

Item No. 11.	Classification: Open	Date: 12 September 2023	Meeting Name: Cabinet
Report title:		Gateway 1 - Procurement Strategy Approval: Heating and Water Repairs, Maintenance, Refurbishment and Replacement Works	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Stephanie Cryan, Homes, Communities and Finance	

FOREWORD – COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR HOMES, COMMUNITIES AND FINANCE

Heating and water are fundamentally essential services to our residents and we need to ensure that we have the right contracts in place to service and repair both communal and individual boilers.

These proposed contracts establish a framework to deal with our ambitious repairs improvement performance targets whilst balancing external financial pressures that are beyond the council's control.

The council has identified capacity issues that, these proposed contracts, will mitigate whilst allowing more opportunities for local Small and Medium Enterprises in order to meet our commitments to invigorate and to provide opportunities for locally based businesses.

Our drive for value for money and enabling our residents in decision making is at the heart of the services we provide and what our residents deserve. Our commitments to our local community mean investing in long term arrangements to deliver highly qualified local long term apprenticeships, driving through social value to benefit our residents and potentially allow the council an option to in-source once it is financially prudent to do so.

In line with our commitment to be a net carbon zero borough by 2030, these contracts will provide options to tackle our climate pressures and move to a more sustainable economy whilst working within our financial resource restraints.

RECOMMENDATIONS

That Cabinet:

1. Approves the procurement strategy outlined in this report to undertake a tender procedure for the Heating and Water Repairs, Maintenance, Refurbishment and Replacement Work Contracts split into two lots with a total combined estimated maximum value of £187.92m as follows:
 - Lot 1 – Individual Heating and Water Repairs and Maintenance:
 - Contract A - Bermondsey, Rotherhithe, Walworth and Borough and Bankside at an estimated annual cost of £4.58m

- Contract B – Camberwell, Dulwich, Peckham and Nunhead at an estimated annual cost of £4.78m
- each for a period of five years from April 2025 (at an estimated combined total cost £46.80m) with the option to extend up to a further three years (in increments at the council's sole discretion subject to performance) making an estimated total contract value for both contracts of £74.88m.
- Lot 2 - District Heating Maintenance, Refurbishment and Replacement:
 - Contract C - Bermondsey, Rotherhithe, Walworth and Borough and Bankside at an estimated annual cost of £7.52m
 - Contract D – Camberwell, Dulwich, Peckham and Nunhead at an estimated annual cost of £6.61m
- each for a period of five years from 1 April 2025 (at an estimated combined total cost £70.65m) with the option to extend up to a further three years (in increments at the council's sole discretion subject to performance) making an estimated total contract value for both contracts of £113.04m.
2. Notes that the procurement strategy in this report will result in bidders being required to bid as backup to each other in their own Lot on their tendered rates to ensure an efficient service delivery.
 3. Notes that no one contractor can win more than one contract in each Lot, and that bidders will be required to choose (at the pre-selection stage) which of the two Lots they wish to bid for, which ensures that there is sufficient contractor capacity to deliver works.
 4. Notes that the Cabinet Member for Homes, Communities and Finance approved the publication of a Prior Information Notice (PIN) to inform the market of the council's intention to procure.
 5. Delegate's authority to the Strategic Director of Housing to approve the Gateway (GW) 3 report in for an extension to the existing contracts to align with the award of the new contracts when the procurement tender exercise is completed.
 6. Delegate's authority to the Strategic Director of Housing, in consultation with the Cabinet Member for Council Homes to approve the GW2 report for the four contracts A, B, C and D noted in recommendation 1 above for the reasons detailed in paragraph 48 below.

BACKGROUND INFORMATION

7. Currently, the council's housing department provide heating and water services to more than 40,000 properties. Individual tenant gas heated properties account for 23,376 properties. More than 65,000 responsive repairs and gas safety checks are completed each year to maintain these services, with nearly 1,800 new individual boilers being renewed annually.
8. District heating systems serve circa 17,084 properties with more than 40,000 responsive repairs and planned preventative maintenance works that are undertaken on a monthly basis to over 200 boiler house and plant rooms.

