

# Cabinet

Tuesday 22 July 2014

4.00 pm

Ground Floor Meeting Room GO2A, 160 Tooley Street, London  
SE1 2QH

## Supplemental Agenda No. 2

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30.	<b>Gateway 1 - Procurement Strategy Approval - Heating and Water Contracts</b> To approve the procurement strategy for two heating and water contracts in the north and south of the borough.	1 - 15

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Date: 18 July 2014

<b>Item No.</b> 30.	<b>Classification:</b> Open	<b>Date:</b> 22 July 2014	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1: Heating and Water Contracts	
<b>Ward(s) or groups affected:</b>		All wards	
<b>Cabinet Member:</b>		Councillor Richard Livingstone, Housing	

## **FOREWORD – COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR HOUSING**

This report sets out the council's procurement strategy for the heating and water maintenance services for 40,460 homes in our borough. Each year, this service carries out 86,000 repairs and 23,376 gas safety checks and spends £15m.

This report recommends a strategy for tendering this service for the five years from April 2016. Rather than having the current number of discrete contracts, all currently awarded to one of two companies, the proposal is to establish two larger and geographically-based contracts to secure the best value for rent- and service-charge payers. Given the competitiveness of the market and past concerns about the quality of service in some parts of the borough, the strategy tilts the weighting in assessing tenders to give a greater emphasis on quality, and less on price, than in previous procurement exercises.

## **RECOMMENDATIONS**

1. That cabinet approves the procurement strategy outlined in this report for two Heating and Water Contracts; Contract A – north of the borough at an estimated annual cost of £7.9m and Contract B – south of the borough at an estimated annual cost of £7.4m, for a period of five years from 1 April 2016 with the potential to extend up to five (three years plus two years), making an estimated value of £153m for the contracts.
2. That cabinet notes that the rationale behind the geographical division of contract areas is based on the need to ensure efficient delivery of the service.

## **BACKGROUND INFORMATION**

3. Currently the council's maintenance and compliance department provide heating and hot water services to more than 40,000 properties. Individual gas boilers account for 23,376 properties with a further 17,084 receiving services from district heating systems. More than 86,000 responsive repairs and 23,376 gas safety checks and services are completed each year maintaining these services and over £15m spent. This size and scale is the largest in London and one of the largest in the country.
4. Currently there are ten contracts providing potable water testing and treatment, individual heating and gas safety inspections and repairs and maintenance to district heating, laundries and sewage plant. All ten contracts are currently serviced by two contractors as detailed in the table below:

<b>Contract packages by service and area</b>	<b>Existing contractor</b>
<b>Potable Water Testing and Treatment</b>	
Borough & Bankside, Bermondsey & Leathermarket, Rotherhithe, Walworth	T Brown Group Ltd
Peckham, Nunhead & Peckham, Camberwell, Dulwich	T Brown Group Ltd
<b>Individual Heating and Gas Safety Inspections</b>	
Borough & Bankside, Bermondsey	T Brown Group Ltd
Peckham, Nunhead & Peckham	T Brown Group Ltd
<b>District Heating, Laundries and Sewage Plant</b>	
Borough & Bankside, Bermondsey	T Brown Group Ltd
Peckham, Nunhead & Peckham	T Brown Group Ltd
<b>Individual Heating and Gas Safety Inspections</b>	
Rotherhithe, Walworth	OCO Ltd
Camberwell, Dulwich	OCO Ltd
<b>District Heating, Laundries and Sewage Plant</b>	
Rotherhithe, Walworth	OCO Ltd
Camberwell, Dulwich	OCO Ltd

