

LONDON BOROUGH OF CROYDON

To: all Members of the Council (via e-mail)
Access Croydon, Town Hall Reception

PUBLIC NOTICE OF KEY DECISIONS MADE BY THE CABINET MEMBER FOR HOMES REGENERATION AND PLANNING ON 4 AUGUST 2017

In accordance with the Scrutiny and Overview Procedure Rules, the following decisions may be implemented from **1300 hours on 14 August 2017** unless referred to the Scrutiny and Overview Committee:

The following apply to each decision listed below

Reasons for these decisions: are contained in the **attached** Part A report

Other options considered and rejected: are contained in the **attached** Part A report

Details of conflicts of Interest declared by the decision maker: none

KEY DECISION REFERENCE NO.: 2717HRP

Decision Title: Partnering Advisor Award of Contract

The Leader of the Council has delegated to the Deputy Leader (Statutory) and Cabinet Member for Homes Regeneration and Planning the power to make the decisions set out below.

Having carefully read and considered the Part A and B reports, including the requirements of the Council's public sector equality duty in relation to the issues detailed in the body of the reports, the Deputy Leader (Statutory) and Cabinet Member for Homes Regeneration and Planning in consultation with the Cabinet Member for Finance and Treasury has

PART A RESOLUTION

RESOLVED to:

1.1 Agree that Bidder A is appointed as the Preferred Bidder to provide Partnering Advisor services for contracts relating to Council homes, schools and corporate estate (excluding Bernard Weatherill House) for an initial term of five years with options to extend up to a maximum period of 14 years, comprising 5 plus 3 plus 3 plus 1 plus 1 plus 1, up to a maximum value of £3.68m, upon the terms detailed within the Part A report and the associated Part B report, on the basis that this represents the most economically advantageous tender.

1.2 Subject to fine tuning, discussions with the Preferred Bidder being resolved to the satisfaction of the Council and there being no material changes to the proposed solution beyond the scope set out in this report, authority to award the final contract

and agree all necessary documentation be delegated to the Executive Director Place.

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 14 August 2017** (5 working days after the decisions were made) unless referred to the Scrutiny and Overview Committee.
2. The Director of Law and Monitoring Officer shall refer the matter to the Scrutiny and Overview Committee if so requested by:-
 - i) the Chair or Deputy Chair of the Scrutiny and Overview Committee and 4 members of that Committee; or
 - ii) 20% of Council Members (14)
3. The referral shall be made on the approved pro-forma (*attached*) which should be submitted electronically or on paper to Jim Simpson by the deadline stated in this notice. Verification of signatures may be by individual e-mail, fax or by post. A decision may only be subject to the referral process once.
4. The Call-In referral shall be completed giving:
 - i) The grounds for the referral
 - ii) The outcome desired
 - iii) Information required to assist the Scrutiny and Overview Committee to consider the referral
 - iv) The date and the signatures of the Councillors requesting the Call-In
5. The decision taker and the relevant Chief Officer(s) shall be notified of the referral who shall suspend implementation of the decision.
6. The referral shall be considered at the next scheduled meeting of the Scrutiny & Overview Committee unless, in view of the Director of Law and Monitoring Officer, this would cause undue delay. In such cases the Director of Law and Monitoring Officer will consult with the decision taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny & Overview Committee may only decide to consider a maximum of 3 referrals at any one meeting.
7. At the Scrutiny & Overview Committee meeting the referral will be considered by the Committee which shall determine how much time the Committee will give to the call in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the decision taker for reconsideration, setting out in writing the nature of the concerns.
8. The Scrutiny and Overview Committee may refer the decision to Full Council if it considers that the decision is outside of the budget and policy framework of the Council.

9. If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.
10. The Full Council may decide to take no further action in which case the decision may be implemented.
11. If the Council objects to the decision it can nullify the decision if it is outside of the policy framework and/or inconsistent with the budget.
12. If the decision is within the policy framework and consistent with the budget, the Council will refer any decision to which it objects together with its views on the decision. The decision taker shall choose whether to either amend / withdraw or implement the original decision within 10 working days or at the next meeting of the Cabinet of the referral from the Council.
13. The response shall be notified to all Members of the Scrutiny and Overview Committee
14. If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 6 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.
15. URGENCY: The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process.