9. The council has two existing heating and water contracts providing individual, district heating and cold water services to its housing portfolio as detailed in the table below:

Contract & Contract Area	Scope of works	Contractor
Contract A – North of the borough - Bermondsey, Rotherhithe, Walworth and Borough and Bankside	<ol style="list-style-type: none"> 1. Gas landlord's safety inspections; 2. Responsive repairs, installations and maintenance for gas and heating installations to individual and district heated properties; 3. Potable water testing, treatment and installations; 4. Responsive repairs and maintenance for laundry and sewage plant; 	OCO Ltd
Contract B – South of the Borough - Camberwell, Dulwich, Peckham and Nunhead	<ol style="list-style-type: none"> 5. Testing and maintenance of dry/ wet riser installations; 6. Maintenance of building energy management systems; and 7. Emergency response that covers a 24/7, 52 weeks a year period. 	Smith & Byford Ltd

10. On 12 January 2023, the then Cabinet Member for Council Homes and Homelessness approved a GW0 report for a strategic options assessment for the delivery of individual tenanted domestic heating and water services for the councils housing portfolio. The GW0 report noted that there would be a number of additional procurement strategies for district heating, cold water services and building management systems.
11. The proposed scope of works for Lot 1 individual heating and water repairs and maintenance are:
- gas safety landlord inspections;
 - gas servicing and maintenance including out of hours emergencies;
 - individual gas boiler replacements; and
 - individual air and ground source maintenance and installations.
12. The proposed scope of works for Lot 2 district heating maintenance, refurbishment and replacement are:
- district heating planned preventative maintenance;
 - district heating maintenance and out of hours emergencies;
 - district heating refurbishments;
 - laundries servicing;
 - district heating replacements; and

- renewable technologies.
13. The proposed Lots will be awarded based on a geographical split of the borough as set out below, each providing all of the works with an initial term for each contract of five years with the option to extend for a further three years:
 - Lot 1 – Individual Heating and Water Repairs and Maintenance
 - Contract A - Bermondsey, Rotherhithe, Walworth and Borough and Bankside at an estimated annual cost of £4.58m; and
 - Contract B – Camberwell, Dulwich, Peckham and Nunhead at an estimated annual cost of £4.78m
 - Lot 2 - District Heating Maintenance, Refurbishment and Replacement:
 - Contract C - Bermondsey, Rotherhithe, Walworth and Borough and Bankside at an estimated annual cost of £7.52m
 - Contract D – Camberwell, Dulwich, Peckham and Nunhead at an estimated annual cost of £6.61m.
 14. The two current contracts detailed in paragraph 9 above are due to expire on 31 March 2024. In order to allow for the procurement timescales detailed in paragraph 46 below, it is proposed to present a GW3 report to the Strategic Director of Housing in October 2023 recommending an extension to the existing contracts to 31 March 2025 whilst the procurement tender exercise is completed and new contracts put in place.
 15. The proposed five year contract duration with the option to extend for up to a further three years provides the following advantages:
 - enables the council business objectives and programmes to be delivered;
 - provides a duration that is attractive to the market so it can invest in delivery and have visibility of the council’s forward plans;
 - allows time for the council to develop, and potentially grow, its own in-house team with work experience and training in renewable technologies should this be a viable sustainable option;
 - the ability to be flexible and extend the new contracts when good performance is achieved but also allow the option to re-procure when it is not; and
 - to deliver fairer future commitments (such as local employment, apprenticeships and greener jobs).

Summary of the business case/justification for the procurement

16. The works proposed under these contracts will enable the council to meet its legal obligations as a social housing landlord under the Gas Safety (Installation and Use) (Amendment) Regulations 2018 and the Landlord and Tenant Act 1985 and Part P of the Building Regulations ensuring it has arrangements in place to maintain its council housing buildings and carry out the scope of works detailed in paragraph 9 above.
17. The Government, as part of its Levelling Up and Social Housing White Papers, has committed to radically improving housing quality and set ambitions to ensure that housing is safe and decent.

18. The new contracts will contribute to maintaining the council's housing stock complementing future asset management strategy and upcoming regulations.
19. Residents rely on the council to ensure individual installations and its district heating systems are maintained to a high standard and to provide thermal warmth and hot water within their property. Lot 2 contracts will maintain the existing district heating systems and use this to identify and progress works for the systems that are not performing to standards
20. The new contracts will contain specifications that incorporate renewable technologies and, where financial resources are available, will prioritise low carbon installations to work towards the council's ambition to be carbon zero by 2030.
21. Having contracts in place with priced schedule of rates allows the council to bid for grant funding for air/ ground source pumps and deliver within the timescales set for bid qualification.
22. Subjecting these requirements to competitive tender will demonstrate best value to the council.
23. To ensure service delivery, Lot 1 new contracts will provide backup arrangements to each other in peak demands and Lot 2 new contracts will provide backup arrangements to each other in peak demands. It is proposed that no one contractor can win more than one of the four contracts being procured. This will provide more opportunities to the market and allow the council to have access to multiple contractors.
24. The organisation of service delivery areas reflects the volume of orders and values, and present to the market packages that local small and medium-sized enterprises (SMEs) can tender for and resource. This is expected to attract competitive tenders but at increased prices, due to inflation in the price of materials, which will be known on receipt of tenders.
25. The proposed five year contract duration with the option to extend for up to a further three years for four contracts will enable the council to determine the effectiveness of procuring four contracts against the issues with the existing two contracts:
 - both existing contracts act as back up to each other and on occasions where one contractor does not perform in a certain work stream this can lead to the backup contractor being overwhelmed due to the high demand for these services, especially within the winter months;
 - limited capacity and scope to deal with large capital investment projects;
 - new technologies are not incorporated within the existing contracts; and
 - social value themes, outcomes and measures are not fully captured however these existing contracts have delivered on apprenticeships and work experiences.