5. A Gateway 3 report was approved on 21 December 2011 to change the four existing contracts for Individual Heating and Gas Safety Inspections to include for a Price Per Property (PPP) payment mechanism. This provided costs savings of £1.5m over the financial years 2012/13 and 2013/14. The PPP has also improved service delivery of right first time.
6. In a PPP model, a fixed price is paid for gas servicing and maintenance (breakdown) for each property irrespective of the number of repairs or visits completed. A PPP model provides cost certainty. The council is clear what it has to pay, the contractor is clear what they will receive and are incentivised to complete work properly first time, every time.
7. A Gateway 3 report was approved on 11 September 2013 to utilise the extension facility of twenty four months on all ten contracts. It enabled the council to benefit from continued cost savings and improving performance across the contracts whilst allowing a review of the services and benchmark against other organisations.
8. A combined Gateway 1&2 report was approved on 17 July 2014 to extend the existing arrangements for six months to enable the two new Heating and Water contracts to be mobilised over the winter and commence on 1 April 2016 at the end of the heating season. This will allow for any new potential suppliers to become fully acquainted with the complex district systems.
9. Therefore the existing ten contracts are due to expire on 31 March 2016 and there is a requirement to ensure that there are servicing and maintenance regimes in place for these services.
10. Housing commissioned Savills in 2009 to review housing services. The Savills' report recommended that all mechanical engineering contracts should be bundled together and let as a pair of multi service contracts - one for the north of

the borough and one for the south. The close technical characteristics of these systems provided a compelling argument for having a single contractor managing services in each area that will deliver a seamless service to residents and reduce the incidence of service interruption. This also reflects the council's maintenance and compliance departmental staff structure.

11. On 15 August 2013, Gas Advisory Services Ltd (GAS), a market leading firm of gas consultants, were appointed by way of a competitive tender to undertake a review of the services and recommend a service delivery approach for the new contracts which will meet the council's needs for improved services and value for money.
12. GAS consulted teams within the Housing and Community Services division and the existing contractors (T Brown Group Ltd and OCO Ltd) and its recommendations were:
  - Packaging strategy – two contracts to be split between north and south to cover all the work streams
  - 3\* Star PPP for individual heated properties, which will include servicing, where the council retains control of replacement works investment
  - District heating work streams that are chargeable to homeowners will be based on Schedule of Rates (SOR) in order to facilitate accurate service charges to council blocks
  - SOR and a price per block to cover the cold water tanks and dry risers
  - Additional services included in the two contracts to booster sets, potable water testing, building energy management systems and gas detection equipment.
13. GAS also conducted market analysis against other similar registered social landlords to identify comparative costs for PPP and whether a revision to the price/quality split (currently 70:30) for evaluation would be likely to produce an outcome that is equal to or better than the current Southwark housing PPP cost. The findings support the expectation that this procurement will result in the estimated savings as detailed in the report and GAS therefore recommends a 60:40 quality/price ratio with minimum thresholds on compliance criteria. This is explored further in paragraphs 47 and 48 below.
14. The progression from ten contracts to two contracts for the delivery of these services is in line with the recommendations of the 2009 Savills' report, GAS' recommendations and is in line with the council's maintenance and compliance staff structure that provides dedicated teams for the north and south areas of the borough (i.e. the Repairs and Maintenance contract).
15. The contracts will be awarded based on a geographical split (north and south) of the borough, each providing all of the services, with an estimated term for each contract of five years, with the potential to extend up to five (three years plus two years).
  - Contract A – North - Walworth, Borough and Bankside, Bermondsey, Rotherhithe
  - Contract B – South - Camberwell, Peckham, Nunhead and Peckham Rye, Dulwich

16. The estimated annual value of both contracts stands at £15.3m and is apportioned at £7.9m for Contract A and £7.4m for Contract B.
17. It should be noted that given the large number of stock across the borough and their complexity, the appointment of a single contractor for the works would not be appropriate. It is considered that such an arrangement would present a significant risk to the council should the contractor default or fail to perform. Such a risk would increase in the absence of any backup or support arrangement with an alternative contractor. Therefore no single contractor will be awarded both contract areas and two contractors will be appointed who will also act as backup to each other.
18. The total estimated value of the proposed contracts stand at £153m broken down as follows:
  - (i) Total cost for five year term = £76.5m
  - (ii) Total cost of additional three year term = £45.9m
  - (iii) Total cost of additional two year term = £30.6
19. The above contract values are composed of an estimated annual expenditure of £10.3m revenue and an estimated sum of £5m capital.
20. Consultation with other council departments identified that there is currently not a requirement for wider usage of these two contracts. The corporate facilities management (CFM) team's requirements will be limited to a backup provision only should there be performance issues with the council's CFM contract.

