

Item No:	Classification: Open	Date: 26 July 2010	Decision Taker: Strategic Director of Environment and Housing
Report title	Gateway 2 – Contract Awards Approval Digital Switchover		
Ward(s) or groups affected	All		
From	Head of Housing Management		

RECOMMENDATION

1. That the Strategic Director of Environment and Housing approve the award of digital switchover contracts to the following companies (See Appendix 1).

BACKGROUND

2. There is no specific extension period built into the contract.
3. The contract price is not index linked.

Procurement Project Plan

4. Timetable of procurement project plan (See Appendix 2).

Description of procurement outcomes

5. The contracts are to deliver the technical upgrades to communal TV aerial systems and distribution infrastructure and Integrated Reception Systems (IRS)- replacement or new- to ensure that tenants and leaseholders can receive a digital signal when the analogue signal is switched off in 2012.
6. The communal TV systems asset register comprises of 684 blocks/ 28419 dwellings for masthead aerial upgrades and 71 blocks/ 2315 dwellings for new IRS systems. IRS systems are to be installed to all council blocks in conservation areas and listed blocks so that individual satellite dishes are no longer required in breach of planning regulations.
7. The proposed scope of works includes:

Masthead aerial systems

- Upgrade of masthead aerial
- Upgrade to signal distribution infrastructure to individual dwellings including equalizers, amplifiers/repeaters, cabling and sockets
- Provision of set top digital box (where required)

IRS systems

- Upgrade or installation of new masthead aerial with communal satellite dish (IRS system)
- Upgrade or installation of new signal distribution infrastructure to individual dwellings including equalizers, amplifiers/repeaters, cabling and sockets
- Provision of set top digital box (where required)

8. The pre-tender estimate advised by the consultants was £6 million based upon an extrapolation from a sample survey of over 50 sites.

KEY ISSUES FOR CONSIDERATION

Policy Implications

9. The contracts meet the council's policy for the digital switchover as agreed by the Executive in June 2008.
10. Planning approval is being sought for the IRS installations for the 56 blocks in conservation areas and the 15 listed buildings.

Tender Process

11. The estimated contract value of £6 million has required an EU procurement procedure being above the threshold (applicable at that time) of £3,500,000. Expressions of Interest were invited through an OJEU notice, using the restricted procedure, published on 24 July 2009 with a return date of 28 August 2009 for an expression of interest, and publication in the Confederation of Aerial Industries website, to achieve a long list of contractors to be evaluated through a Pre Qualifying Questionnaire (PQQ) using financial and quality criteria.
12. The council's retained procurement consultants, Trimmer CS Ltd, have advised and supported the procurement process including the detail of the quality criteria and the subsequent marking working along with the LBS project manager and the departmental procurement manager. Potter Raper Partnership, a framework QS consultancy, undertook the financial evaluation of the PQQ returns with assistance from LBS Procurement.
13. Over fifty companies expressed an interest with eleven companies returning completed PQQs by the due date of 5 October 2009. These were evaluated by the project manager and retained procurement consultant against the PQQ criteria along with the concurrent financial evaluation of the firms applying a formula of annual turnover to contract value to provide a safe trading level to mitigate the risk to the council. As a result seven firms were shortlisted for invitation to a single stage tender process with the identified contract limits.

Tender Evaluation

14. All seven tenderers were then evaluated in a two part process covering Quality and Price with Potter Raper Partnership carrying out the financial evaluation and the quality aspects evaluated by a panel consisting of two council officers (project manager and an officer from Engineering Services), two residents (representing Tenants and Homeowners Council) and the council's procurement consultant using the methodology prescribed in the tender invitation document sent to each company.
15. In summary, the Quality of bids was assessed by scoring each tender according to specific criteria against eight method statements covering:
 - Organisation
 - Management
 - Customer Satisfaction
 - Risk Management
 - Continuous Improvement
 - Supply Chain Partnering
 - Emergency works
 - Performance

16. The Quality scores awarded formed 60% of the total score awarded to each company (with the remaining 40% on price).
17. Trimmer CS compared the price submitted by each company, as advised by Potter Raper Partnership following their financial assessment, to the minimum price submitted and awarded each bid a percentage score on that basis- thus the lowest indicative price was awarded the maximum score. This was combined with the Quality evaluation scoring to produce a rank order of contractors.
18. The financial assessment by Potter Raper Partnership was based on a financial tender appraisal model prepared before the PQQ stage which includes various Contract Lump Sums tendered for the maintenance and new installations, an assessment of the quantities to be included for each of the priced Schedule of Rate items, an adjustment for the tendered percentages for each of the Priority Codes [response times], indicative labour, material and plant provisions which may be ordered under the contract as Daywork and Guarantee Bond and Parent Company Guarantee premiums. In addition there was a facility to adjust the appraisal to take account of any tendered discount for the award of more than one contract (which following the financial appraisals could not be used).
- 19 Adopting this quality and financial methodology provides the results set out below
 - Contract 1 Alphatrack
 - Contract 2 SCS
 - Contract 3 MDTV
 - Contract 4 Ultimate
 - Contract 5 Avonline

