

LONDON BOROUGH OF CROYDON

REPORT:	Cabinet
DATE OF DECISION	6 March 2023
REPORT TITLE:	Re-procurement of Responsive Repairs Contract – Contract Award
CORPORATE DIRECTOR / DIRECTOR:	Susmita Sen – Corporate Director of Housing Stephen Tate – Director Housing – Estates and Improvement
LEAD OFFICER:	Stephen Tate – Director Housing – Estates and Improvement Email: Stephen.tate@croydon.gov.uk
LEAD MEMBER:	Councillor Lynne Hale, Cabinet Member for Homes
DECISION TAKER:	N/A
AUTHORITY TO TAKE DECISION:	N/A
KEY DECISION?	<p align="center">Yes 9022EM.</p> <p>REASON:</p> <p>Key Decision – Decision incurs expenditure, or makes savings, of more than £1,000,000 or such smaller sum which the decision-taker considers is significant having regard to the Council’s budget for the service or function to which the decision relates</p>
CONTAINS EXEMPT INFORMATION?	<p align="center">YES</p> <p align="center">Public with exempt Part B report</p> <p align="center">Exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 and the public interest in withholding disclosure outweighs the public interest in disclosure.</p>
WARDS AFFECTED:	N/A

1 SUMMARY OF REPORT

1.1 This report sets out the procurement process that the Council has undertaken in relation to the Re-procurement Housing Responsive Repair Contract. In accordance with the approved strategy, this is being split into four parts going forwards as follows:

- Contact Centre – to be insourced
- Area 1 Responsive repairs and voids excluding heating
- Area 2 Responsive repairs and voids excluding heating
- Heating related services.

1.2 Following a process compliant with the Public Contract Regulations using the Competitive Procedure with Negotiation (CPN) in relation to Housing Responsive Repairs and Voids, the Mayor is recommended to award the Area 1 contract to Bidder C and the Area 2 contract to Bidder D. These bidders scored highest in relation to the quality: price ratio.

1.3 Following a process compliant with the Public Contract Regulations using the Restricted Procedure in relation to Heating, the Mayor is recommended to the Heating related service contact to Bidder H. This bidder scored highest in relation to the quality:price ratio.

1.4 Information regarding the identity of the bidders, specific evaluation scores and pricing/ costs information is set out in Part B of this report. This information is exempt from publication under paragraph 3 of Schedule 12A of the Local Government Act 1972 as it relates to the financial or business affairs of any particular person (including the authority holding that information). The public interest in withholding disclosure outweighs the public interest in disclosure.

2 RECOMMENDATIONS

For the reasons set out in the report and its appendices, the Executive Mayor in Cabinet is recommended:

2.1 to agree the award of a contract to deliver Area 1/ Lot 1 (c.70% of the housing stock) of the responsive repairs services, optional planned programme and out-of-hours contact centre service to the Bidder C (as identified in the Part B report) for a period with an initial contract term of 6 years and 8 months with a break option at that point and a total maximum contract duration of 10 years and 8 months (plus a 1-year defects liability period) for the maximum contract value stated in the Part B report.

2.2 to agree the award of a contract to deliver Area 2/ Lot 2 (c.30% of the housing stock) of the responsive repairs services and optional planned programme to Bidder D (as identified in the Part B report) for a period with an initial contract term of 6 years and 8 months with a break option at that point and a total maximum contract duration of 10

years and 8 months (plus a 1-year defects liability period) for the maximum contract value stated in the Part B report.

- 2.3** to agree the award of a contract to deliver Heating Services to Bidder H (as identified in the Part B report) for a period with an initial contract term of 6 years and 8 months with a break option at that point and a total maximum contract duration of 10 years and 8 months (plus a 1-year defects liability period) for the maximum contract value stated in the Part B report.
- 2.4** to note, the break options referred to in recommendations 2.1 to 2.3 above shall follow the same governance process as a permitted extension under the Tenders and Contracts Regulations (as amended).
- 2.5** to note, following recommendation 1.2 of the Procurement Strategy report, the outcome of the affordability analysis for the contact centre was to in-source the service from 8am-6pm, with the out-of-hours element being outsourced. The contact centre out-of-hours element was included in the procurement process and the recommended award is included in recommendation 2.1 above to the Lot 1 bidder.
- 2.6** to note, as part of the Tender submission all contractors were asked to submit a price to take the calls out-of-hours for both Lot 1, Lot 2 and Heating emergencies. This will now be used to compare with us providing our own Out of Hours Service in terms of cost and quality.
- 2.7** to note, the successful providers' names will be made public after the decision takes place.

3 REASONS FOR RECOMMENDATIONS

- 3.1** The Executive Mayor in Cabinet endorsed the recommended procurement strategy for delivery of the Housing Responsive Repair Service and Heating in June 2022 (Reference CCB1750/22-23).
- 3.2** In accordance with the Procurement Strategy the Council has carried out a procurement processes compliant with the Public Contract Regulations 2015 (PCR) using the Competitive Procedure with Negotiation (CPN) in relation to Housing Responsive Repairs and Voids.
- 3.3** The Responsive Repairs and Voids have been split out into two areas. Area 1 (Lot 1) would cover approximately 70% of the Council's housing stock and Area 2 (Lot 2) would cover the remaining 30%.
- 3.4** In accordance with the Procurement Strategy the Council has carried out a procurement processes compliant with the PCR using the Restricted Procedure in relation to heating.

- 3.5** These procurement routes have followed the appropriate procurement processes with close working between both the Council's procurement team, their technical advisor and legal advisor to ensure compliance with both PCR and the Council's Tenders and Contract Regulations (TCR).
- 3.6** These procurement processes have been overseen by a robust project management process, with a Programme Board for appropriate governance. They have also benefited from a wide range of consultees, including key input from Housing residents, council Staff and Members.
- 3.7** Following the evaluation of final tenders on the procurements the Council has identified for Responsive Repairs and Maintenance Bidder C as set out in the Part B Report for Area 1 (Lot 1); Bidder D as set out in the Part B Report for Area 2 (Lot 2); and for Heating the Council has identified Bidder H as set out in the Part B Report as the Most Economically Advantageous Tenderers that scored highest for quality: cost ratio.
- 3.8** The Council is satisfied that all 3 tenders offer a strong technical solution, including good social value commitments for the Council. In addition, all 3 tenders are deemed to be affordable and offer value for money.
- 3.9** The alternative options to this recommendation would result in not awarding the contracts and either do nothing, in-source or re-procure. All these options would leave the Council without long term contractors for these key Housing Contracts. It would result in the Council requiring a less optimal temporary solution and a new longer-term solution which would be likely to lead, in the short term at least, to worse service levels and higher costs. Therefore, for these reasons the recommendations in Section 2 for the Council to award contracts to the 3 listed bidders is proposed to ensure best value and service for the Council's Housing Responsive Repairs and Voids and Heating Contracts.

4 BACKGROUND AND DETAILS

- 4.1** Re-procurement of the Responsive repairs contract presents the Council with a number of opportunities. The current contract has a value in excess of two hundred million. This should be seen as a way of not only improving the service to our resident but should also be seen a way to deliver the Mayor's priorities as set out in the cabinet paper of June 2022.
- 4.2** Listening to residents about their views and priorities for a high performing repairs service that provides value for money sits at the heart of our approach to procuring a new provider and monitoring their performance in delivering the service. Throughout the procurement process we have worked with Croydon tenants, leaseholders and freeholders to ensure that their objectives and aspirations are incorporated in the design, procurement and monitoring of our new repairs and voids and Heating Contracts. Residents will continue to be key stakeholders as we move to mobilisation

and service delivery. The residents will be involved as part of supporting the delivery and performance of the contract.

