

REPORT TO:	CABINET 14th November 2016
AGENDA ITEM:	11.2
SUBJECT:	Planned Maintenance and improvements: Electrical Works: Recommendation of Preferred Bidder Status.
LEAD OFFICER:	Jo Negrini- Chief Executive Stephen Tate- Director of District Centres and Regeneration
CABINET MEMBER:	Councillor Alison Butler Deputy Leader and Cabinet Member for Homes, Regeneration & Planning Councillor Simon Hall Cabinet Member for Finance and Treasury
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON	
<p>These works meet the Council's Corporate priorities to:</p> <ul style="list-style-type: none"> • Provide Value for Money to its residents through the delivery of the Planned Maintenance and Improvements Programme to the Council's housing stock • Improve our Assets through investment in our housing stock • Improving health and well-being through decent homes and neighbourhoods • Contribute to the local economy and environment • Improve Corporate Social Responsibility opportunities • Include the Council's commitment to the London Living Wage <p>The decision also supports Croydon's vision to be an enterprising; caring; sustainable and learning city.</p> <p>Through the award of a long-term partnering electrical works contract the Council will continue to maintain and improve its housing and as a responsible landlord fulfill its health and safety regulatory responsibilities.</p> <p>The Council together with the preferred bidder will jointly deliver a contract providing a range of benefits including value for money; a commitment to the London Living Wage and a clear social value offer aiming to benefit both local businesses and local people including apprenticeships and training.</p> <p>Finally, ICT enhancements including digital enablement; a comprehensive key performance indicator (KPI) regime, robust governance and contract management lie at the heart of delivery to ensure that there are long term benefits for Croydon.</p>	

FINANCIAL IMPACT

The outcome of the procurement identifies that services can continue to be delivered within the existing Housing Revenue budget. It is recommended that the Council enter in to a contract where maximum spend will be in the region of £22m to £26m over 14 years as per the OJEU notice reference 2016/S 043-071142. There is however no guarantee of any value of orders over the course of the contract term.

FORWARD PLAN KEY DECISION REFERENCE NO.: 29.16.CAB

This is a key decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Strategic Overview Committee by the requisite number of Councillors.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to:

- 1.1 Agree that Bidder A (as detailed in the associated Part B report on the Agenda) is appointed to preferred bidder status to deliver electrical works under a term partnering contract to Council homes for an initial period of 5 years with options to extend up to a maximum period of 14 years, comprising 5 plus 3 plus 3 plus 1 plus 1 plus 1, up to a maximum value of £26m and upon the terms detailed within this and the associated Part B report on the basis that this represents the most economically advantageous tender;
- 1.2 Subject to completion of Section 20 Stage 2 Leaseholder consultation, and, if necessary, Stage 3, pursuant to Section 20 of the Leasehold and Tenant Act 985 (as amended by the Commonhold & Leasehold Reform Act 2002) agree the subsequent award of the contract for windows and associated works, and its completion, to Bidder A

and
- 1.3 Agree that consideration of the outcome of the Section 20 consultation be delegated to the Director of District Centers and Regeneration. If the consultation outcome raises any significant or material issues then the matter will again be reported to Cabinet for further consideration, but that otherwise that the name of the successful bidder and price will be published further to 1.2 above.

2. EXECUTIVE SUMMARY

- 2.1 At its meeting on 29 September 2014 Cabinet approved the procurement strategy for delivery of the Council's Planned Maintenance and Improvements Service (PMI) including electrical works (the works) by way of a single contract for an initial period of five years with options to extend up to a maximum period of 14 years (comprising 5 plus 3 plus 3 plus 1 plus 1 plus 1) at a maximum total contract value of £22-26 million as per the Official Journal of the European Union (OJEU) notice. The works will be delivered to the Council's homes including leasehold properties with the option to include schools on an individual basis.
- 2.2 This report details the procurement process and recommends the award of preferred bidder status to Bidder A who has submitted the most economically advantageous tender award for the provision of the services. Exempt information is provided within the associated Part B report on this agenda.
- 2.3 Section 3 of this report sets out the background to the project, the procurement approach and the evaluation process for the selection of the preferred bidder.
- 2.4 The proposed contract has been commissioned and procured to support Croydon as a responsible landlord. The proposed contract additionally provides for:
- robust governance and contract management including a comprehensive suite of key performance indicators (KPIs)
 - a commitment to the London Living Wage
 - maximisation of social value outcomes
 - maintaining or improving customer satisfaction throughout consultation and delivery of services
- 2.5 Both the contract form and the commercial arrangements allow the Council significant flexibility in amending the value of works and services instructed on an annual basis should that be necessary.
- 2.6 The contract commencement date will be 1st April 2017 for an initial period of 5 years with options to extend up to a maximum period of 14 years as described in 2.1 above.
- 2.7 The content of this report is to be considered by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
20 October 2016	1176/16-17