Signed: Director of Law and Monitoring Officer

Date: 7 August 2017

Contact Officers: jim.simpson@croydon.gov.uk;
james.haywood@croydon.gov.uk

PROFORMA

REFERRAL OF A KEY DECISION TO THE SCRUTINY AND OVERVIEW COMMITTEE

For the attention of: Jim Simpson, Democratic Services & Scrutiny
e-mail to jim.simpson@croydon.gov.uk
and james.haywood@croydon.gov.uk

Meeting:
Meeting Date:
Agenda Item No:

Reasons for referral:

- i) The decision is outside of the Policy Framework
- ii) The decision is inconsistent with the budget
- iii) The decision is inconsistent with another Council Policy
- iv) Other: Please specify:

The outcome desired:

Information required to assist the Scrutiny and Overview Committee to consider the referral:

Signed:

Date:

Member of _____ Committee

Part A - For General Release

REPORT TO:	Cabinet Member for Homes, Regeneration & Planning
AGENDA ITEM:	not applicable
SUBJECT:	Partnering Advisor Award of Contract
LEAD OFFICER:	<i>Shifa Mustafa</i> Executive Director, Place <i>Stephen Tate</i>, Director, District Centres and Regeneration
CABINET MEMBER:	<i>Alison Butler</i>, Deputy Leader and Cabinet Member for Homes, Regeneration & Planning <i>Simon Hall</i>, Cabinet Member for Finance and Treasury
WARDS:	All
<p>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON</p> <p>The service to be provided meets the Council's Corporate priorities to:</p> <ul style="list-style-type: none"> • Provide Value for Money to its residents through the delivery of the Planned Maintenance and Improvements Programme to the Council's housing stock • Improve our Assets through investment in our housing stock • Improving health and well-being through decent homes and neighbourhoods • Contribute to the local economy and environment • Improve Corporate Social Responsibility opportunities • Include the Council's commitment to the London Living Wage <p>The decision also supports Croydon's vision to be an enterprising; caring; sustainable and learning city.</p>	

FINANCIAL IMPACT

In accordance with the OJEU notice reference 2016/S 213-388121, the outcome of the procurement carried out commits the Council to an expenditure of £120k per annum on core partnering adviser services together with the option for the Council to commission up to a further £2m over the maximum 14 years of the contract. Further information is contained within Part B.

FORWARD PLAN KEY DECISION REFERENCE NO.: 2717HRP This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.

The Leader of the Council has delegated to the nominated Cabinet Member the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The nominated Cabinet Member for Homes, Regeneration and Planning in consultation with the Cabinet Member for Finance and Treasury is recommended to:

- 1.1 Agree that Bidder A is appointed as the Preferred Bidder to provide Partnering Advisor services for contracts relating to Council homes, schools and corporate estate (excluding Bernard Weatherill House) for an initial term of five years with options to extend up to a maximum period of 14 years, comprising 5 plus 3 plus 3 plus 1 plus 1 plus 1, up to a maximum value of £3.68m, upon the terms detailed within this and the associated Part B report, on the basis that this represents the most economically advantageous tender.
- 1.2 Subject to fine tuning, discussions with the Preferred Bidder being resolved to the satisfaction of the Council and there being no material changes to the proposed solution beyond the scope set out in this report, authority to award the final contract and agree all necessary documentation be delegated to the Executive Director Place

2. EXECUTIVE SUMMARY

- 2.1 At its meeting on 19th May 2016 the Contracts and Commissioning Board approved the procurement strategy (Ref. CCB1144/16-17) for delivery of Partnering Advisor services by way of a contract for an initial period of five years with options to extend up to a maximum period of 14 years as described in 1.1 at a maximum total contract value of £3.68 million as per the Official Journal of the European Union (OJEU) notice (ref. 2016/S 213-388121).
- 2.2 The Council has recently completed a procurement programme for a number of planned maintenance and improvement contracts. The contract form in use

with these contracts is the Term Partnering Contract (TPC) 2005 amended 2007 which embeds the role of Partnering Advisor as a contractual requirement ensuring impartial input e.g. for problem resolution; commercial conversations and performance reviews where there may be disagreement between the contractual parties.

- 2.3 This report details the procurement process and recommends the award of preferred bidder status to Bidder A who has submitted the most economically advantageous tender award for the provision of the works. Further details are provided within the associated Part B report on this agenda.
- 2.4 Both the contract form and the commercial arrangements allow the Council significant flexibility in amending the value of core services and additional works instructed on an annual basis should that be necessary. The maximum annual contract value for core activities is estimated at £120k per annum i.e. £1.68m over the maximum term of the contract. In addition, the contract will allow for additional services (further information in paragraph 3.4, below) up to a value of £2m over the term of the contract, giving a total maximum contract value of £3.68m.
- 2.5 The proposed contract additionally provides for:
- robust governance and contract management including a comprehensive suite of key performance indicators (KPIs)
 - a commitment to the London Living Wage
 - a commitment to Premier Supplier Programme
 - maximisation of social value outcomes
- 2.6 Section 3 of this report sets out the background to the project, the procurement approach and the evaluation process for the selection of the preferred bidder.