- 4.3** This procurement forms part of the improvement set out by the Housing transformation programme as part of delivering an improved Housing service over the next ten years.
- 4.4** On 22nd June 2022, following Contracts and Commissioning Board (CCB) approval the Executive Mayor in Cabinet endorsed the recommended procurement strategy for delivery of the Housing Responsive Repair Service and Heating (Reference CCB1750/22-23).
- 4.5** The Procurement Strategy Report approved a strategy to replace the existing Housing Responsive Repairs Contract that ends August 2023 and is managed by Axis Europe. This service covers 16,914 HRA dwellings (tenanted and leasehold) that are in scope of this repairs service. In addition, there are also 600 properties outside of the HRA that are currently repaired through this contract (this includes Croydon Affordable Homes/ Croydon Affordable Tenures and Croylease properties).
- 4.6** The Procurement Strategy Report approved procuring up to three contractors to deliver the responsive repairs services and optional planned programme with an initial contract term of 6 years and 8 months (the 8 month period is so the contract falls back in line with the Council's financial year) with a break option at that point and a total maximum contract duration of 10 years and 8 months (plus a 1-year defects liability period) at an anticipated total contract value of £262.9m. These break options shall follow the same governance process as a permitted extension would under the Tenders and Contracts Regulations (as amended), which means they will be included in the annual procurement plan and will require a report to the relevant decision maker before deciding whether to exercise this break option or not.
- 4.7** To mitigate the risk of appointing a single provider and to attract local and SME contractors, the strategy report recommended splitting the contract up into four parts as follows:
- Contact Centre – to be insourced
 - Area 1 Responsive repairs and voids excluding heating
 - Area 2 Responsive repairs and voids excluding heating
 - Heating related services.
- 4.8** The responsive repairs and voids services (Areas 1 and 2) comprise of the following:
- Responsive repairs and voids property works to Croydon Council housing.
 - Other maintenance and general building works which are not part of a planned programme which may include property remodelling, aids and adaptations, kitchens and bathrooms and similar works in relation to individual or small groups of properties on a responsive basis.
 - Planned Works which may be instructed at the Council's sole discretion based upon performance in delivery of responsive repairs and voids works

- The decision to insource the call centre was subject to the outcome of an affordability analysis. Further details on this are set out at paragraph in the Part B report.
- 4.9** The Heating related services comprise of the following:
- Servicing and responsive repairs to domestic boilers under a 3* arrangement
 - Ad-Hoc and planned replacement of domestic boilers
 - Servicing and responsive repairs to commercial boiler systems
 - Servicing and responsive repairs to non- traditional heating systems
- 4.10** The Procurement Strategy Report did not detail what parts of the borough Area 1 and Area 2 would consist of, as analysis was still to be carried out in optimising the two areas. Following this optimisation, it was agreed under delegated authority in accordance with recommendation 1.5 of the Procurement Strategy report that Area 1 would cover approximately 70% of the Council's housing stock and Area 2 would cover the remaining 30%. Area 2 is a relatively contained area and includes New Addington, Shrublands, Fieldway and Monks Hill; and Area 1 covers the remainder of the borough. A map of the two areas is included as Appendix 1 (Property Map).
- 4.11** The reason that the areas were different sizes was due to both the compact nature of Area 2 and because the number of properties would make it an attractive proposition for SMEs to bid for. This would also result in a larger number of dwellings for Lot 1 that would make it attractive for the national contractors to bid for.
- 4.12** The Contract Terms and Conditions for both contracts is the TPC 2005(Amended 2008) Contract this has been prepared by our external legal advisors. This is the same standard form of contract that the current repairs contract is based on, appropriately amended and updated to reflect current practises. Further details regarding the Contracts are set out in the Legal Implications section of this report.
- 4.13** As some of the work content will be recharged to Leaseholders these contracts require consultation and are Long-Term Qualifying Agreements (LTQA's) for the purposes of Section 20 of the Landlord & Tenant Act 1985 (as amended by the Commonhold & Leasehold Reform Act 2002).
- 4.14** The Notice of Intention was published on 27 May 2022 with any comments required by 1st July 2022. Five Leaseholders raised comments, which were minor in nature and responded to at the time.
- 4.15** The Notice of Proposal will be published after the Cabinet meeting on the 7th of March. Leaseholders will be given 30 days from receipt of the Notice to provide any comments/observations.
- 4.16** This project was managed using a project Management Approach with regular Programme Boards with support from the Project Management Office (PMO) to manage the overriding procurement and associated workstreams. The Programme Board met monthly and is chaired by the Corporate Director of Housing. There are

representatives from departments across the Council and the Council technical advisors.

4.17 The Board oversaw and ensured the delivery of the project as follows:

- Ensure that appropriate governance is in place for the management of the project,
- Provide direction for matters escalated to the board
- Review and ensure appropriate mitigation for significant risks
- Review and monitor delivery of the project plan

5 Contract Management and Performance Monitoring

5.1 The Contract management of the current contract has been enhanced with the reintroduction of regular contract management reviews with weekly performance reviews established, monthly contract reviews and quarterly core meetings. At these meetings, KPIs and resident satisfaction are reviewed, and remedial actions agreed. As the existing contract winds down, there is a concern that performance will deteriorate. To mitigate this, alternative contractors are being secured through established frameworks to provide backup and to ensure service delivery.

5.2 A dedicated project team will be established to manage the transition from the outgoing contractor to the new incoming contractors. This will be reviewed back through the programme board. This will include both plans for demobilisation of the current contractor and mobilisation of the new contractors.

5.3 The current contract management team consists of surveyors and technical inspectors who will be actively monitoring the contractor for quality and delivery. In addition to regularly measuring empirical performance statistics, regular resident satisfaction data will be collected via independent surveys and reviewed at the regular contract monitoring meeting.

5.4 A re-evaluation of the team is being planned for later in 2023. This aims to revamp the contract management functionality in Housing.

5.5 The team will be strengthened further with accredited contract management training. In addition, there will be training to ensure the Council's Corporate Contract Management approach and document suite is utilised.

5.6 The new contracts will be operated to ensure robust management processes. This will include ensuring good communication with each new contractor. Processes will be aligned with the TPC form of contract including provisions for Early Warning Notices, Value Engineering processes; escalation hierarchy and regular Core Group meetings. Residents will be an essential part of monitoring the performance of the new contracts. There is a set of Key Performance Indicators that have been included in the tender pack. These will be monitored at regular frequencies dependent on each KPI. For the

Responsive Repairs and Voids these were discussed and refined as part of the negotiation stage to ensure bidders understood and would buy-in to the KPIs.

- 5.7 In relation to void turnaround there is a performance deduction in the event of the contractor not meeting the required turnaround times.

6 Procurement of Housing Responsive Repairs

- 6.1 The Council procurement route for the Housing Responsive Repair service is a Competitive Procedure with Negotiation (CPN) in compliance with the Public Contract Regulations. The Council published its Contract Notice ref (DN19329 / 2022/S 000-018212) on Find a Tender Service on 4 July 2022. The opportunity was split into two lots that coincided with Area 1 and 2. Interested Contractors were able to apply for either Lot or for both Lots, although the Contract Notice set out that a maximum of one Lot could be awarded to any one contractor.

