

Cabinet

13 February 2024

Gateway 3 Contract Award Retender Domestic and Commercial Gas Contract (HRA Housing Services)

Portfolio Holder: Councillor Naushabah Khan, Portfolio Holder for Housing and Property

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Procurement Overview

Total Contract Value:	£9,817,824.00
Project Budget:	£10,200,000.00
FTS reference number:	2023/S 000-021421
Contract Term:	144 Months inclusive of extensions

Summary

This report seeks permission to award the procurement of the HRA Domestic and Commercial Gas Contract.

1. Recommendation

1.1. The Cabinet is recommended to approve the contract award for the HRA Gas Servicing contract in accordance with paragraph 3.2 of the exempt appendix on the basis that the recommended contractors tender submissions being evaluated and determined as the most economically advantageous against the Council's award criteria as per the evaluation spreadsheet contained within 3.1 of the Exempt Appendix.

2. Reasons for decisions

2.1. The recommendations contained within are provided on the basis that the current contract ceases on 31 August 2024 and cannot be extended. Failure to provide a gas servicing contract will mean the Council cannot meet its statutory obligations in terms of maintenance of its stock.

3. Background Information

3.1. Budget & Policy Framework

3.1.1. The works and services detailed in this report will be funded by the Housing Revenue Account (HRA).

3.1.2. The current contract is included in the current HRA repairs and maintenance contract which includes gas with Mears which expires September 2024 and has reached the end of its term (inclusive of extensions).

3.2. Background Information and Procurement Deliverables

3.2.1. The HRA has a responsibility as a local authority landlord to ensure that the properties that the council own are maintained, safe and compliant.

3.2.2. The HRA previously took a GW1 report to the Procurement Board in November 2012 seeking permission to procure the services of a responsive repair and planned works contractor on a 5 + 5-year contract.

3.2.3. The activity was approved, and this Contract was subsequently awarded to Mears Group LTD. Mears started working in partnership with Medway Council in September 2014.

3.2.4. The contract was extended for 5 years in 2019 within the existing contract terms and due to cease on 31 August 2024.

3.2.5. The HRA has various other compliance related contracts and Service Level Agreements (SLA) with other contractors which are also due to expire August 2024. A procurement activity will take place early 2024 to procure these services.

3.2.6. The GW1 paper where permission to re-procure these services received DMT approval on 8 December 2022 and subsequent cabinet approval on 10 January 2023.

3.2.7. This new contract will provide a fully encompassing repairs and maintenance gas service to the council's housing stock. It will also mark the beginning of the HRA's journey to meet energy efficiency targets and will assist the service in ensuring it meets the requirements of the housing regulators consumer standards.

3.2.8. As of 6 November 2023, the council owns 3022 properties and has 222 leasehold properties. The works and services detailed in this report are only provided to tenants and leaseholders residing in the council's own housing stock.

3.2.9. The pre-approved GW1 report set out the HRA's proposal for the new contract and how the procurement activity will be conducted.

- 3.2.10. The current contract includes:
- Gas repairs to all Council owned dwellings.
 - Out of Hours emergency gas repairs service
 - Annual gas servicing of appliances owned within the council's stock.
 - Void gas works to empty dwellings
 - Gas related capital works such as renewal of boilers and CO alarms.
- 3.2.11. The new contract focuses solely on delivering:
- Gas repairs and servicing to all Council owned dwellings including communal/commercial boilers.
 - Out of Hours emergency gas repairs service
 - Void gasworks to empty dwellings
 - Gas related capital works such as renewal of boilers and CO alarms
 - Servicing of renewable energy heating systems
- 3.2.12. Customer satisfaction and gas servicing compliance within this area is key. A good gas repairs service will often reflect good levels of satisfaction with the rest of the HRA. A poorly operating contractor can therefore have detrimental effects on customer satisfaction. This contract is key to maintaining good satisfaction with the HRA service overall and much work has been undertaken in recent years to improve the image of the service.
- 3.2.13. The current gas contract has made significant improvements in performance in recent years and some aspects are in top quartile when benchmarked against others. Performance for emergency, urgent and routine gas repairs are regularly in the high 90 percent. The service has also improved its data capturing, procurement processes as well as putting measures in place to ensure statutory compliance is maintained, with Gas compliance averaging between 99.5 – 100%.
- 3.2.14. Much work has been done to improve the gas repairs and servicing contract, and a significant amount of ICT work such as implementation of a contractor interface has been completed. Repairs trend analysis, proactive repairs identification and a proactive approach to managing damp and mould across the stock will continue as part of the new contract.
- 3.2.15. The service has also utilised Mears when it comes to quality control relating to gas on new builds. As HRA development projects near completion, Mears are visiting with Officers to ensure the new units are handed over to the required standard. This will also continue as part of the new contract.
- 3.2.16. The service current uses LW Burts for servicing and maintaining communal gas. This new contract will result in the termination of this existing arrangement and for commercial gas to sit with the domestic gas contract/contractor.
- 3.2.17. This report seeks permission to award contract 1 as detailed below and in the pre-approved GW1 report.

