



**Executive**  
11 March 2013

**Report from the Director of  
Regeneration Major Projects**

Wards Affected:  
[ALL]

**Authority to Award Contracts for the Procurement and  
Management of Temporary Accommodation**

**Appendix 1 is Not for Publication**

**1.0 Summary**

- 1.1 This report details the competitive tendering process of the Dynamic Purchasing System (DPS) for the Procurement and Management of Temporary Accommodation (Private Sector Accommodation) and makes a recommendation as to award pursuant to Contract Standing Orders 88(c).

**2.0 Recommendations**

- 2.1 That the Executive approves the appointment of the contractors recommended and listed at paragraph 3.2.10 onto the Dynamic Purchasing System (DPS) for the Procurement and Management of Temporary Accommodation. It is anticipated that The DPS will commence in April 2013 for a period of two (2) years with an option to extend up to a further two (2) years.
- 2.2 The Executive to agree that during the operation of the Dynamic Purchasing System, new suppliers can be added at any time to the DPS provided they meet the set evaluation criteria.
- 2.3 That the Executive grants delegated authority to the Assistant Director of Housing to approve and appoint new suppliers onto the DPS subsequent to it first being established.

**3.0 Detail**

**3.1 Background**

- 3.1.1 On 12 November 2012 the Executive received a report from the Director of Regeneration & Major Projects requesting approval for officers from Brent, Haringey and participating West London boroughs to invite expressions of interest, agree

shortlists and invite Tenders for a DPS for the Procurement and Management of Temporary Accommodation. The Executive accordingly gave approval to the invitation of tenders for a DPS and approved the pre-tender considerations as required by Contract Standing Orders 88(c) including the evaluation criteria.

- 3.1.2 The report also requested that the content of the Council's temporary accommodation placement policy be noted and authority be delegated to the Director of Regeneration and Major Projects to finalise and approve any minor amendments to the temporary accommodation placement policy to which the Executive accordingly gave approval.

### **Stage One – Pre-Qualification Stage**

- 3.1.3 As detailed in the report to the Executive of 12 November 2012 and following receipt of Executive authority to tender in Nov 2012, the council initiated the DPS tendering process. On 19 Dec 2012, a contract notice was placed in the Official Journal of the European Union (OJEU). This detailed how to access the DPS documents via the Due North System (being the Council's new e-tendering system) which was used to conduct the electronic procurement exercise. To gain access to the DPS documents applicants were asked to register their details on the London Tenders website.
- 3.1.4 Completion of the registration process enabled organisations to submit an expression of interest and concurrently access the DPS documentation electronically. A submission date of 17 Jan 2013 was given for the Pre-Qualification Questionnaire (PQQ) and Method Statements. 54 organisations expressed an interest without submitting any further documents; 14 organisations commenced the tender process but opted out. 20 organisations submitted their tender documentation in accordance with the deadline.
- 3.1.5 The evaluation of all parts of the tender submission was carried out by a panel of members consisting of Finance Officers from Brent Council and Housing Officers from Brent Council, Haringay Council and participating West London Boroughs. The PQQ evaluation was conducted in accordance with the DPS Evaluation Methodology which consisted of 2 stages:
- 3.1.6 Stage 1 – Full evaluation: Organisations that passed the Preliminary Compliance Review were subject to the full evaluation. Individual scoring on the relevant sections of the PQQ was undertaken by the Evaluation Panel. Organisations that obtained a "fail" for a pass or fail question or scored less than 3 marks out of the available 5 for any of the marked questions in the PQQ failed the initial assessment and were excluded from further consideration in the procurement process. Organisations were evaluated on their response to questions covering the following areas:

| <u>Evaluation area</u>                 | <u>Pass/fail or scored question including weightings</u> |
|--|--|
| Sub-contracting/consortia arrangements | For info only – not scored                               |
| Professional conduct                   | Pass/fail  |
| Economic and financial standing        | Pass/fail  |
| Insurance                              | Pass/fail  |
| Health and Safety                      | Pass/fail  |
| Quality assurance                      | Pass/fail  |
| Equality                               | Pass/fail  |
| Environmental weighting                | Pass/fail  |
| Experience                             | Scored questions   |