Market considerations

26. A desktop study identified a number of small, medium and large contractors within the market that could deliver the proposed work.
27. As a publicly advertised tender, all organisations including small and medium enterprises will be able to participate in expressing an interest and tendering.
28. Brexit and the Covid-19 pandemic had an impact on the construction market especially around skills shortages, import and export of materials and potential changes to regulations and standards. These challenges will have an impact on how bidders tender for works and it is likely to impact on the price for skills, materials. The establishment of long-term contracts will assist in mitigating potential impacts through providing long term visibility of work.
29. The Ukraine war also had an impact on steel prices, fuel and cost of utilities adding further volatility to the construction market.
30. As part of this procurement process financial checks and due diligence will be undertaken.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

31. The nature and value of these works means that the full tendering requirements of the Public Contracts Regulations 2015 ("PCR15") (as amended) will apply.
32. The GW0 report contained a number of options for delivering the works. These are listed at paragraphs 32 to 36 below.
33. Do nothing: this is not an option available to the council. As a landlord it is essential that the council maintains its district heating systems for residents.
34. The council provides these works in-house: this is not an option available to the council as the council does not have the current skill or resources to deliver these works in-house. In addition, as Lot 2 works are chargeable to leaseholders, it would prove difficult to deliver these works in-house and recover service charges.
35. The use of internal or external frameworks: whilst there are external frameworks for district heating refurbishment and replacements, this is not deemed to be a viable option as they currently do not give access to the council's local SMEs. Setting up a dedicated framework is also not deemed as a viable option due to the nature, volume and cyclical demands aligning more closely with term (fixed period) contracts. Nor does the council have the resources available to set up and manage a dedicated framework.

36. Shared Services: this is not an option available to the council as the neighbouring boroughs already have their own contracts in place which have not been opened up for other boroughs to use.
37. As none of the above options were suitable and these works are estimated above the PCR15 threshold for works, it is recommended that a fully advertised tender process using a restricted tender procedure be used to procure these works.

Proposed procurement route

38. This procurement is to undertake the PCR15 restricted tender procedure, via the eProcurement System. In response to the eProcurement System advert and Find a Tender Service notice, organisations interested in tendering will be required to formally express an interest on the eProcurement System in order to view the PAS91 pre-qualification questionnaire (PAS91 PQQ), draft tender documents and to submit a completed PAS91 PQQ by the deadline set.
39. Lot 1 Individual Heating - the procurement documents will set out that up to a maximum of six organisations will be selected for the combined tender list for Lot 1 contracts (Contracts A and B), subsequent to the PAS91 PQQ process. In the event that any applicant achieves a score within two marks of the lowest scoring applicant that is being invited to tender, it will be included in the shortlist and progressed to the ITT stage as well.
40. Lot 2 District Heating - the procurement documents will set out that up to a maximum of six organisations will be selected for the combined tender list for Lot 2 contracts (Contracts C and D), subsequent to the PAS91 PQQ process. In the event that any applicant achieves a score within two marks of the lowest scoring applicant that is being invited to tender, it will be included in the shortlist and progressed to the invitation to tender (ITT) stage as well.

Identified risks for the procurement

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

R/N	Risk Identified	Risk Rating	Mitigation
R1	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. Early market engagement and open days are planned to ensure sufficient interest in these contracts.

R/N	Risk Identified	Risk Rating	Mitigation
R2	Successful contractors become insolvent leaving works incomplete.	Low	Each contractor will act as back up however in the event of both failing then back up contractor(s) will be selected from the council's approved list. Robust due diligence of tenderer's financial situation will be undertaken.
R3	Inflation	Medium	The price model targets contractors to price appropriately as opposed to a race to the bottom i.e. cheapest price. The contract terms includes Building Maintenance Indices and individual exceptional cases will be reviewed on their own merit.
R4	Procurement Challenge	Low	The PCR15 restricted tender procedure will be used.

42. A performance bond will not be required for these contracts. The contract documentation will include for retention of monies to be held until satisfactory completion of the works. A parent company guarantee will be required if the successful contractors have an immediate parent or ultimate company.

Key / Non Key decisions

43. This report deals with a key decision.

Policy Framework Implications

44. The procurement of these contracts will follow the Fairer Future Procurement Framework to support the Council Delivery Plan and Fairer Future Commitments to deliver value for money and be open, honest and accountable.
45. These new contracts will contribute to the Council's Delivery Plan for:
- a thriving and inclusive economy;
 - a healthy environment;
 - quality affordable homes; and
 - keeping you safe.