### **Summary of the business case/justification for the procurement**

21. The council has a legal obligation as a social landlord to inspect and maintain gas, heating, and potable water installations and ensure that they are safe.
22. The two contracts will also provide an inspection and maintenance regime for housing dry and wet risers to improve fire protection within the housing stock.
23. The two contracts directly contribute to environmental improvement by reducing the volume of CO2 emissions by maintaining and installing new equipment and providing safe potable water supplies free from harmful levels of bacteria.
24. The rationale for the contract duration of five plus three plus two years is to ensure that plant, installations and equipment life cycles are maximised whilst maintaining service delivery and reducing disruption and inconvenience to residents. The duration of these two contracts will provide time to place more focus on improving assets. Refurbishments, re-conditioning and intensive maintenance regimes will extend the lifetime of existing assets in conjunction with recommended replacements providing better performance and less disruption to residents.
25. From market analysis undertaken, the GAS report identified potential savings for PPP 3\* star servicing and boiler replacement against current costs. These savings will be used for quality auditing of mechanical services contract and re-investing in the ageing stock.
26. As identified by the GAS report, comparable registered social landlords have placed a higher emphasis upon quality over price while achieving very

competitive tendered prices. This procurement will evaluate tenders on a quality: price 60:40 ratio that better reflects the council's needs.

27. In addition these two contracts will provide CFM with backup arrangements for non-housing stock should the need arise and be part of their contract risk mitigation strategy.

### **Market considerations**

28. There is an expectation for a high degree of interest in these two contracts from a wide range of organisations. The potential long term nature of these two contracts and the scope and density of housing's stock presents a highly attractive package to the market.
29. The current market is very competitive and the duration of these two contracts achieves a balance between price competitiveness and allowing sufficient time to develop, embed and improve service delivery.

### **KEY ISSUES FOR CONSIDERATION**

#### **Options for procurement route including procurement approach**

30. The engineering and compliance team considered the following options before determining the procurement strategy set out in this report:
- a. Do nothing - this is not an option to the council. As a landlord and employer it is essential that the council ensures servicing and maintenance regimes are in place to meet its legal and statutory obligations.
  - b. The council provides these works in-house - the specialist nature of these contracts means that the council does not have the in-house resources to undertake these contracts.
  - c. The use of internal or external frameworks - there are no existing frameworks.
  - d. Shared Services - the feasibility of sharing services with neighbouring local authorities was considered by the engineering and compliance team and Lewisham, Lambeth and Greenwich's contracts precluded Southwark from utilising their contracts.
31. As none of the above options are viable, it is recommended that an EU restricted tender process is carried out to procure these services.

#### **Proposed procurement route**

32. This procurement will be carried out in accordance with an EU restricted procedure. In response to the OJEU notice, companies interested in tendering will be required to formally express an interest in order to receive a Pre-Qualification Questionnaire (PQQ).
33. A minimum of 8 organisations will be selected for the tender list, subsequent to the PQQ process. This will meet EU restricted procurement process.

### Identified risks for the procurement

34. The table below identifies a number of risks associated with this procurement, the likelihood of occurrence and the control in place to mitigate the risks:

R/N	Risk Identification	Likelihood	Risk Control
R1	Challenges to procurement outcome	Low	Ensure robust procurement in line with EU procurement regulations.
R2	The procurement process fails due to inadequate quality of submissions by tenderers	Low	Ensure that tender documents are drafted to facilitate submissions of required standard.
R3	The procurement process is delayed	Low	Effective procurement project management.
R4	The contractors fail to deliver service	Low	Use of the back up contractor, if required.
R5	Risk of challenge by leaseholders at the LVT	Medium	A robust reasonableness case has been constructed for the council to defend its position at LVT in the event that this is required.