3. DETAIL

- 3.1 During September 2013, the Council undertook a review of all planned maintenance and improvements across the Council (not just for housing dwellings), as an opportunity to assess the ability to achieve continued

improvements in service delivery and commercial arrangements, while also securing significant efficiency savings. The strategic sourcing plan that resulted from this review identified opportunities for collaborative procurement across Council services to obtain economies of scale and streamline contract administration. This gave rise to an enhanced scope of contract to be delivered, as proposed in the procurement strategy, whereby the Council can also take advantage of the proposed contract to be awarded across its housing stock and available for use by schools.

PROCUREMENT PROCESS

3.2 The procurement process described below embedded a number of initiatives aimed at ensuring that the contract that will ultimately be awarded, best meets Croydon's existing and emerging requirements. This includes:

- One lead provider for all electrical works allowing for efficiencies and economies of scale
- Implementation of a 'Strategic Partnership Alliance' between housing-related service providers. This collaboration will deliver benefits including further enhanced social value outcomes delivered across all providers as well as other innovative outcomes for example whole life costing reviews and a joint approach to environmental investment
- Building on the existing APEX asset management IT system within the Council, deliver digital enabling through the incorporation of new functionality including web-based access for service delivery partners and mobile working solutions
- A long-term partnering contract (TPC2005 amended 2008) that through its structure provides:
 - Significant flexibility to respond to either budget increases or decreases year on year, or the provision to not allocate any work at all
 - A contract form that includes the commitment to the London Living Wage
 - A set of requirements that will not only drive continuous improvement but also focus on robust and comprehensive governance requirements underpinned by a challenging and comprehensive suite of KPIs. Use of KPIs as a contract management tool has been enhanced by including variable profit related to performance which rewards high performance and penalises poor performance. Specifically variable profit applies to all social value indicators and those which relate to work being completed to time and cost
- Social value and community benefit requirements that fully align with Croydon's social value toolkit and can demonstrate local benefit for the supply chain and employment and training

3.3 The agreed procurement strategy was to follow the competitive dialogue procedure in compliance with the Public Contracts Regulations 2015.

3.4 A Tender Pack was prepared and issued through the Council's e-tender portal to any party that expressed an interest on 23rd February 2016, with a return date

set for the Pre-Qualification submissions as 21st March 2016. During this period a bidders briefing event was held and clarification requests received from bidders were responded to.

- 3.5 The PMI Project Board considered the Pre-Qualification Questionnaire outcome report reflecting the overall result of the PQQ evaluations and agreed to proceed to the Invitation to Submit a Solution (ISS)/Invitation to Submit a Final Tender (ISFT) stage with the **top five** highest scoring candidates.

Appendix A provides an overview of the procurement process undertaken.

- 3.6 Comprehensive procurement documents were drawn up and all bidders were asked to respond to the Term Brief and commercial requirements including providing the cost of their proposal.
- 3.7 The ISS responses were reviewed by an evaluation panel comprising officers and residents. The feedback was respectively provided to all the bidders during the dialogue sessions.
- 3.8 One week of competitive dialogue was undertaken with all the bidders to explore possible solutions and to ensure that the Council's requirements were clearly understood. A report was provided to the PMI Project Board and the competitive dialogue was formally closed when the Council considered that there was at least one bid capable of meeting the Council's requirements.
- 3.9 ISFT submissions were requested during July 2016 and final submissions were received from all 5 bidders. Evaluation was carried out by a panel comprising Council officers; technical specialists and resident representatives. Consensus scores ensuring a sufficient level of detail was captured regarding each element for the Council to fulfil its obligations in regards to information provided to successful and unsuccessful bidders.
- 3.10 The Tender Pack detailed the evaluation criteria of 50% Price and 50% Quality and the assessment process that was applied including the following:

