

Birmingham City Council

Report to Cabinet

16th March 2021



Subject: Contract Strategy for the Provision of R&M, Gas Servicing and Capital Improvement Work Programmes for 2022-2024

Report of: Director, Neighbourhoods (Acting)

Relevant Cabinet Members: Councillor Sharon Thompson, Cabinet Member for Homes and Neighbourhoods
Councillor Ian Ward, The Leader of the Council
Councillor Tristan Chatfield, Cabinet Member for Finance and Resources

Relevant O &S Chair(s): Councillor Penny Holbrook – Housing and Neighbourhoods Overview and Scrutiny Committee
Councillor Sir Albert Bore – Chair of Resources Overview and Scrutiny Committee

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007291/2020		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential. Commercially and reputationally sensitive information		

1 Executive Summary

1.1 This report provides details of the contract extension options, tender strategy and further procurement of contracts for the provision of Responsive Repairs & Maintenance Services, Gas Servicing and Capital Improvement Work Programmes (including Major

Adaptations to Council Housing Stock) in the North, South, West-Central and East areas of Birmingham from 1st April 2022 to 31st March 2024.

- 1.2 The private report contains any commercially / sensitive / confidential market information which could impact on the extension / tender process.

2 Recommendations

That Cabinet:

- 2.1 Authorises the Director, Neighbourhoods (Acting), in conjunction with the Assistant Director of Development and Commercial, the Interim Chief Finance Officer and the City Solicitor and Monitoring Officer, to take up the contractual option to extend for two years subject to satisfactory performance and commercial terms or not extend and re-procure any contracts necessary.
- 2.2 Delegates authority to the Director, Neighbourhoods (Acting) conjunction with the Assistant Director of Development and Commercial, the Interim Chief Finance Officer and the City Solicitor and Monitoring Officer to award a contract to the successful bidder following the completion of the procurement approach and contract extension outlined in this report.
- 2.3 Authorises the City Solicitor and Monitoring Officer to enter into any agreements necessary to give effect to the above decision.

3 Background

- 3.1 The original Contract Award Cabinet Report dated 17th November 2015 authorised the award of contracts for the Provision of Responsive Repairs & Maintenance Services, Gas Servicing and Capital Improvement Work Programmes (including Major Adaptations to Council Housing Stock) servicing the four contract areas in the North, South, West-Central, and East areas of Birmingham from 1st April 2016 to 31st March 2020.
- 3.2 It also authorised the; Acting Strategic Director of Place, in conjunction with the Assistant Director of Procurement, the Director of Finance (or their delegate) and the Director of Legal and Democratic Services (or their delegate), to take up the option to extend for up to two periods of two years, subject to satisfactory performance and the achievement of contractual cost and prescribed Key Performance Indicators. This authorisation was utilised for the first two-year extension period and a delegated extension report was agreed on 30th May 2019 that authorised the option to extend all four contracts for two years from April 1st 2020 to March 31st 2022.
- 3.3 The current and last remaining contract extension process is due to be initiated in March 2021, which will utilise the previous contract extension methodology. In April 2021, contractors would be informed that their contract would not be extended in 2022, if applicable, and that the contract would be re-tendered for a 2 year period 2022-2024.
- 3.4 **Procurement**
A review of the current marketplace has been undertaken by Corporate Procurement Services and validated with critical friends from public procurement framework providers and independent consultancies specialising in the construction industry, which has helped to inform the key risks set out in section 6.

3.4.1 Procurement Options

- Use a Collaborative Framework Agreement - there is not a collaborative framework agreement awarded by the Council or any other public sector body in place for the services required to support the scale and complexity of this procurement.
- Utilise the Constructing West Midlands Framework Agreement - this option was discounted as the framework agreement could not support service requirements.
- Tender any contract on an individual basis - there are benefits as prices will reflect current market conditions and the latest corporate requirements can be included for each tender exercise. For these reasons, this is the proposed route.

3.4.2 Procurement Approach Duration and Advertising Route

The contract values are above the OJEU threshold and will be for a period of 2-years. Any re-procured contract would then be coterminous with any agreed extended contracts. This is a works contract which is above the OJEU threshold of £4,551,413 and therefore the tender will need to be advertised via the new Find a Tender Service portal, www.finditinbirmingham.com and Contracts Finder.

