

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 17 June 2014	<b>Decision Taker:</b> Cabinet Member for Housing
<b>Report title:</b>		Combined Gateway 1& 2 Procurement Strategy Approval and Award of Contract: Engineering Contracts for the Repair and Maintenance of Potable Water, Individual Heating Systems and District Heating and Engineering Installations	
<b>Ward(s) or groups affected:</b>		All wards	
<b>From:</b>		Strategic Director of Housing and Community Services	

## RECOMMENDATIONS

1. That the Cabinet Member for Housing formalises prior approval of the procurement strategy outlined in this report for ten (10) Engineering Contracts for the Repair and Maintenance of Potable Water, Individual Heating Systems and District Heating and Engineering Installations to undertake single suppliers negotiations for the reasons detailed in paragraphs 9 and 10.
2. That the Cabinet Member for Housing approve the award of the ten (10) Engineering Contracts for the Repair and Maintenance of Potable Water, Individual Heating Systems and District Heating and Engineering Installations to T Brown Group Ltd and OCO Ltd (as detailed in paragraph 12) for a period of six (6) months from 1 October 2015 at a total combined estimated value of £3.9 million. The award of contract will be effected by way of a variation to the existing contracts.

## BACKGROUND INFORMATION

3. Currently, the maintenance and compliance department provide heating and hot water services to more than 40,000 properties. Individual gas boilers account for 23,500 properties with a further 17,000 receiving services from district heating systems. More than 120,000 repairs are completed each year maintaining these services. The council has one of the largest stocks in the country.
4. Currently there are ten (10) contracts in place providing Potable Water Testing & Treatment, Individual Heating & Gas Safety Inspections and repairs and maintenance to District Heating and Engineering Installations Contract. The ten (10) contracts awarded to two (2) contractors cover different service areas as detailed in the table at paragraph 12.
5. A Gateway 3 report was approved on 21 December 2011 which changed the four (4) Individual Heating and Gas Safety Inspections contracts to a price per property payment mechanism in order to achieve cost savings as detailed in that report.
6. The existing ten (10) contracts commenced on 1 October 2008 for a period of 5 years with the option to extend for a further 2 years in 12-month increments. The 2 years extension was approved by way of a Gateway 3 report on 21 August 2013 and an extension issued to the two incumbent contractors. There are no further extensions available.

7. The existing ten (10) contracts are due to expire on 30 September 2015 and there is a requirement to ensure that there are servicing and maintenance regimes in place for these services.
8. A Gateway 1 report outlining the procurement strategy for these services is due to be presented to cabinet in June 2014. This report will recommend the reduction of ten (10) contracts to two (2) contracts – covering the north and south of the borough - combining all the services in line with the recommendations of the 2009 Savill's report and in common with other contracts for housing services such as the Repairs and Maintenance contract.
9. Initially, officers from the maintenance and compliance department had planned to commence the two (2) new contracts on 1 October 2015. However, after recent market research with potential suppliers, concerns have been raised about commencing these contracts at the beginning of the heating season. This would pose significant operational risks especially with district heating which is turned on in October each year.
10. It is therefore proposed to extend the existing arrangements with the current contractors (see paragraph 6 above) for six (6) months allowing the two (2) new 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.
11. The existing ten (10) contracts are index linked by the Building Services Index (BSI) and this adjustment is made on 1 October each year.
12. The table below shows the individual contract value extension for the six (6) months:

<b>Contractor</b>	<b>Contract Title</b>	<b>6 Month Extension - 1 Oct 2015 to 31 March 2016</b>
T Brown Group Ltd	Potable Water Testing & Treatment - Borough & Bankside, Bermondsey & Leathermarket, Rotherhithe, Walworth	£100,806
T Brown Group Ltd	Potable Water Testing & Treatment - Peckham, Nunhead & Peckham, Camberwell, Dulwich	£92,970
T Brown Group Ltd	Individual Heating and Gas Safety Inspections - Borough & Bankside, Bermondsey	£695,556
OCO Ltd	Individual Heating and Gas Safety Inspections - Rotherhithe, Walworth	£701,784
T Brown Group Ltd	Individual Heating and Gas Safety Inspections - Peckham, Nunhead & Peckham	£443,799
OCO Ltd	Individual Heating and Gas Safety Inspections - Camberwell, Dulwich	£606,600
T Brown Group Ltd	District Heating, Laundries and Sewage Plant - Borough & Bankside, Bermondsey	£480,245
OCO Ltd	District Heating, Laundries and Sewage Plant - Rotherhithe, Walworth	£551,340
T Brown Group Ltd	District Heating, Laundries and Sewage Plant - Peckham, Nunhead & Peckham	£226,900

OCO Ltd	District Heating, Laundries and Sewage Plant - Camberwell, Dulwich	£182,400
	Totals	£3,900,000

## KEY ISSUES FOR CONSIDERATION

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

13. 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.
14. The ten (10) contracts will extend the existing arrangements over the winter period of 2015/16 whilst mobilisation of the two (2) new contracts takes place. This will reduce the operational risk of service failure and allow the new service providers to become accustomed to the complex stock during the summer period and put any intensive preventative maintenance programmes in place.
15. The ten (10) 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.