Table 1

CON NUM	CONTRACT	PROPOSED TERM
2	GAS SERVICES	Initial 6 year + option for 3 year extension + option for an additional 3 year extension (12 year)

3.2.18. It is proposed that this contract commences on 1 September 2024 and depending on the extension agreements, could conclude on 31 August 2036.

3.2.19. The total estimated value of this new procurement in the GW1 was £850k per annum with a potential 12 year full term spend of £10.2m. The estimates were based on current spend, annual inflation, project planned works programmes based on current asset information.

3.2.20. After going through a 2 stage procurement process, 5 contractors were invited to tender after successfully completing the PQQ stage. Unfortunately, 1 of the 5 contractors pulled out of the tender process citing that they either didn't have capacity to complete the tender or capacity to deliver the contract operationally.

3.2.21. Contractors were asked to price the following items

Table 2

1	Price Per Property containing gas appliances and systems for servicing
2	Price Per Property containing gas appliances and systems for repairs and breakdown
3	Price Per Property containing renewable energy heating systems for servicing
4	Price Per Property containing renewable energy heating systems for repairs and breakdown
5	Price Per Property for commercial gas servicing
6	Price Per Property for commercial gas breakdowns and repairs
7	Basket rate cost for a complete combi boiler installation and prices for associated installation items
8	Basket rate cost for a complete CO alarm installation
9	Bespoke gas repairs items
10	A open book % uplift
11	A over heads % uplift
12	An annual figure committed towards delivering social value initiatives

3.2.22. The 4 remaining contractors did return tender submissions, and these were scored and moderated by Officers, the consultant supporting the service with this procurement activity and residents.

3.2.23. As per 1.2.17, officers estimated that the total cost of contract £850k per annum with a potential 12 year full term spend of £10.2m. Each workstream was calculated based on historic spend, asset management information and estimated inflation at the time.

This was broken down as below.

Table 3

ESTIMATED					
	GAS SERVICING	GAS REPAIRS	COMMERCIAL GAS	INSTALLATIONS	TOTAL
EST PA	£275,000	£240,000	£85,000	£250,000	£850,000
TERM (yrs)	6+3+3	6+3+3	6+3+3	6+3+3	£10,200,000
	£3,330,000	£2,880,000	£1,020,000	£3,000,000	

3.2.24. Officers evaluated the prices from all 4 contractors that submitted returns and compared the new rates to the projected ones. The rates submitted were on average, 7% more than originally estimated, however the recommended contractors rates came in 3.75% lower than the initial estimates.

3.2.25. A breakdown showing the difference for each gas workstream can be seen in the table below.

Table 4

	GAS SERVICING	GAS REPAIRS	COMMERCIAL GAS	INSTALLATIONS	TOTAL
EST PA	£211,540	£154,122	£47,690	£404,800	£818,152
TERM (yrs)	6+3+3	6+3+3	6+3+3	6+3+3	£9,817,842
	£2,538,480	£1,849,464	£572,280	£4,857,600	

3.2.26. The tendered rates submitted by all 4 contractors were analysed and clarifications were sent out for any abnormally high or low rates that were submitted. All 4 contractors provided responses either amending or confirming the rates they had submitted. The rates used in table 4 in section 1.2.24 are based on the clarified rates.

3.2.27. A detailed breakdown showing the difference in the estimated costs to the favourable tendered rate can be seen in the table below.