Tender Compliance Requirements:

- 3.11 An 'affordability cap' was set for £2.08m for rewiring **only** whereby any tender where the sum exceeded the cap would be excluded. The cap level broadly reflected current costs with an uplift of 8% for inflation on the existing prices (which are some years old) and price risk. There were no caps set for the other electrical elements as collectively they comprise a relatively small percentage of the overall pricing; in addition they have historically been procured and delivered in an ad-hoc manner with costs varying from year to year and in some cases insufficient regularity of servicing to determine an annual cost.
- 3.12 The evaluation was conducted against the criteria set out in the ISS/ISFT documentation as shown below.

Quality	
Method Statement	Weighting
Q1 Management & Organisation of Resources	9%
Q2 Mobilisation	4%
Q3 Supply Chain Management	3%
Q4 Environmental Requirements	3%
Q5 Customer	7%
Q6 Social Value	4%
Q7 Service Schedule Requirements	6%
Q8 Re-wires	9%
Q9 Business Requirement	1%
Q10 ICT Devices, Systems & Staff	4%
	50%
Price	
Total Tender Price	50%
Total	
Total	100%

- 3.13 The commercial evaluation was kept separate to the qualitative evaluation and moderation process to avoid any inadvertent bias or influence of price over quality or vice versa.
- 3.14 Five final tender submissions were received and all tenders were compliant with the Council's affordability cap.
- 3.16 A pre-determined qualitative threshold was set reflecting the Council's minimum quality requirements, whereby if the bidder scored below a '2' in one or more of their method statement response then their submission would be rejected in its entirety. One bidder's tender submission has been rejected for failure to comply with the minimum quality threshold.
- 3.17 The outcome of the quality evaluation and moderation process resulted in Bidder A achieving the highest scoring qualitative and commercial bid by a clear margin. Bidder A specifically scored highest (or equal highest) in the majority of areas, including Supply Chain management, Service Schedule Requirements and Re-wires.
- 3.18 Bidder A was allocated a score of 2 for one qualitative element however, in accordance with the scoring allocation criteria this satisfies the Council's requirements with minor reservations. Further details will be included in the contract to ensure that Bidder A meets the Council's expectations and there is a binding document for reference should any issues arise during the cycle of the contract.

- 3.19 The outcome of the price evaluation was that Bidder A had the lowest tendered price and was the highest scoring bid. The rates and prices submitted are consistent and reasonable across the different categories and will form a good basis for management of the contract.
- 3.20 Specific details as to the qualitative and commercial bids obtained are contained in Part B as they contain exempt information as defined in paragraph no. 3 of Schedule 12a to the Local Government Act 1972 (as amended).
- 3.21 The project has been managed through a corporately mandated Planned Maintenance and Improvement Project Board (PMI Project Board) comprising senior officers responsible for relevant aspects and interdependencies of the project namely:
- Director of district centres and regeneration
 - Head of schools and homes improvement service
 - Head of partnerships and engagement
 - Commissioning/Project Manager
 - ICT Project Manager
 - Head of SCC-Place

4. CONSULTATION

- 4.1 Statutory Stage one Leaseholder Section 20 consultation (Notice of Intention) was carried out on 28th May 2014 and an update was provided on 11th February 2016. Stage two consultation (Notification of Award of Contract) letters will go out once Scrutiny call-in has end and simultaneously with the Alcatel period. The Alcatel standstill period (where successful and unsuccessful bidders are informed of the outcome and have the opportunity to request further information) will indicate that the outcome will be subject to the leaseholder consultation.
- 4.3 A comprehensive survey of residents and other stakeholders' views on existing services and future expectations was undertaken. The findings, in the form of a 'Focus Group Summary Report' were provided to bidders to assist in their understanding of residents' views and feedback.
- 4.4 Two resident representatives participated as members of the evaluation panel specifically focussing on the customer experience in its broadest sense including attending all bidders' briefings.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 The tender used an affordability cap reflecting current costs plus inflation. The successful bidder was within the affordability cap demonstrating value for money against the market.
- 5.2 **The effect of the decision**

Bidder A is being recommended for approval, they were selected by a competitive tendering exercise, submitted the lowest priced bid and are considered to offer the most economically advantageous tender for the Council.

