

REPORT TO:	CABINET 14th November 2016
AGENDA ITEM:	11.3
SUBJECT:	Planned Maintenance and improvements: Windows and Associated 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

These works meet the Council's Corporate priorities to:

- 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

The decision also supports Croydon's vision to be an enterprising; caring; sustainable and learning city.

Through the award of a long-term windows partnering contract the Council will continue to maintain and improve its housing and, as a responsible landlord fulfil its health and safety regulatory responsibilities.

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.

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.

FINANCIAL IMPACT

The outcome of the procurement identifies that services will continue to be delivered within the existing Housing Revenue Account budget. It is recommended that the Council enter into a contract where maximum spend will be in the region of £20m to £25m over 14 years as per the OJEU notice reference 2016/S 097-173709. There is however no guarantee of any value of orders over the course of the contract term.

FORWARD PLAN KEY DECISION REFERENCE NO.: 30.16.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 windows and associated 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 £25m 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 1985 (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 windows and associated 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 £20-25 million as per the Official Journal of the European Union (OJEU). 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 for the provision of the services.
- 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	1175/16-17

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 whereby the Council can also take advantage of the proposed contract to be awarded available for use by schools as well as for the Council's housing stock.

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 windows and associated 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 restricted 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 18th May 2016, with a return date set for

the Pre-Qualification submissions as 20th June 2016. During this period a bidders briefing event was held and clarification requests received from bidders were responded to.

- 3.5 Ten PQQ submissions were received of which three were rejected for reasons of compliance. Seven bidders passed the relevant compliance checks as well as Croydon’s specific technical requirements.
- 3.6 In accordance with the original contract notice, the five bidders with the highest score were shortlisted to proceed to the Invitation to Tender stage.

Appendix A provides an overview of the procurement process undertaken.

- 3.7 An Invitation to tender was prepared and issued through the Council’s e-tender portal on 25th July 2016, with a return date set as 15th August 2016. During this period a bidders briefing event was held and clarifications requests received from bidders were responded to.
- 3.8 The Tender Pack details the evaluation criteria and the assessment process that have been applied including the following:

- **Tender Compliance Requirements:**

A set of ‘affordability caps’ whereby any tender where the total sum exceeds the cap of £2m was to be excluded – the value of the cap was based on historical information and stress tested against the range of prices obtained from recent market analysis.

A quality threshold was applied whereby a Method Statement which scored less than two (out of five) would be rejected.

- **Evaluation Criteria:**

50% Price and 50% Quality

- 3.9 The qualitative submission accounts for 50% of the overall mark and was broken down as follows:

<u>Evaluation criteria</u>	<u>Weighting</u>
Management and Organisation of Resources	8%
Mobilisation	3%
Supply Chain Management	4%
Environmental	4%
Customer	7%
Social Value	6%
Installation	7%
Programme Management	7%
ICT Enabling Operational Delivery	1%
Compliance with ICT Standards and Policies	3%
Total	50%

- 3.10 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.
- 3.11 Of the five bidders invited to submit tenders:
- One bidder opted out from submitting a tender submission
 - Four submissions were received and subject to the pre-determined assessment process
 - Of the four:
 - one was rejected as the total price offer exceeded the £2m affordability cap and
 - One bidder failed to meet the required qualitative score threshold
 - This left two submissions to be assessed in accordance with the evaluation criteria set out in the original Tender Pack, including the scoring allocation arrangements
- 3.12 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, Environmental requirements, Customer, Installation, Works Management and ICT enabling Operational Delivery.
- 3.13 Bidder A was allocated with a score of 2 for one qualitative measure 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 are committed to meeting the Council's requirements and that there is a binding document for reference should any issues arise during the term of the contract.
- 3.14 The price evaluation was based upon a notional schedule of rate encompassing the majority of windows and doors that the Council would envisage using. However, it should be noted that as the programme total varies year to year, the total of the tendered costs is based upon the sum of the schedule of rates items and therefore will not equate to any specific annual programme.
- 3.15 The outcome of the price evaluation was that Bidder A had the lowest tender price and hence 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.
- 3.16 Specific details as to the qualitative and commercial bids obtained are contained in Part B.
- 3.17 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

3.18 **Appendix A** provides an overview of the procurement process undertaken.