3.4.3 Procurement Procedures

The following procurement procedures were considered:

- **Open Procedure:** This is a single stage process and all bidders' tender responses have to be evaluated. There is no negotiation permitted beyond clarifications and the scope and specification should be fully completed at the tender issue stage. In addition, given the potential of receiving a high volume of bids, this procedure does not allow a down selection of bidders. Informal market consultation has indicated that interested companies may be reluctant to bid due to the lengthy and costly work required to complete all stages of the tender documentation when the number of competitors is potentially high. The evaluation of tenders attracts substantial costs to both the Council and bidders as this process is labour intensive as every response has to be evaluated. This option was therefore discounted on the issues outlined above.
- **Restricted Procedure:** This is a 2-stage process. During the first stage, bidders are de-selected to a pre-agreed number followed by the Invitation to Tender (ITT) stage leading to the appointment of one contractor. All bidders' ITT responses must be evaluated. There are many providers in the market who could potentially tender for an opportunity of this size and value. This procedure allows the Council to "pre-qualify" suppliers at stage one based on their financial standing and technical or professional capability. Only the shortlisted bidders are invited to stage two to submit a tender. This is the proposed option as it would significantly minimise the associated tender costs and resources for both the bidders and the Council.
- **Competitive Procedure with Negotiation (CPN):** This procedure allows shortlisting of bidders, a series of commercial and legal negotiation sessions together with the submission of initial, detailed and final tenders. The process also allows for de-selection during the various tender stages. This complex and lengthy process is not deemed suitable as the service delivery model is already clearly defined for this short term 2-year service provision.

- **Competitive Dialogue Procedure:** This is also a more complex and time-consuming procurement route involving multiple dialogue meetings, which was considered not to be the most appropriate solution given that the development and delivery strategy is clear. This process is also not deemed suitable for this 2-year service provision.
- **Innovation Partnership Procedure:** This route was discounted on the basis that although the project is complex, the marketplace exists and there is no requirement for an innovative and specialised outcome to be developed at this stage for this 2-year service provision.

3.4.4 Scope and Specification

The scope and specification for the Provision of Responsive Repairs & Maintenance Services, Gas Servicing and Capital Improvement Work Programmes for 2022-2024 will be in accordance with the contract documentation produced by the project team.

3.4.5 Evaluation and Selection Criteria

The quality, social value and price balances below, were established having due regard for the corporate document 'Evaluating Tenders' which considers the complexity of the services to be provided. The tender documents will include the current bespoke contract and the New Engineering and Construction Contract Option C: target contract with activity schedule and with appropriate revisions to incorporate the Council's policies in respect of capital works.

Tenders will be evaluated against the specification in accordance with a pre-determined evaluation model.

The evaluation of tenders will be assessed as detailed below and divided into the following stages:

- Stage 1 – Selection Questionnaire (SQ)
- Stage 2 – Invitation to Tender (ITT)

3.4.5.1. Stage 1 – Selection Questionnaire (SQ)

Criteria	Evaluation
STAGE ONE - Selection Stage	
Company Information	Pass / Fail
Financial Information (including Insurance)	Pass / Fail
Health and Safety	Pass / Fail
Compliance with Equalities	Pass / Fail
Quality Management	Pass / Fail
Grounds for Mandatory Exclusion	Pass / Fail
Grounds for Discretionary Exclusion	Pass / Fail
Supplier Portal	Pass / Fail
Modern Slavery Act 2015	Pass / Fail
Technical and Professional Ability	Scored
Declaration	Pass / Fail

The top 5 highest scoring tenderers that pass all the pass/fail elements will be shortlisted and proceed to Stage 2 - Invitation to Tender (ITT).

3.4.5.2. Stage 2 – Invitation to Tender (ITT)

Evaluation and Selection Criteria

Tenders will be evaluated using the quality / social value / price in accordance with a pre-determined evaluation model. The quality element will account for 20%, social value 20% and price 60%. This quality, social value and price balance has been established having due regard to the corporate document 'Evaluating Tenders' which considers the complexity of the services to be provided and the degree of detail contained within the contract specification.

Tenders will be evaluated against the specification in accordance with the pre-determined evaluation model described below:

Assessment A - Quality (Weighting 20%)

Criteria	Weighting	Criteria	Weighting	Criteria	Weighting
Quality	20%	Contract Management	90%	Service and Contract Management and Governance	5%
				Quality Control and Audit	5%
				Site Visit	5%
				Supply Chain including the Management and Monitoring of the Supply Chain	5%
				Communication and interaction with the Council (Relationship Management)	5%
				Understanding of and contribution to Council's strategy	5%
				Management of Service Integration including working with / coordinating other parts of the Council or other Partners.	5%
				Safeguarding	5%
				Management of Health and Safety and other legislative requirements.	5%
				Supplier Business Continuity Management	5%
				Driving Performance Management including KPIs and Performance Measures	10%
				Customer Relationship Management (Residents)	15%

			HR Management	5%
			Management of recoverable repairs and leaseholder apportionment	5%
			Management of out of hours delivery	5%
			Providing and Maintaining Stock Condition Data	5%
			Service Delivery Risk Management	5%
			Total	100%
	Implementation	10%	Mobilisation Plan and Management	40%
			Staff Transfer, recruitment and induction	40%
			Strategy for customer and stakeholder engagement	20%
			Total	100%

An interview with tenderers may take place if required to clarify their understanding of the requirements and the scoring adjusted accordingly, as appropriate. The interview process itself will not be scored.