Plans for the Transition from the Old to the New Contract

20. Not applicable.

Plans for monitoring and management of the Contract

21. The contract will be project managed by Southwark Asset Management and Investment Planning team, with a dedicated project manager given the volumes, timescale and complexity. Quantity Surveying and cost management services will be provided by Potter Raper Partnership, a framework partner, for the four area based contracts. Quantity surveying services by Potter Raper will be provided at a fixed % identified in the LBS framework agreement based on the value of the contract and cost management at an hourly rate with costs identified by personnel as detailed in the framework agreement.
22. To further enhance cost management for masthead aerial upgrades a Mechanical and Engineering consultant will also be appointed through the M&E framework along with a Contract Project Manager (CPM) from the CPM framework. The LBS Project Manager will be the client representative. Monthly written progress and financial reports will be provided.

Performance Bond/Parent Company Guarantee

23. A performance bond is required from each company and should be supplied within 21 days of the acceptance of the tender, which will enable the bond to be in place, prior to the contractors taking possession of the site. The cost of the bond is included in the tender sums. Parent Company guarantees will also be required where applicable.

Other considerations

Alternative Options Considered

24. The report seeks approval for the acceptance of the lowest most economically advantageous tenders for each lot, consistent with the restraints on the number of contracts each contractor could win as a consequence of the financial evaluations carried out by LBS Procurement officers within Finance, in accordance with Contract Standing Order 4.5.2. It is therefore considered that there are no alternative viable options.

Design & Specification Compliance

25. The Design and Specification Guide does not cover specialist work to communal aerial TV systems.

Details of Health & Safety Plan

26. The successful contractor will not be allowed to commence work on site until a construction stage Health and Safety Plan has been adequately developed and approved by the Planning Supervisor.

Leasehold Implications

31. Notices of Intention were issued in April 2009. The installation of IRS systems to those blocks where no aerial currently exists is considered to be improvement work, for which there is no obligation on leaseholders to contribute under the terms of Southwark's leases. Upgrading of existing aerals, which forms the majority of the contract, is service chargeable, however scrutiny of the tenders indicate that the average rechargeable cost to leaseholders will be well below the statutory consultation limit and therefore Notice of Proposal would not be required.

Decent Homes

32. Not applicable.

Community Impact Assessment

34. The works proposed under these contracts are to over 700 blocks throughout the borough with communal TV systems. The impact of the works to the residents will be low, being mainly in communal areas, and will not involve decanting.
35. The works will promote social inclusion by providing a means for about 30,000 residents to connect up to a digital TV signal with the breadth and depth of channels this will provide. The installation of some IRS systems will also provide access to non UK channels for particular ethnic groups.

Effects of proposed changes on those affected

35. The contractor and consultants have met the PQQ criteria for their compliance with the Council's Equal Opportunities Policy.
36. The scheme is for works to the Council's stock and as disadvantaged groups are over-represented amongst council tenants, they will benefit from the project proportionately.

Sustainability Considerations

37. The materials to be used are industry standard. The installation of communal TV systems reduces the need for individual systems and therefore the consumption of reception hardware.

Market Development Considerations

- 38.
- The successful tenderers are private organisations
 - The successful tenderer/s have between 50 and 250 employees.
 - The successful tenderer/s have a national area of activity

Resource Implications

Financial Implications

39. Expenditure for this scheme will be met from the Area Capital/PPM allocation.
40. The contract will be project managed by a dedicated project manager in Southwark Asset Management and Investment Planning business unit with Quantity Surveying provided by Potter Raper. Cost and project management for Lot 5 IRS will be by Concero Ltd.

Investment Implications

41. Not applicable.

Second Stage Appraisal

42. An external financial appraisal has been obtained, internal references ('Quality Control') have been checked (if any are held on file) and the internal financial appraisal has been considered. It has been confirmed that they are satisfactory.
43. In any event a performance bond is required for this contract which will safeguard the Council's interest

Legal Implications

44. This report seeks the Strategic Director's approval of the acceptance of tenders submitted by the identified contractors. Confirmation of the tendering process which has been undertaken is set out within the report.
45. The Council's Contract Standing Orders require, amongst other things, that:
- a) A decision to award any contract with an Estimated Contract Value of over £75,000 must only be made after consideration of a Gateway 2 report.
 - b) The contract should be awarded to the most economically advantageous tenderer, which may or may not have submitted the lowest tender, so as to ensure that value for money and quality considerations are taken into account.
 - c) The decision on the award of a contract is to be taken on the basis of a written report by the relevant chief officer or under his/her delegated authority in line with the

department's scheme of management, except where certain prescribed circumstances exist.