Table 1

Scored questions were evaluated using a scoring range of between 0 and 5. The assignment of scores was based on the following scoring methodology:

| Assessment   | Score |
|--|-------|
| No response to the question  | 0     |
| Deficient – Response to the question (or an implicit requirement) significantly deficient.                         | 1     |
| Limited – Limited information provided, or a response that is inadequate or only partially addresses the question. | 2     |
| Acceptable – An acceptable response submitted in terms of the level of detail, accuracy and relevance.             | 3     |
| Comprehensive – A comprehensive response submitted in terms of detail and relevance.                               | 4     |
| Superior – As Comprehensive, but to a significantly better degree.   | 5     |

Table 2

3.1.7 Stage 2 – Selection of organisations to proceed to short-listing stage: Individual scores for each organisation were recorded in a PQQ evaluation matrix. A group review of collated scores was then undertaken by members of the Evaluation Panel and final scores for Potential Bidders was achieved by consensus in the presence of the Procurement adviser. 20 organisations that underwent the evaluation process all passed the initial evaluation stage.

### **Stage Two – Invitation to Tender**

3.1.8 Organisations were invited to submit their method statements concurrently with the PQQ via the Due North system. The instructions stated that the tender submissions would be evaluated on the basis of the most economically advantageous tender based on 100 % quality using the following criteria. Each criterion was assigned a weighting to reflect the relative importance of such criterion.

## 1. Quality

Quality consisted of 100% of the evaluation weightings and was evaluated using the following criteria and weightings assigned to the method statements:

| <u>Method statement (Criteria)</u>   | <u>Weightings</u> |
|--|-------------------|
| <p><u>Question 1 - Procurement</u></p> <p>Tenderers are invited to outline the areas in which they are confident they can procure properties, the methods by which they propose to procure properties and their anticipated relationships with the properties owners, landlords or other agents. Please also outline why these areas would be suitable for the families likely to be referred.</p>   | 40%               |
| <p><u>Question 2 - Repairs and Maintenance</u></p> <p>Tenderers are invited to outline their approach to the boroughs' requirements with respect to the initial standard of the properties, repairs and maintenance as detailed in the specification. In particular, the boroughs are interested in how tenderers propose to resource the repairs and maintenance function, how they would ensure all emergency repairs are carried out within the specified timetables, their approach to gas safety inspections and their approach to access difficulties.</p> | 25%               |
| <p><u>Question 3 - Complaints and management</u></p> <p>Tenderers are invited to outline their approach to dealing with complaints and licence management issues. In their responses, tenderers are expected to detail how their approach would treat the households in the properties, the wider community and any liaison with the placing and host boroughs.</p>  | 15%               |
| <p><u>Question 4 - Anti-Social Behaviour</u></p> <p>Tenderers are invited to outline their approach to dealing with anti social behaviour – covering the possibility that a household referred by a borough could be a victim as well as a perpetrator. Boroughs are particularly interested in how tenderers would liaise with referring and host boroughs and the sensitivities which may be involved particularly with respect to child and adult safeguarding issues.</p>  | 5%                |
| <p><u>Question 5 - Resettlement</u></p> <p>Tenderers are invited to outline their approach to resettling households referred by boroughs who may be unfamiliar with the area where the accommodation is located. Boroughs are particularly interested in the information and advice tenderers may be able to give with respect to education, health and other practical welfare issues. Please include an example of your welcome pack (this will be excluded from the word count)</p>   | 15%               |

Table 3

A scoring range of 0 and 5 was used to score each question in each section (see scoring methodology in Table 2). Organisations who failed to score at least 3 out of 5 were considered ineligible for appointment onto the DPS.

## **2. Price**

The price for this service has been fixed for the first year of the DPS. Organisations will be paid £25 per week management fees plus local housing allowance (LHA). The LHA is based on location and size of the property. However, the management fee is subject to review (upwards or downwards) by Brent Council and its partnering authorities that are permitted to use the DPS, on an annual basis to ensure this fixed price provides value for money to the Councils. The process for determining a change in price will involve an end of period review consisting of Finance Officers from Brent Council and Housing Officers from participating Councils to effect a change in price if applicable.