- 6.2 The timeline for the Housing Responsive Repairs element is as follows:

Activity	Date
Procurement Board -Strategy	26 May 2022
Executive Mayor in Cabinet Decision	22 June 2022
PCR Contract Notice and Selection Questionnaire (SQ) published	4 July 2022
SQ return deadline	4 August 2022
Invitation to Submit Initial Tender (ISIT) issue	30 August 2022
ISIT return deadline	4 October 2022
Competitive Negotiation	4 November - 6 December 2022
Invitation to Submit Final Tender (ISFT) issue	12 December 2022
ISFT Return Deadline	16 January 2023
Procurement Board -Award	23 February 2023
Cabinet meeting	6 March 2023
Standstill period concludes	18 March 2023
Contract award	25 April 2023
Mobilisation/TUPE	1 May 2023 – 31 July 2023

Contract commencement	1 August 2023
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6.3 SQ responses were received from 13 Contractors, with 6 SQ responses received for Lot 1 and 10 SQ responses received for Lot 2. A full list of bidders can be found in the Part B report.

6.4 11 of the bidders passed the completeness checks, 2 failed to qualify due to their financial turnover combined with their 'health score' under the Company Watch rating to qualify.

6.5 The SQ submissions were evaluated by individual evaluation panels using the scoring criteria as set out in the SQ and summarised in the table below:

Question	Title
1	Resident engagement
2	Operational Delivery (1)
3	Operational Delivery (2)
4	IT
5	Social Value

6.6 The scores were all moderated. The contract notice and SQ documentation set out that in the event that there were more than 5 qualifying bidders for Lot 1 and 8 qualifying bidders for Lot 2 a minimum of 5 contractors for Lot 1, and 8 for Lot 2 would be shortlisted.

6.7 In respect of Lot 1 one bidder did not pre-qualify as they were ranked 6th and only 5 contractors were shortlisted. In respect of Lot 2, 2 Contractors failed the financial evaluation and were not therefore scored, and 1 Contractor failed to achieve the minimum score in 2 Method Statements. Therefore, the 7 qualifying bidders were shortlisted to Lot 2.

6.8 The list of qualifying and non qualifying bidders can be found in the Part B report.

6.9 It should be noted that the Council initially only shortlisted 6 bidders to Lot 2, as the 7th bidder was deemed to have failed the financial assessment. This outcome was contested by the bidder and following reconsideration and legal advice this bidder was also shortlisted to Lot 2. The legal advice set out a suggested process to mitigate the late entry of this bidder, including establishing a separate portal and managing clarifications across both portals at the same time, and the Council proceeded in line with this advice. This had minor implications for the timeline as this bidder had a later timescale to submit their Invitation to Submit Initial Tender (ISIT) to ensure that all bidders were treated equally. In any event, this bidder did not submit an ISIT submission and therefore the timing issue fell away.

- 6.10** The Bidders shortlisted from the SQ stage were issued with the ISIT documents electronically via the Council's procurement portal on 30 August 2022 in accordance with the programme.
- 6.11** The evaluation of the Tenders was undertaken on a 60/40 quality/cost ratio. The evaluation criteria for quality are set out below:

Proposal Area	Section Weighting
Project Delivery	22
Resident Care	14
ICT	5
Social Value	10
Performance Management	5
Health and Safety	4
TUPE	Not scored
Total	60

- 6.12** The Council documentation set out that it would shortlist the 3 highest scoring organisations to be invited to participate in the negotiation stage for both Lots 1 and 2 but included the option to expand this to 5 for Lot 2.
- 6.13** Several bidders declined to tender or withdrew from the tender process during the tender period. A number of clarifications were received during the tender period and responses were issued to all bidders in line with the process set out in the procurement documents. Initial Tenders were received from 3 bidders on Lot 1 and 4 bidders on Lot 2 on 6th October 2022 in accordance with the programme.
- 6.14** Compliance and completeness checks were carried out by the Council's procurement team and all the remaining organisations passed these checks.
- 6.15** Evaluation of the quality submissions was carried out and moderated in accordance with the Council evaluation criteria as set out in the ISIT documentation. Bidders generally scored well for both lots and in particular Lot 1. Although the scores were generally good, there are still areas where it was expected that submissions could be improved through negotiation.
- 6.16** Evaluation of the price submissions was carried out in accordance with the ISIT documentation. Prices were converted into scores and added to the quality scores.
- 6.17** The anonymised price/quality summary scores for each lot are set out below. Names of bidders can be found in the Part B report.

6.18 Lot 1

Bidder	Total Score	Rank	Shortlisted Yes/No
Bidder A	89.93	1	Yes
Bidder B	83.11	2	Yes
Bidder C	81.27	3	Yes

6.19 Lot 2

Bidder	Total Score	Rank	Shortlisted Yes/No
Bidder D	89.95	1	Yes
Bidder E	82.60	2	Yes
Bidder F	82.05	3	Yes
Bidder G	68.42	4	No

6.20 In relation to Lot 1 all three bidders were invited to negotiation in accordance with the Contract Notice and ISIT document. In relation to Lot 2 the Contract Notice set out that the top three tenders at ISIT stage will be taken through to the negotiation stage although gave the Council the discretion to increase this to five. As Bidder G's score was substantially below that of the other three bidders, they were not invited to negotiation. One bidder was shortlisted to both lots and therefore there were 5 bidders shortlisted to the negotiation stage.

6.21 As permitted by the CPN procedure the Council included the option in the Contract Notice to accept Initial Tenders rather than to proceed to negotiation. The option of accepting Initial Tenders was primarily included to mitigate against programme slippage. That is to say that if the timescales for the tender process slipped and the Initial Tender(s) met the requirements the Council retained a discretion to accept those Initial Tenders for both Lots. This would mitigate the risk of disruption to the service and provide continuity.

6.22 The project team managed the procurement within the planned timescales and therefore deemed they had sufficient time to enter into negotiation with the shortlisted contractors. Whilst a number of the Initial Tenders were of high quality, the negotiation stage was deemed beneficial to enhance both the commercial and qualitative elements of the Initial Tenders and reduce the potential for misinterpretation and misunderstanding that may arise following award. Therefore, the Council did not exercise its discretion to accept the Initial Tenders and proceeded to the negotiation stage as set out in the ISIT.

6.23 The Council then entered into negotiation with all shortlisted bidders for both Lots in November 2022. Negotiation was held around each of the following key themes – Operational, Commercial, ICT, Social Value and Resident Engagement.

- 6.24 Formal negotiations were primarily held face to face with some sessions held virtually via Microsoft Teams. Residents had a separate dedicated session with each Bidder via Microsoft Teams.
- 6.25 The negotiations were productive and the project team consider that these have resulted in bespoke Final Tenders which should mitigate risk and uncertainty for the successful Contractors and for the Council.
- 6.26 Whilst the performance of the Contractors in negotiation was variable the Officers felt they were all capable of delivering the required service.

7 Main points arising out of the Negotiation

- 7.1 During the negotiation stage a number of points of clarification were raised. These have been highlighted below.
- 7.2 Further and better information on repairs data - The move to an Average Order Value (AOV) pricing model from a Price per Property (PPP) model necessitates provision of substantial amounts of historical data.
- 7.3 Recognition of different pricing for disrepair and backlog work (WIP) - Within the ISIT documentation disrepair work was priced within the general repair work and contractors therefore provided 'blended rates' covering both disrepair and non-disrepair work.
- 7.4 Further and better TUPE information from Axis and clarity on risk position on TUPE including Axis staff with legacy LGPS rights between Council and Contractor was needed ahead of calling for Final Tenders.
- 7.5 Clarity of requirements around co-location of Contractor's staff within the Council premises - Discussions with Contractors during negotiation clarified the optimum solution with regards to co-location. We saw potential benefits both commercially and operationally in sharing premises with the Contractors. Therefore, we have included a total of 14 desks to the Lot 1 and 2 Contractors within Bernard Weatherill House, please see the Property and Asset Management Implications section of the report below.
- 7.6 Refinement of Performance measures for Voids and Repairs to ensure clarity of Council's right to make deductions - In negotiation none of the contractors welcomed deductions for poor performance but understood why such provisions would be made. They also highlighted that clarity on how such deductions would be made was necessary to avoid disputes. In light of the negotiations the Council re-visited the wording in the contract documents to ensure that the basis of such deductions is entirely clear. The Council felt that it was important to have a contract with performance deductions.