35. The contract documentation will include for a performance bond for these contracts. An ultimate holding/parent company guarantee will be required if the successful provider has a parent company.

### Key/Non Key decisions

36. This deals with a strategic procurement and this report is therefore a key decision.

### Policy implications

37. The repair and maintenance of potable water testing and treatment, individual heating and gas safety inspections and district heating, laundries and sewage plant is required in order that the council fulfils its duties and obligations as a landlord and employer.
38. The services provided through these two contracts will enable the council to fulfil its promise to make every home warm, dry and safe.
39. The services provided by these two contracts underpin the objectives set out in the Southwark Housing Strategy 2009 to 2016 to improve energy efficiency in every home.

### Procurement Project Plan (Key Decisions)

Activity	Complete by:
Forward Plan	April 2014
DCRB Review Gateway 1: Procurement strategy approval	2 June 2014
CCRB Review Gateway 1: Procurement strategy approval	19 June 2014

<b>Activity</b>	<b>Complete by:</b>
Notification of forthcoming decision	7 July 2014
Approval of Gateway 1: Procurement strategy report	22 July 2014
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	1 Aug 2014
Issue Notice of Intention	5 Aug 2014
Advertise Contract	15 Sept 2014
Closing date for expressions of interest	28 Oct 2014
Completion of tender documentation	21 Nov 2014
Completion of short-listing of applicants	12 Jan 2015
Forward Plan	12 Jan 2015
Invitation to tender	26 Jan 2015
Closing date for return of tenders	16 Mar 2015
Completion of interviews	7 April 2015
Completion of evaluation of tenders	15 May 2015
Issue Notice of Proposal	22 May 2015
DCRB Review Gateway 2: Contract award report	13 July 2015
CCRB Review Gateway 2: Contract award report	30 July 2015
Notification of forthcoming decision	2 Sept 2015
Approval of Gateway 2: Contract award report	16 Sept 2015
Notification of implementation of Gateway 2 decision	22 Sept 2015
Alcatel Standstill Period	5 Oct 2015
Contract Award	7 Oct 2015
TUPE Consultation period	18 Mar 2016
Contract start	1 April 2016
Initial Contract completion date	31 Mar 2021
Contract completion date – if Extension 1 exercised 3 years	31 Mar 2024
Contract completion date – if Extension 2 exercised 2 years	31 Mar 2026

### **TUPE/Pensions implications**

40. From the information provided it appears that both OCO Ltd and T Brown Group Ltd have organised groupings of employees that carry out the work as their principal purpose and are assigned 100% of the time to undertake the work in dedicated teams. Therefore, in the circumstances, the appointment of new contractors in the proposed procurement of these services will amount to a Service Provision Change (SPC) under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and therefore TUPE will apply.
41. A full due diligence exercise will need to be carried out in respect of both OCO Ltd and T Brown Group Ltd before definitive advice on TUPE can be provided and to confirm if there are potential transferring employees who work in an organised grouping of employees and are assigned to undertake the work in a dedicated team. The due diligence work needs to be carried out before the tender process commences as its results need to be included in the tender pack

### **Development of the tender documentation**

42. A project team and project board will be set up for this procurement. The project team will be responsible for producing the tender documentation and the project board will provide governance. The form of contract to be used, for each contract, will be JCT Measured Term Contract 2011, which will be subject to amendment as directed by the council's legal services department.

### **Advertising the contract**

43. The contract will be advertised by way of an official notice that will be published in the official Journal of the European Union (OJEU).
44. After publication of the OJEU notice an advert will also be placed on the council's website.