Procurement Project Plan (Key Decisions)

46. The table below sets out the anticipated timescales for this procurement. However, this is subject to the number of expressions of interest received and resources available:

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	06/03/2023
DCRB Review Gateway 1	24/07/2023
Brief relevant cabinet member (over £100k)	02/08/2023
CCRB Review Gateway 1	03/08/2023
Notification of forthcoming decision - Cabinet	01/09/2023
Approval of Gateway 1: Procurement strategy report	12/09/2023
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	21/09/2023
Completion of tender documentation Both Lots	08/12/2023
Notice of Intention Completed (Applies to Housing Section 20 Leaseholder consultation only) Lot 2 District Heating	14/12/2023
Publication of Find a Tender Service Notice Both Lots	15/12/2023
Publication of Opportunity on Contracts Finder Both Lots	15/12/2023
PAS91 PQQ Information Day Both Lots	10/01/2024
Closing date for receipt of expressions of interest Both Lots	09/02/2024
Completion of short-listing of applicants Both Lots	22/03/2024
<u>Lot 2 – District Heating</u>	
Invitation to tender (ITT)	25/03/2024
ITT Information Day	10/04/2024
Forward Plan Gateway 2	10/04/2024
Closing date for return of tenders	02/05/2024
Completion of any clarification meetings / presentations / evaluation interviews	24/05/2024
Completion of evaluation of tenders	03/06/2024
Notice of Proposal issued (Applies to Housing Section 20 Leaseholder consultation only)	06/09/2024
DCRB Review Gateway 2:	23/09/2024
CCRB Review Gateway 2:	03/10/2024
Notification of forthcoming decision	11/10/2024
Approval of Gateway 2: Contract Award Report	15/10/2024
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	23/10/2024
Debrief Notice and Standstill Period	04/11/2024
Contract award	05/11/2024
Add to Contract Register	05/11/2024

Activity	Complete by:
TUPE Consultation period (if applicable)	10/01/2025
Mobilisation	31/03/2025
Contract Start	01/04/2025
<u>Lot 1 – Individual Heating</u>	
Invitation to tender (ITT)	28/05/2024
ITT Information Day	12/06/2024
Forward Plan Gateway 2	12/06/2024
Closing date for return of tenders	28/06/2024
Completion of any clarification meetings / presentations / evaluation interviews	19/07/2024
Completion of evaluation of tenders	09/08/2024
DCRB Review Gateway 2:	19/08/2024
CCRB Review Gateway 2:	29/08/2024
Notification of forthcoming decision	09/09/2024
Approval of Gateway 2: Contract Award Report	11/09/2024
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	20/09/2024
Debrief Notice and Standstill Period	04/10/2024
Contract award	07/10/2024
Add to Contract Register	07/10/2024
TUPE Consultation period (if applicable)	10/01/2025
Mobilisation	31/03/2025
Contract Start	01/04/2025
Place award notice on Find a Tender Service Both Lots	12/12/2024
Place award notice on Contracts Finder Both Lots	12/12/2024
Initial contract completion date	31/03/2030
Contract completion date – (if extension(s) exercised)	31/03/2033

47. These contracts are being procured in 2 Lots which contains four contracts which will require significant mobilisation planning and consultation with stakeholders and residents.
48. The reasons for the requested delegation of the approval of the GW2 reports from cabinet to the Strategic Director of Housing in consultation with the Cabinet Member for Council Homes is to ensure that the four successful contractors are mobilised ready to commence work when the procurement

tender exercise is completed allowing the new contracts to start in the Spring rather than Winter months when demand is at its peak without the risk of running a compliant tender process and evaluation which may not align with the timetable for cabinet.

TUPE/Pensions implications

49. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) are likely to apply to this proposed procurement exercise. The appointment of potential suppliers for the existing Heating Maintenance Contracts could potentially amount to a service provision change under TUPE.
50. The extent of the application of TUPE and its implications will depend on a number of factors and will be considered during the proposed procurement exercise. These will be reported in the GW2 report.
51. TUPE may also apply to any incumbent and new suppliers, if that is the outcome of the tenders, and in which case may result in the transfer of staff from one supplier to the other and/or their sub-contractors.
52. The procurement project timetable will need to include sufficient timelines to ensure that the council and any affected supplier(s) are able to comply with legal obligations that could potentially arise in respect of TUPE.

Development of the tender documentation

53. The asset management procurement team will be responsible for the delivery of this procurement and a project board will be set up to provide governance. The form of contract to be used will be JCT Measured Term Contract 2016, which will be subject to amendment as directed by legal services – governance and assurance. The contract documents, once awarded, will be passed to legal contracts for formal execution.
54. The tender documentation will consist of the council's bespoke specification and schedule of rates covering various work streams.