- 7.7** Modifications to Social Value Requirements - A number of modifications of the Social Value requirements have resulted from the negotiations. Specifically:
- An emphasis upon the contractual nature of any Social Value Commitments
 - Reference to the Mayor's Business Plan and report to Cabinet dated 22 June 2022 (as updated and/or amended)
 - An emphasis on working with other Providers to maximise benefits from collaborative working
 - Clarification that Social Value requirements will cascade down the Supply Chain and be required from Sub-Contractors and Suppliers
 - Recognition of the current Cost of Living crisis and inclusion of Social Value measures to address this.
- 7.8** Out of Hours Call Centre - During negotiation it became apparent that the major contractors bidding for Lot 1 operate their own out of hours call centre to deliver works for Clients. The cost of this is included in the tender as the taking of calls and allocation of work is required whether the Client operates an out of hours call centre or not.
- 7.9** ICT integration - Implementation of the contractors ICT with the Council's new NEC Software Solutions system is included within the tendered prices. However, there is a risk that NEC will not be operational by the time the contract is awarded; as a fallback position the contractors were asked to provide an optional price for integration of the ICT systems if NEC is not operational.
- 7.10** Pricing evaluation - At initial tender stage the contractors' prices were evaluated on the basis of their year 1 tender. Negotiations highlighted that some of the one-off costs including mobilisation and risk pricing could influence price evaluation more significantly than intended. In view of the above, multipliers were applied to the tendered rates to reflect the Council's liability and the contract period with recurring costs adjusted to reflect 6 years 8 months costs (the initial contract period) and one off costs included as tendered, to ensure all elements are weighted more accurately.
- 7.11** As set out in the procurement documentation there was no deselection following negotiation. After the negotiation the Council amended documentation to reflect the negotiation and then on the 12 December 2022 all bidders shortlisted at ISIT were invited to submit a final tender (ISFT).
- 7.12** On 16 January 2022 the Council received 6 bids from the 5 bidders shortlisted to ISFT. The scores were all moderated and as detailed in the contract notice. The evaluation of the Tenders was undertaken on a 60/40 quality/price ratio. The evaluation criteria for quality were as set out in the ISFT as below:

Proposal Area	Section Weighting
Project Delivery	21
Resident Care	14
ICT	6
Social Value	10

Performance Management	5
Health and Safety	4
TUPE	Not scored
Total	60

- 7.13** Compliance and completeness checks were carried out by the Council's procurement team and all organisations passed these checks.
- 7.14** Evaluation of the quality submissions was carried out and moderated in accordance with the Council evaluation criteria as set out in the ISFT documentation. Bidders generally scored well for both lots and in particular Lot 1.
- 7.15** A number of minor clarifications were raised with tenderers where wording within Method Statement responses could be considered to qualify bids. These were resolved satisfactorily.
- 7.16** In relation to Lot 1 all of the tenderers scored highly with an average exceeding 4 out of 5 which represents responses that meet the Council's requirements in all aspects. There were no scores below 4 across all of the quality submissions.
- 7.17** In relation to Lot 2 two of the tenderers scored highly with an average exceeding 4 out of 5 which represents responses that meet the Council's requirements in all aspects. The remaining bidder was consistently weaker than the other tenderers scoring an average of 3.5 out of 5. While this represents a satisfactory response it is relatively weak and the submission did not improve from ISIT after the Negotiation phase as would have been expected (this was not the winning bid).
- 7.18** Evaluation of the price submissions were carried out in accordance with the ISIT documentation.
- 7.19** In relation to the commercial submissions no qualification letters or attachments were submitted with the tenders. The submitted spreadsheets were checked for arithmetical errors and a tender comparison was carried out of all key areas to identify any inconsistencies, areas of concern or issues. There were some minor clarifications that were raised to bidders to ensure all aspects of the pricing were correct. There were a couple of comments in one of the bidder's response that could have been taken as a qualification to the bid, via clarification it was confirmed that this was not the case. Further information in relation to the commercial submissions can be found in the Part B report.
- 7.20** The anonymised price/quality summary scores for each lot are set out below. Names of bidders can be found in the Part B report.

7.21 Lot 1

Bidder	Total Score	Rank
Bidder C	90.20	1
Bidder B	84.07	2
Bidder A	82.75	3

7.22 Lot 2

Bidder	Total Score	Rank
Bidder D	92.07	1
Bidder F	84.01	2
Bidder E	82.00	3

7.23 The top scoring bidder in Lot 1 is Bidder C and it is therefore recommended that Bidder C is appointed as preferred bidder to Lot 1. The top scoring bidder in Lot 2 is Bidder D and therefore it is recommended that Bidder D is appointed as preferred bidder to Lot 2.

7.24 Further analysis of Lot 1 Bidder C's quality submission can be found in the Part B report. Analysis of Lot 1 Bidder C's price submission can be found in the Part B report.

7.25 Analysis of Lot 2 Bidder D's quality submission can be found in the Part B report. Analysis of Lot 2 Bidder D's price submission can be found in the Part B report.

7.26 The details of both bidders' response to Premier Supplier Programme can be found in the Part B report.

8 Procurement of Heating related Services

8.1 The Council procurement route for Heating related service was a Restricted Procedure in compliance with the Public Contract Regulations. The Council published its Contract Notice ref (DN622522 / [2022/S 000-021633](#)) on Find a Tender Service on 5th August 2022.

8.2 The timetable for the Heating Related Services is as follows:

Activity	Date
Procurement Board – Procurement Strategy	26 May 2022
Executive Mayor in Cabinet	22 June 2022
PCR Contract Notice and SQ published	5 August 2022
SQ return deadline	5 September 2022
Invitation to Tender (ITT) issue	14 October 2022
ITT return deadline	21 November 2022

Procurement Board -Award	23 February 2023
Cabinet meeting	6 March 2023
Standstill period concludes	18 March 2023
Contract award	25 April 2023
Mobilisation/TUPE	1 May 2023 – 31 July 2023
Contract commencement	1 August 2023

- 8.3** At the Selection Questionnaire (SQ) (shortlisting Stage) the Council received SQ submissions from 13 Contractors. On receipt, compliance and completeness checks were carried out by the Council's procurement team. One bidder had not returned a submission, just a copy of their Public Liability Insurance certificate and they were therefore rejected from the evaluation process for submitting a non-compliant SQ submission in line with the SQ instructions.
- 8.4** The remaining 12 bidders passed the completeness checks. However, the initial financial review, through individual company watch reports, highlighted 3 of the bidders' ultimate parent companies as being in the warning area. This would put into doubt whether parent companies can give guarantees further in the process. An initial financial review of the parent companies has highlighted that the 3 parent companies concerned are in the 'Caution' area for their health score.
- 8.5** To mitigate this risk the 3 companies were asked if they were able to provide a Performance Bond in lieu of a Guarantee. All 3 organisations confirmed their willingness to provide a Performance Bond if required. In view of these responses the 3 companies passed the financial assessment.
- 8.6** The SQ quality submissions were evaluated by individual evaluation panels using the scoring criteria as set out in the SQ and summarised in the table below:

Question	Title
1	Resident engagement
2	Operational Delivery (1)
3	Operational Delivery (2)
4	IT
5	Social Value

- 8.7** The scores were all moderated and as detailed in the contract notice and SQ documentation the 6 highest scoring contractors were shortlisted to the invitation to tender stage (ITT). Contractor names can be found in the Part B report.
- 8.8** The final ITT was issued to the shortlisted bidders on the 14th October 2022 and returned on the 28th November 2022. One bidder withdrew from the process and the remaining 5 submitted tenders. Bidders were granted a one-week extension to the tender period reflecting the volume of clarifications and additional information provided

but this had no overall impact upon the project timetable as the evaluation period was reduced.