### **Evaluation**

45. The PQQs returned will be evaluated by officers in engineering and compliance team. The selection process will be an evaluation of each contractor's economic and financial standing and their technical knowledge, accreditation, experience and ability and capacity to do the work. The eight (8) highest ranked companies will be invited to tender.
46. The council's standard evaluation criteria are based on 70:30 price:quality split. This achieves a balance between cost and the quality of service delivery. However, for heating and hot water services the cornerstones of a successful service are heating repairs delivered on time, completed right first time and achieving high levels of resident satisfaction. The driver is therefore much more focused on quality outcomes rather than just price. And while there are other ways of achieving good quality without reducing the price criteria, such as excluding very low priced bids and having minimum thresholds, this approach is not considered sufficiently robust to achieve the desired outcome for this contract due to the level of legislative compliance and performance criteria's.
47. As such, it is proposed to alter the council's standard evaluation criteria to 60:40 quality:price split. This sends a clear message to the market that the council expects a high quality service and not simply the cheapest one. The risk of the council having to pay more for the service is mitigated by the fact that this market is currently extremely competitive. Given the value of this contract, the market is expected to price tenders very keenly so even with the emphasis on quality, the council still expects to achieve value for money. The market analysis detailed in paragraph 13 supports this. This is important generally and will be of particularly importance to homeowners.
48. Price evaluation will be undertaken by the council's commercial team and reviewed by finance. Method statements will be used in determining quality. Tenderers will be required to provide information on the following:
  - Mobilisation and quality of resources available.
  - Service delivery in achieving specification, customer care, health and safety and key performance indicators.
  - Response to a scenario.
  - London living wage.

### **Packaging Strategy**

49. The council's proposed packaging strategy is to award no more than one contract area to any single contractor. This is to ensure that the council has more than one contractor across its total estate in order to maximise the opportunities for identifying savings, introduce competition, back-up arrangements and to also ensure that the council's exposure to a contractors economic or performance

failure is reduced. This is important given that the combined value of these contracts represents one of the largest heating contracts in the country. The packaging strategy seeks to achieve these objectives while at the same time securing best value for residents.

50. Accordingly, contracts A and B will be awarded to the two overall highest scoring contractors in terms of the total score of price and quality. Soft market testing has revealed that the heating market is highly competitive and it is expected that the prices secured will be very keen for both contracts.

### **Community impact statement**

51. The two contracts are borough wide and support the council's commitment to providing warm, dry and safe homes.
52. Both contracts will be of a medium impact to tenants, homeowners and other stakeholders as these services will require statutory annual inspections of gas and water services.

### **Economic considerations**

53. It is envisaged that expressions of interest will be submitted by interested parties within the EU in response to the published OJEU advertisement.
54. As the two contracts will also be advertised on the council's website, it is anticipated that this will also attract the interest of more local companies.
55. Contracts A and B will require a contract administration and gas apprentices to be recruited for each year for the initial five year duration of the contract period. Contractors will also be required to provide two week's work experience to local schools for each year of the contracts.

### **Social considerations**

56. Contractors will be required to demonstrate that they operate an Equal Opportunities Policy.
57. The successful contractors are expected to meet the London Living Wage (LLW) requirements. For these contracts, the quality improvements are expected to include a high calibre of multi-skilled operatives that will contribute to the delivery of the works on site and it is therefore considered that best value will be achieved by including this requirement. As part of the tender process, tenderers will be required to confirm that they pay the staff, who will be engaged on the contracts, equal to or more than the minimum LLW hourly rate and will continue to do so through the contract term and confirm how productivity will be improved by payment of LLW and. On award, any associated quality improvements and cost implications will be monitored as part of an annual review of each contract.
58. Contractors will be encouraged to register with and seek to secure accreditation through the TfL Fleet Operator Recognition Scheme (FORS).

### **Environmental considerations**

59. New boilers and plant will meet and exceed the minimum energy efficiency requirements to reduce the level of CO2 emissions.