Tenderers who score more than the quality threshold of 60% i.e. a score of 60 out of a maximum quality score of 100 marks will proceed to;

Assessment B – Social Value (Weighting 20%)

Criteria	Weighting	Criteria	Weighting	Criteria	Weighting
Social Value	20%	Social Value	100%	Local Employment	30%
				Buy Local	30%
				Ethical Procurement	10%
				Good Employer	20%
				Partners in Communities	5%
				Green and Sustainable	5%

Tenderers who score more than the social value threshold of 60% i.e. a score of 60 out of a maximum quality score of 100 marks will proceed to Assessment C – Pricing;

Assessment C – Pricing (Weighting 60%)

Criteria	Weighting	Criteria	Weighting	Criteria	Weighting
Price	60%	Commercial & Legal	70%	Price per Property (Responsive Repairs)	20%
				Price per Property (Gas)	8%
				Price per Element (capital)	20%
				Schedule of Rates (Capital) / Composite	16%
				Price per Void	10%
				Share of Savings	4%
				Performance Related Pay	3%
				Pricing Approach	4%
				Legal Terms and Conditions	9%
				Financial Risk Management and Mitigation	6%
				Total	100%
		Technical Delivery	20%	Repair and Maintenance Technical	15%
				Capital Technical	15%
				Capital Electrical	15%
				Repair and Maintenance Gas	13%
				Capital Gas	12%
				Aids and adaptations	5%
				Sundries	5%
				New Technologies	5%
				Voids	15%
		Total	100%		
		ICT	10%	Contact Centre	25%
				IT and Mobile Solutions	50%
Integration with Council systems including OMFAX, APEX, Northgate, CRM, Optitime and Techforge	25%				
Total	100%				
Total	100%	Total	100%		

3.4.6 Overall Evaluation

The evaluation process will result in comparative quality, social value and price scores for each tenderer. The maximum quality score will be awarded to the bid that demonstrates the highest quality. The maximum social value score will be awarded to the bid that demonstrates the highest social value. The lowest price will be given the

maximum score. Other tenderers will be scored in proportion to the maximum scores in order to ensure value for money and the proposed contract will be awarded to the first ranked tenderer.

3.4.7 Evaluation Team

The evaluation of tenders will be undertaken by officers from the Asset Management and Maintenance Division Projects Team, Neighbourhoods Directorate and supported by Corporate Procurement Services, Legal Services and Finance.

3.4.8 Indicative Restricted Procedure Implementation Plan

The indicative restricted procedure implementation plan below has been produced by CPS to meet the overall deadlines for the re-procurement of this service.

Cabinet Approval (Strategy)	16 th March 2021
Contract Extension	16 th March – 16 th April 2021
Issue Notice on Fond a Tender Service portal and SQ Documentation	1 st May 2021
SQ Return Deadline	31 st May 2021
SQ Evaluation Period	1 st – 18 th June 2021
Issue SQ Notifications	21 st June 2021
SQ Notification Clarification Period	21 st June – 2 nd July 2021
Issue ITT Documentation	5 th July 2021
ITT Return Deadline	3 rd September 2021
ITT Evaluation Period & Contractor Interviews	6 th September – 12 th November 2021
Contract Award Report – Governance & Approval	15 th November – 10 th December 2021
Issue Award Letters	13 th December 2021
10 Day Standstill Period	13 th – 23 rd December 2021
Formal Contract Award Period	13 th December 2021 – 21 st January 2022
Mobilisation Period	1 st February 2022 – 31 st March 2022
Contract Start	1 st April 2022

3.4.9 Service Delivery Management

3.4.9.1. Contract Management

The contract will be managed operationally by the Head of Service and the Asset Management and Maintenance Division, Neighbourhoods Directorate.

3.4.9.2. Performance Measurement

The Key Performance Indicators from the existing contract will be included in this procurement process

4 Options considered and Recommended Proposal

The recommendation is to:

- 4.1 authorise the Director, Neighbourhoods (Acting), in conjunction with the Assistant Director of Development and Commercial, the Interim Chief Finance Officer and the City Solicitor and Monitoring Officer, to take up the contractual option to extend for two years

subject to satisfactory performance and commercial terms or not extend and re-procure any contracts necessary,

- 4.2 approve “Options considered and Recommended Proposal” as set out in section 3 of the exempt appendix.

5 Consultation

- 5.1 We will continue to work with residents, housing management teams and elected members to inform them further as the process progresses.
- 5.2 We have consulted market leading consultants, operating within the construction / R&M industry.