Advertising the contract

55. The contracts will be advertised on the London Tenders Portal by way of an official notice that will be published on Find a Tender Service. The council will also publish a contract notice on the Contracts Finder website on the same day the Find a Tender Service notice is published.
56. The council will hold an information day at the PAS91 PQQ stage. The purpose of the information day is to explain to the Applicants the rationale for procuring two Lots and the rationale for Applicants only being able to bid for one Lot which is in order for the council to ensure service delivery and the council's requirement to having four separate contractors delivering the works to give greater capacity and to achieve higher interest from the market.

57. The council will also hold an information day at the tender stage for those bidders shortlisted to tender.

Evaluation

58. Lot 1 Individual Heating - the PAS91 PQQs returned will be evaluated by council officers. The selection process will be an evaluation of each bidder's economic and financial standing, technical knowledge, accreditations, equalities, diversity and inclusion questions, accreditation, experience and its ability and capacity to deliver the full scope of work. It is estimated that up to six bidders, to be agreed by the project board, will be shortlisted and invited to tender. The shortlisted companies invited will be able to bid for the two contracts (Contracts A and B) but the evaluation methodology will set out that each contract will be awarded to separate companies and not to a single company.
59. Lot 2 District Heating - the PAS91 PQQs returned will be evaluated by council officers. The selection process will be an evaluation of each bidder's economic and financial standing, technical knowledge, accreditations, equalities, diversity and inclusion questions, accreditation, experience and its ability and capacity to deliver the full scope of work. It is estimated that up to six bidders, to be agreed by the project board, will be shortlisted and invited to tender. The shortlisted companies invited will be able to bid for the two contracts (Contracts C and D) but the evaluation methodology will set out that each contract will be awarded to separate companies and not to a single company
60. Three evaluation panels, one reviewing price (including social value), one reviewing quality and the other reviewing equalities, diversity and inclusion, will evaluate the ITT for the two new contracts.
61. A deviation from the council's usual 70:30 price quality weighting is proposed to better follow the Fairer Future Procurement Framework and capture the requirements for social value and highlight the importance of quality of works delivered to residents.
62. The ITT evaluation will be undertaken by a tender evaluation panel (TEP). The selection criteria will be based on MEAT (Most Economically Advantageous Tender) criteria with a split of 55:42:3 price and social value/quality and social value/ equalities, diversity and inclusion.
63. Price evaluation for the contracts will be undertaken by asset management commercial officers and reviewed and signed off by housing finance. It is proposed to use a price model that ensures lowest un-economical bids do not receive the highest scores. To achieve this the 55% awarded for price will be split into two distinct sections as follows:
 - a) Lowest lump sum price, which is likely to account for 35%, where the tenderer with the lowest price is awarded the maximum percent and all other tenders are scored proportionally to the lowest price and 5% for social value quantitative.

- b) Mean average price of tenders, which is likely to account for 15%, where the tenderer which scores closest to the mean average value of all compliant tenders will be awarded 15% with all other tenders scored proportionally to the mean average price.
64. Quality evaluation (42%) will be undertaken by asset management officers. An evaluation methodology will include a number of method statement questions and will be developed by the project team and agreed with the project board.
65. Each method statement will be weighted and will include a minimum threshold criterion for key quality and financial implications, which if tenderers fail to meet allows the council the discretion to reject those tenderers from the tender process.
66. The social value quantitative and qualitative will be evaluated against a number of selected Themes, Outcomes and Measures. Social value themes that will be considered are:
- local people in employment;
 - great estates;
 - opportunities for disadvantaged people; and
 - carbon reduction and safeguarding the natural environment.
67. The social value quantitative will also require tenderers to price for long term apprenticeships which require significant investment in both academic and on-site training as detailed in paragraphs 85 to 87. Tenderers will be able to submit extra over prices for an additional four long term apprenticeships per contract (a combined total of 16) for each year of the initial term of the contract. The extra over price will then be further detailed in the Gateway 2 report and be subject to current financial resources being available.
68. The information submitted in response to these questions should demonstrate the tenderer's ability to fulfil the requirements that were outlined in the procurement documents.
69. Successful tenderers will be evaluated on their commitment to social value on an annual basis. Failure to fulfil these commitments will translate, in the first instance, to provide other benefits to the same value in the Themes, Outcomes and Measures and where this has not been achieved contractual remedies will be applied.
70. The equalities, diversity and inclusion will be evaluated by a separate panel of council officers reflecting 3% of the available tender evaluation.
71. The council will reserve the right to hold clarification meetings prior to finalising all tenderers' prices, quality, social value and equalities, diversity and inclusion scores which shall then undergo a rigorous consensus scoring before being added together to produce a combined final score.

