

## Central Bedfordshire Council

EXECUTIVE

9 February 2016

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### **Tender Award of a Five Year Contract for Council Housing Gas Appliance Maintenance and Service**

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**This report relates to a Key Decision**

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#### **Purpose of this report**

1. This report recommends delegating authority to the Director of Social Care, Health and Housing in consultation with the Executive member responsible for Social Care and Housing to award the Gas Maintenance and Servicing Contract to the most economically advantageous submission following evaluation. The reason for requesting a delegation of the Executive's authority is that the procurement process did not commence as early in 2015 as it should have. This was due to recruitment difficulties. The relevant posts have now been recruited to and delays of this kind are unlikely in future.

#### **RECOMMENDATIONS**

**Executive is asked to:**

1. **Delegate authority to the Director of Social Care, Health and Housing, in consultation with the Executive Member for Social Care and Housing, to award the Gas Maintenance and Servicing Contract in respect of functions the Council is obliged to carry out under the Gas Safety (Installation and Use) Regulations 1998.**

#### **Overview and Scrutiny Comments/Recommendations**

2. Chairman of Social Care, Health & Housing Overview & Scrutiny Committee has been consulted and agrees that the proposals do not require review by the Committee.

## **Issues**

3. The Council has a duty in its capacity as a Landlord under the Gas Safety (Installation and Use) Regulations 1998 to ensure that Council owned gas appliances in residential and domestic premises are maintained and serviced in accordance with these statutory regulations.
4. The Council as a Landlord is responsible for a portfolio of approximately 5200 homes let under relevant tenancies and agreements. A contract for gas maintenance and services will help to ensure the Council's obligations as landlord are met and the gas appliances in the Council's domestic housing stock are maintained to statutory standards.
5. The contract will be on the Council's standard terms and conditions taking into account the standard form of contract documentation from the NHF Form of Contract 2011 Gas Servicing and Maintenance Servicing 6.2 revised and updated April 2014. The contract is of an all inclusive nature, having a fixed price per property for all gas servicing and maintenance. The contract in this form provides better budgetary control with financial risk shared with the Council and contractor.
6. Previously domestic and commercial gas contracts were managed separately. This contract combines all domestic property and non domestic communal sites, such as sheltered schemes and flats into one contract. This approach will reduce officer time managing the additional contract and makes the new contract more attractive to potential bidders, providing economies of scale.
7. As with the current contract, this contract provides the contractor authority to complete all repairs (where possible) at first visit which will provide better tenant satisfaction. The all inclusive nature of the contract allows the contractor to complete all required repairs without the need for Council approval for work within the all inclusive rate.

## **Reasons for decision**

8. The tenders are due to be returned on 25 January 2016. In order for the contract award to proceed on programme, with a commencement date of 1 April 2016, it is requested that the decision to award a contract for Gas Maintenance and Service is delegated to the Director of Social Care, Health and Housing, in consultation with the Executive Member for Social Care and Housing.

9. Delegated authority is required as the tenders will be received after this Executive and the contract needs to be awarded before the next Executive on the 5 April 2016. This will enable the council to authorise specifically the contracting out of these Gas Maintenance and Service functions to a third party. With the qualifications/restrictions that:
- The decision is to be taken in consultation with the Executive Member for Social Care, and Housing.
  - The Director of Social Care, Health and Housing exercises the power to contract out that function for a contract period of 5 years with the option to extend for a further two years. The anticipated contract value is between £650,000 and £730,000 per annum.
  - So that this authorisation operates between 9 February 2016 and 31 March 2023.
10. The current domestic gas maintenance and service contract will expire on 31 March 2016.
11. The current communal heating contract (which will now be included in the new combined commercial and domestic heating contract) ends in March 2017; this contract may be ended early to bring the two work streams together. The current contractor has been made be aware that the work streams are being combined.

### **Council Priorities**

12. The new contract will support the Council priorities by:
- Enhancing the local community; creating jobs, managing growth, and enabling businesses to grow. It is expected the successful contractor will employ local labour and apprentices.
  - Promoting health and well being and protecting the vulnerable, by ensuring the heating systems are maintained providing a warm home that assists a healthy lifestyle.
  - Generating efficiencies and value for money through economies of scale, supply chain management and improved working practices.

### **Corporate Implications**

#### **Procurement:**

13. The contract has been tendered in accordance with the Council's Corporate Procurement Rules. The chosen contract form will provide value for money and competitive tendering.

14. Corporate Procurement has been fully engaged in the procurement process and will remain involved until the contract is awarded.

#### **Sustainability:**

15. Recycling targets are considered as part of the Tender Evaluation process and will influence the choice of contractor. In line with the Council's Housing Asset Management Strategy, suppliers will be expected to demonstrate the same level of commitment to environmental sustainability as the Council. Suppliers will be expected to ensure any waste from programmes is minimised.

#### **Risk Management:**

16. The awarding of the contract will mitigate the risks of failing to discharge statutory responsibilities, failing to support the Council's priorities and failing to deliver value for money.

#### **Legal Implications**

17. A local authority has responsibility for, amongst other things, repairs and maintaining in a safe condition relevant gas fittings and flues in a dwelling it legally owns and which has been let. This responsibility is imposed specifically under the Gas Safety (Installation and Use) Regulations 1998 although is also covered by more general statutory duties to repair under the Landlord and Tenant Act 1985 or via contractual duties to repair under a tenancy or license agreement. However, the Council is able to contract with a third party to carry out the repairs and servicing that it is obliged to do.
18. It should be borne in mind that the Council remains ultimately responsible in respect of gas safety and maintenance. If there was a failure by a contractor who has been contracted by the Council to provide the service of gas safety and maintenance, the Council would have to fill this gap (either by itself or through use of another service provider). Robust contract terms and indemnities in favour of the Council should minimise the risks, damage and cost to the Council caused by a failure by the contractor. These terms should also go alongside other protecting terms such as the ability to monitor the performance of service provision, an ability to review the contract or if necessary break the contract if there is a failure or poor performance by the contractor.
19. The Executive should be aware that it is being asked to delegate a Key Decision to a Director. The decision to award this particular contract is a Key Decision under the Council's Constitution because it involves the decision to award of a contract with an anticipated value of over £200,000 per annum.

