

	<p style="text-align: center;">Executive 26 May 2009</p> <p style="text-align: center;">Report from the Director of Housing and Community Care</p>
<p style="text-align: right;">Wards Affected: None</p>	
<p style="text-align: center;">Authority to Tender for Procurement and Management of Temporary Accommodation Contract</p>	

Forward Plan Ref: H&CC-09/10-2

1.0 Summary

- 1.1 This report seeks authority in accordance with Contract Standing Orders 88 and 89 to invite tenders for a new contract for the Procurement and Management of Temporary Accommodation, to commence from 1 February 2010 for a period of three years, with an option to extend for up to a further two years.

2.0 Recommendations

- 2.1 The Executive to give approval to the pre-tender considerations and the evaluation criteria to be used to evaluate the tenders for the Procurement and Management of Temporary Accommodation contract as set out in paragraph 3.2.1 of this Report.
- 2.2 The Executive to give approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in paragraph 2.1 above.

3.0 Detail

3.1 Procurement and management of temporary accommodation

- 3.1.1 The Housing Association Leasing Scheme (HALS) is used to provide temporary accommodation for homeless families. At the end of March 2009 there were 2,899 HALS units in use.
- 3.1.2 The current contract for the procurement and management of temporary accommodation has been in operation since February 2003. The Council contracts with the Housing Associations (ie. Registered Social Landlords) to source suitable housing for homeless families. The Housing Associations source suitable properties

and enter into head leases with the property owners, generally for a 3 year term. The Council is provided with nomination rights in order that the Council can nominate tenants to properties made available by the Housing Associations. The tenants enter into an assured shorthold tenancy with the Housing Associations and pay rent (generally via the Housing Benefit paid to homeless families). The Housing Associations provide management and maintenance services which are covered by the rent. The Council pays a weekly nomination fee to the relevant Housing Association for each property. There are minimum property standards and furniture standards specified by the Council, and the Housing Associations have to provide a high-quality housing management service. Performance is monitored through performance indicators and regular monitoring meetings.

3.1.3 The existing contract was awarded to three Housing Associations - namely, Pathmeads Housing Association, Stadium Housing Association and Shepherds Bush Housing Association. The nomination fees paid by the council average £6.50 per week per property, although there is considerable variation in the fees charged by the three Housing Associations appointed to the existing contract.

3.1.4 The service specification and the contract terms and conditions which apply to the existing contract are being reviewed and revised. Meetings have been held with Housing Resource Centre staff (who are responsible for managing the nomination process) and with the current providers, to ensure that new ideas, suggestions and improvements are incorporated where appropriate. It is proposed that the overall structure of the arrangements remain effectively the same. The HALS is considered a cost-effective way of providing temporary accommodation for homeless families, as the nomination fees paid by the Council are relatively low and management and maintenance costs are covered by the rent paid by the tenants. Officers consider that a minimum of two and a maximum of five Housing Associations will be awarded the contract.

3.1.5 The tender pack will comprise:

- service specification
- property and furniture specification
- contract terms and conditions
- contract award criteria
- complaints procedure
- nominations procedure
- Housing Benefit service level agreement
- information on local rent levels
- monitoring requirements
- background information on the London Borough of Brent

3.1.6 The existing contract was expressed to be for a 5 year period, commencing on 1 February 2003 with two possible extensions each of 1 year, up to a maximum extension of 2 years in total. Officers extended the contract in accordance with its terms up until 31 January 2010, pursuant to delegated powers.

3.1.7 In order to develop and implement a new contract for the Procurement and Management of Temporary Accommodation from 1 February 2010, it will be necessary to carry out a tendering exercise which will take at least 7 months to complete.

