

<p><b>LONDON BOROUGH OF BRENT</b></p> <p><b>EXECUTIVE - 15 AUGUST 2005</b></p> <p><b>JOINT REPORT FROM THE DIRECTOR OF HOUSING &amp; CUSTOMER SERVICES AND DIRECTOR OF ADULTS AND SOCIAL CARE</b></p>	
For action/information	Wards affected:

**Report Title: Non HRA PFI – Approval of Evaluation Criteria**

Forward Plan Ref: HSG&CS-05/06-04

**1.0 Summary**

1.1 This Report describes developments in the prospective PFI scheme since the Executive last considered the item on 11<sup>th</sup> October 2004. It also describes the evaluation criteria it is proposed be utilised in determining which consortia be invited to submit detailed proposals in response to an Invitation to Negotiate to be issued in October 2005.

**2.0 Recommendations**

2.1 The Executive to give approval to the pre-tender considerations and the evaluation criteria (set out in section 3 of the report) to be used in selecting a shortlist of bidders.

**3.0 Detail**

3.1 The Project Team has been firmly established and comprises a mix of in-house officers and external advisers. The appointment of the latter has been in accordance with previous permissions and the following have been appointed.

- Project Management - 4Ps (delivered through Freeborn Associates)
- Finance - BDO Stoy Hayward
- Legal - Trowers and Hamlin

- Technical - Hunters

- 3.2 The Team meets on a monthly basis and is chaired by the Project Director, Gary Chase, and through him reports to the Project Board which meets bi-monthly.
- 3.3 The Project Team are preparing for the procurement process and, in doing so, are taking full cognisance of 'standard' documentation prepared and approved by ODPM, the 4Ps and Partnerships UK.
- 3.4 The timetable below has been established on the basis that Executive approval will be required for:
1. Selection of the three (or four) consortia shortlist
  2. Selection of the single preferred bidder (and any reserve)
  3. Determination that the final proposed contract be entered into.

Stage	Date
OJEU Notice Published	25 May 05
Bidders Open Day	28 June 05
Return of Pre-Qualification Questionnaire (PQQ) and Preliminary Invitation to Negotiate (PITN)	12 Aug 05
Short List Confirmed	10 Oct 05
Issue Invitation to Negotiate (ITN)	10 Oct 05
Bid Submission	2 Jan 06
Invitation to submit Best and Final Offers (BaFO) (if required)	13 Feb 06
Return of BaFO (if required)	27 March 06
Appointment of Preferred Bidder	23 May 06
Conclusion of negotiations (final approval processes)	11 Sept 06
Contract award (commercial and financial close)	23 Oct 06
Contract Commencement	1 Jan 07

- 3.5 The Executive will note that a Bidders Open Day has already been held. It was a very successful event with 37 different private sector organisations in attendance, and it was addressed by the Deputy Leader, Councillor Dave Coughlin.
- 3.6 It will also be noted that bidders are to have returned their Pre-Qualification Questionnaires, together with their response to the Preliminary Invitation to Negotiate by 12<sup>th</sup> August - i.e. before consideration of this report. In these circumstances it is stressed that all PQQ and PITN returns will remain unopened until approval has been given by the Executive to the evaluation criteria to be used in respect of the PITN.
- 3.7 The evaluation of the PQQ is to be determined using criteria very similar to those used in establishing 'approved lists' of tenderers.

These are, in effect, pass or fail items which relate to a consortium's (or organisations) competence. Thus, the proposed criteria are:

1. Compliance with submission requirements;
2. Sufficiency of the consortium's membership (for the proposed project);
3. Financial strength and stability;
4. Technical capacity and experience;
5. Compliance with statutory requirements (health and safety, and equal opportunities).

There is no scoring system for the PQQ's per se; instead a simple pass / fail mechanism will be applied.

3.8 The proposed Evaluation Criteria for the PITN follows guidance issued by ODPM namely:

1. Quantity - the capacity and capability demonstrated in the submission;
2. Quality - the standard at which the submission aims;
3. Innovation - the degree of flexibility and imagination which the bidder brings to the submission; and
4. Deliverability - the practicality and ease of application of the proposals in the submission.