Criteria	Weightings	Bidder A	Bidder B	Bidder C	Bidder D
Qualitative	50%	33.00%	31.40%	30.60%	25.00%
Commercial Pricing	50%	50.00%	40.40%	38.23%	40.75%
Total	100%	83.00%	71.80%	68.83%	65.75%
Combined Qualitative and Commercial Ranking		1	2	3	4

5.3 Risks

The services and works referred to represent essential landlord responsibilities therefore the Council is best served by having this type of contractual provision available. If an electrical works contract is not awarded, then these services will not be able to be provided and there is a risk to both personal safety and the condition of the housing stock.

5.4 The following risks have been identified and are being actively managed:

Risk	Mitigation	Controls
Risk of ineffective continuity of service/works provision.	Inability for Council to perform its landlord obligations particularly as Council has duty of care to their residents and to protect and maintain its residential housing stock.	Implementation of contract to be awarded to maintain continuity of service/works.
Financial standing of the Contractor is inadequate to meet the needs of the programme of works.	The Contractor has inadequate financial standing and is unable to 'finance' the supply chain resulting in poor provision of materials and replacement parts-risk of the Contractors failing and entering 'administration' or similar.	Financial standing of the Council's partners have been checked and deemed acceptable.
Risk of procurement challenge relating to the proposed award of contract.	Legal challenge raised by potential contractor/supplier which may subject the Council to some sanctions e.g. Termination/Invalidity of Contract/Financial penalty.	A robust and transparent process has been adopted in compliant with Public Contract Regulations.

5.4 Options

The Council is required to undertake maintenance to its stock in order to fulfil its landlord responsibilities. A procurement exercise was required, in order to establish a contractual provision. If this recommendation is not agreed, existing transitional arrangements for planned electrical works would need to be either further extended or reviewed, while a second procurement exercise was undertaken.

5.5 Future savings/efficiencies

The contract will lead to price savings, however any budget savings will be dependent on the maintenance needs of the stock. The implementation of robust contract management arrangements will enable the estimated savings to be captured and monitored throughout the proposed contract term.

(Approved by: Lisa Taylor, Assistant Director of Finance and Deputy S151 Officer)

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council advises that detailed legal advice has been provided throughout the procurement by the Council's external legal advisors and that the procurement process as detailed in this report is in accordance with the requirements of the Council's Tenders and Contract regulations and meets the Council's duty to secure best value as provided for under the Local Government Act 1999.
- 6.2 The Council, as landlord, is required to consult leaseholders paying variable service charges before it carries out qualifying works or enters into a long-term agreement for the provision of services. Detailed regulations (Service Charges (Consultation Requirements) (England) Regulations 2003) have been produced under section 20 of the Landlord and Tenant Act 1985 (as amended by Section 151 of the Commonhold and Leasehold Reform Act 2002) which set out the precise procedures landlords, including the Council must follow in such circumstances.
- 6.3 Where the Council as landlord receives written observations during the consultation process the Council has a duty to have regard to them.
- 6.4 If the Council were to place a contract with a contractor that neither submitted the lowest estimate nor was nominated by a leaseholder or Recognised Tenants association then the Council is under a duty to state in writing the reasons for awarding the contract or specify the place and hours where the reasons may be inspected (often referred to as section 20 stage 3).

(Approved by: Jacqueline Harris-Baker, Acting Council Solicitor and Acting Monitoring Officer)

7. HUMAN RESOURCES IMPACT

- 7.1 This paper could potentially involve changing service providers which may invoke the effects of the Transfer of Undertakings (Protection of Employment) 2006 Legislation. However, where the activities of the new service are “fundamentally not the same”, TUPE may not apply, as provided for by the 2014 amendments to the Transfer of Undertakings (Protection of Employment) 2006 Legislation. The application of TUPE or otherwise would be determined between the service providers. Nevertheless, this would remain a change of service provision for which the Council is the client; on that basis, the role of the Council would usually extend no further than facilitating the process. There is no other substantial Human Resource impact for LBC staff.