4. CONSULTATION

- 4.1 Statutory Stage one Leaseholder Section 20 consultation (Notice of Intention) was originally 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 be sent out week commencing 11th October for a period of 30 days. The Alcatel standstill period (where successful and unsuccessful bidders are informed of the outcome and have the opportunity to request further information) will commence once the Scrutiny call in period has ended and will indicate that the outcome is subject to leaseholder consultation.
- 4.2 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.
- 4.3 Three resident representatives participated throughout the procurement 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 process included the use of an affordability cap to evaluate bids, where the value of the cap is based on historical information and stress tested against a range of prices obtained from recent market analysis.
- 5.2 Bidder A's tender was below the affordability cap, demonstrating value for money against the current market prices.
- 5.3 The affordability caps have been used to ensure that HRA budget allocations are sustainable in relation to market pricing and that this contract is able to deliver value for money to the Council.

The effect of the decision

- 5.4 The bidder recommended for approval was selected by a competitive tendering exercise, submitted the lowest tendered price and is considered the most economically advantageous for the Council.

Risks

5.5 The services and works referred to, represent essential landlord responsibilities, therefore the Council is best served by having contractual provision available. If the window and associated works contract is not awarded, then these services will not be able to be provided and there will be an impact on the condition of housing stock and living conditions.

5.6 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 award 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 has 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.

Options

5.7 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 maintenance windows and associated works would need to be further extended or reviewed, while a second procurement exercise was undertaken.

Future savings/efficiencies

- 5.8 The contract will lead to price savings, however any budget savings will dependent on the maintenance needs of the stock. The implementation of robust contract management arrangements will enable the estimated savings to be monitored and captured 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 project by the Council's external legal advisors and the procurement process as detailed in this report is in accordance with the requirements of the Council's Tenders & Contracts Regulations and meets the Council's duty to secure best value as provided 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 for and on behalf of: Jacqueline Harris-Baker, Acting Council Solicitor and Acting Monitoring Officer)

7. HUMAN RESOURCES IMPACT

- 7.1 This paper makes recommendations involving a service provision change which may invoke the effects of the Transfer of Undertakings (Protection of Employment) 2006 Legislation (TUPE). If this is the case, then all staff that predominantly work in an identified third party provider will transfer to the new provider. The Council provided the bidders information relating to the incumbent Providers' employees within the Tender documentation. The final detailed information should be provided by the outgoing contractors in accordance with the employee liability information provisions under TUPE, no later than 28 days

prior to the actual transfer. No Council staff or LGPS members are in scope for TUPE transfer.

(Approved by: Adrian Prescod Strategic HR Business Partners (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 surveys, 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 Council is working with the service providers to increase the pay of low income households by requiring them to pay London Living Wage as a minimum and this requirement is a contractual condition. 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 recycling of UPVC and glass,

reduction Croydon's CO2 emissions as well as support reductions in fuel poverty amongst Croydon's housing residents.

- 9.2 In accordance with the contract terms and where required, the preferred bidder will produce site waste management plans for any works and 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 components and 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 Bidder A is recommended as offering the most economically advantageous tender.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 Bidder A, having achieved the overall highest combined score of **87.40%** 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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Project Manager
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Background Papers: none

Appendices

Appendix A – Overview of the procurement process

Appendix B - Overview of the detailed elements evaluated

APPENDIX A
PMI Restricted Procedure
Provision of Windows and Associated Works

Indicative Date	Activity
19 th July 2016	Invitation to tender issued to qualifying bidders
5 th August 2016	Deadline for clarification questions to be submitted by the successful shortlisted bidders via LBC's e-tendering portal
10 th August 2016	Last day for the Council to respond to the clarification questions
15 th August 2016	Completed Tender response (ITT) return date by 12:00hrs.
22 nd September 2016	Evaluation of tenders to be completed
27 th September 2016	Report to awarding bodies
14 th November 2016	Successful and unsuccessful bidder(s) notified
14 th November 2016	10-day Standstill Period starts (if applicable)
13 th February 2017	Contract Execution and Implementation

APPENDIX B
PMI Restricted Procedure
Provision of Windows and Associated Works
Overview of Evaluation Criteria

Quality	
Method Statement	Weighting
Q1 Management and Organisation of Resources	8%
Q2 Mobilisation	3%
Q3 Supply Chain Management	4%
Q4 Environmental	4%
Q5 Customer	7%
Q6 Social Value	6%
Q7 Installation	7%
Q8 Programme Management	7%
Q9 ICT Enabling Operational Delivery	1%
Q10 Compliance with ICT Standards and Policies	3%
	50%
1. Price	
2. Total Tender Price	50%
3. Total	
4. Total	100%