3.9 The assessment of the responses is to be scored in a range of 0 - 5, as follows:

- 0 = unsatisfactory
- 1 = less than satisfactory
- 2 = satisfactory
- 3 - 4 = above satisfactory
- 5 = significantly beyond expectations.

It is proposed that questions 1 to 9 inclusive be weighted equally whilst questions 10 & 11 shall each have half of the value. Thus, questions 1 to 9 are worth 10% each, 10 & 11 are worth 5% each, making a total available of 100%. (Appendix 1)

#### **4.0 Financial Implications**

4.1 The Council's Contract Standing Orders (Standing Orders 88 and 89 refer) state that contracts for supplies and services exceeding £500k or works contracts exceeding £1m shall be referred to the Executive for approval of the evaluation criteria to be used in selecting a short list of tenderers.

4.2 The contract combines both works (provision of accommodation) and services. The contract is being advertised as a services contract and the estimated value of the services element of this contract is £1m per annum; the estimated value of works is £9.7m. The se figures are based upon a "Public Sector Comparator" (PSC) that was prepared as part of the Council's original Outline Business Case (OBC) as submitted to the Office of the Deputy Prime Minister (ODPM) after first being approved by the Executive (in March 2003).

- 4.3 The approval of the OBC by ODPM was conditional upon the Council providing details of the project management arrangements; this was done some time ago. Furthermore, because of the delay in proceeding to the procurement process, ODPM has allowed the Council to update the PSC in order to secure additional funding for the Council which allows for an inflationary increase in the sums originally awarded. This too has been approved and the additional sums are included in the figures described above.

## **5.0 Legal Implications**

- 5.1 The Executive meeting in October 2004 gave authority to officers to proceed to place an OJEU Notice in accordance with EU Regulations; this was published on 25<sup>th</sup> May 2005.
- 5.2 Paragraph 3 of the report confirms that the proposed contract combines both works and services elements. It is necessary for the Council to determine, under EU Procurement requirements whether the contract is either a works contract or a services contract as different regulations would apply to the procurement process. This contract, although containing a substantial works element, has been advertised as a services contract. Whilst the capital works will be front loaded so that construction of the dwellings is anticipated to be concluded within 3 years of the contract start date, the services element will continue for the length of the proposed 30 year contract life and it is thus regarded fundamentally as a services contract. This approach is consistent with other Housing PFI projects.
- 5.3 The Council will be using the negotiated procedure to award the contract. This permits the Council to pre-qualify bidders who respond to the OJEU Notice and to select a number of them (likely to be 3 or 4) to negotiate with. The negotiated procedure is permissible under the Public Services Contracts Regulations where the nature of the services to be provided, or the risks attaching thereto, are such as not to permit prior overall pricing.
- 5.4 The proposed shortlist of bidders will be reported to the Executive for approval and at the same time it is proposed that the Executive will agree the criteria to be used to evaluate the tenders to be submitted at the next stage of the procurement process.

## **6.0 Diversity Implications**

- 6.1 It may be noted that applicants' policies and procedures in respect of diversity issues will form an element of the evaluation methodology that will be applied.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 The proposed project envisages that a private sector partner will take over the management and operation of residential services for adults with learning disabilities. The Invitation to Negotiate will require that bidders price for this service requirement, but Officers will be recommending that the decision about acceptance (or not) of the service offer shall only be taken in consultation with the users and their parents / guardians. In the event the service is to be delivered by the private sector Provider, then it will be necessary to transfer the employment of approximately 24 staff under the TUPE Regulations.
- 7.2 It may be noted that the applicants' record in TUPE transfers (including their pension arrangements etc.) will one of the elements of the evaluation methodology that will be applied.

## **8.0 Background Papers**

### **9.0 Contact Officers**

Copies of the PQQ and PITN are available from  
Gary Chase  
Head of Housing Finance  
7<sup>th</sup> Floor Mahatma Gandhi House  
34 Wembley Hill Road  
Wembley  
Middlesex  
HA9 8AD

Martin Cheeseman  
Director of Housing & Customer Services

Director of Adult & Customer  
Jenny Goodall