72. Tenderers with the highest combined price, quality, social value and equalities, diversity and inclusion score will then be ranked. For Lot 1 - the first-placed tenderer will be awarded Lot 1 Contract B, as this is the larger value contract, and the second-placed tenderer will be awarded Lot 1 Contract A. For Lot 2 - the first-placed tenderer will be awarded Lot 2 Contract C, as this is the larger value contract, and the second-placed tenderer will be awarded Lot 2 Contract D. No single tenderer will be awarded more than one contract.

Community, equalities (including socio-economic) and health impacts

Community impact statement

73. The four new contracts will be borough wide and support the council's Fairer Future Promises for quality affordable homes and revitalised neighbourhoods.
74. The four new contracts will be of a medium impact to tenants and other stakeholders as these works will be done both externally and internally.

Equalities (including socio-economic) impact statement

75. As set out under the Equality Act 2010 and the Public Sector Equality Duty (PSED), an equalities impact assessment was carried out in July 2022. Overall, the four new contracts should reduce inequality and have a positive impact on groups which are protected under the Act.
76. Affordability and low carbon technology installations may create challenging issues for the council. Refurbishment and investment decisions should carefully weigh all factors. Maximising the use of available grants for low carbon technology and lobbying government to extend these, will help to minimise costs to the council and its residents.
77. The four new contracts will contribute to ensuring good quality homes which will benefit Southwark communities.

Health impact statement

78. The four new contracts will provide a positive impact on health inequalities as the main purpose of the works is to provide reliable heating and hot water to all tenants within council housing properties to ensure thermal comfort.
79. Maintenance, refurbishment and replacement of existing services is essential to ensure safety and work towards improving the thermal efficiency of systems and homes. The services will need to work in conjunction with building fabric improvement to ensure properties heating energy needs are reduced.
80. These services will assist with the heat network strategy and be instrumental in delivering renewable technologies to reduce the reliance on fossil fuel heating which will reduce pollution and carbon dioxide emissions in the local environment.

81. Without these services residents will face increasing issues with system reliability. Vulnerable residents will be particularly disadvantaged by ineffective heat supply. It is well known that cold indoor temperatures can lead to respiratory problems in particular as well as other illnesses. People with certain disabilities, the elderly and the very young are particularly vulnerable to such issues. And economically disadvantaged households often have less resources available to them to deal with the impacts of unreliable heating.

Climate change implications

82. The four new contracts will provide opportunities to undertake the installation of renewable technologies where financial resources are. Specifications of work will consider the overall holistic approach to working towards carbon zero and comply with Building Regulations Part L that addresses the conservation of fuel and power as part of a drive towards a greener future.

Social Value considerations

83. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.

Economic considerations

84. Currently, the council's ambition is to employ one apprentice per £1m spend which would result in 116 apprentices to be employed for the initial term of these four contracts based on the combined estimated initial term value. Unfortunately, this would not be sustainable either financially or operationally. Operationally 116 apprentices would pose significant issues as there would not be enough qualified operatives to train all of them. Each apprentice would cost circa £80k (including pay, training and on-costs) over four years which would have a significant financial impact on bidders' tendered price. The heating industry has a high value of material cost within tendered pricing which for these four contracts could result in circa 40% of the turnover.
85. In order to deliver sustainable apprenticeships whilst not artificially inflating tender costs, it is proposed that 30% of the estimated combined contract value is used to calculate apprentices. Therefore for these four contracts, the calculation is £116m x 30% = 34 apprentices across the four contracts.
86. It should be noted that these apprenticeships are a four to five year term to obtain the qualification and experience in the industry which are a long term investment for both the tenderers and the council.
87. Lot 1 - Individual Heating - as the council explores ways it can continue to deliver value for money, it is essential that it makes even better use of its resources to meet the needs of residents and businesses in the borough. Under the commitment of a "full employment borough" and as part of social

value commitments these contracts will require the two successful contractors to employ ten apprentices for each contract for the initial term of the contract. This will provide a sustainable approach to ensure the 20 apprentices have a training programme that covers all work streams and contribute to greener job targets.

88. Lot 2 - District Heating - as the council explores ways it can continue to deliver value for money, it is essential that it makes even better use of its resources to meet the needs of residents and businesses in the borough. Under the commitment of a “full employment borough” and as part of social value commitments these contracts will require the two successful contractors to employ seven apprentices for each contract for the initial term of the contract. This will provide a sustainable approach to ensure the 14 apprentices have a training programme that covers all work streams and contribute to greener job targets
89. Bidders will be required to provide costs and proposals for meeting their social value requirements to ensure that this can be managed and valued as part of the contract management process.