### **3.2 The Tender Evaluation Process**

- 3.2.1 The 20 organisations that passed the PQQ evaluation stage were considered for the ITT evaluation.
- 3.2.2 Organisations were informed that the ITT was evaluated in accordance with the DPS Evaluation Methodology. The ITT was evaluated by the same Evaluation Panel from the PQQ stage.
- 3.2.3 The ITT was evaluated upon 100% quality. The price for the service was fixed and was therefore not scored. The evaluation consisted of 2 stages:
- 3.2.4 Stage 1 – Full evaluation: Organisations that passed the Preliminary Compliance Review were subject to the full evaluation. Method statement questions were scored using a range of between 0 and 5 (see scoring methodology in Table 2). Organisations that scored less than 3 marks out of the available 5 for any of the marked questions for each of the method statement questions failed the full evaluation stage.
- 3.2.5 Individual scores for each organisation were recorded in an ITT evaluation matrix. A group review of collated scores was then undertaken by members of the Evaluation Panel and final scores for Potential Bidders was achieved by consensus with the Procurement adviser present.
- 3.2.6 15 out of 20 organisations passed the full evaluation and their average scores for the method statement questions were presented in an ITT evaluation matrix. The evaluation matrix details the total weighted scores obtained by each organisation and ranked with the highest scoring Bidder being given a ranking of 1.
- 3.2.7 5 organisations did not pass the method statement evaluation as it was a key requirement of the evaluation to score a minimum of 3 marks out of the available 5.
- 3.2.8 The following presents information of the evaluation matrix:

- Appendix 1 presents the ITT identification numbers
- Appendix 2 presents an overview of the ITT quality evaluation
- Appendix 3 presents an overview of weighted ITT scores for each successful tenderer

3.2.9 Stage 2 - Selection of Bidders to be appointed to the DPS. The Evaluation Methodology informed organisations that they must obtain 3 marks out of the possible 5 to be considered eligible for appointment to the DPS.

3.2.10 The Evaluation Panel consisted of Housing Officers from Brent Council, Haringay Council, participating West London Boroughs and a representative from Procurement. They considered the final scores and recommend the tenderers detailed below for appointment to the DPS (in alphabetical order).

1. Altwood Properties Ltd
2. Atlantic Lodge
3. Bishop Property Management Ltd
4. Cromwood
5. Finefair Consultancy Ltd
6. Genesis Housing Association
7. London Strategic Housing Association
8. Omega Lettings Ltd
9. Paradigm Housing Group
10. Shepherds Bush Housing Association
11. Smart Hotels Ltd
12. Theori Investment Ltd
13. United Property Management
14. Wentworth Estates
15. Elliot Leigh

The anticipated start date of the contract is 1st April 2013.

### **3.3 Procuring via the DPS**

3.3.1 The estimated value of the procurement over the lifetime of the Dynamic Purchasing System is deemed a High Value Contract as defined by the Council's Contract Standing Orders. Individual call-off contracts may be awarded, subject to Executive approval to appoint the recommended tenderers to the DPS, without the need for them to be separately advertised and procured through a full tender process. The DPS includes a prescriptive call-off protocol ("the Protocol") that Officers must adhere too when calling off services under the DPS; the use of the Protocol will ensure fairness and transparency. Executive approval will only be required for High Value Contracts called off under the DPS.

3.3.2 In order to provide councils with flexibility around how the DPS will be used, there will be a call off process whenever the councils have a requirement for the provision of accommodation outside London to meet their statutory duty.

- 3.3.3 It should be noted that during the operation of the DPS, the Councils will refine the process for procuring via the DPS to ensure that it continues to meet their needs. Where changes are made to the processes as set out in “the Protocol”, this will be sent out to all service providers on the DPS.
- 3.3.4 It is the intention to categorise suppliers based on the location where they have indicated they will be able to procure accommodation. Service providers will be ranked within each category on the DPS (by application of the award criteria) on the basis of the most economically advantageous in terms of 100% quality (prices are fixed). However, it should be noted that as new service providers are accepted on to the DPS the ranking of service providers might change dependent on scores achieved by service providers
- 3.3.5 In the event that the Councils decide to approach providers the Councils shall decide which providers to approach in the relevant category based on their capability of delivering the Councils’ particular requirement; taking into consideration the location (where the accommodation is required), the capacity of the service provider to provide the required number of properties, their rank within the category and their performance in meeting any previous requests.
- 3.3.6 Where there has been a persistent failure to respond to requests, to accept requests and non delivery or continual poor / sub standard or slow responses to requests this will be deemed to be Poor Performance. Where there is Poor Performance the Council may: suspend the supplier from receiving requests, refuse to make any requests with the Service Provider and or remove the service provider from the DPS.

