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CABINET

15 May 2024

Subject Heading:

Award of Heating Maintenance and Replacement Contract

Cabinet Member:

Councillor Paul McGeary

SLT Lead:

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Policy context:

The statutory requirement to maintain our homes to a decent standard

Financial summary:

This contract provides a vehicle that will enable the Council to comply with its statutory requirements as well as invest in new sustainable technologies in the future as set out in the body of the report.

Is this a Key Decision?

Key on the grounds that this report involves

(a) Expenditure or saving (including anticipated income) of £500,000 or more

When should this matter be reviewed?

The contract duration is up to ten years if working well plus an option to extend for up to six years. Continuation of the contract each year is subject to annual review.

Reviewing OSC:

Place

People - Things that matter for residents

X

Place - A great place to live, work and enjoy

X

Resources - A well run Council that delivers for People and Place.

SUMMARY

As part of the Council's responsibility as a landlord, the Council has a duty to undertake repairs and maintenance works to its HRA housing stock. This report presents to Cabinet details of the tender process undertaken to re-procure this service and seeks approval to award of contract.

The current HRA annual revenue budget for heating works is approximately £1.5m/annum, with a further £2.2m in capital budgets. The primary purpose of this contract is to allow the necessary statutory compliance works to be carried out, whilst ensuring the Councils Decent Homes standards are met.

In addition to this, the Council has set a target of 2040 to achieve net zero carbon and for Council homes the replacement of existing gas heating systems will be critical in meeting that target. In order to achieve this, it will be critical for the Council to have the agility to change or adapt its approach, if necessary, and this will only be possible with a long-term strategic partner in place. Therefore, it has been decided to include initiatives such as low carbon heating systems, photovoltaics and BMS systems within this procurement exercise, to provide maximum flexibility going forward.

Although there is no contractual commitment to procure these items under this contract, this approach does provide the Council with a degree of flexibility going forward, which will be key as both technology and future carbon reduction policies evolve over the lifetime of the contract.

Monies have been identified within the HRA 30-year business plan and contract spend will be aligned with business priorities and approved budgets on an annual basis

RECOMMENDATIONS

For the reasons set out in the report and its appendix, Cabinet is recommended to;

Approve, the award of a contract to K & T Heating Services Limited for a period of ten years' subject to continued good performance, with an option to extend for a further six years to deliver the heating repairs, maintenance and replacements, including low carbon technologies in respect of HRA properties.

It should be noted that Leaseholders were consulted prior to tender. A Stage 2 notice will be issued after Cabinet has approved the award of contract. A 30 day notice period will then need to be observed, which can run concurrent with the mobilisation period.

REPORT DETAIL

1. Background

- 1.1 Heating and Hot Water maintenance and servicing to HRA owned and/or managed properties is currently divided between two contracts which commenced in 2018, one for domestic properties and one for communal or commercial installations.
- 1.2 In order to comply with statutory requirements for annual safety inspections, and in order to maintain installations in their best condition and so prolong their life expectancy, it is necessary to re-procure these services.
- 1.3 Soft market testing has indicated that combining the Domestic and Commercial works in a single contract is more appropriate and in addition to the maintenance and safety inspections, the new contract will include installation of new heating and hot water systems.
- 1.4 Further to the pre-procurement approval of 18 April 2023 the Council decided to procure a flexible and potentially long-term contract to facilitate a partnership between the Council and the contractor at a time when existing gas fired systems will be phased out and new low carbon, sustainable systems will be installed on a rolling programme.
- 1.5 The Council has set a target of 2040 to achieve net zero carbon and for Council homes the replacement of existing gas heating systems will be critical in meeting that target. It will also be critical for the Council to have the agility to change or adapt its approach, if necessary, and this will only be possible with a long-term strategic partner in place.
- 1.6 There is provision in the contract for replacing existing domestic (individual property) systems with communal systems where that is the most appropriate approach.
- 1.7 The full scope of this contract is as follows:
 - Service and maintain gas installations and infrastructure
 - Carry out annual Landlord Gas Safety Record inspections
 - Install new and replacement gas boilers and heating systems
 - Provide a 24/7 out of hours Breakdown service
 - Service and maintain non-gas installations and infrastructure
 - Carry out annual Landlord Safety Record inspections on non-gas systems
 - Install new and replacement non-gas boilers and heating systems
 - Flexibility to adopt new low-carbon technology quickly
 - Flexibility to change tack on new low-carbon technology quickly, if necessary.