- 8.9** Compliance and completeness checks were carried out by the Council's procurement team and all the tendering organisations passed these checks. No qualification letters or attachments were submitted with the tenders.
- 8.10** Between 28th November 2022 and 5th January 2023 evaluators completed a full evaluation of the Method Statement questions on a 50/50 quality/ price ratio. The evaluation criteria for quality were as set out in the ITT as below:

Proposal Area	Section Weighting
Project Delivery	16
Resident Care	11
ICT	5
Social Value	10
Performance Management	4
Health and Safety	4
TUPE	Not scored
Total	50

- 8.11** The Moderator of the scores for each panel was Matthew Devan, Strategic Procurement Manager with the exception of the panels for Resident Care and Social Value which were moderated by Nigel Kletz, Procurement Improvement Advisor.
- 8.12** As set out in the ITT guidance, any organisation that scores less than a 2 on any qualitative response will be rejected. In this case all submissions scored 2 or better on all qualitative proposals.
- 8.13** Qualitative scores are generally high, averaging in excess of 3 (satisfactory) for all Bidders with the highest scoring close to an average of 4 (good). An average score between 3 and 4 represents very good quality submissions as to receive an average above 4 a bidder would have to consistently demonstrate that their tender submission provided innovation and/or added value
- 8.14** The range of scores is very small with only 2.40 marks (4.8%) separating the 1st to 4th ranked scores. Across all of the scores only 1 bidder scored a 2 (Unsatisfactory) on a single Method Statement. Across the 4 highest scoring bidders scoring was very close and the difference on individual Method Statements rarely exceeded a single mark.
- 8.15** All Method Statements submitted would form a suitable basis for entering into a contract. There were a couple of very minor clarifications that the Council went back to some of the bidders to seek clarity on.
- 8.16** The submitted pricing schedule spreadsheets were checked for arithmetical errors and a tender comparison was carried out of all key areas to identify any inconsistencies, areas of concern or issues where further clarification would be necessary.
- 8.17** The tenders submitted by Bidders H,I and J were very similar with only a very small difference between them.

- 8.18** The anonymised price/quality summary scores are set out below. Names of bidders can be found in the Part B report.

Bidder	Total Score	Rank
Bidder H	86.43	1
Bidder I	84.91	2
Bidder J	84.58	3
Bidder K	83.03	4
Bidder L	72.07	5

- 8.19** As the highest scoring bidder based on quality: price and therefore the Most Economically Advantageous Tender (MEAT) it is recommended to award the contract to Bidder H.
- 8.20** Bidder H scored highest in quality and ranked 3rd out of 5 on tender price. However, it should be noted the price was only marginally higher than the bidder ranked second on price. The bidder ranked first on price was substantially cheaper however, the quality element of the submission did not score as well and therefore they were not the most economically advantageous Tenderer.
- 8.21** Bidder H provided a comprehensive offering in respect of quality and social value, further details on this can be found in the Part B report.
- 8.22** The details of the bidder's response to Premier Supplier Programme can be found in the Part B report.

9 Contact Centre In Sourcing

- 9.1** The council's outsource partner, AXIS, currently provide the end-to-end service for Housing Responsive Repairs, from the initial contact to the completion of works within the council's remit.
- 9.2** Not having the contact centre in house has meant that there has been a disconnect between residents and the Council. This has had an adverse impact, both in terms of the residents' experience when contacting the contact centre and in terms of their experience when repairs are not completed within appropriate timescales or with the quality of work completed. Residents' perception of the service is poor and rates low in terms of satisfaction.
- 9.3** The decision has been made to insource the contact centre function. This will allow greater control over service delivery, in terms of and specifically in the context of improving the residents' experience. The contact centre function is considered a key channel to delivering better customer service, re-setting confidence in the repairs service and enabling closer monitoring of contractor performance.
- 9.4** An affordability assessment was conducted as part of the options appraisal, when making the decision to in-source. In-sourcing is the more expensive option; however, it was also the option which allowed the council great control over service delivery and

making improvements. Residents' have lost confidence in the service and their experience has been poor. In-sourcing allows the council to address these issues and re-instil trust. To balance the additional expense it is recommended that the 'out-of-hours' element will still be out-sourced to the Lot 1 bidder; and improved efficiencies, as a result of the NEC Housing application and an improved digital experience, will create other opportunities to make savings and offset the additional costs of in-sourcing. Some of the benefits of insourcing are noted below. Financial costs of the in-sourcing are included in the Part B report.

9.5 The expected principles are as follows:

- Improved service delivery, as ownership and accountability are within the council's control
- Improved efficiency through process automation, following the delivery of the new online NEC Housing portal
- Improved customer experience, with better trained customer service advisors
- Enhanced contact options for residents, with a redesigned digital journey and improved traditional channels
- Improved demand management through better resourcing and resident education.

10 Out of Hours Service

10.1 The contact centre will become an in-sourced service during the standard operational hours: 08:00 – 18:00, Monday to Friday. However, the costs of running a 24/7/365 contact centre operation would place a significant financial burden on the council, in addition to the increased costs of in-sourcing the standard operational hours.

10.2 To mitigate this the Lot 1 bidders have included in their prices an option to provide the Out of Hours service, on a cost per call basis. The arrangements that are made during normal working hours are not applicable as virtually all out of hours calls are emergencies. In discussion the Lot 1 Contractors stated they would be willing to provide an out of hours call centre for both Lot 2 and the heating contract, and the costs appear competitive in particular as the call centre costs for Lot 1 are included whoever answers residents calls.

10.3 During negotiation it became apparent that the major contractors bidding for Lot 1 operate their own out of hours call centre to deliver works for Clients. The cost of this is included in the tender as the taking of calls and allocation of work is required whether the Client operates an out of hours call centre or not.

10.4 Whilst out of hours (evening/nights, weekends and Bank Holidays) will remain outsourced, as an emergency only provision; it is recommended that the successful Lot 1 supplier will provide this service. Financial costs of insourcing are included in the Part B report.

11 Transfer (TUPE)

11.1 The contact centre employees will become council employees via TUPE; and any vacant posts will be backfilled using temporary resource. Due to the sweeping changes that will affect employees in the contact centre, such as new systems and new ways of working, there will be a restructure around quarter 3 of 2023.

12 Timelines

12.1 The contact centre TUPE process is underway, pending relevant stakeholder approvals. The expected TUPE date is 1 May.

13 ALTERNATIVE OPTIONS CONSIDERED

13.1 At this stage the primary alternative option is based on not awarding either all or some of the three contracts set out above. As we have been through compliant procurement processes and the most economically advantageous tenders have been identified there is no legally compliant option to award to any of the other shortlisted tenderers via the current procurement.

