

Report of: Mechanical & Electrical Service Manager

Report to: Director of Environment & Housing

Date: 25th July 2016

Subject: Award of Gas Fuelled Domestic Heating Lot – 3 - West

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): West – Armley, Bramley & Stanningley, City & Hunslet, Horsforth, Kirkstall, Moortown, Pudsey, Weetwood, Farnley & Wortley		
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 to this report has 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 3 – West Leeds** (c.11,000 properties) currently delivered by Mears. This provision is due to expire 31st March 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.
 - 1.2. Lots 1 & 2 of this procurement have both been awarded, the contracts have commenced with their respective suppliers.
2. A key decision was made by the Director of Environment and Housing in April 2015 to procure three lots within a single open procurement process under the Public Contracts Regulations 2015 to replace 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 3 submissions has now been concluded, and has identified a preferred provider to proceed to contract award.

4. The proposed contract has a duration of 4 years with the provision to extend by 4 x 12 months. Lot 3 will commence on the 1st April 2017.
5. Efficiencies have been identified 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 SMT authorise this report to be presented to the Director of Environment & Housing to approve the award of contract for Lot 3 to Liberty Gas Group. The contract will commence 1st April 2017 for the duration of 4 years with the option to extend for a further 4 x 12 month periods. The value of this contract is £3m 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 provider for Gas Fuelled Domestic Heating Lot 3.
- 1.3 To obtain approval to award a contract to the preferred provider without delay to ensure that adequate mobilisation period is 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 11,000 properties.
- 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 within a single procurement process 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, an OJEU contract notice was published in May 2015 inviting Pre-Qualification Questionnaires (PQQs) and dividing the procurement into 3 lots.
- 2.6 Lots 1 & 2 were awarded in December 2015.
- 2.7 8 organisations were shortlisted for Lot 3 and the tender deadline was 8th June 2016. Prior to the deadline 1 organisation opted out of the opportunity, and 7 compliant bids were received and evaluated by the nominated evaluation panel members. A full breakdown of the assessment can be seen within appendix 1.

- 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 Contracts 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 price 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 Liberty Gas have been identified as the most economically advantageous tender,
- 3.3.1 The anticipated annual cost of this provision is **c.£3m**. Following 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 contract to the successful bidder. 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, the preferred organisation 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 this contract to the provider, 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 this contract, which is attached at Appendix 2. This will be approved by the Head of Leeds Building Services 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 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.
- 4.1.3 A significant operational decision was submitted and published in November 2015 to obtain approval to award lots 1 & 2.
- 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. A copy of this is available at appendix 3.

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. The preferred provider has committed to meeting these targets and have produced an Employment and Skills Plan to deliver these requirements.

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

4.4.3 A revenue saving of c.£180k (14.5%) is anticipated for this provision.

4.4.4 Capital efficiencies of c.£244k (13.5%) can also be demonstrated. This effectively equates to an ability to install another 100 heating systems per year for the same budget.

4.4.5 This represents a combined saving / efficiency of 13.17% across revenue and capital workstreams.

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 Unsuccessful tenderers will be notified of the intention to award the contract, following which a 10 day standstill period applies under the Public Contracts Regulations before the contract is awarded.

4.5.3 Appendix 1 to this report has 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 the provider, 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, Demobilisation 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 7 submissions a clear preferred provider has been identified for lot 3. This has taken into consideration both Quality and Price submissions and is therefore the most economically advantageous tenders for these contracts.

6 Recommendations

- 6.1 It is recommended that SMT authorise this report to be presented to the Director of Environment & Housing to approve the award of contract for Lot 3 to Liberty Gas Group. The contract will commence 1st April 2017 for the duration of 4 years with the option to extend for a further 4 x 12 month periods. The value of this contract is £3m p/a.

7 Background documents¹

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

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.