6 Risk Management

- 6.1 Risks will be identified, evaluated and controlled in line with the Birmingham City Council Risk Management Methodology 2017.
- The re-procurement of any services for the next 2-years will attract a cost. It should be noted that there is no cost to advertise this contract in the new Find a Tender service portal.
 - There is evidence of commercial and operational uncertainty within the current marketplace for these services in the wake of Brexit and Covid-19.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council’s priorities, plans and strategies?

- 7.1.1 This contract contributes to the Council Plan outcomes 2, 3, 4 & 6
- 7.1.2 Improving the Council owned housing stock directly contributes to the strategic outcomes of the Sustainable Community Strategy, the proposed Council Business Plan and Budget 2021+. Stock improvements will also impact upon the other strategic outcomes, most notably on the aspiration for healthier communities and carbon reduction.
- 7.1.3 The Council will upgrade its stock’s thermal performance by energy efficient measures that may include whole property retrofit in line with the City’s wider sustainability strategy set by Birmingham’s Green Commission through the Carbon Roadmap. These works will include the replacement of existing older inefficient heating systems, external insulation, hard to treat cavity wall and loft insulation and any other innovative energy efficiency works. This will further contribute to targets within the Commission’s Carbon Roadmap to reduce carbon dioxide emissions by 60% by 2027 and alleviate fuel poverty. The Council’s approach will be to identify additional funding routes such as Energy Company Obligation (ECO), Renewable Heat Incentive (RHI) and any other funding routes that may become available in the future.
- 7.1.4 The Council will seek to upgrade its newbuild property specification to a higher standard of thermal performance and energy efficiency, to ensure that new homes are delivered that relieve fuel poverty and reduce carbon outputs.
- 7.1.5 The Council and its contractors will work with local educational facilities providing opportunities for young people to learn about skills and apprenticeships within the building industry.

- 7.1.6 The Council and its contractors will ensure continued independence for the residents of Birmingham with the delivery of aids and adaptations to the residents' homes
- 7.1.7 The Council and its contractors will ensure that all waste is recycled appropriately, that their carbon footprints are reduced through the use of electric or hybrid vehicles where possible.
- 7.1.8 The Council and its contractors will contribute to any homeless reduction initiatives by providing empty properties for reallocation within the appropriate timescales.
- 7.1.9 Birmingham Business Charter for Social Responsibility (BBC4SR)
Compliance with the BBC4SR will be a mandatory requirement for tenderers and form part of the conditions of this contract. Tenderers will need to produce an action plan with commitments proportionate to the value of this contract. These actions will be monitored and managed during the period of the contract.

7.2 Legal Implications

- 7.2.1 The proposed allocation of work is consistent with the effective management of the Council's housing stock under Part II Housing Act 1985.
- 7.2.2 The Provision of Responsive Repairs & Maintenance Services, Gas Servicing and Capital Improvement Work Programmes (including Major Adaptations to Council Housing Stock) contracts awarded in 2015 make specific provision for the extension of the contracts as described above. The Council is not obligated to extend any of the contracts. However, if it did not do so, then in order for the same services to be carried out by an external provider, the work would need to be re-tendered under a public procurement process.

7.3 Financial Implications

The procurement exercise is anticipated to be over a 12-month period. The estimated cost of £0.26m for the procurement will be funded from the 2021/22 Housing Revenue Account Repairs (HRA) Budget.

It is possible that there will be an uplift to the current contractual prices due to factors identified in Section 6. Any increases will need to be reflected as part of the review of the HRA Business Plan 2022+.

7.4 Procurement Implications (if required)

- 7.4.1 This report concerns the contract extension options, tender strategy and further procurement for the Contract Provision of all four associated contracts delivering the Responsive Repairs & Maintenance Services, Gas Servicing and Capital Improvement Work Programmes from April 1st 2022 to 31st March 2024 and the implications are detailed throughout the report.

7.5 Human Resources Implications (if required)

- 7.5.1 The procurement activity and the subsequent contract management will be undertaken by Council staff.

7.6 Public Sector Equality Duty

- 7.6.1 In relation to the recommendations set out in this report, due regard has been paid to the requirements of the Equality Act 2010 and an Equality Assessment has been carried out

which has shown that the recommendation will not have any adverse effects on the procurement.

- 7.6.2 The requirements of Standing Order No. 9 in respect of the Council's Equal Opportunity Policy will be incorporated in the contracts for projects carried out within the programme.

8 Background Documents

- 8.1 None

9. Appendices

- 9.1 Appendix 1 Exempt Report
- 9.2 Appendix 2a Equality Act 2010 - Public Sector Equality Duty
Appendix 2b EINA