#### **4.0 Financial Implications**

- 4.1 Part 4, section 2.5 of the Council’s Constitution states that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite expressions of interest, agree shortlists and invite tenders.
- 4.2 The estimated value of this 4 year contract is £3.12m, Brent Council’s part of the contract (about £520K) will be funded from the Temporary Accommodation (TA) budget of £4.8m. It is to be noted that the finance complexities of the Welfare reforms has a significant impact on the TA budget.
- 4.3 The TA budget for 2013-14 has taken into account both the expected increase in homeless approaches as a result of changes to the Local Housing Allowance, and the impact of changes to the Housing Benefit subsidy regime for temporary accommodation and the Overall Benefit cap.
- 4.4 These assumptions are heavily reliant on our capacity to find accommodation that will be sustainable within the overall benefit cap. Inevitably this will mean procuring properties in areas where the rents are lower, elsewhere in the country. Although for

some households this is not a viable option, and for the largest households there is nowhere in the country that is affordable within the caps.

- 4.5 If out of borough placements can be achieved within the revised housing benefit allowances, there would be a net saving to the council of approximately £150 per unit per week. This would be offset by any increases in temporary accommodation costs due to increasing numbers of people presenting themselves as homeless. The Department for Work and Pensions (DWP) has recently reviewed the TA subsidy regime and have confirmed this will continue to be based on current arrangements. That is, in most cases, 90 per cent of the appropriate January 2011 LHA rate for the property (not the household size), that the local authority places the claimant into; plus £40 (for London authorities) or £60 (for non-London authorities).

## **5.0 Staffing Implications**

- 5.1 None

## **6.0 Legal Implications**

- 6.1 Homeless legislation places duties, powers and obligations on housing authorities towards people who are homeless or at risk of homelessness. Local authorities have a statutory duty under Part VII of the Housing Act 1996 ("the 1996 Act"), and in particular section 193, to house homeless persons in temporary accommodation who satisfy the qualifying criteria (i.e. eligibility, homeless, priority need, not intentionally homeless and local connection). The Council also has a duty to secure interim or emergency accommodation, pursuant to section 188(1) of the 1996 Act, to those persons it has reason to believe may be homeless, eligible for assistance, and have a priority need pending a decision under to the section 184 of the Housing Act 1996 as to whether the applicant satisfies the qualifying criteria.
- 6.2 The Council has a power to provide temporary accommodation under section 188(3) of the 1996 Act either pending a review of the Council's original decision on the homelessness application under section 202 of the 1996 Act or pending a County Court appeal on a point of law under section 204 of the 1996 Act in relation to the Council's original decision and review decision in respect of a homelessness application. The exercise of the discretion as to whether to provide temporary accommodation under section 188(3) of the Housing Act 1996 can be challenged by way of judicial review in the High Court or in the County Court where there is an outstanding County Court appeal.
- 6.3 The properties will be offered either as emergency accommodation under the Council's duty under section 188(1) of the 1996 Act or as temporary accommodation pursuant to the Council's duty under section 193 of the 1996 Act or pursuant to the Council's power to provide temporary accommodation under section 188(3) of the Housing Act 1996.
- 6.4 Section 206 of the 1996 Act provides that where a housing authority discharges its functions to secure that accommodation is available for an applicant, the



accommodation must be suitable. Suitability must be in relation to the applicant and to all members of his/her household who normally reside with him/her, or who might reasonably be expected to reside with him/her.

- 6.5 So far as reasonably practicable the Council shall, in discharging its housing function under Part VII of the 1996 Act, secure that accommodation is available for the occupation of the applicant in its district, pursuant to section 208 of the 1996 Act. Households who have no overriding need to be in Brent may be offered accommodation outside of the borough in a location which has been identified. Selection of areas will be based upon a number of socioeconomic factors including access to employment, education and affordability. Proximity and transport links to Brent will also be considered. In addition to the obligations under s208 of the 1996 Act, the Homelessness Code of Guidance for Local Authorities, of which the local policy would have regard, advises that housing authorities should aim to secure accommodation within their own district wherever possible. The guidance for Local Authorities clearly sets out key factors to consider which include:

- *Proximity to schools, public transport, primary care services, local services in the area in which the accommodation is located*
- *Space and arrangement*
- *medical and/or physical needs of the household*
- *Health and safety and social considerations*
- *Affordability*
- *Location.*
- *Availability of alternative suitable accommodation in the local authority area.*
- *Size and location of alternative equivalent accommodation available outside of the borough and the availability of support networks in the area.*

- 6.6 There is the right of review of the suitability of accommodation offered under section 193 of the 1996 Act and an applicant may increasingly exercise this right to assert their need to remain in the borough. If the decision to place out of borough is upheld on review then applicants can challenge the decision through the courts on a point of law, which may be costly to defend. Case law has held that the cost of providing accommodation can be a factor a Council could take into account in deciding how to discharge its duty to provide temporary accommodation. Brent Legal Department has provided advice and assistance on an out of borough placement policy in respect of the provision of temporary accommodation.