13.2 In the event of non-award of any of these contracts then the Council would need to revisit options available to ensure the service continued once the incumbent contract ends. None of these are deemed more advantageous than awarding the contracts and in addition would not be viable in the available leading to a requirement to find an interim solution. The main potential alternative options are included in the table below:

Option Summary	Pros	Cons
Do Nothing (Not Recommended)	<ul style="list-style-type: none"> • Saves costs of running the service. • Reduced Council management input. 	<ul style="list-style-type: none"> • Unable to fulfil statutory duty to provide Council Housing. • Health and safety issues with damage to property and people. • Legal costs resulting from the damage caused to property and people.
In-Sourcing of the entire responsive repairs and heating servicing contract (Not Recommended)	<ul style="list-style-type: none"> • Council retains direct ownership and control 	<ul style="list-style-type: none"> • This option was already ruled out at Procurement Strategy stage and the issues in this option would still remain. • Time to in-source would leave a gap in service provision that would require a temporary solution adding to costs and service disruption.
Re procure via a compliant procedure or framework (Not Recommended)	<ul style="list-style-type: none"> • Compliant route to market 	<ul style="list-style-type: none"> • Unlikely to deliver better outcome than current procurement. • Time to re-procure would leave a gap in service provision that would require a temporary solution adding to costs and service disruption • The market would be less likely to bid for a second procurement if the first procurement was stopped without good reason.

14 CONSULTATION

14.1 There has been consultation as part of the commissioning strategy process with the following:

- Residents
- Contractors
- Members
- Staff within the Housing Team

15 Resident Consultation

- 15.1** Croydon is committed to working with our tenants and leaseholders to ensure they have opportunities to be involved in and influence policies, decisions, monitoring performance and developing service standards in the housing service. Listening to residents about their views and priorities for a high performing repairs service that provides value for money sits at the heart of our approach to procuring a new provider and monitoring their performance in delivering the service.
- 15.2** Prior to issuing the tender documentation engagement took place to establish residents' views about their experience of the council's repairs services, currently provided by Axis, and what's important to them in reprocurring a new provider. This included:
- scoping meetings with the Chair and Vice Chair of the tenants and leaseholder panel
 - meetings with residents that are members of the council's housing Performance Monitoring Group.
 - A short survey sent out to residents to get their feedback on service standards and find out what their priorities were for a new repairs contract.
- 15.3** Both the main and core working groups are relatively diverse in terms of age, gender, disability, race/ethnicity. A much wider group was recruited at the beginning of the project to help shape the service standards for both contracts. We are proactively seeking membership from a wider group of residents (including residents with protected characteristics) to share their experience of the service. In partnership with residents, we will monitor whether customers are equally able to access the service and are treated fairly and with respect.
- 15.4** Prior to tender issue, residents received a short survey about whether they agreed with the service standards and what they felt would be important in the new contract. The survey was administered via our website, press release, resident involvement social media pages, Open House newsletter (paper and online), targeted emails to leaseholders, sheltered and high rise blocks, STAR survey respondents, via phone call and face to face at an open day where the survey was promoted.
- 15.5** 125 residents responded – 62% tenants and 28% leaseholders. Additional suggestions relating to service standards included:
- Quicker repairs and one-time fixes
 - Better communication regarding cancelled appointments, call handling, leaseholders costs, etc
 - Enhanced service for vulnerable residents including passwords, ID badges, etc
 - Flexible appointments
 - More post inspections

- 15.6** Feedback from these meetings and the surveys were collated and has directly shaped the recommendations presented in this report.
- 15.7** Residents also attended online meetings to review and update the minimum lettable standards. Residents have been involved throughout the procurement process. Two resident panels one for responsive repairs and voids and one for heating were set up. Training was provided for residents in advance of the procurement and they were key part of scoring at all stages.
- 15.8** These panels evaluated the residents' questions as part of the Selection Questionnaire and Tender stages (both ISIT and ISFT for Housing responsive repairs and voids). In addition, for Housing responsive repairs and voids the panel participated in the competitive negotiation process and dialogued with each of the bidders on the resident engagement part of the tenders.
- 15.9** Residents are being kept informed by articles in Open House and targeted emails. A letter will also be sent out with rent statements. There will be a stakeholder mapping exercise to update all tenants and leaseholders once the new contract has been awarded, including standalone communications and updating the council web pages.
- 15.10** Residents will continue to be involved as the new provider starts delivery of the new service, as part of the ongoing scrutiny and contract management of the service.

16 Member Consultation

- 16.1** Prior to the procurement commencing there was consultation with Members from the two main political parties including Member-Officer workshops to shape the strategic decisions of the re-procurement strategy.
- 16.2** Since the procurement went live there have been regular consultation with Members including Mayor, Cabinet Member portfolio holders and Scrutiny. This included Bi – weekly meetings with the Cabinet Member for Housing. In addition, there have been updates to Scrutiny Committee. On 22nd June 2022 the Scrutiny and Overview Committee made 13 recommendations, a copy of these recommendations and the responses are included in Appendix 3. A report was taken to the Homes Scrutiny Sub-Committee meeting on 6th February 2023 with a member briefing provided ahead of the meeting on 3rd February. At these meetings there was an opportunity to provide an update on the procurement exercise, including resident engagement. There is a further Homes Scrutiny Sub Committee on 27th February which is an opportunity to scrutinise the decision being taken ahead of the Cabinet decision on 6th March.

17 Contractor Soft Market Testing

- 17.1** The Council issued a Prior Information Notice (PIN) via London Tender Portal on 17th March 2022 and received back responses from 4 main contractors, and 4 heating contractors. Following this, discussions were held with these contractors and 4 SME contractors to ensure the Council received a wide range of market views.
- 17.2** The results of the soft market testing helped form the key decisions in the decisions that shaped the procurement strategy; and individual points were incorporated into the procurement strategy report and tender documentation.

18 Staff within the Housing Team

- 18.1** Prior to the tender being used The Housing Management team met with the Estates and Improvement Team to go through the strengths and weakness of the current contract, to allow the team to input into the contract and specification documentation.
- 18.2** The Estates and Improvement Team were updated throughout the procurement, including specification production, evaluation of tenders and negotiation meetings. As part of this we have successfully recruited volunteers from within the team to be involved in the re-procurement process.
- 18.3** Staff from these Teams have been identified as workstream leads for the mobilisation of these Contracts. Their knowledge and experience will be pivotal to the successful implementation of these new contracts.

19 CONTRIBUTION TO COUNCIL PRIORITIES

- 19.1** A key Council priority is the safety and welfare of all its residents in a way that delivers value for money. The re-procurement of these key strategic contracts is key to ensure that the Council fulfils its duty of care towards residents and enable it to maintain its responsibilities and fulfil its obligations as a landlord. The competitive nature of a procurement process and the commercial positions taken by the Council help ensure the contracts will deliver value for money.
- 19.2** This is in accordance with the following Mayor priority that is detailed in the Corporate Plan - The council balances its books, listens to residents and delivers good, sustainable services.

20 IMPLICATIONS

20.1 FINANCIAL IMPLICATIONS

20.1.1 Revenue and Capital consequences of report recommendation.

20.1.2 The CCB Commissioning process specified detailed requirements for assessing bidders' financial health, which included minimum annual turnover, assessment of Company Watch health score, as well as calculation of recommended maximum transaction size when taking account of the health score.

20.1.3 The Finance team carried out the above mentioned due diligence on all bidders and did this again for the winning bidders, for which all bidders financial health were still acceptable.

20.1.4 The tendered contract prices fall within the assumptions included in the HRA business plan, as well as the allocated budgets for 2023/24 - see table below for further details.