CCB Approval Date	CCB ref. number
1 st June 2017	CCB1244/17-18

3. DETAIL

Background to the procurement

- 3.1 It is recognised that the role of Partnering Adviser is distinct from contract delivery and formal contract management and is intended to provide full impartial support and advice to the Partnering Team/s (comprising contractors and the Council). It is worth noting that the recent procurement approach adopted for the new partnering contracts is a step change from previous practice for Croydon and will entail a steep learning curve for the organisation, for individual members of staff and for the contractors in the partnering relationships. Therefore the Council considers that it will require not only require professional support, guidance and advice, but also a Partnering Adviser with the ability to work with and contribute to the development of Croydon's needs, contract management structures, resources and skill sets and of all partners to ensure an excellent organisational and cultural fit.

3.2 The contracts that fall within the remit of the Partnering Advisor services are those that primarily serve the Council's housing stock together with corporate lifts (excluding BWH). Schools and other community service buildings owned by the Council can also make use of the contracts if requested. They comprise:

- Housing responsive repairs and void reinstatement (AXIS Europe)
- General building works (Mulalley)
- External decorations (Mulalley)
- Lift repairs and refurbishment (Guideline)
- Electrical services (AJS)
- Mechanical services (Clairglow)
- Window replacement (Anglian)

3.3 The scope of the advisory role includes the provision of professional impartial technical and commercial advice, supporting the Partnering Teams in relation to:

- Knowledge transfer and capacity building
- Development of strategic partnering relationship management
- Providing focus on delivery of agreed contract provision outcomes
- Implementation and delivery of continuous improvement
- Mitigation of potential partnering and contractual disputes
- Open book and performance reviews

3.4 The following is an indication of the range of core activities as well as additional services that may be called off as and when required:

Core Activities:

- Attending and supporting the quarterly meetings of the Strategic Partnership Alliance Meetings (these are a forum for the Council and its Repairs and Planned Maintenance and Improvement Contractors to exchange strategic ideas and collaborate on specific activities related to the portfolio of contracts);
- Attending and supporting the quarterly 'Strategic Core Group Meetings' for each of the TPC related Contracts (Strategic Core Group' is a term used to describe the meeting attended by those ultimately responsible for the contract and its strategic delivery e.g. Director and Head of Service level and contractor counterparts).
- Supporting the 'Annual Open Book Audits' and reviews (including provision of a document to report on the findings and recommendations). This refers to those audits undertaken as set out in contractual documents aiming to review; identify efficiencies/savings and operation of the 'open book' pricing mechanism.
- Supporting the annual performance reviews and improvement plans
- Facilitating the annual review of key documents including the KPI handbook to reflect e.g. changes to budgets and therefore programmes to be delivered; enhancement or substitution of KPI targets or other key drivers for the year ahead.
- Facilitating performance reviews in advance of contract break periods to consider options relating to contract extensions or termination.

Additional Services:

- Providing capacity to support the re-commissioning and procurement of contracts
- Facilitation of workshops including with residents (including any provision of relevant reports)
- Providing advice as and when required e.g.in relation to Remedial Action Plans where performance may not be at the minimum acceptable level; End of year and/or Open Book audits and reviews (including provision of relevant reports)
- Other necessary and relevant activities that may require the input of the Partnering Advisor.

3.5 From the Council's extensive experience to date, it is recognised that the scope of service required from the Partnering Advisor will vary dependent upon the needs of the Council. The procurement has ensured that there is flexibility to incorporate additional services as well as review its requirements annually to reflect changes to funding and need over the life of the contract.

Procurement route

3.6 As this is a procurement for 'Services' with an estimated value in excess of the OJEU threshold, the procurement process must comply with EU legislation and the Public Contracts Regulations (PCR) 2015. In accordance with Regulation 26(4) and 30 of the PCR 2015, the Competitive Dialogue procedure was adopted allowing the Council to dialogue with the shortlisted bidders on areas which it was unable to adequately describe or where dialogue could explore a range of potential solutions. These included:

- Core activities and additional services offering
- Mobilisation
- Social Value
- Commercial opportunities

Procurement process

3.7 The Standard Selection Questionnaire (SSQ) was published on 2nd November 2016, with a bidder briefing held on 11th January 2017 attended by seven organisations. Five SSQs were returned on 2nd December 2016 which were duly evaluated in accordance with the criteria set out in the procurement pack. All bidders passed the compliance, mandatory and discretionary exclusion, and economic and financial standing requirements. Of the five, two were rejected at the professional and technical ability stage having scored less than the required minimum qualitative score threshold on at least one of the criterion.