- 60. Building Energy Management Systems (BEMS) will be maintained to ensure that plant and equipment is working to its optimum performance reducing fuel usage.
- 61. The use of low emission vehicles and the planning of journeys will be encouraged within the contracts.

#### **Plans for the monitoring and management of the contract**

- 62. The contracts will be let and managed by the engineering and compliance team.
- 63. Key performance indicators will be set and challenged to ensure the successful contractors' performance. In particular, targets will be set to ensure all gas landlord inspections are completed annually.
- 64. The council's commercial team will review all applications for payment and monitor and administer defaults and recovery of costs for poor performance.
- 65. To ensure robust contract management arrangements are in place, officers will undertake audit site inspections to ensure that method statements are adhered to and re-instatement works are compliant and delivered to a high standard.
- 66. Monthly progress meetings, to be attended by officers will be arranged and recorded to review performance and compliance. In addition, the Heating Core Group, chaired by the cabinet member for housing and attended by residents and officers, will continue to meet bi-monthly to challenge and scrutinise performance.
- 67. Where CFM engage the services of these contracts as a back up then CFM will carry out inspections and attend the appropriate meetings.
- 68. A separate Gateway 1 Report will be submitted for the procurement of a quality auditing of mechanical services contract. This will provide an independent quality audit for the work, safe practices and compliance with legislation. Where poor work is identified costs will be re-claimed as part of the contractual default procedure.

#### **Staffing/procurement implications**

- 69. There will be no impact on staff as the existing gas contract management team are already performing the contract management functions.

#### **Financial implications (FIN0808 – JP)**

	Revenue funding	Capital funding	TOTAL
Contract A	£5.4m	£2.5m	£7.9m
Contract B	£4.9m	£2.5m	£7.4m
<b>TOTAL</b>	<b>£10.3m</b>	<b>£5m</b>	<b>£15.3m</b>

- 70. The HRA Heating budget for 2014/15 is £10.3m p.a. and covers the responsive repairs element of the contract and any ad hoc work, and will remain at this level for the foreseeable future. In terms of capital resources, £4m p.a. for individual boiler replacements and circa £1m p.a. for District Heating Plant upgrades are

currently earmarked in the HIP for 2013/14 and 2014/15 with a residual £0.33m in 2015/16. Beyond that, further resources will need to be identified from 2015/16 to meet the cost of these contracts going forward.

71. Savings are expected to arise from lower price per property rates in individual heating and cheaper boiler installations under the new procurement, which will be utilised to meet the cost of the independent audit regime being put in place to coincide with the ECON contract renewal. Any savings over and above this will be re-visited as part of budget setting nearer the time.
72. It is important that whatever contract arrangements are adopted going forward, that they do not inhibit the council's ability to achieve full cost recovery from leaseholders as outlined by the Head of Specialist Housing. Unrecoverable costs fall to the HRA and ultimately to tenants thereby reducing the resources available for the provision of landlord services.

### **Investment implications**

73. Please refer to paragraph 71 above.

### **Legal implications**

74. Please see comments from the director of legal services

### **Consultation**

75. Representatives from tenants and homeowners will be invited to form part of the project board.
76. Consultation with residents will be held at the monthly TRA meetings.
77. Tenant Management Organisations have been contacted and have confirmed that they wish to be included in this procurement but with an option to opt out at anytime. The contract documentation for each contract will include the necessary clauses to cover this process.

### **Other implications or issues**

78. None.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

79. This report seeks approval for the procurement strategy of two Heating and Water contracts. The report explains the two contracts will be based on a geographical split and provides justification for having two separate contracts. The report confirms that these two contracts will provide back up arrangements for each other in the event that this is required.
80. The report confirms that although there appears to be no immediate wider need across the council, these contracts shall have the capacity to provide services to

other council departments including the corporate facilities management team (CFM) should the need arise.