2. Evaluation Process

- 2.1 This procurement is above the threshold for works procurements which have to be conducted in accordance with legal requirements set out in the Public Contracts Regulations 2015.
- 2.2 A Contract Notice was published in respect of this procurement on 26 April 2023 Ref. no 2023-502446.
- 2.3 The Council followed a Competitive Dialogue procedure as set out within the Public Contracts Regulations 2015.
- 2.4 The reason for adopting Competitive Dialogue is that the potential long term nature of the contract and the changing technology which will be installed throughout the duration of the contract warrant discussion with bidders in relation to how they will continue to develop their delivery models and assist Havering with the 2040 zero carbon target.
- 2.5 Whilst some alternative solutions exist, the anticipation is that over the next few years' technology will advance and there is a need to understand how the bidders will work with the Council to ensure that the most efficient systems will be installed, and the best way to manage the changing landscape under a long term contract.
- 2.6 The Council undertook the procurement through a staged procurement approach. This included:
- An initial SQ stage (Selection Questionnaire) which was completed in June 2023, 10 compliant bidders were reduced to 7 through an evaluation panel and Customers scoring their returns.
 - A second RCP Stage (Request for Contractors Proposals) which was completed in July 2023. Of the 7 bidders invited to the RCP stage, three withdrew so bidders were reduced to 4 through technical returns which were combined with cost proposals
 - A CD stage (competitive dialogue) at which the Council and the four contractors could discuss the project to determine areas which require clarification. This stage was not scored and did not affect the outcome. This was completed in August 2023.
 - A final RFT stage (Request for Tenders) which ended in October 2023. One bidder elected not to submit a final tender.
- 2.7 Further details on the procurement and scoring is contained in exempt **Appendix 1**.
- 2.8 Bids were evaluated on price and quality on the basis of a 40% Price, 50% Quality and 10% Social Value. A portion of the quality score related to how the contractor will work with Havering to ensure best value for money for any new technologies.

2.9 It should be noted that the above price / quality split was discussed and agreed with strategic business partners including colleagues from Corporate Procurement and was agreed at Gateway Review Group meetings GRG1 on 7th December and subsequently at the GRG2 post tender stage review meeting on 31st January 2024. As the contract is more long term and complex in nature this Price/Quality split is also in line with the Councils agreed procurement matrix. The decision to award the contract on a 40% Price, 50% Quality and 10% Social value split was highlighted in the Pre-Procurement Executive Decision Report published on 18th April 2023. This issue was also discussed and agreed by a panel of Cabinet Members at the presentation of the Strategic Procurement Proposals 2024-2040 on 15th December 2023.

2.91 The tender required bidders to set their preliminaries, overheads and profit and agreement on future technology rates will be on an open-book basis. In addition to works to HRA properties, a number of options were included in the contract for works to Private Sector Leasing (PSL) properties and Houses in Multiple Occupation (HMO's) which are funded through the General Fund.

3. Proposed contract

3.1 The contract is anticipated to commence on 8th July 2024 and the core contract will be for up to ten years' subject to continued good performance, with a provision to extend the contract for a further period of six years to end on 15th June 2040.

3.2 The contract form is the Term Alliance Contract TAC-1 which is a form of partnering contract developed from the TPC2005 contract and which is a form recommended for use by central and local government to achieve supply chain collaboration.

3.3 As a "measured term" contract, works orders are raised for projects or programmes (typically one year at a time) but the contractor is not guaranteed all or any work under the contract, and has no claim to compensation if orders are not forthcoming or do not meet the indicative contract value.

3.4 Along with the typical termination clauses for breach, the contract also contains no-fault termination clauses allowing either party to end the agreement upon service of the requisite notice, after the first twelve months.

3.5 The Council will be required to give 13 weeks' notice, and the contractor to give 36 weeks' notice, and if invoked by the contractor in one of the first five years will incur a compensation payment to the Council on a sliding scale (£200K in yr2, £90K in yrs 3-6).

3.6 Whilst the contract is being procured primarily to address the specific requirements of HRA Housing properties, non-Housing properties will be included within scope and the indicative contract value over its lifetime includes an allowance for their use on Corporate buildings.

- 3.7 The contract contains elements of work or services for which leaseholders may be charged, so the requirements of Section 20 of the Landlord and Tenant Act 1985, as amended by the Commonhold and Leasehold Reform Act 2002, will apply.
- 3.8 Leaseholders have been consulted prior to tender. A Stage 2 notice will be issued after Cabinet has approved the award of contract. A 30 day notice period will then need to be observed, which can run concurrently with the mobilisation period.
- 3.9 The contract is in the form of a Qualifying Long Term Agreement (QLTA) and so prior to any works orders being raised, those leaseholders affected will be consulted again, with estimates of cost.