3.8 Three bidders were shortlisted to Invitation to submit a solution (ISS) stage however one bidder subsequently withdrew from the process. In accordance with the EU Treaty principles and PCR 2015 requirements, the Council considered whether continuing the process with two bidders was sufficient to ensure genuine competition and it was determined that this could be achieved. The Council considered this in detail and was of the view that the process was

capable of continuing on this basis.

- 3.9 The ISS stage commenced with a comprehensive bidder briefing covering recent changes to OJEU regulations and the Council's service requirements as well as setting out the competitive dialogue process. Bidders' ISS submissions were received and reviewed, with feedback provided to each bidder at the commencement of the competitive dialogue process. Competitive dialogue commenced on 1st March 2017 and ran for two weeks, it was formally closed when the Council was confident that one or more of the bidders was capable of providing a solution that would meet the Council's requirements.
- 3.10 The Invitation to Submit a Final Tender (ISFT) was published on 4th April 2017 and the two bids that were received on 28th April, were comprehensively evaluated on quality and price in accordance with the published award criteria. The process was structured to ensure that the qualitative evaluations were carried out in the absence of any detail relating to price to maintain probity of process and prevent unconscious bias.

Evaluation criteria

- 3.11 Cost/quality split of 40%/60% was applied for the following reasons:
- Croydon is buying a professional technical service. Knowledge of the market indicates that there will not be significant variation between providers in terms of hourly/daily rates. This was borne out by the pricing proposals received.
 - When entering into a long-term arrangement, the key factor is the fit between the Partnering Advisor and the Council therefore, it was determined to be best tested through quality
 - The Council included affordability thresholds for the price offer relating to mobilization stage was at £60k and the core activities which was set at £120k. Any proposal in excess of the the affordability caps would be deemed non-compliant and would be rejected without further assessment of the qualitative criteria.
 - Cost effectiveness/value for money was achieved through the design of the pricing methodology which evaluated charge rates from two different perspectives
- 3.12 The deviation from the Council's standard cost/quality split was agreed by CCB as part of the procurement strategy. The award criteria applied to the tenders is as shown in Table 1 below:

Table 1 - Allocation of weightings and scores achieved:

Quality			
Method Statement Question(s)	Weighting	Bidder A	Bidder B
Q1 Mobilisation and transition in to delivery of Interim/Annual Work Programmes	4%	3.20%	2.40%
Q2 Operational delivery model	8%	4.80%	3.20%
Q3 Continuous improvement	8%	6.40%	3.20%
Q4 Knowledge sharing, knowledge transfer and capacity building	7%	7.00%	2.80%
Q5 Cost management	8%	6.40%	3.20%
Q6 Performance management	8%	4.80%	3.20%
Q7 Social value	5%	3.00%	3.00%
Q8 Market testing and performance reviews	7%	5.60%	2.80%
Q9 Environmental sustainability	3%	1.80%	1.80%
Q10 Participation in Premier Supplier Programme	2%	2.00%	2.00%
Total (Quality)	60%	45.00%	27.60%
Price			
Average Contract Charge Rate	20%	20.00%	19.85%
Average Core Activities Charge Rate	20%	18.72%	20.00%
Total (Price)	40%	38.72%	39.85%
Total			
Total	100%	83.72%	67.45%

Contract management

- 3.13 Croydon's standard services contract form (with amendments) has been used for this contract and will form the basis for Contract Management together with the additional detail set out in the Term Brief and Key Performance Indicators.
- 3.14 Day to day relationships and instructions will be managed within Place by an identified Contract Representative, responsible for work allocation; budget management; performance delivery and quality of outputs on behalf of three clients (the Head of Homes and Schools Improvement; the Head of Responsive Repairs and the Head of Asset Management & Improvements).
- 3.15 Commissioning and Improvement, together with Place colleagues will carry out the strategic overarching performance management. There may be other client input from Facilities Management (lifts) and Schools.
- 3.16 Additionally, the corporate contract management system currently being introduced will capture important KPIs on a regular basis. This will include performance indicators for Social Value initiatives.