Table 5

	GAS SERVICING	GAS REPAIRS	COMMERCIAL GAS	INSTALLATIONS	TOTAL
DIFF PA (£)	£63,460.00	£85,878.00	£37,310.00	-£154,800.00	£31,848.00
DIFF 12YR (£)	£761,520.00	£1,030,536.00	£447,720.00	-£1,857,600.00	£382,176.00
DIFF (%)	23.08%	35.78%	43.89%	-61.92%	

3.2.28. The costs submitted by the recommended contractor have been analysed against the rates currently being paid and against the rates provided by the other 3 contractors. The recommended contractor was not the cheapest on every workstream and has been determined as providing the best holistic rate for this contract.

3.2.29. The rates have been deemed as financially viable and the HRA will review spend and budgets in line with the HRA 30 year business plan.

3.3. Parent Company Guarantee/Performance Bond Required

3.3.1. A Parent Company Guarantee has been provided by the preferred contractor post evaluation.

4. Procurement Process

4.1. Procurement Process Undertaken

4.1.1. A two stage restricted process was followed with the initial Pre-Qualification stage being submitted on 25th August, which was evaluated to identify a top 5 for the tender stage. The tender was issued to the top 5 on the 18th September with the submission deadline of 18th October.

4.1.2. This procurement is a 'works procurement' activity. Although there are service elements to the contract, the main object of the contract (both in terms of value and the purpose of contract) is to procure works, so in EU procurement terms the contract would be classified as a public works contract.

4.1.3. A two stage tender process was undertaken for this activity. Contractors were asked to submit PQQ's which were scored and moderated by 2 HRA Officers and the consultant assisting the procurement activity.

4.1.4. A total of 16 contractors submitted PQQ's, with 1 of these being excluded for failing to submit the PAS91 or Pre-Qualification Answer Book.

4.1.5. The top 5 scoring contractors of the remaining 15 were then invited to tender. 1 of the 5 contractors pulled out of the tender process citing that they either didn't have capacity to complete the tender or capacity to deliver the contract operationally.

4.2. Evaluation Criteria Used

4.2.1. The contact was tendered on a 60/40 cost against quality ratio. The 40% quality aspect had questioned weighted as per the following:

Mobilisation	-	4%
Resourcing	-	5%
Delivery	-	5%
No access	-	4%
Safeguarding	-	4%
ICT	-	4%
Data protection	-	2%
Sustainability	-	2%

4.2.2. The remaining 10% was set aside for social value and answer were given against a set of questions that were chosen by residents. The residents scored these questions independently and under moderation.

4.2.3. As stated in item 1.2.18, contractors were asked to provide prices for various workstreams, and these were weighted as follows.

Description	Maximum points available
Domestic Gas	25
Commercial Gas	10
Installations	10
Bespoke Schedule of Rates	7
Open Book	3
Overheads & Profit	0
Social Value Annual Commitment	5
Total:	60

4.2.4. The weightings were determined based on the anticipated spend and volume of works that are potentially going to be delivered over the term of the contract.

Contract Management

4.3.1. Contract management will be the responsibility of the Head of HRA Property and Development and the HRA Property Services team.

5. Risk Management

5.1. The following risk categories have been identified as having a linkage to this procurement project:

- Procurement process
- Equalities
- Contractual delivery
- Sustainability / Environmental
- Service delivery
- Legal
- Reputation / political
- Financial
- Health & Safety
- Other/ICT*

Risk Categories	Outline Description	Risk Likelihood	Risk Impact	Plans To Mitigate Risk
a) Procurement process	Incorrect procurement could lead to breach of EU procurement rules.	D	IV	Support from Category Management Team and Procurement Team will be sought, and detailed project plan developed.

b) Contractual delivery	Contract does not commence on 1 st Sept 2024	C	II	Commence tender process very early in 2023 and have effective project management in place to manage transition of service if required from current contractor.
c) Service delivery	Customer satisfaction significantly reduces during start of new contract and quality of work drops.	D	III	If tender awarded to new contractor robust weekly meetings will take place to manage new contractor. Daily performance reports will be required.
d) Reputation / political	Ineffective or poorly managed contract may lead to poor levels of customer satisfaction leading to increased enquiries or complaints to Members. Additionally, tenants may perceive Members to be at fault in terms of poorly managed service.	D	II	Effective and robust management arrangements in place for contract management with suitably skilled staff.
e) Health & Safety	Breach of H&S compliancy leads to death of tenant/employee/c ontractor or critical injury.	D	I	Dedicated Compliance PM Officer post in place to reduce risk and monitor statutory obligations. Robust performance data in place to monitor H&S compliancy that is reviewed regularly. Dedicated consultancy in place to monitor and maintain gas servicing compliancy Risk assessments in place and regularly reviewed.