20. This does not mean that the decision cannot be taken by a Director; it only means that it is currently a Key Decision. Ordinarily the Executive wish to retain a form of overview or scrutiny of some decisions hence Key Decisions are those retained by the Executive and not delegated. Key Decisions are particularly defined as matters that involve a significant amount of expenditure. Key Decisions also tend to require a level of transparency. The Council (and Executive) can and does delegate many of its functions and decision making powers to its officers and there are benefits to delegating some decisions (as well as not delegating others) to a Director.
21. The decision making in respect of a contract for gas safety and maintenance may be delegated to a Director, particularly in these circumstances where it appears the only reason is so that the transfer from the old contract to the new contract does not rely on Executive meeting dates when it is of benefit to start the new contract in-between meetings/at the start of the financial year. It could also be considered appropriate where overall value of the contract is one reason that pushes it into being a Key Decision and the basic service provision works out at approximately £125 to £150 per household per year. A one off expenditure for a council house repair for this amount is well within the Director's current delegations.
22. So long as the Executive are satisfied that their level of scrutiny is not required for this Key Decision in this case, it may be delegated. The Executive may be satisfied if there is still some scrutiny e.g. it is a one-off delegation of a Key Decision, a Member or Members are still involved either with the award or in monitoring performance. This is partly recommended for this contract in that the decision to award will be in consultation with the Executive Member for Social Care and Housing. It is also recommended that the delegation is finite and so it is recommended the delegation is from today's date to the expiry of the contract so that the Director can complete all tendering works and implementing the contract. It is recommended that any decision in relation to extension of the contract is retained by Executive (bearing in mind it is an anticipated expenditure of over £500,000 for each extended year).
23. The contract must be tendered in accordance with EU and Procurement legislation and the Council's Corporate Procurement Rules. Current terms offered as part of the tender have been scrutinised by the Procurement lawyers and any further amendments will also be referred to them in future.
24. It must also comply with rules concerning use of Housing Revenue Account monies and this has been dealt with under Financial Implications below.

## **Financial Implications**

25. The budget for Gas Maintenance and Service is Housing Revenue Account (HRA) funded and is £724K in 2016/17. The funding has been included in the Landlord Business Plan and is reviewed annually. The contract evaluation is based upon a 40% price and 60% quality assessment to help ensure value for money from the contract is achieved.

## **Equalities Implications**

26. Equality and diversity are key issues for all directorates within Central Bedfordshire Council. As part of the tender evaluation, contractors demonstrated their compliance with the Corporate Equalities Policy and incorporated this commitment within their method statements. As part of ongoing contract monitoring arrangements the Council will check that statutory service delivery and employment requirements relating to equality are being met.

## **The Contract**

27. The contract is for 5 years with a 2 year extension and subject to performance and annual reviews.
28. An established Tender Documentation called NHF Form of Contract 2011 Gas Servicing And Maintenance Servicing 6.2 revised and updated April 2014.
29. In this form of contract the supplier is paid for a fixed fee per property for all the maintenance and annual servicing to the housing portfolios properties. Any works outside the contract, will be quoted by the contractor for the council officers' approval.

## **Tender Evaluation**

30. A contract advert was placed on Thursday 24 October 2015 on an OJEU notice and on the CBC website.
31. The Council received 18 pre-qualification questionnaires by the closing date of 25 November 2015. Following evaluation by Asset Management and Procurement, submissions were shortlisted to 10. These were passed to the Financial Team for assessment.
32. Following financial assessment which was completed on Tuesday 15 December 2015, seven potential contractors were shortlisted to be invited to Invitation to tender stage (ITT). Two of the seven contractors were required to provide further information to enable their financial status to be fully assessed. The information was requested with a deadline of Friday 18 December 2015. One of the contractors failed to provide the information by the deadline.

33. The Council invited seven contractors to the ITT / Tender stage on Tuesday 22 December 2015. The contractor that failed to provide the financial information was advised their submission would be subject to passing our financial assessment.
34. The tenders are due to be returned on the 25 January 2016 and evaluated the following week.
35. Following tender evaluation prospective contractors will be invited to the presentation stage. The panel will be made up of officers and tenant representatives.
36. The Standard Award Criteria Evaluation Model is a points system based upon 40% of the points being awarded for financial submissions and 60% of the points being awarded for quality method statement submissions/interview and presentation. The criteria for assessment of quality covered the following specific areas: Environment, Equalities, Health & Safety, Insurances & Data Handling, Method of Delivery of the service, Resources to be allocated, Business Continuity, Quality Control and Performance Management (KPI's), Customer Care and Social Values.
37. It is anticipated that the presentation stage will not be completed before Executive on 9 February 2016.

### **Conclusion and Next Steps**

38. The tenders will be evaluated to determine the most economically advantageous submission, enabling the Director of Social Care, Health and Housing to award the contract using the Executive's delegated authority in consultation with the. Executive Member responsible for Social Care and Housing.
39. To mobilise the contract for commencement on the 1 April 2016

### **Appendices**

Not Applicable

### **Background Papers**

40. The following background papers, not previously available to the public, were taken into account and are available on the Council's website: None