3.2 Pre Tender Considerations

3.2.1 In accordance with Contract Standing Orders 88 and 89, pre tender considerations have been set out below:

Ref	Requirement	Response
(i)	The nature of the service	To procure and manage temporary accommodation properties, which are let by the service providers (the Housing Associations) to homeless families nominated by the Council. It is anticipated that a minimum of two and a maximum of five Housing Associations will be awarded the contract.
(ii)	Estimated value	£2.3m - £3.4m based on the procurement of 240-360 units per year over the 5 year term of the contract (being 3 years with an option to extend for up to a further two 1 year periods) together with an additional service delivery period of up to 3 years from the end of the 5 year term. Such period is to allow for 3 year head leases entered into by the Housing Associations at the end of the contract term in respect of which the Council will pay nomination fees (assuming the properties are tenanted by Council-nominated tenants).
(iii)	The contract term	3 years, with the possibility of two 1-year extensions to be granted, subject to review of performance (up to a total maximum contract term of 5 years, with a further 3 year service delivery period after the conclusion of the contract term as described in item (ii) above).
(iv)	The tender procedure to be adopted	Formal tendering (including advertising) with a two stage procedure in accordance with Contract Standing Order 96 (c) : Stage 1 – expressions of interest and short-listing. Stage 2 – invitations to tender
(v)	The procurement timetable	Indicative dates are: Executive decision 26 May 2009 Adverts placed & PQQ issued w/c 1 June 2009 PQQ returned 6 July 2009 PQQ evaluation w/c 6 July 2009 Shortlist 13 July 2009 Invite to tender 20 July 2009 Tender return 7 September 2009 Tender evaluation 8 – 28 September 2009

		<p>Report recommending Contract award circulated internally for comment mid-October 2009 Executive approval November 2009 Contract award 28 November 2009 Contract start 1 February 2010</p>
(vi)	<p>The evaluation criteria and process</p>	<p>Shortlists are to be drawn up in accordance with the Council's Contract Management and Procurement Guidelines namely the pre-qualification questionnaire and thereby meeting the Council's minimum standards in relation to financial standing, technical capacity and technical expertise, and compliance with statutory requirements (e.g. Health and Safety requirements).</p> <p>The Contract will be awarded on the basis of the most economically advantageous offer, with the tenders received to be evaluated against the following evaluation criteria:</p> <ul style="list-style-type: none"> • Tendered Prices (60% weighting) • Quality Assessment (40% weighting) based on the following criteria: <ul style="list-style-type: none"> - Ability to source a suitable range and standard (including furnishings) of properties - Ability to address ongoing property maintenance and general property management needs - Ability to become aware of and respond effectively on an ongoing basis to the concerns of tenants arising with respect to their occupation of the properties - Ability to deliver flexible housing solutions which are responsive to varying tenant needs - Ability to collect, maintain, analyse and provide statistical and other information - Demonstration of how service standards will be maintained and monitored <p>Tenders will be evaluated by a panel, comprising officers from the RSL Development Team and the Housing Resource Centre. A weighting will be applied to all the criteria taking into account the requirements of the output specification, and each criterion will be scored.</p> <p>Financial and Legal considerations on bids received are to be given by the Housing Finance Team and representatives from the Council's</p>

		Legal and Financial Services. If required, representatives will participate in the evaluation panel. A further report will be brought to the Executive seeking approval of the award recommendation.
(vii)	Any business risks associated with entering the contract	The scheme is funded from the General Fund. The majority of housing management costs are recovered through housing benefit, so potential future changes to the housing benefit regulations could have a negative impact and make the scheme unaffordable. However, advice from the DWP indicates that no major changes to housing benefit affecting HALS schemes are anticipated until at least 2013 and Officers anticipate that this risk can be more fully assessed before the contract comes up for extension (currently anticipated to come up for extension on 1 February 2013). Moreover, consideration will be given to allowing termination of the arrangement by the Council in the terms and conditions of contract in circumstances where a change in applicable regulations results in the scheme becoming unaffordable.
(viii)	The Council's Best Value duties.	The competition provided by the 2-stage tendering exercise will assist the Council in achieving best value for this service.
(ix)	Any staffing implications, including TUPE and pensions	See paragraph 7.0 below
(x)	The relevant financial, legal and other considerations	See paragraphs 4.0 and 5.0 below

3.2.2 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 88.

4.0 Financial Implications

4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1 million shall be referred to the Executive for approval to invite expressions of interest, agree shortlists and invite tenders and in respect of other matters identified in Standing Order 89.

4.2 The contract for the procurement and management of temporary accommodation will be let for a period of three years, with a possible extension of up to two years at one year intervals. However, the cost of the contract will depend on the length of time for which the council has nomination rights to the properties. The estimated value of the

contract for units procured over the three years is £2.3m - £3.4m, based on 20-30 acquisitions per month. This includes all units procured during the life of the contract, as those procured in the last year of the contract will have a further three years to run. The cost during the first three years of the contract is estimated at £0.75m - £1.1m.