				<p>Methods statements in place of the contract.</p> <p>Planned works will be managed under CDM</p>
f) Equalities	Service specification produced that prohibits service being accessed by all service users.	D	III	<p>Full diversity impact assessment will be undertaken to address any areas and take necessary action.</p> <p>Tenant profile data will be used to model services around individual customer needs.</p>
g) Sustainability / Environmental	Reduction in carbon emissions not met or sustained and indeed increased.	D	III	<p>Specification sets out clearly targets to be achieved and robust performance management framework and contract monitoring meetings in place to monitor and achieve this.</p>
h) Legal	Failure to comply with legal requirements and statutory responsibilities in terms of either contract procurement or contract delivery of the service leads to poor PR of the Council or even death of a tenant.	D	II	<p>Clear timetable for procurement in place at outset of the tender process so Legal advice can be sought with ample time.</p> <p>Timescales in contract reflect statutory obligations.</p>
i) Financial	<p>Poorly compiled contract and or tendered contract leads to additional costs being sought during contract leading to budget overspends throughout duration of contract.</p> <p>Contract has not been tendered for almost 8 years and costs are relatively unknown</p>	C	I	<p>Potential for price per property for Gas repairs/servicing will alleviate this.</p> <p>Consultancy support to produce specification will reduce this risk.</p> <p>Benchmarking data is available and will be reviewed to understand current market values.</p> <p>Non statutory compliancy</p>

	<p>and may not be sustainable.</p> <p>Current volatile financial market resulting in unprecedented inflation and significant cost increase.</p>			<p>functions in new specification can be costed separately by the tenders allowing the Council to “pick and choose” additional services.</p>
j) Other/ICT*	<p>Ineffective ICT links lead to a poorly managed and inaccurate performance data.</p> <p>Lack of appointments system for customers</p> <p>Inability for customers to report and monitor gas repairs online.</p> <p>In the event of a new contractor being appointed their ICT software may not be compatible immediately to allow the contractor interface to be in place from the start of the contract</p>	C	I	<p>Effective ICT service level agreement in place to clearly set out response times to service/ICT failures.</p> <p>Clear specification of service requests at outset of tender and compatibility of ICT systems.</p>

Likelihood	Impact:
A Very likely	I Catastrophic
B Likely	II Major
C Unlikely	III Moderate
D Rare	IV Minor

6. Service Implications

6.1. Financial Implications

- 6.1.1. The procurement requirement and its associated delivery as per the recommendations will be funded from existing HRA revenue/capital budgets.
- 6.1.2. The funding for all works and services within this proposed tender are fully funded from the HRA revenue and capital works budgets. The latest HRA Business Plan review identified that the financial costs for maintaining the housing stock are sustainable for the next 30 years, ensuring the Council meets its statutory repairs and maintenance responsibilities.

6.2. Legal Implications

- 6.2.1. This procurement activity was above the FTS threshold and therefore an FTS notice was required.
 - 6.2.2. The procedure gives a high degree of confidence that the Council's primary objectives for procurement are met, as required by Rule 2.2 of the Council's Contract Procedure Rules ("the CPRs").
 - 6.2.3. Under the Council's Contract Procedure Rules, the procurement is a Process 3 procurement (Rule 18), and the process set out in this report meets the requirements for such procurements. The procurement was advertised on the Kent Business Portal, in compliance with rule 18.4 of the CPRs.
 - 6.2.4. Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.
 - 6.2.5. The process described in this report complies with the Public Contracts Regulations 2015 and Medway Council's Contract Procedure Rules.
 - 6.2.6. This report has been presented as a Process 3 high risk procurement, and therefore the Monitoring Officer, in consultation with the Procurement Board will therefore set the risk and reporting stages for the remainder of the procurement process for Gateway 4.
- ### 6.3. TUPE Implications
- 6.3.1. It has been identified that potentially 11 employees will be affected by TUPE for this contract if the incumbent provider is not successful as part of the procurement tender process.

6.4. Procurement Implications

- 6.4.1. A FTS compliant two stage restricted tender was run via the Kent Business Portal for the HRA Gas Servicing contract.
- 6.4.2. We received a good amount of initial interest with 46 expressions of interest which yielded 16 Pre-Qualification submissions.
- 6.4.3. Of these 16 submissions 1 was excluded for failing to submit a PAS91 or Pre-Qualification Technical Ability answer book, leaving 15 to be fully evaluated at this stage.
- 6.4.4. These remaining 15 were evaluated and identified a top 5 contractors to be taken through to the tender stage of this activity.