	Current Year	Medium Term Financial Strategy – 3 year forecast		
	2022/23 £'000	2023/24 (8 months equivalent) £'000	2024/25 £'000	2025/26
Revenue Budget Available				
Expenditure	-	10,466,000	15,953,000	16,264,000
Income	-			
Effect of decision from report				
Expenditure	-	9,772,000	13,679,000	13,728,000
Income	-	-		
Remaining Budget	-	694,000	2,274,000	2,536,000
Capital Budget available				
Expenditure	-	867,000	1,300,000	1,300,000
Income	-	-	-	-
Effect of decision from report				
Expenditure	-	1,082,000	1,650,000	1,656,000
Income	-	-	-	-
Budget Shortfall – cost is volumes dependent and overall budget will be considered when planning the programme	-	(215,000)	(350,000)	(356,000)

20.2 Comments approved by Orlagh Guarnori Head of Finance 21/2/2023.

21 LEGAL IMPLICATIONS

The Council has been advised throughout the procurement process by external legal advisors, who comment as follows:

21.1 Legal Powers

21.1.1 The Council has the power to enter into contracts with third parties pursuant to its functions as provided for under section 1 of the Local Government (Contracts) Act 1997. This would include entering into the Contracts. Relevant functions which the Council would be exercising include the Council's power under section 9 of the Housing Act 1985 to provide, repair and improve housing accommodation

21.2 Procurement Process

21.2.1 The Council ran two separate procurements in accordance with the requirements of the Public Contracts Regulations 2015 and has identified three recommended bidders to enter into the Contracts with in accordance with the process that has been set out in section 4 of this report. These procurement processes were also conducted in accordance with the Council's Tenders and Contracts Regulations 2022.

21.2.2 The processes were as follows:

- a. Competitive Procedure with Negotiation for two Lots for responsive repairs and voids works; and
- b. Restricted Procedure for the heating related services.

21.3 Subsidy control

21.3.1 The Council has conducted a competitive procurement process to identify the bidders to enter into the Contracts with. As set out in the Subsidy Control Act 2022 statutory guidance, the use of a competitive public procurement process leads to a legal assumption that no subsidy will have been granted as the Commercial Market Operator Principle will have been complied with.

21.4 Contracts – summary of tender form of TPC2005 (amended 2008) Term Partnering Agreement (as amended) (the "TPC Contract") for responsive repairs and voids works (Lot 1 and Lot 2), and heating servicing work.

21.4.1 The Council has elected to use the TPC Contract for both Lots of the responsive repairs and voids works, and for the heating servicing works. The TPC Contract is a term contract with an order process appropriate for use on planned works, cyclical works and responsive order of works and services. Croydon will be the

Client and enter into the TPC Contract with a Service Provider. Croydon's Head of Repairs and Maintenance will act as the Client Representative.

21.4.2 It is ideal for asset management as it allows the client to scope the works during the Term and issue individual Orders setting out the scope of work, time frame for delivery and value.

21.4.3 The Term Programme of works and/ or services are implemented by the issue of Orders for one or more Tasks. The scope of any Order and Task can comprise day to day activities or a fuller range of works. Each Order describes the Task or Tasks, its agreed Date/ Time for Completion and its agreed Task Price. Only the issue of an Order gives rise to a payment obligation as the entering into the TPC Contract just provides a framework for the calling-off of Orders during the period of the Term.

21.4.4 The TPC Contract also adopts a collaborative approach which is not covered in other standard forms of term contract in order to promote collaboration between the parties. The key areas in which it seeks to achieve this are as follows:

- a) An integrated multi-party team which reviews the Term Programme and any issues in the delivery of the work at Core Group meetings;
- b) A full communication strategy;
- c) A partnering timetable for key activities;
- d) Measurement of improvement and related KPIs/ Incentives;
- e) Pro-active Change and Risk Management, including use of a Risk Register which allocates various risks which the relevant parties have to manage; and
- f) Problem-solving and alternative dispute resolution.

21.4.5 The terms of the TPC Contract are accompanied by the following supporting technical documents:

- a) Term Brief: Croydon's specification and requirements for the works to be performed under an Order;
- b) Term Proposals: the Service Provider's response to the Term Brief included in their tender; and
- c) Price Framework: the Service Provider's pricing submission accepted by Croydon at tender stage.

22 Pensions

22.1 In consideration of its obligations in respect of the responsive repairs and voids procurement (Lot 1 and Lot 2), under the Best Value Authorities Pensions Direction 2007, the Council obliged bidders to provide pension protection for original ex-Council transferring staff in the form of either admission to the Local Government Pension Scheme (LGPS) or provision of a scheme broadly comparable to the LGPS.

22.2 The Council considered, given the relatively small number of staff with this pension protection, to provide a limited risk-sharing arrangement with the successful Bidder. In summary, where the Bidder becomes admitted to the LGPS, it would be required to meet any variation in the employer contribution rate payable and provide an exit payment to the LGPS meet any funding shortfall when it ceases participation in the LGPS. To protect Council tax payers from the insolvency of the Bidder, it is required to enter into a pension bond which would meet any LGPS debt arising upon an insolvency event.

22.3 In relation to other transferring staff performing the Services, the successful Bidder is required, as a minimum, to meet at obligations under auto-enrolment pensions legislation.

23 TUPE / Employment considerations

23.1 The proposed contract awards will result in four TUPE transfers from the incumbent contractor. The contact centre staff will transfer to the Council, and the staff assigned to each of the transferring services will transfer to the respective new contractors for Areas 1 and 2 of the housing repairs services, and the heating services.

23.2 The division of the housing repairs services into Areas has caused some risk in relation to the transfer of staff working on those services. At the incumbent contractor, the staff are not structured or allocated to work according to the Areas which will form the basis of the new contracts. Accordingly, there is a risk that the staff are not either:

- a. Organised groupings of staff with the principal purpose of providing the services in relation to the requisite Area; nor
- b. Assigned to the services in the requisite Area, because they currently work across both Areas.

23.3 The result of this could have been that TUPE will not apply to the staff currently working in the housing services. This was not considered to be desirable for any of the relevant parties.

23.4 However, there have also been recent developments in the TUPE case law which make it possible for employees to transfer to multiple employers when they are working across multiple transferring services. If this were possible, the transfer would be from the incumbent to both new contractors. This is also considered undesirable for all of the obvious practical and commercial reasons.

23.5 Consequently, the Council has worked to come up with a commercial solution that makes it as likely as possible that as many of the existing staff as possible will transfer to each of the new Contractors.

23.6 The Council is not the employer of the transferring staff at the present time and has limited ability to influence how the incumbent structures and manages its staff. However, the Council has engaged proactively with the incumbent Contractor in order to identify two lists of staff most likely to be assigned to each Area. In addition, the Council has developed a TUPE protocol which the successful Bidders will be required to comply with.

- 23.7** The TUPE protocol acknowledges that there may be some legal and operational issues arising from the transfer of the two groups of staff and will operate to mitigate the risks and costs arising. The protocol recognises the potential risk of challenge from individual transferring staff and the risk of staff being poached by one or other of the new contractors. The TUPE protocol sets expectations of cooperation between the contractors. Although it would be challenging to legally enforce the TUPE protocol, it is considered to be a sensible commercial solution to mitigate the financial and legal risks to the Council and is highly preferable to the risk of TUPE not applying, or the risk of staff transferring to both Contractors.

Approved by the Head of Commercial & Property Law on behalf of the Director of Legal Services and Monitoring Officer. (Date 21/02/2023).

24 EQUALITIES IMPLICATIONS

- 24.1** This is a high-profile service, and the consideration of equalities is key for both how the Council contracts the service and how contractors perform the service.
- 24.2** The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore, have due regard to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 24.3** All Council contracts must meet the requirements of the Equality Strategy 2020-2024 as detailed in the Equality Strategy Delivery plan. Procurement requirements include the following:
- All Council contractors must contribute towards delivering our equality objectives
 - Contractors are inclusive and supportive of vulnerable groups
 - Ensure that every strategy, delivery plan, council contract and staff appraisal have an equality objective linked to it.
 - That contractors be requested to adopt Croydon's Equality and George Floyd Race Matters Pledge
 - Standardised equalities data is captured by services and used to make decisions
- 24.4** There have been allegations of racial discrimination from tenants about the service provided previously. It is imperative that tenants are treated in a fair and equitable manner and complaints are monitored by protected characteristic to ensure that no tenants are discriminated against in relation to Equality Act 2010.