### Future Proposals for this Service

16. A Gateway 1 report outlining the procurement strategy for the two (2) new contracts will be presented to cabinet in June 2014 as detailed in paragraph 8 above.
17. The indicative timescales for procuring the two (2) new contracts are as follows (as per Appendix 1 attached):

Activity	Complete by:
Service review completed by	Feb 2014
Gateway 1: Procurement strategy approval	June 2014
Publication of OJEU notice for expression of interest	September 2014
Evaluation of PQQ	January 2015
Invitation to tender	January 2015
Evaluation of tenders	May 2015
Award Contract	October 2015
Commence contract mobilisation	October 2015
Contract start	April 2016

### Alternative Options Considered

18. The maintenance and compliance department did consider bringing the procurement forward 6 months. However, as an extension has already been issued to the contractors this would mean terminating the contract early which could incur risk of a loss and expense claim to the council.
19. As there are no further alternative options available, it is recommended to extend the existing arrangements.

**Identified risks and how they were/ will be managed**

20. 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	Gateway 1 & 2 report approval delayed	Low	Ensure report submitted for approval on time, with all concurrents in place.
R2	Decline in the contractors' performance	Low	Continue monthly monitoring of the service and address any performance issue at an early stage. Back-up arrangements are in place between contractors allowing work to be removed and allocated to the better performing contractor.
R3	Contractors cease to trade, go into administration or liquidation during the contracts	Low	Experian checks have been undertaken and both contractors present a low risk.
R4	Delay in Gateway 1 report approval for new procurement	Low	Ensure report submitted for approval on time, with all concurrents in place.
R5	Delay in mobilisation of new contracts.	Low	Ensure procurement programme is monitored and resources available to meet deadlines.
R6	Challenge to extending existing contract arrangements	Low	Procurement is commencing which all providers will have the potential to apply for.

21. As concerns have been raised by potential service providers about commencing the two (2) new contracts at the beginning of the winter heating season and no further extensions are allowed for, it is recommended to seek approval to extend the existing ten (10) contracts for six (6) months to allow the two (2) new contracts to be mobilised over the winter and commence on 1 April 2016 at the end of the heating season to mitigate any risk to the services.

**Key/Non Key Decision**

22. This report deals with a key decision.

**Policy implications**

23. The service, repair and maintenance of gas and water installations are a fundamental requirement since the council must ensure that it meets all of its statutory regulatory compliance obligations.

## Development of the tender documentation

24. The contract documentation for the existing ten (10) contracts will be utilised as this is for a short term only.

## Value for money

25. The existing ten (10) contracts have delivered progressive improvements to the service and are providing value to the council and good levels of resident satisfaction.
26. The Gateway 3 report approved on 21 December 2011 detailed a new improved Key Performance Indicator (KPI) for right first time. This was initially set at 75% but as part of the negotiations it was agreed to set this at 90% which would be top quartile performance when compared to other housing service providers. In addition a new KPI to monitor overall satisfaction of the service was also introduced and set at 90%.
27. To date there has been no major concerns and both contractors are working co-operatively with maintenance and engineering's contract management team to improve customer satisfaction.
28. The table below details the last two (2) months of KPIs for each contractor:

<b>T Brown Group Ltd</b>			
		Achieved	
KPI	Target	January 14	February 14
Appointments Kept	95%	98.03%	97.33%
Right First Time	90%*	79.47%	86.99%
Overall Satisfaction	90%**	84.25%	79.48%

<b>OCO Ltd</b>			
		Achieved	
KPI	Target	January 14	February 14
Appointments Kept	95%	98.80%	98.14%
Right First Time	90%*	89.00%	82.53%
Overall Satisfaction	90%**	74.25%	86.51%

\* Revised improved KPI from original 75%

\*\* New KPI

29. Both OCO Ltd and T Brown Group Ltd have produced improvement plans detailing staff re-structures and additional resources to improve and achieve the new KPI's. This will be monitored monthly by the contract manager and core group which consist of Deputy Leader and Cabinet Member for Housing Management, Head of Maintenance and Compliance and the directors of both the contractors.
30. Both OCO Ltd and T Brown Group Ltd have confirmed in writing that the BSI increase due in October 2015 will not be applicable and that they will both stand by their existing rates.