Social considerations

90. The Fairer Future Procurement Framework will be embedded into the procurement documentation and will be evaluated as part of the overall quality evaluation.
91. For procurements in excess of £15m, the Fairer Future Procurement Framework requires the use of the Social Value Portal. However, it is proposed, as part of this procurement, to request contractors to tender for a set percentage financial value contribution against an annual turnover which will be used to pay for a range of Great Estate Schemes and social value initiatives across the borough.
92. The successful contractors will be required to demonstrate that they operate an Equal Opportunities Policy, comply with the provisions of the Equalities Legislation, the Employment Relations Act 1999 (Blacklists) Regulations 2010 and the Prevent Duty under section 26 of the Counter-Terrorism and Security Act 2015.
93. The council is an officially accredited London Living Wage Employer and is committed to ensuring that, where appropriate, contractors and sub-contractors engaged by the council to provide works or services within Southwark or Greater London pay their staff at a minimum rate equivalent to the London Living Wage rate. For contracts performed outside London, all relevant staff should be paid at or above the real UK Living Wage. For these contracts, the quality improvements are expected to include a high calibre of operatives that will contribute to the delivery of the works on site and will provide best value for the council. It is therefore considered appropriate for the payment of London Living Wage to be required. The successful contractors will be expected to meet the London Living Wage requirements and contract

conditions requiring the payment of London Living Wage which will be included in the tender documents. As part of the tender process, bidders will also be required to confirm how productivity will be improved by payment of London Living Wage. Following award, these quality improvements along with gender pay gap reviews will be monitored as part of the contract review process.

94. The successful contractors shall consider trade union recognition in line with the council's Fairer Future Procurement Framework.
95. The successful contractors will be registered and accredited with the Transport for London Fleet Operator Recognition Scheme. Fleet Operator Recognition Scheme helps fleet operators to measure and monitor performance, encompassing safety, fuel efficiency, vehicle emissions and improved operations, in order to promote fleet management best practice and reduce social / environmental impacts.
96. The successful contractors will need to demonstrate that they can meet the Mayors Good Working Standard foundation level or above and are committed to the End Violence at Work Charter.

Environmental/Sustainability considerations

97. The four new contracts will contain requirements to recycle existing material products and set out criteria for the successful contractors to work towards a carbon zero business model.
98. The successful contractors will need to include for the use of either hybrid or electrical vehicles within the contracts setting out a 12 month implementation timescale.
99. The four new contracts will allow for improved heating controls to be installed to reduce energy consumption.
100. The four new contracts will continue replacing existing inefficient gas boilers to council tenant properties and where financial resources are available provide new air/ ground source heat pumps as part of a wider holistic approach to improving the thermal efficiency of properties.

Plans for the monitoring and management of the contract

101. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System. Annual Performance Reports will be presented in line with contract standing orders.

Staffing/procurement implications

102. There will be no impact on asset management staff as the existing division are already performing the procurement and contract management functions.

Financial implications

103. For construction (works) contracts, the council's end user status will be clarified in relation to Domestic Reverse Charge (DRC) in the Gateway 2 report and advice sought from Finance if necessary.

104. The contract values including and excluding VAT is:

Lot 1 - Contract A

Budget Code	Cost excluding VAT
GG221 revenue contract value for individual heating (contract north)	£2,584,887
Estimated capital (based on the assumption that financial resources will be available and considering other priorities across asset management).	£2,000,000
Total Estimated Contract Value	£4,584,887

Lot 1 - Contract B

Budget Code	Cost excluding VAT
GG221 revenue contract value for individual heating (contract south)	£2,784,035
Estimated capital expenditure (based on the financial resources will be available and considering other priorities across asset management).	£2,000,000
Total Estimated Contract Value	£4,784,035

Lot 2 - Contract C

Budget Code	Cost excluding VAT
GG221 estimated revenue contract value for district heating (contract north)	£3,517,045
Estimated capital (based on the assumption that financial resources will be available and considering other priorities across asset management).	£4,000,000
Total Estimated Contract Value	£7,517,045

Lot 2 Contract D

Budget Code	Cost excluding VAT
GG221 estimated revenue contract value for district heating (contract south)	£2,611,993
Estimated capital expenditure (based on the financial resources will be available and considering other priorities across asset management).	£4,000,000
Total Estimated Contract Value	£6,611,993

105. The annual contract values will be subject to financial resources being available.

Legal implications

106. Please see concurrent from the Assistant Chief Executive – Governance and Assurance.

Consultation

107. Consultation has been held to review existing contracts and how any lessons can be embedded into the new contracts.

108. It is recognised that this procurement has an impact on residents and therefore a consultation plan will be prepared and delivered to assist with informing residents and incorporating their views and concerns into the contract documents and contract management procedures.

109. This Gateway 1 report will be presented to the Residents Improvement Board panel for consultation and feedback to ensure that the tender documentation captures their specific requirements.