4. Procurement and project risks

- 4.1 Minimum standards for sub-contractors will be introduced by the Council in order to improve the quality of the supply chain and the key service and quality requirements were emphasised in the invitation to tender documents and will be closely monitored throughout the duration of the contract.
- 4.2 The pricing structure takes account of the transition from existing gas systems to new sustainable fuel systems where the market is still immature and technologies are developing rapidly. It is recognised that the move away from gas is not instantaneous and that at any time over the next 16 years there will be a requirement to install and certainly maintain both gas and sustainable heating and hot water systems simultaneously across the Housing stock.
- 4.3 It is important that the contract requires the installer of new and possibly less well understood systems to be responsible for their maintenance, at least for the early years whilst best practice is still to be established across the sector.
- 4.4 An open-book approach will be adopted to establish a base line for both new installations and their subsequent maintenance, which will then convert to agreed contract rates.
- 4.5 Council officers will carry out regular checks against the market to ensure that the contract rates continue to deliver value for money and, if they do not, the option to end or reduce the use of the contract can be considered.
- 4.6 The contract includes a price adjustment mechanism, based upon CPI, which has obviated the need for tenderers to over-estimate the risk of cost increases in their tenders.
- 4.7 The contract will be managed and monitored by staff within Housing Services and the contractor will be obliged to meet a set of Key Performance targets, with profit at risk if targets are not met.

5. Added social value

- 5.1 The contract contains a requirement for the contractor to deliver Social Value, but it is simplified to a requirement of 1% of the contract value each year, with the initiatives delivered to be agreed by a stakeholder group annually.
- 5.2 This gives the opportunity for the social value deliverables to be identified by residents and councillors and to change over time.

REASONS AND OPTIONS

6. Reasons for the decision:

- 6.1 The Council has a statutory and contractual obligation as a landlord to provide repairs, maintenance and compliance works to its properties, and therefore must have a provision in place to deliver this.
- 6.2 Following an extensive procurement exercise in accordance with the Public Contract Regulations 2015 (as amended), supported and validated by external consultants, K & T Heating Services Limited were successful in their bid and approval is required to appoint.

7. Other options considered

- 7.1 Existing frameworks – The scope of work included within the contract (Heating maintenance, safety checks, planned replacement and transition from Gas to low carbon systems, for both Domestic and Commercial systems) is not found within any known frameworks and a Competitive Dialogue tender process is felt to provide the Council with access to a far wider range of potential bidders.
- 7.2 Open tender – Both current (gas) and new low carbon technologies will be in place in different Council homes simultaneously during the term of this contract but there will be a transition from one to the other. The Council would like to appoint a partner which can provide market-leading service during that transition. The competitive dialogue element of the procurement is to identify a bidder who will best manage that transition.
- 7.3 Shorter term for contract – Procurement is expensive and resource intensive for public sector employers and contractors. The preference in the market is for longer term contracts as these spread the cost of procurement over a longer term and give more scope for the stakeholders to create a true partnership. A longer term contract shows commitment and gives bidders the incentive to develop staff to deliver the new technologies, within the partnership.

- 7.4 Do Nothing – Maintenance of heating systems in a safe and operational condition is a legal requirement for social housing provision and doing nothing is not an option. The existing contracts currently providing the service need to be re-procured.
- 7.5 Therefore, the above options were considered and rejected at pre procurement stage.

IMPLICATIONS AND RISKS

8. Financial implications and risks:

- 8.1 The contract will be funded from the HRA and General Fund from existing budgets and costs have been incorporated into the HRA business plan.
- 8.2 As a “measured term” contract, works orders are raised for projects or programmes, but the contractor is not guaranteed all or any work under the contract, and has no claim to compensation if orders are not forthcoming or do not meet the indicative contract value.
- 8.3 The contract has been procured primarily to address the specific requirements of the HRA properties, but options were included for works to non-HRA Housing and non-Housing properties, should those services wish to use it.
- 8.4 Funding could be from both the HRA and General Fund revenue and capital budgets. With it being a “measured term” contract, funding specifics will need to be identified during the project/programme design stage.
- 8.5 The current HRA annual revenue budget for heating works is approximately £1.5m/annum, with a further £2.2m in capital budgets. However, low carbon heating systems, photovoltaics and BMS systems will require substantially higher investment during the later years of the contract, if it is decided to procure these systems through this contract. This will need to be costed and approval sought during the annual cycle when the time arises.
- 8.6 In addition to the above, the Council has set a target of 2040 to achieve net zero carbon and for Council homes the replacement of existing gas heating systems will be critical in meeting that target. In order to achieve this, it will be critical for the council to have the agility to change or adapt its approach, if necessary, and this will only be possible with a long-term strategic partner in place. Therefore, it has been decided to include initiatives such as low carbon heating systems, photovoltaics and BMS systems within this procurement exercise, to provide maximum flexibility going forward.
- 8.7 As set out in the Pre-Procurement Executive Decision Report published on 18th April 2023, the overall maximum contract value procured through this contract could be up to £140million, although it should be noted that there is no contractual commitment to do so.