## Contract management and monitoring

31. The council's contracts manager for gas & heating manages the contracts and is responsible for authorising works, inspecting quality and monitoring the performance of the contractors. The council's quantity surveyor (QS) manages

commercial aspects of the contracts. The QS reviews the monthly valuations and select jobs that require post inspections to ensure quality and financial accuracy. Monthly meetings are undertaken and recorded.

32. Works orders are raised and managed through iWorld where all information relating to orders is contained. The contractors are required to provide 10% post-inspections that are rigorously audited by the council's mechanical engineer.
33. The existing KPIs will be used to monitor the two (2) contractors' performances. Should the improvement action plans, submitted to the Council by OCO Ltd and T.Brown Group Ltd and described in paragraph 28, fail to improve the KPI's then possible default notices will be issued and potentially works issued to a back up contractor.

### **Community Impact Statement**

34. The existing ten (10) contracts are a borough-wide service. They are concerned with responsive and planned works and seek to improve the quality of the service.
35. They affect all communities/groups in the borough and contribute to the improvement of the quality of life for residents. The direct benefits to residents include limiting the incidence of breakdowns and more reliable and responsive services.

### **Economic considerations**

36. T Brown Group Ltd is a private limited company operating throughout Southern England and provides employment opportunities for local communities.
37. OCO Ltd is a private limited company based in the South East employing in the region of 200 people. OCO Ltd provides apprenticeship opportunities to local communities. It operates a regionally-based industry supported training centre.

### **Social considerations**

38. The contractors, T Brown Group Ltd and OCO Ltd, operate an Equal Opportunities Policy and are conversant and compliant with the council's own Equal Opportunities Policy.
39. In February 2012, the Council Assembly introduced plans to ensure that, where appropriate, contractors pay staff at a minimum rate equivalent to the London Living Wage (LLW) rate. These contracts were tendered and awarded before the Council Assembly decision and the tender documents did not therefore address this point. However, both contractors have confirmed that they support this decision and that they currently pay staff, which are engaged in providing these services, more than the minimum LLW rate and will continue to do so.

### **Environmental considerations**

40. The use of low emissions vehicles and planning of journeys will continue to be encouraged within the existing ten (10) contracts.
41. All electrical and electronic equipment and components will continue to be disposed of in accordance with the latest Waste Electrical and Electronic Equipment Regulations (WEEE).

42. All gas installation equipment installed will meet current building regulation CO2 requirements.

#### **Financial Implications (Fin0813 JP)**

43. Although the 2015/16 budget has yet to be approved, based on the existing HRA heating budget, there will be sufficient resources to cover the projected cost of £3.9m for the six month extension. There are no planned capital works in this timeframe.
44. This extension will allow the alignment of these contracts with the financial year. The heating contract will continue to be closely monitored during this period leading up to the commencement of new contracts from April 2016.

#### **Investment Implications (Housing Contracts only)**

45. None.

#### **Legal Implications**

46. Please see the comments from the director of legal services.

#### **Consultation**

47. Regular monthly Tenant & Resident Association meetings will be attended by officers from the maintenance and compliance department to keep residents informed and address any potential issues or concerns.

#### **Other implications or issues**

48. None.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Head of Procurement**

49. This report is formalising a previous procurement strategy decision and seeking approval to continue with the existing engineering contracts for a further six months.
50. A previous gateway 3 gave approval to extend the existing contracts until September 2015. New contractual arrangements are scheduled for procurement during the lead up to this time. Recent market testing however has highlighted that heating repair and maintenance contracts experience more problems when commenced during the winter period. It is therefore proposed that the existing arrangements are lengthened to finish in March 2016.
51. The report confirms that officers considered bringing forward the procurement for the new contracts and ending the existing arrangements earlier. However paragraph 18 highlights that the council could incur early termination costs in taking such action.
52. Paragraphs 25 – 29 confirm that there have been no major concerns with the performance of the current providers. The table in paragraph 28 shows recent performance as being below target however it should be noted that the targets shown are either new or have recently been set to a higher level. In any event

the report confirms that improvement plans have been put in place by both providers to address these areas and this will be closely monitored going forward.

53. Paragraph 30 highlights that although the contracts are index linked, the current providers have agreed not to increase their rates during the final six months of the contract.
54. Paragraphs 31 - 33 confirm that the existing monitoring arrangements will continue. In the event that performance issues develop there are mechanisms built into the contracts for the contractors to act as back up for each other.