- d) The expenditure must be included in approved revenue or capital estimates or be otherwise approved by or on behalf of the Council.
46. The report confirms why the tenders submitted by the identified companies have been recommended for acceptance. All relevant CSO and Procurement Guideline requirements have been complied with in the tendering process. The winning tender for each lot represents the lowest compliant tender and can be accepted by the Strategic Director in accordance with CSO 4.5.2. Paragraph 27 confirms that a performance bond will be secured under the conditions of the contract in order to protect the Council's interests. Paragraphs 39 to 41 confirm the financial and budgetary implications of the proposed contract award.
47. The Council's Constitution provides that a decision taker may only make a Key Decision in accordance with the requirements of the Cabinet Procedure Rules and Access to Information Rules and the Protocol for Key Decisions set out in Part 4 of this Constitution.
48. The Protocol on Key Decisions defines Key Decisions as those which are subject to a general financial threshold and those which have a significant impact on communities. Key Decisions include those which result in the authority incurring expenditure or savings of £500,000 or more and specifically the award of a contract worth £500,000 or more in any one year. The anticipated expenditure profile for the contract is shown at paragraph 41 and this indicates that expenditure for the financial year 2010/11 will be in excess of £500,000; the award of this contract is therefore a Key Decision.
49. The Access to Information Procedure Rules sets out at Rule 14 (Procedure before taking Key Decisions) that a Key Decision may not be taken unless the matter is on the Forward Plan. The report confirms that this Key Decision is on the Forward Plan
50. The Overview and Scrutiny Procedure Rules require at Rule 21.1 that where a key decision is made by an Officer with delegated authority from the Cabinet, the decision must be published, sent to all Members and shall be made available at the main offices of the Council normally within 2 days of being made. Rule 21.2 provides that the decision will come into force and can be implemented only after the expiry of 5 clear working days after the publication of the decision, unless the Overview and Scrutiny Committee objects to it and calls it in.
51. The installation of communal TV systems to blocks in conservation areas or listed buildings (Lot 5 Of the contracts) requires consideration by the Council's planning officers as advised by the relevant conservation officers. The fifty six (56) blocks in conservation areas are the subject of Certificate of Lawfulness applications, in accordance with the Council's General Permitted Development Order, which will be issued on blocks where the work are considered 'De Minimis' ie the extent of the works is minimal and not visible from the public highway. Otherwise full planning applications will be required along with Listed Building Consents for the fifteen (15) listed buildings having new IRS systems. Consents for listed buildings are subject to external scrutiny by the relevant government department (currently Government Office for London) since the local authority is giving itself permission.

Other Implications or Issues

52. None applicable

Consultation

53. A number of consultation meetings have taken place with resident representatives from Tenant and Homeowners Council on the Digital Switchover Working Party to confirm the scope and specification of works. These members are also part of the evaluation panel for the evaluation of the main tenders recommending the tender outcomes identified in this report.
54. In addition consultation will be carried out with residents with each of the blocks to be digitally upgraded as the works are scheduled and for blocks in conservation areas or listed more intensive consultation will take place on the design detail to take into account the sensitive location and the particular aesthetics of these blocks.
55. A communications plan is in place which includes a lead article in Southwark Housing News in August 2010; a leaflet and an updated web page with the programme of works agreed with each contractor once available.
56. **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

Strategic Director of Communities, Law & Governance (SB072010)

57. The Strategic Director of Communities, Law & Governance ("SDCLG", acting through the Contracts Section) has advised the report author throughout this matter and notes the content of this report; in particular, the legal implications set out between paragraphs 45 and 52. The SDCLG confirms that the procurement process and timetable described above has satisfied the requirements of the EU Procurement Regulations and all relevant requirements of the Council's Contract Standing Orders, and that the proposed award of the contracts is consistent with legislative powers and corporate policy objectives. The decision to approve the proposed contract awards is one which may be taken by the chief officer in line with the power conferred by CSO 4.5.2.

Finance Director (JM072010)

58. The Digital Switchover contract is fully funded.

Investment Concurrent

59. Capital funding has been approved from the Housing Investment Programme by the Investment Programme Group.

Head of Procurement (MG29062010)

60. The Gateway one report for this procurement confirmed that with a pre-tender estimated value of £6m, it met the criteria of an EU strategic protocol requiring that five tenders be sought following public advertisement. The report shows that the actual estimated price of the contracts can be approved by the Strategic Director of Environment and Housing.
61. Award was based on MEAT (most economically advantageous tender) with a quality/price ratio of 60/40. The report confirms the results of the evaluation process, explaining the rationale for the selection combinations following financial moderation and the reasons for the extended timeline.
62. This report confirms that the process undertaken was compliant with both CSOs and relevant legislation.