4. CONSULTATION

- 4.1 Tenants and leaseholders were fully engaged throughout the procurement programme for repairs and planned maintenance contracts. The partnering advisor is a mechanism that will support their effective delivery.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2017/18 £'000	2018/19 £'000	2019/20 £'000	2020/21 £'000
Revenue Budget available				
Expenditure	60	120	120	120
Income				
Effect of decision from report				
Expenditure	60	120	120	120
Income				
Remaining budget	0	0	0	0

2 The effect of the decision

The decision will commit the Council to a minimum expenditure of £120k HRA revenue budget per annum on core services (£60k in the first 6 months of the contract for mobilisation costs) giving an estimated total of £1.68m over the 14 year

term. This commitment is included in the 5/30 year HRA business plan. In addition, at the Council's discretion, it can request additional works to a maximum value of £2m across the 14 years of the contract. Budget holders will have to make a provision within their existing budget or request growth from HRA Directors to access additional work on this contract. Therefore, the maximum total spend under this contract is £3.68m over the 14 years.

3 Risks

The Term Partnering contract stipulates the requirement for a Partnering Advisor. Should this role not be in place then key provisions of the contract will not be able to be employed. This could negatively impact on the ability of the council and its partnering contractors to achieve their objectives.

4 Options

There are three options which have been considered:

- Not have a partnering advisor (see **3 Risks** above)
- Carry out the function internally – this is not appropriate due to the contractual requirement ensuring impartial input e.g. for problem resolution; commercial conversations and performance reviews where there may be disagreement between the contractual parties
- Procure a partnering advisor, which is the recommendation of this report

5 Future savings/efficiencies

The partnering advisor role supports the council and its contractors in delivering value for money and efficiencies in performance, delivery and cost.

Approved by: Luke Chiverton, Head of Finance; Finance, Investment & Risk

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council that the procurement process as detailed in this report is in accordance with the requirements of the Council's Tenders & Contracts Regulations and meets the Council's duty to secure best value as provided under the Local Government Act 1999.
- 6.2 Approved by Scott Couzens: for and on behalf of Jacqueline Harris-Baker, Director of Law and Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 This paper makes recommendations involving a service provision change which may invoke the effects of the Transfer of Undertakings (Protection of Employment) 2006 Legislation (TUPE). The Council provided the bidders information relating to the incumbent Providers' employees within the invitation to submit a final tender document. The final detailed information should be provided by the outgoing contractors in accordance with the employee liability

information provisions under TUPE, no later than 28 days prior to the actual transfer. No Council staff or LGPS members are in scope for TUPE transfer.

7.2 Approved by: Jason Singh on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

8.1 Equality considerations are taken into account as part of the requirements defined within Strategic Sourcing Questionnaire (SSQ) whereby there is a need for the provider to be compliant with the Equality Act 2010.

8.2 The Equality Policy 2016 - 20 sets out the Council's commitment to equality and its ambition to create a stronger, fairer borough where no community is held back. The policy reflects the council's statutory duties under the Equality Act 2010 and is supported by the equality objectives set out in the Opportunity and Fairness Plan 2016-2020.

8.3 The equality objectives for 2016-20 are aligned to and will support the delivery of the Council's business outcomes set out in its Corporate Plan particularly in relation to:

- **Growth** - creating growth in the local economy and ensuring that all residents in the borough are able to share the benefits
- **Independence** - taking on an enabling role to help residents to be as independent as possible
- **Liveability** - creating a welcoming, inclusive and pleasant place in which local people want to live and work and feel safe.

8.4 The procurement included the requirement to pay the London Living Wage as a minimum. The contract, through delivery of social value commitments will also supporting increased opportunities for local people through a range of training and mentoring opportunities Croydon residents and businesses.

Approved by Norman Vaciania, Senior Strategy Officer, SCC

9. ENVIRONMENTAL IMPACT

9.1 Procurement of the contract will provide the Council with an opportunity to support the Council in a number of areas including smarter working to reduce carbon footprint.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no adverse Crime and Disorder impacts arising from this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 Following the evaluation of the final tender submissions, the evaluated scores are provided below with Bidder A recommended as offering the most economically advantageous tender.

Bidder	Quality Score	Price Score	Overall Score	Rank
Bidder A	45.00%	38.72%	83.72%	1
Bidder B	27.60%	39.85%	67.45%	2

11.2 Further details regarding the Preferred Bidder's solution are provided in Part B.

12. OPTIONS CONSIDERED AND REJECTED

12.1 Bidder A, having achieved the overall highest combined score of 83.72% and having submitted a compliant bid which met the requirements set out within the ISFT document, no other options were considered.

12.2 Preferred Bidder A has successfully demonstrated throughout their bid that they are capable of meeting the Council's quality and price requirements.

CONTACT OFFICER: Judy Pevan, Commissioning manager, extension 62953

BACKGROUND PAPERS: exempt