81. The proposed strategy is for the council to carry out a competitive tender process following a public advertisement. The process described in the report is in line with the council's contract standing orders (CSO's) and EU regulations.
82. The evaluation methodology for this procurement will be based on a weighted model in favour of quality. Whilst this is not in line with the council's current approach, the justification for this is contained in paragraphs 47 – 48.
83. The project timetable included within the report is both reasonable and achievable for the proposed procurement strategy, provided that appropriate resources are allocated to the project at the appropriate time.
84. Paragraph 43 of the report confirms that both project team and project board will be put in place which will help support successful delivery of this procurement.

#### **Director of Legal Services**

85. This report seeks the approval of cabinet to the procurement strategy for two Heating and Water Contracts (Contracts A & B – north and south of the borough) at an estimated annual cost of £7.9m and £7.4m respectively, for a period of five years from 1 April 2016 with the potential to extend up to five years (three years plus two years), making an estimated value of £153m for the contracts as outlined in this report.
86. Contract Standing Orders (CSO) 5.4 requires all reasonable steps to be taken to obtain at least 5 tenders following a publicly advertised competitive tendering process for non-construction works and services over £75,000 and construction works and services over the EU threshold.
87. It is considered that these services are Part A services under the Public Contracts Regulations 2006. As the estimated value of this contract exceeds the relevant EU threshold it must also be tendered in accordance those Regulations.
88. Paragraphs 31 and 32 of this report confirm that a restricted two stage tendering procedure is proposed which will comply with EU regulations and CSO tendering requirements.
89. As these contracts are classified as a strategic procurement, CSO 4.4.2 a) reserves the decision to the cabinet or cabinet committee to authorise the proposed procurement process, after consideration by the corporate contracts review board (CCRB) of the report.

#### **Strategic Director of Finance and Corporate Services (FC 14/003)**

90. The strategic director of finance and corporate services notes the recommendations in this report for the procurement of two contracts on an area basis for heating and water contracts. The financial implications confirm that the current budget is sufficient to pay for the contract at the estimated prices. However, as the contracts commence in April 2016, these will be subject to budgets agreed by cabinet for 2016/17 and subsequent years. The report notes that the works are required in order to meet legal and statutory obligations.

Further information on the prices obtained and the likely budget will be provided as part of a subsequent report when the contracts are recommended for award.

### **Head of Specialist Housing Services (For Housing contracts only)**

91. Repairs and maintenance to communal services, including communal heating systems and potable water, is rechargeable to leaseholders under the terms of their leases, and to some freeholders who receive a heating service. This will form part of the annual service charges issued to homeowners each year. In order to accurately construct service charges it will be necessary to ensure that the contract requires repairs orders to be raised against individual boiler houses, blocks and estates with accurate descriptions of the work carried and the exact location of each repair.
92. Consultation under section 20 of the landlord and tenant act 1987 (as amended) using schedule 2 of the regulations will be required. Once the contract has been entered into any qualifying works costing any leaseholder more than £250 will require further statutory consultation, and timescales for this must be factored in to the process for raising orders.
93. The head of specialist housing services notes the recommendation to evaluate the procurement of this contract on a 60/40 quality price split and understands the rationale behind this. However, this proposal may put at risk the collection of the full service charge under this contract if the chosen contractor has tendered at higher rates than the other contractors. If challenged at the First Tier Tribunal (FTT) there is a slight risk that the service charge for costs incurred is reduced to the amounts quoted by the lowest tendering contractor, which will have a negative impact on the HRA. It is possible that with such a long term contract any adverse decisions from the FTT will become known leading to additional and likely successful, challenges. The council will need to provide robust reasoning behind this decision in order to defend its decision.
94. The head of specialist housing services notes the recommendation that the contracts are awarded to two different contractors, and that where the lowest tendering contract has bid for both areas only one will be awarded, with the second area being awarded to the second lowest contractor. There is a slight risk that if the service charge is challenged the FTT will reduce the service charge to what it would have been had the lowest tendering contractor been awarded the work. The council will need to ensure that it has a robust defence to this.
95. The head of specialist housing services is responsible for temporary and sheltered accommodation. Where sheltered housing units or temporary accommodation hostels will be serviced by these contracts then the contract managers will need to liaise with the supported housing manager and temporary accommodation services manager when inspections, testing or repairs are required.
96. It is essential that the contractor shows an understanding of the needs of vulnerable groups, particularly elderly tenants living in sheltered housing. Some of these schemes are attached to housing estates.
97. The council offers a gas safety check service to leaseholders with individual gas boilers, and this will need to be included in the proposed contracts.