- 6.7 The Procurement of Private Managed Temporary Accommodation is considered to be a part B service under the Public Contracts Regulations 2006 (as amended) (the "PCR") and as such the application of the PCR to this procurement is limited. However, Officers issued a voluntary OJEU Contract Notice that ensured the service requirements are sufficiently and widely advertised, thereby satisfying the PCRs and Contract Standing Orders. The procurement of Part B services however is still subject to the underlying EC treaty principles of equal treatment (of economic operators), fairness and transparency which must govern all public procurement. In addition, there are obligations relating to ensuring that technical specifications are

prepared relating to the subject matter in a non-discriminate manner and there are obligations to submit post-award information.

- 6.8 The procurement process undertaken to establish the DPS was fully electronic , via the Open process, using the Council's e-tendering system, Due North. The evaluations of the tender submissions received were evaluated in accordance with the published Evaluation Methodology and Officers have recommended those organisations that met the minimum requirements. The advantage of using the DPS system, which is akin to a Framework Agreement, is that unlike a framework agreement, it allows for new providers in the market to apply for admittance onto the Dynamic Purchasing System throughout the life of the system, which cannot exceed four (4) years. Officers are seeking Member's approval to delegate authority to the Assistant Director of Housing to appoint organisations applying for admittance on to the DPS that meet the published minimum requirements.

#### Public Sector Equality Duty

- 6.9 As a public authority the Council is subject to a specific duty in relation to the Equality Act 2010:

'Meeting the general equality duty requires 'a deliberate approach and a conscious state of mind'. R (Brown) v Secretary of State for Work & Pensions [2008] EWHC 3158 (Admin).

Members must know and understand the legal duties in relation to the public sector equality duty and consciously apply the law to the facts when considering and reaching decisions where equality issues arise.

- 6.10 The public sector equality duty is set out at Section 149 of the Equality Act 2010. It requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimization and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. A 'protected characteristic' is defined in the Act as:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;(including ethnic or national origins, colour or nationality)
- religion or belief;
- sex;
- sexual orientation.

Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.

- 6.11 There is no prescribed manner in which the equality duty must be exercised. However, the Council must have an adequate evidence base for its decision making. This can be achieved by means including engagement with the public and interest groups and by gathering relevant details.

## **7.0 Diversity Implications**

- 7.1 There are variations within the population of Brent in those applying for assistance as homeless persons.
- 7.2 Through pre-selected providers, this scheme is designed to ensure an on-going supply of privately sourced accommodation. Certain types of properties can be specifically sourced, for example, some BAME households tend to have larger households and require larger properties. Households with certain disabilities require ground floor level access. Properties are to be sourced in areas where there is access to support and resettlement. Consideration will be given to transport links to Brent.
- 7.3 Households, of which BAME households are over represented, will spend less time in emergency accommodation which compromises quality of life, educational attainment, and social inclusion and integration.
- 7.4 Homeless families will be integrated into communities and not stigmatized as homeless households. Accommodation providers are asked to demonstrate how they would deal with harassment/ anti social behaviour in order to be successful and will submit performance statistics on monthly basis. The following actions have been identified to ensure that affected groups continue to obtain a fair and equitable service as a result of the policy:
- 7.4.1 The Council will be directly responsible for nominating applicants to the scheme in line with temporary accommodation policy and procedure and will be able to monitor take up by affected groups. Providers are asked to demonstrate how they would implement equalities and deal with harassment/ anti social behaviour in order to be successful. These requirements form part of the contractual obligations.
- 7.5 The Housing Act 1996 Code of Guidance makes reference to criteria in the 'suitability of accommodation' order which takes into account education, welfare and medical needs. These criteria will be used to make decisions about whether to place out of borough. The council will adopt a policy using the criteria above to ensure that certain vulnerable groups remain in borough. There will be continuing monitoring and review of provider's commitment to provide an equitable service to homeless applicants.

## **8.0 Background Papers**

### **Appendices**

Appendix 1 – ITT identification numbers

Appendix 2 – Overview of quality evaluation

Appendix 3 – Overview of weighted ITT scores for each successful tenderer

Any person wishing to inspect the above papers should contact:

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