(Approved: Adrian Prescod, Strategic HR Business Partner (on behalf of Heather Daley, Director of Workforce)

8. EQUALITIES IMPACT

- 8.1 The Equality Policy 2016 - 20 sets out the Council's commitment to equality and its ambition to create a stronger, fairer borough where no community is held back. The policy reflects the council's statutory duties under the Equality Act 2010 and is supported by the equality objectives set out in the Opportunity and Fairness Plan 2016-2020.
- 8.2 The equality objectives for 2016-20 are aligned to and will support the delivery of the Council's business outcomes set out in its Corporate Plan particularly in relation to:
- **Growth** - creating growth in the local economy and ensuring that all residents in the borough are able to share the benefits
 - **Independence** - taking on an enabling role to help residents to be as independent as possible
 - **Liveability** - creating a welcoming, inclusive and pleasant place in which local people want to live and work and feel safe.
- 8.3 Equality considerations were taken into account as part of the requirements defined within the Tender documentation (including the Term Partnering Contract) whereby there is a need for the contractor to be compliant with the Equality Act 2010. Engagement has been undertaken with residents via survey, briefings and participation in the process as members of the tender evaluation panel. A full Equality Analysis has been undertaken which will be kept under review and we will ensure that where necessary action is taken to mitigate potential negative equality impacts e.g. access issues for people with restricted mobility.
- 8.4 The procurement included the requirement to pay the London Living Wage as a minimum. We are also supporting increased opportunities for local people by ensuring the service provider delivers Social Value benefits e.g. training, apprenticeships and supply chain opportunities for Croydon residents and

businesses.

(Approved by Norman Vacciania, Senior Strategy Officer, SCC)

9. ENVIRONMENTAL IMPACT

- 9.1 Procurement of the contract will provide the Council with an opportunity to support the Council in a number of areas including the reduction in CO2 emissions and recycling products e.g. Cabling, Copper, PVC Trucking, Conduit.
- 9.2 In accordance with the contract terms and where required, the preferred bidder will produce site waste management plans for any works to plan, reduce and maximise the percentage of waste recycled from every working site. The Council is satisfied that the winning bidder's solution will contribute to reducing Croydon's CO2 emissions; result in a move to more sustainable products and support energy efficiency in Croydon's homes.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no adverse Crime and Disorder impacts arising from this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

Following the evaluation of the final tender submissions, the evaluated scores are given in the table with Bidder A recommended as offering the most economically advantageous tender.

Criteria	Weightings	Bidder A	Bidder B	Bidder C	Bidder D
Qualitative	50%	33.00%	31.40%	30.60%	25.00%
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Total	100%	83.00%	71.80%	68.83%	65.75%
Combined Qualitative and Commercial Ranking		1	2	3	4

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 Bidder A, having achieved the overall highest combined score of **83.00%** and having submitted a compliant bid which was also the lowest priced and which met the requirements set out within the invitation to tender document, no other options were considered.
- 12.2 Preferred Bidder A has successfully demonstrated through their bid that they are capable of meeting the Council's quality and price requirements.

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Background Papers: none

Appendices

Appendix A – Overview of the procurement process

APPENDIX A
PMI Competitive Dialogue Procedure
Provision of Electrical Works

ISFT	
Issue Invitation to Submit Final Tenders (ISFT)	4 th July 2016
Deadline for Bidders for submitting ISFT clarification requests	18 th July 2016
Deadline for Council to respond to ISFT clarification requests	20 th July 2016
Receipt of Final Tenders	26 th July 2016 by 12:00hrs
Interviews (if required)	TBC
Complete Evaluation of Final Tenders	19 th August 2016
Council Committee Approval process	September 2016
Preferred Bidder confirmed and Standstill Letters issued	November 2016
Contracts signed (following expiry of the Standstill Period and conclusion of the Council approval process)	November 2016
Mobilisation commences	January 2017
Full service commencement	April 2017