63. The report confirms the contract management arrangements that will be in place for the various contracts.

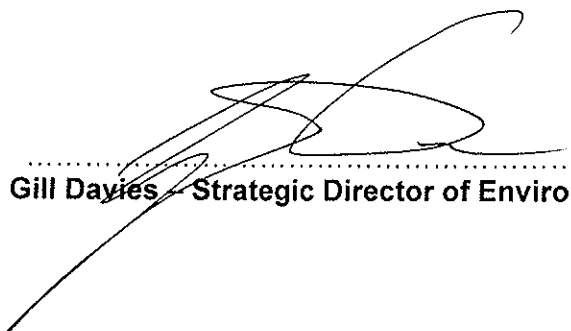
Head of Home Ownership

64. Notice of Intention for this contract was served on all leaseholders affected on 27th April 2009. All observations were responded to and no issues were raised which would indicate that procurement of the contract should not go ahead.
65. The installation of IRS systems to those blocks where no aerial currently exists is considered to be improvement work, for which there is no obligation on leaseholders to contribute under the terms of Southwark's leases. Upgrading of existing aerials, which forms the majority of the contract, is service chargeable, however scrutiny of the tenders indicate that the average rechargeable cost to leaseholders will be well below the statutory consultation limit and therefore Notice of Proposal would not be required. A breakdown of individual block costs is not available until the contract is on site and there is therefore a risk that some of the smaller blocks may exceed the £250 limit. In these circumstances it would be necessary to limit the individual charge to £250 or to seek dispensation from the Leasehold Valuation Tribunal retrospectively to enable the Council to recover the additional costs.

FOR DELEGATED APPROVAL

Under the powers delegated to me in accordance with the Council's Contract Standing Orders, I authorise action in accordance with the recommendation contained in the above report.

Signature



Gill Dayies – Strategic Director of Environment & Housing

Date..... 27.7.10

KEY POINT SUMMARY

- This procurement followed a general protocol
- This contract is for works and is a new provision
- EU regulations were followed during the procurement of this contract

BACKGROUND PAPERS

Background Papers	Held At	Contact
Digital Switchover Contract File	160 Tooley St, SE1 2TZ	Guy Valentine-Neale Programme Manager Tel: 0207 525 3166

APPENDICES

No	Title
1	Contracts Approval
2	Timetable of procurement project plan

AUDIT TRAIL

Lead Officer	Margaret O'Brien, Head of Housing Management		
Report Author	Guy Valentine-Neale, Programme Manager		
Version	Final		
Dated	26 July 2010		
Key Decision?	Yes	If yes, date approved or forward plan?	26 July 2010

CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER

Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Head of Procurement	Yes	Yes
Head of Home Ownership	Yes	Yes
Cabinet Member	N/a	N/a
Date final report sent to Constitutional Officer	26 July 2010	

Appendix 1

Contracts Approval

Lot	Description	Company
Contract 1	Bermondsey	Alphatrack
Contract 2	Borough & Bankside Camberwell Dulwich Nunhead & Peckham Rye	SCS
Contract 3	Peckham Rotherhithe	Metro Digital TV (MDTV)
Contract 4	Walworth	Ultimate
Contract 5	IRS-9 wire: Borough-wide	Avonline

Appendix 2

Timetable of Procurement Project Plan

Activity	Completed by/Complete by:
Forward Plan (if Strategic Procurement) <i>Note: Submissions to forward plan should be made soon as reasonably possible after the prospective decision period is known for Gateway 1 and 2</i>	
Approval of Gateway 1: Procurement Strategy Report	19 April 2009
Issue Notice of Intention <i>Note: this is for contracts that only affect Leaseholders. This period is for 8 weeks</i>	July 2009
Invitation to tenders	October 2009
Closing date for return of tenders	Jan 2010 / Revised to April 2010
Completion of evaluation of tenders	June 2010
Issue Notice of Proposal <i>Note: this is for contracts that only affect Leaseholders. This period is for 8 weeks</i>	N/A
DCRB/CCRB/CMT Review Gateway 2: Contract award report <i>Note: CMT review corporate and cross cutting decisions only</i>	8 July 2010
Notification of forthcoming decision – Five clear working days	July 2010
Approval of Gateway 2: Contract Award Report	July 2010
Scrutiny Call-in period and notification of implementation of Gateway 2 decision <i>Note: You should allow a minimum of 8 clear working days. This is subject to the decision not being called-in. If the decision is called-in the timetable will need to be adjusted accordingly</i>	July 2010
Alcatel Standstill Period (min 10 days)	10 August 2010
Contract award	16 August 2010
Add to Contract Register	16 August 2010
Contract start	1 Sept 2010
Place award notice in Official Journal of European (OJEU) (if applicable) A maximum of 48 days after award	August 2010
Contract completion date	February 2012