred to the tendering parties with the expectation that this risk is priced into their submission. This has been reinforced via clarifications submitted. Additionally, tenant data is to be updated throughout the mobilisation of the contracts in order to ensure that the data provided is the most contemporaneous available.

- **Contractor failure or withdrawal prior to contract commencement:**

Mitigation: Should any issues be identified that would restrict the team from awarding these contracts to either of the providers, the award would be abandoned and the next ranked provider approached. A revised award report would be submitted at this stage.

- **There is failure of the current contract due to poor performance, De-mobilisation and exit plan are not effectively delivered resulting in a failure to deliver a repairs and maintenance service:**

Mitigation: Robust contract management with the contractor including regular meetings, understanding performance data, lessons learned, process and data reporting improvements

- **Procured Contractor's resources and skills for contract management inadequate, the contractor does not have resources or skills to effectively deliver and manage the contract. Resulting in the contract being managed badly, a poor service being provided, and ultimately a failure to attain VfM across the term of the contract:**

All contracts are required to have a Contract Management Plan under CPRs. This will include arrangements for regular review of contract delivery. Dedicated resources will be allocated within LCC to manage the contract. Training will be provided on the contract form to contract managers within LCC and to the new contractors.

5 Conclusions

- 5.1 The procurement process undertaken has been in accordance with Contracts procedure rules and EU Regulations, with full guidance and support from the Projects, Programmes and Procurement Unit.
- 5.2 Following the tender evaluation of all 9 submissions a clear preferred provider has been identified for each lot. This has taken into consideration both Quality and Price submissions and is therefore are the most economically advantageous tenders for these contracts.

6 Recommendations

- 6.3 It is recommended that the Director of Environment & Housing approves the award of contracts for Lot 1 & Lot 2 to the providers identified below:
 - 6.3.2 Lot 1 – South – Mears Limited. This contract will commence 1st April 2016 for duration of 4 years, with the option to extend for a further 4 x 12 month periods. The value of this contract is **c.£3.28m p/a**
 - 6.3.3 Lot 2 – East – PH Jones British Gas Social Housing Limited. This contract will commence 1st July 2016 for duration of 4 years, with the option to extend for a further 4 x 12 month periods. The value of this contract is **c.£3.62m p/a**

7 Background documents¹

- 7.1 Confidential Appendix 1 – Lot 1 evaluation matrix
- 7.2 Confidential Appendix 2 – Lot 2 evaluation matrix
- 7.2.4 Appendix 3 - Equality, Diversity, Cohesion and Integration Screening
- 7.3 Appendix 4 - Draft Contract Management Plan

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.