Supplier	Score	Rank
Axis Europe plc	76.25%	5
BSW Heating	73.75%	8
BTU (Installation and Maintenance) Limited	73.75%	8
Clairglow Heating Ltd	1.25%	13
Dodd Group (Midlands) Limited	75.00%	6
Gas Call Services Ltd	75.00%	6
Gasway Services Ltd (Blueflame Services)	3.75%	12
GetFix Ltd	0.00%	15
K&T Heating Services Ltd	88.75%	2
Mears Limited	82.50%	3
OCO Ltd	81.25%	4
Re-Gen (M&E Services) Ltd	1.25%	13
Robert Heath Heating Limited	63.75%	10
Swale Heating Limited	95.00%	1
TSG Building Services plc	51.25%	11

Unfortunately, of the 5 contractors that were invited to the tender stage of this activity, 1 subsequently decided to withdraw from the process. This left 4 contractors to submit their tender, Mears Ltd, Swale Heating, OCO Ltd and K & T Heating.

6.5. ICT Implications

- 6.5.1. N/A

6.6. Climate Change implications

- 6.6.1. Carbon neutrality (particularly emission reductions) was included within the tender and evaluation process. Tenderers were required to evidence how their approach to fleet management will reduce emissions, demonstrate a general promotion of green energy, and achieve the FORS silver accreditation. Single use plastic policies were also requested.
- 6.6.2. Contractors were informed of Medway's commitment to delivering services with sustainability and the environment in mind and were

asked outline what their approach will be with regards to reducing both theirs and Medway's carbon footprint during the term of this contract. Areas they were asked to focus on included but were not limited to what was their approach to fleet management and reducing vehicle carbon emissions, how they will demonstrate a general promotion of green energy and their approach to single use plastic.

7. Social, Economic & Environmental Considerations

- 7.1. The proposed contracts will be procured with a focus on enhancing social value (including employment and environmental requirements), innovation, ICT, performance, and value for money.
- 7.2. A new social value initiative named 'One Medway' was created in conjunction with residents and included within the tender documents.
- 7.3. Under the Public Services (Social Value) Act 2012, the council must consider before starting the process of procurement, how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and how, in conducting the process of procurement, it might act with a view to securing that improvement.
- 7.4. This social value duty is balanced by obligations to ensure fair and open competition as set out in the Public Contracts Regulations which state, inter alia, that award criteria must be 'linked to the subject matter' of the contract in question and must be contract-specific and not aimed at assessing the business or corporate policies of the tenderer.
- 7.5. The contract will embody an ethos of social value in terms of job, standards, training, and apprenticeship opportunities for residents, wages, homes, and positive health outcomes.
- 7.6. Equalities matters will be prioritised as part of the regular monthly contract and performance review meetings and, as a minimum, will cover diversity/equality, social value, safeguarding alerts and complaints.
- 7.7. The contract will help the council maintain its corporate parenting responsibilities by making apprenticeship, training, and work placement opportunities more accessible to care leavers and provide care leavers with additional support during the application process. Additionally, other social value initiatives on relating to mental health and wellbeing, dedicated partnership placements with organisations/schemes and long-term commitments to provide the best outcomes for young people will be explored.
- 7.8. Social value was quantified as part of the procurement process, with specific social value KPI's included within the contract. Financial penalties will also be considered within the contract as a mechanism to hold the contractor to account for not delivering their social value commitments.

- 7.9. This activity has been through a first stage section 20 leaseholder consultation. A second stage section 20 consultation will take place in accordance with the requirements set out within the Landlord and Tenants Act 1985.
- 7.10. Tenants have been heavily involved in the development of the specification for this contract and have been engaged with via the HRA's Tenant Scrutiny Panel. Tenants selected questions and scored the answers provided in the tender responses under moderation. The tenants questions equated to 10% of the overall quality score.

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Appendices

Appendix 1 – Diversity Impact Assessment
Exempt Appendix – Financial Analysis

Background Papers

[Cabinet Report, Cabinet 10 January 2023 - Gateway 1 Procurement Commencement: Retender Responsive Repairs and Capital Works Contract \(HRA Housing Services\)](#)