110. The four contracts will also form part of the Repairs Improvement Plan and the four successful contractors will be required to attend and contribute to such meetings and play an integral part of improving the service to Residents.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance (H&M 23/038)

111. The Strategic Director of Finance notes the contents of this report, in particular the financial implications section. The expected combined cost of these contracts over five years is £117m, (£57m Revenue/ £60m capital). Given the size the heating and hot water programme and the current revenue and capital financial pressures within the HRA, service delivery should reviewed at this early stage, to ensure that possible efficiencies are identified and factored into the procurement process.

112. The Asset Management capital programme is currently under review to ensure that the programme can be delivered within available resources. Although this

gateway approves the procurement strategy, the ultimate contract award and use of the contractors will be subject to available resource allocation. Sufficient budget must be allocated within this reprioritised programme to cover the use of these contracts in line with council priorities.

Head of Procurement

113. This report seeks approval from cabinet to undertake a procurement exercise for the Heating and Water Repairs, Maintenance, Refurbishment and Replacement Work Contracts split into two lots (Lot 1 individual Heating and Water Repairs and Maintenance and Lot 2 District Heating Maintenance, Refurbishment and Replacement) and divided into four contracts (as detailed in recommendation 1 above) for a period of five years commencing April 2025 with the option to extend by a further three years at the councils sole discretion subject to performance for a total estimated maximum value of £187.92m.
114. Cabinet note details of the procurement exercise is detailed in paragraphs 31 to 40 and 53 to 72, the risks are detailed in paragraph 41, the impact on equalities, health and climate change are detailed in paragraphs 75 to 82, proposed social value commitments are detailed in paragraph 66, confirmation of the payment of London Living Wage or above is detailed in paragraph 93, management and monitoring is detailed in paragraph 101.

Assistant Chief Executive – Governance and Assurance

115. This report seeks the approval of the cabinet to the procurement strategy for heating and hot water repairs, maintenance, refurbishment and replacement works as further detailed in paragraph 1. By virtue of contract standing order 6.4.3(a) the decision is reserved to cabinet after consideration of the report by CCRB.
116. The nature and value of these contracts are such that they are subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR 2015). As noted in paragraph 38, the intention is that a restricted process should be undertaken following an advert in the Find a Tender Service. The tendering requirements of the PCR 2015 are therefore satisfied. As highlighted in the recommendations, the procurement is to be split into 2 lots (individual heating and district heating) with applicants being required to select which lot they wish to tender for at the pre-selection stage, and in respect of each lot, no bidder being able to win more than one of those 2 resulting contracts. Full details of this will be included within the invitation to tender (ITT) and highlighted at the ITT information day.
117. This report also seeks approval to the delegation of the Gateway 2 contract award decision to the Strategic Director of Housing, in consultation with the Cabinet Member for Council Homes to facilitate award of this contract. Approval is also sought to delegate the approval to vary the existing contracts to the Strategic Director of Housing so that they align with the award dates for the new contracts.

118. The Cabinet’s attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, which requires public bodies to have regard, when making decisions, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The Cabinet is specifically referred to the community, equalities (including socio-economic) and health impacts at paragraphs 73 to 81 setting out the consideration that has been given to equalities issues which should be considered when approving the recommendations in this report.
119. Reference is also made in the report to resident consultation that is due to take place, and how feedback will be incorporated into the tender documentation, and long term during the life of the contracts. Further details of this will be included in the Gateway 2 report.

Director of Exchequer (For Housing contracts only)

120. **Lot 1 – Individual Heating** contracts relate only to individual heating systems. This affects only tenanted properties and has no service charge implications.
121. **Lot 2 – District Heating** contracts relate to district heating systems serving both tenanted and sold properties. For leaseholders and freeholders served by district systems the costs arising from these contracts will be service chargeable. These are therefore qualifying Long Term Agreements as defined by the Commonhold and Leasehold Reform Act 2002. Consultation will be required with leaseholders under S20 of the Landlord and Tenant Act 1985 (as amended). Notice of Intention under Schedule 2 of the regulations will be required in advance of tenders being invited and a further Notice of Proposal required before contracts are entered into. Further consultation under schedule 3 of the regulations will be required for packages of work undertaken within these contracts that will result in charges of £250 or more, inclusive of fees and overheads.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 0 Strategic Options Assessment for Service provision for domestic heating and water to the council’s housing portfolio	Asset Management, Housing, 160 Tooley St	Gavin Duncumb 020 7525 0685
Link: Agenda for Cabinet on Tuesday 12 September 2023, 11.00 am - Southwark Council		

APPENDICES

Background Papers	Held At	Contact
None		

AUDIT TRAIL

Cabinet Member	Councillor Stephanie Cryan, Homes, Communities and Finance	
Lead Officer	David Hodgson, Director of Asset Management (AM)	
Report Author	Gavin Duncumb, AM Commercial Manager	
Version	Final	
Dated	31 August 2023	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance	Yes	Yes
Head of Procurement	Yes	Yes
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Director of Exchequer (For Housing contracts only)	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		31 August 2023