- 24.5** A survey indicated that residents from the Black and mixed category were less satisfied with the level of service. The department are required to investigate the reasons for this and provide actions to address the issue.
- 24.6** Equality monitoring of the contract should be undertaken and reported to the Housing Improvement Board.
- 24.7** A clear plan to improve the collection of equality data should be undertaken and monitored by the Housing Improvement Board.
- 24.8** In providing a service to residents, it should be noted that it is not unlawful discrimination to treat a disabled person more favourably than a non-disabled person.
- 24.9** It may also be necessary to provide additional support to parents of disabled children to enable them to ensure that the service meets the need of a disabled child.
- 24.10** Services may be delivered in a different manner to some individuals such as those who do not have English as a first language. This does not equate to favourable treatment under the Act.
- 24.11** In the event of a change in contractor the incumbent staff will be protected by TUPE regulations. This will ensure the contractor's staff are not made redundant due to the change of provider and protects their Terms and Conditions.
- 24.12** This contract will require the contractor to pay their staff the London Living Wage which meets the Council's core priority, to tackle ingrained inequality and poverty in the borough, following the evidence to tackle the underlying causes. All contractors have committed to this as part of their tender submissions.
- 24.13** However, there will not be fundamental changes to the service scope therefore the direct impact on equality is limited. An Equalities Assessment has been carried out and signed off prior to the Procurement Strategy being approved.
- 24.14** In the event of a change in contractor the incumbent staff will be protected by TUPE regulations. This will ensure the contractor's staff are not made redundant due to the change of provider and protects their Terms and Conditions. This contract will require the contractor to pay their staff the London Living Wage. The Council will encourage the successful contractor to adhere to and sign up to the George Floyd Race Matters Pledge and Equalities Pledge as the Council's standard in equalities.
- 24.15** All contracts will be monitored for compliance with PSED of Equality Act 2010.
- 24.16** Comments approved by Denise McCausland Equalities Programme Manager (20/02/2023).

25 OTHER IMPLICATIONS

25.1 PROCUREMENT IMPLICATIONS

25.1.1 This report has been supported by both the Council's procurement team and internal and external legal throughout the process. The procurement processes are set out in section 4 of the report. The processes are compliant with both the Public Contract Regulations and the Council's Tenders and Contract Regulations. Detailed consideration has also been given to social value, again as set out in Section 4 of the report.

25.2 HUMAN RESOURCES IMPLICATIONS

25.2.1 The main HR impact of this report is that TUPE will apply. TUPE will apply firstly in relation to the in-sourcing of the contact centre. In this instance the incumbent supplier's staff working in their contact centre would be transferred across to Council.

25.2.2 The second way that TUPE will apply is that staff will transfer from the incumbent supplier to the successful suppliers. This is a direct transfer from contractor to contractors. The Council is not responsible for this transfer but will facilitate the provision of TUPE information as part of the tender process to allow contractors to be able to accurately price the contract.

25.2.3 Since the Procurement Strategy was issued it has become apparent that there are a small number of staff working for the incumbent that are part of the LGPS pension scheme. When these staff transfer this protection will remain. Through negotiation the sharing of the risk between the Council and Contractors in relation to these employees has been agreed. Advice has been sought from the Croydon Pension Team to ensure these risks are minimised and mitigated as far as possible.

25.2.4 The TUPE process will be managed in line with current legislation. If any other HR issues arise these will be managed under Croydon Council's Policies and Procedures.

25.2.5 (Approved by: Jennifer Sankar, Head of HR Housing Directorate and SCRER Directorate, for and on behalf of Dean Shoemith, Chief People Officer). (22 February 2023)

25.3 CRIME AND DISORDER IMPLICATIONS

25.3.1 Ensuring homes are well maintained and fit for purpose, helps support Croydon and prevents any increase in crime and disorder.

25.4 PROPERTY AND ASSET MANAGEMENT IMPLICATIONS

25.4.1 This contract has encouraged Contractors to co-locate with the Council as on these types of contracts it is considered to foster collaborative working with reductions in disputes and improvements in communication.

25.4.2 Therefore, the Council has made available a pre-agreed number of Hot Desks (c.14) within Bernard Weatherill House. The arrangement has been tailored to ensure attendance between the Contractor and Client is aligned to obtain the maximum benefit.

25.4.3 Operatives would not be based in Bernard Weatherill House and therefore Contractors were required to make their own arrangements for operative accommodation and training. This approach would not reduce the Contractor's costs significantly compared to a the non co-location option. Key Contractors staff are likely to require a desk both in BWH and within their own premises or at home. The Council agreed not to charge for the desk space as this would have been re-charged back to the Council and is likely to increase the Contractor's overall cost.

25.5 ICT IMPLICATIONS

25.5.1 The Council is currently implementing a new Housing Management IT solution. This is Northgate Public Services / NEC Housing. The planned go live date for this software is May 2022 at which time the Council will also utilise NEC Housing's BARIS software to interface with the current contractor's system.

25.5.2 As two repairs Service Providers are being engaged and a gas contractor the primary system for reporting and recording repairs requests for all services will be the Councils NEC Housing system with the desire to integrate/interface with Service Providers systems. Contingency plans have been drawn up by the Council and bidders have provided alternative solutions in the event that NEC implementation is delayed.

25.6 ENVIRONMENTAL IMPLICATIONS

25.6.1 The main environmental impacts from this contract are as follows:

- Energy use and associated carbon dioxide emissions, from both running buildings, and contract vehicles
- Water use in buildings
- Use of natural resources –products and materials used
- Pollution to air, land or water from vehicle use
- Waste -disposal of construction waste
- Transport – congestion from contract vehicles

25.6.2 Whilst there is an environmental impact of running this service as there will not be fundamental changes to the service scope there should not be adverse changes compared to the status quo.

25.6.3 In addition, the re-procurement was designed in a way to encourage bidders to offer solutions that minimise environmental impact in a way that offers value for

money. Social value formed a significant part of the documentation with a standalone Social Value Term Brief. In addition, it was a key part of the negotiation process with a dedicated social value meeting with each bidder.

25.6.4 Social Value was also evaluated throughout the process. There was a selection question at SQ stage, and it formed part of evaluation at Tender stage for both Housing Responsive Repairs and Heating (both ISIT and ISFT for Housing Responsive Repairs) worth 10% of total marks. Part of the social value section included environmental impact with 5 measures relating to environment covering carbon reduction, fleet emissions, % electric fleet, waste management and air quality.

25.7 RISK IMPLICATIONS

25.7.1 The project management approach includes keeping an up-to-date risk register that is reviewed at the project board. As the procurement process is now largely complete, other than standstill letters to all bidders and contract award, most of the risks moving forwards relate to mobilisation and contract delivery stages. A risk register has been included in Appendix 2 setting out risks that have an Amber RAG status, there are no red RAG status risks at present. There are a number of green RAG status risks that have also been identified, but not included in this appendix report.

25.8 DATA PROTECTION IMPLICATIONS

- **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'? YES**

25.8.1 The personal data will relate to information on tenants' personal information this will include name, address, contact details and other key details. This is required to allow contractors to contact tenants to gain access to properties.

- **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

25.8.2 Following advice from the Information Management Team a draft Data Protection Impact Assessment has been produced as far as possible. This will be completed in conjunction with the successful contractors at the point of contract award.

26 APPENDICES

Appendix 1 Property Map

Appendix 2 Risk Register

Appendix 3 Recommendations from the 22nd June 2022 the Scrutiny and Overview Committee

27 BACKGROUND DOCUMENTS

None

28 URGENCY

NOT APPLICABLE