This includes up to £75million of works over the 10-year period of the contract and a further £65million of works could also be delivered, should the contract be extended for a further 6-year period. A further breakdown is set out in the table below:

	10 Year period	16 Year Period
Revenue (including gas safety, servicing and compliance checks)	Up to £15million	Up to £9million
Capital (including gas boiler replacements, heating system replacements)	Up to £22million	Up to £1million
Alternative Technologies (including renewable heating systems, Photovoltaics and BMS systems)	Up to £38million	Up to £55million
Total	Up to £75million	Up to 65million

Table 1 – Possible Forecast Expenditure

8.7 Cost Avoidance

The award of this contract will help the Council to keep the stock in good order; clearly failure to keep the housing stock in serviceable condition could lead to further financial liabilities being incurred.

8.8 Financial Stability

As required by the Council's Contract Procedure Rules a financial check has been undertaken using Experian and they rate K&T as being "Low Risk".

9. Legal implications and risks:

9.1 The Council has statutory requirements to undertake repairs and maintain its HRA housing stock under the Landlord and Tenant Act 1985, Housing Act 2004 and the Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994.

9.2 The Council has a general power of competence under Section 1 of the Localism Act 2011 to do anything an individual may generally do subject to any statutory limitations. The arrangements now sought are in accordance with these powers.

9.3 The Council is a contracting authority for the purpose of the Public Contracts Regulations 2015 (as amended) (PCR). The total contract value is estimated up to £75million over the 10-year contract period and could be up to a further £65million should the contract be extended for a further 6-year period. The value of the procured contract will be above the works threshold for the purposes of the PCR 2015 of £5,372,609 (inc of VAT). Therefore, the contract is subject to the full rigours of the PCR.

9.4 Leaseholder consultation is required under Section 20 of the Landlord and Tenant Act 1985 (as amended) and as stipulated by Section 151 of the Common hold and Leasehold Reform Act 2002. This decision is subject to the consultation concluding to notify leaseholders of the preferred bidder.

9.5 For the reasons set above, the Council may award the contract to K & T Heating Services Limited

10. Human Resources implications and risks:

10.1 The preferred bidder is the incumbent contractor for the Domestic Heating service and as such there are no TUPE implications.

10.2 The incumbent contractor for the Commercial Heating service has provided information about staff which it believes will be subject to TUPE and this information was included in the tender information provided to bidders.

11. Equalities implications and risks:

11.1 Under Section 149 of the Equality Act 2010, the Council has a duty when exercising its functions. This includes outsourcing services by awarding a contract to an outside body, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

11.2 “Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the council is properly aware of the effects and has taken them into account, the duty is discharged.

11.3 The awarding of this contract will enable the Council to maintain its housing stock to a high standard and improve the quality of the customer services that the tenants receive. Tenants with protected characteristics are over-represented in social housing so this new contract will have a positive impact on their well-being.

11.4 An Equalities and Health Impact Assessment is included as **Appendix 2** to this report

12. Health and Wellbeing implications and Risks

12.1 Provision of an effective housing repairs service is essential to ensure residents are able to safely and comfortably use their homes, being provided with good quality services which support promote good health and wellbeing.

12.2 Poor quality housing can have a serious negative impacts on individual’s health and wellbeing and a significant negative impact on communities.

12.3 The council is responsible for improving and protecting health and wellbeing of local residents under the Health and Social Care Act 2012.

- 12.4 The installation of new energy efficient heating systems and low carbon technologies will help to reduce heating bills for residents, which will ease current cost of living pressures.
- 12.4 These contracts will support the aims and delivery of the Housing Asset Management Strategy ensuring that the Council provide the right homes for our resident which are affordable, safe and of high quality, provide good communities in which to live and work, whilst meeting the challenges of zero carbon and building safety across the estates.

13. ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

- 13.1 A significant contributor to the Council's progress towards the target of net zero carbon by 2040, and as set out in the Havering Climate Change Action Plan, is the move away from existing gas heating and hot water systems in the Council's stock of approximately 9,200 rented, and 2,500 leasehold properties.
- 13.2 This contract is designed to manage that transition in a controlled manner as and when existing systems require renewal, without placing an undue burden on budgets by artificially shortening asset life.
- 13.3 The contract has the flexibility to adopt new sustainable technology as it develops, so ensuring that the best systems, and best practice, are progressively delivered.
- 13.4 The work delivered under this contract is critical in addressing climate change but equally, tenderers have been evaluated upon their proposals to reduce the environmental impact and carbon footprint of how the work is delivered, such as local supply chains, electric vehicles, waste reduction and recycling and so on.

BACKGROUND PAPERS

1. HRA Business Plan update, Budget 2024/25 & Capital Programme 2024/25–2028/29.
2. Housing Services Asset Management Strategy 2021-2026.

APPENDICIES

Appendix 1 – Tender Returns and Evaluation (Exempt not for publication)

Appendix 2 – Equality and Health Impact Assessment