- 4.3 The cost of this contract will be funded from the General Fund through existing budgets. If the tenders received are above the current budgetary provision, a further report will be submitted to Members seeking authority to proceed.

5.0 Legal Implications
5.1 The Procurement and Management of Temporary Accommodation contract is considered to be a Part B service pursuant to the EU Procurement Regulations and is therefore only subject to a partial application of the Regulations. The providers are providing housing services to the Council, insofar as they are procuring, making available and maintaining suitable housing for homeless tenants to whom the Council is required to provide temporary accommodation (see paragraphs 5.4 and 5.5 below). It is not considered in these circumstances that the providers are providing property management services to the Council (which would be a Part A service), especially as the Council has no property interests in the properties sourced pursuant to the contract. The procurement of Part B services contracts is still subject to overriding EU principles of equality of treatment, fairness and transparency in undertaking the tender process, including contract award.

- 5.2 The estimated value of the procurement and management of temporary accommodation over the life of the contract means that it is a High Value contract as defined in the Standing Orders so a competitive tendering process must be entered into which requires a formal tendering process with advertising of the proposed contract. In addition, the approval of the Executive is required to invite tenders and to the pre tender considerations set out at paragraph 3.2.1.

- 5.3 Once the tendering process is undertaken Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contract and recommending award.

- 5.4 The requirement to provide temporary accommodation to persons in housing need arises under Part VII of the Housing Act 1996 ("the 1996 Act"). The Council is bound by statute under section 193 of the 1996 Act to provide temporary accommodation to homeless applicants who satisfy the following criteria: they are homeless or threatened with homelessness, they are eligible for assistance, they are in priority need of accommodation, they have a local connection with the Borough and they have are not intentionally homeless. The circumstances in which the Council will cease to be subject to any such duty are set out in section 196(6)-(7B) of the 1996 Act, which include the applicant accepting an offer of accommodation under Part VI of the 1996 under the Council's allocation scheme and accepting an offer of an assured tenancy from a private landlord.

- 5.5 The Council also has an interim duty to accommodate homeless applicants in temporary accommodation under section 188(1) of the 1996 Act pending a decision regarding their homelessness applications if the Council has reason to believe that such applicants may be homeless, eligible for assistance and have a priority need of accommodation. That duty ceases once a decision is made and if the decision is that the applicant does not qualify for assistance under Part VII of the 1996 Act, the

homeless applicant has the right to request a review of such a decision and in those circumstances, the Council has a discretion (as opposed to a duty) under section 188(3) of the 1996 Act to house the homeless applicant in temporary accommodation pending a review by the Council of its decision. If the decision is that the homeless applicant qualifies for assistance under Part VII of the 1996 Act, the Council is under a duty to provide temporary accommodation under section 193 of the 1996 Act as set out in the previous paragraph.

6.0 Diversity Implications

- 6.1 There are variations between the population of Brent and those applying for assistance as homeless. For example, those in the Black category made up just under 20% of Brent's population in 2001, however they accounted for nearly half of all applications as homeless in 2002/03. Furthermore, those in the White category made up just over a fifth of all homeless applications, but were 45% of the resident population in the 2001 census. Reasons for these differences are complex and relate to a variety of social, economic and demographic factors, including income levels, family size, quality of housing and patterns of tenure.
- 6.2 The Housing Resource Centre's Equality Impact Assessment regarding homelessness and lettings identified that current policy is specifically designed to ensure that those who are less able to access their own housing solutions are assisted.

7.0 Staffing Implications

- 7.1 The service is currently provided by external contractors and there are no implications for Council staff arising out of the proposed tendering of the new contract.
- 7.2 TUPE may apply to the staff employed by one or more of the incumbent contractors in the event the contract is awarded to different contractors. This possibility will be considered in further detail and addressed in the tender documentation for this contract.

8.0 Background Information

- 8.1 HALS Temporary Accommodation General file
Contract documents for HALS 2003 contract
Contract documents for HALS 2010 tender
Supply and Demand and Temporary Accommodation report March 2009

Any person wishing to inspect the above papers should contact:

Manjul Shah
Head of Affordable Housing Development
7th Floor
Mahatma Gandhi House
34 Wembley Hill Road
Wembley, Middx
HA9 8AD

Martin Cheeseman
Director of Housing and Community Care