### **REASONS FOR URGENCY**

98. This decision will be presented to cabinet on 22 July 2014 for approval of the GW1 Heating and Water Contract to be provided on schedule to avoid any service failure and to allow considerable time for the mobilisation period.
99. If this decision is not taken in July it will set the programme back by two months. With leasehold consultation, PQQ and tendering periods this contract would not be awarded till December 2015. This would only allow 3 months to mobilise two complex contracts during the winter heating season, increasing the risk of service failure.

### REASON FOR LATENESS

100. The reason for lateness was due to a delay in obtaining prior approval of the Gateway 1& 2 Engineering Contracts for the Repair and Maintenance of Potable Water, Individual Heating Systems and District Heating and Engineering Installations IDM before the GW1 Heating and Water Contract can be presented to cabinet. Approval for the GW1 & 2 was obtained on 17 July 2014.

### BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Open GW3 Report - Individual heating and gas contract price per property – 21 December 2012	Engineering & Compliance, 160 Tooley Street, London SE1 2QH	Gavin Duncumb 020 7525 0685
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/documents/s47674/Background%20document%20Individual%20heating%20and%20gas%20contract%20price%20per%20property%2021%20December%202012.pdf">http://moderngov.southwark.gov.uk/documents/s47674/Background%20document%20Individual%20heating%20and%20gas%20contract%20price%20per%20property%2021%20December%202012.pdf</a>		
Open Gateway 3 – Extension Approval – Engineering Contracts for the Repair and Maintenance of Potable Water, Individual Heating Systems and District Heating and Engineering Installations - 21 August 2013	Engineering & Compliance, 160 Tooley Street, London SE1 2QH	Gavin Duncumb 020 7525 0685
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=3969">http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=3969</a>		
Gas Contract Options Appraisal, Gas Advisory Services Ltd.	Engineering & Compliance, 160 Tooley Street, London SE1 2QH	Gavin Duncumb 020 7525 0685
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=4861&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=4861&amp;Ver=4</a>		
Gateway 1& 2 Engineering Contracts for the Repair and Maintenance of Potable Water, Individual Heating Systems and District Heating and Engineering Installations	Constitutional Support 160 Tooley St, London SE1 2QH	Constitutional Team 020 7525 7236
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/mglIssueHistoryHome.aspx?IId=50003179&amp;Opt=0">http://moderngov.southwark.gov.uk/mglIssueHistoryHome.aspx?IId=50003179&amp;Opt=0</a>		

## APPENDICES

No	Title
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Richard Livingstone, Cabinet Member for Housing	
<b>Lead Officer</b>	David Lewis, Head of Maintenance and Compliance	
<b>Report Author</b>	Gavin Duncumb, Commercial Manager	
<b>Version</b>	Final	
<b>Dated</b>	18 July 2014	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Head of Procurement	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Head of Specialist Housing Services	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	18 July 2014	

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**NOTE:** Original held by Constitutional Team; all amendments/queries to  
Paula Thornton/Virginia Wynn-Jones Tel: 020 7525 4395/7055

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Adele Morris	1		
Rosie Shimell	1	<b>Others</b>	
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Anood Al-Samerai	1	Paula Thornton, Constitutional Officer	20
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Chris Page, Cabinet Office	1	<b>Dated:</b> 7 July 2014	
Laura Kavanagh, Opposition Group Office	1		
<b>Press</b>			
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Simon Hughes, MP	1		