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

55. The director of legal services notes the contents of this report which seeks the deputy leader and cabinet member for housing management to formalise his prior approval to the single supplier negotiation procurement strategy and approve the award of the ten (10) Engineering Contracts for the Repair and Maintenance of Potable Water, Individual Heating Systems and District Heating and Engineering Installations to T Brown Group Ltd and OCO Ltd for a period of six (6) months from 1 October 2015 at a total combined estimated value of £3.9 million as outlined in this report.
56. The value of the services to be procured is such that they are subject to the full tendering requirements of the Public Contract Regulations 2006. However, the report explains at paragraphs 13, 14, 15 and 18 why the council is taking this approach and confirms the justification for this proposal.
57. CSO 4.4.2 b) and 4.5.2 b) reserves this decision to the relevant individual decision maker to authorise the procurement strategy and award of the contracts, after consideration by the corporate contracts review board (CCRB) of the report.
58. In making this decision, the deputy leader and cabinet member for housing management should satisfy himself that award of the additional 6 month period offers best value.
59. Paragraph 20 notes a risk of challenge. However, as the amount for this additional 6 month period is below the EU threshold and a new procurement will commence shortly to which providers in the market can tender (as noted in paragraph 16), the view is that the risk is minimal.
60. CSO 2.3 provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the council. Paragraph 43-44 of this report confirms how the proposed contract will be funded.

#### **Strategic Director of Finance and Corporate Services (FC13/100)**

61. The Director of Finance and Corporate Services notes the cost of the contract extension which will be contained within the HRA budget together with the contract management and monitoring arrangements and the reason for the choice of procurement strategy being adopted.



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

62. Repairs and maintenance to communal services, including communal heating systems and potable water, is rechargeable to homeowners under the terms of their leases and transfer agreements. 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.
63. Statutory consultation under section 20 of the landlord and tenant act 1985 (as amended) is required for contracts of more than 12 months, where any individual service charge will exceed £100 per annum. As these negotiated contracts are to be for a six month period only section 20 will not apply. The statutory consultation will be carried out for the new long term contracts due to start in April 2016.
64. Once the contract has been entered into any qualifying works costing any leaseholder more than £250 will require full statutory consultation, and timescales for this must be factored in to the process for raising orders.
65. 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.
66. 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.
67. The council offers a gas safety check service to leaseholders with individual gas boilers, and this will need to be included in the negotiated contracts.

## BACKGROUND PAPERS

Background Papers	Held At	Contact
"Open" GW2 Report - Engineering Contracts for the Repair and Maintenance of Potable Water, Ventilation and Air Conditioning, Individual Heating Systems and District Heating and Engineering Installations – 24 June 2008	Engineering & Compliance, 160 Tooley Street	Gavin Duncumb Tel: 0207 5250685
"Open" GW3 Report - Individual heating and gas contract price per property – 21 December 2011.	Engineering & Compliance, 160 Tooley Street	Gavin Duncumb Tel: 0207 5250685
"Open" GW3 Report – Extension – 21 August 2013	Engineering & Compliance, 160 Tooley Street	Gavin Duncumb Tel: 0207 5250685

## APPENDICES

No	Title
Appendix 1	Timescales for future tendering

## AUDIT TRAIL

<b>Lead Officer</b>	Gerri Scott - Strategic Director for Housing and Community Services	
<b>Report Author</b>	Gavin Duncumb - Commercial Manager	
<b>Version</b>	Final	
<b>Dated</b>	17 June 14	
<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>	17 June 2014	

**APPENDIX 1**

<b>Activity</b>	<b>Complete by:</b>
Forward Plan	7 Oct 2013
DCRB Review Gateway 1: Procurement strategy approval	05 May 2014
CCRB Review Gateway 1: Procurement strategy approval	15 May 2014
Notification of forthcoming decision –despatch of Cabinet agenda papers	July 2014
Approval of Gateway 1: Procurement strategy report	July 2014
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	July 2014
Issue Notice of Intention	01 August 2014
Advertise Contract	08 Sept 2014
Closing date for expressions of interest	20 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 March 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	Aug 2015
Approval of Gateway 2: Contract award report	Aug 2015
Notification of implementation of Gateway 2 decision	Sept 2015
Alcatel Standstill Period	Sept 2015
Contract Award	Oct 2015
TUPE Consultation period	18 March 2016
Contract start	01 April 2016
Initial Contract completion date	31 March 2021
Contract completion date – if Extension 1 exercised 3 years	31 March 2024
Contract completion date – if Extension 2 exercised 2 years	31 March 2026