



Executive
13 January 2014

**Report from the Strategic Director of
Regeneration and Growth**

For Action.

Wards Affected:
ALL

**Authority to participate in a collaborative procurement for
Construction Professional Services and related issues**

1.0 Summary

- 1.1 Brent Housing Partnership (BHP) are currently tendering a framework with three lots for various construction professional services and have agreed that the Council can participate in this exercise.
- 1.2 Accordingly this report requests approval, as required by Contract Standing Order 85, to participate in a collaborative procurement to set up a framework for construction professional services for use by the Department for Regeneration & Growth.
- 1.3 The report also requests associated approvals and exemptions under Contract Standing Orders to maximise the ease of use of the framework in view of the high number of possible call-offs for similar services over distinct projects.

2.0 Recommendations

- 2.1 The Executive give approval to the Council participating in a collaborative procurement exercise being run by Brent Housing Partnership (BHP) which will lead to the establishment of a framework agreement for construction professional services, as listed in paragraph 3.4 of the report.
- 2.2 The Executive give approval to the collaborative procurement exercise described in paragraph 2.1 being exempted from the normal requirements of

Brent's Contract Standing Orders in accordance with Contract Standing Orders 85(c) and 84(a) on the basis that there are good financial and operational reasons as set out in paragraphs 3.1 to 3.3 of the report, due to the procurement being conducted in accordance with BHP's contract standing orders instead.

- 2.3 The Executive give approval so that any call offs from the BHP framework that is the subject of this report and listed in paragraph 3.4 are exempt from the requirement in Contract Standing Order 86(d) to get confirmation prior to each proposed call off from the Director of Legal and Procurement that use of the framework is legally permissible.

3.0 Detail

- 3.1 Now that Brent Housing Partnership are co-located in the Civic Centre with the Council, opportunities for greater collaboration between the two organisations are being actively explored by the new Managing Director at BHP and the Operational Director (Housing and Employment).
- 3.2 The Regeneration and Growth department is responsible for the development and delivery of a wide range of capital projects that regularly require support from a range of external consultants. Often this is done on a project by project basis using a variety of procurement techniques, even though the services required may be broadly similar across the different projects. A particular issue is that nearly all such services are covered by the EU public procurement regime, such that a full EU tender exercise is required for all service requirements exceeding approximately £174,000 in value.
- 3.3 While it is possible to use frameworks set up by other bodies, these are not always set up to best meet the Council's needs and may limit access to appropriate service providers or be cumbersome to use.
- 3.4 BHP have placed an OJEU notice for a multi-lot, multi-supplier framework covering the following disciplines:

Lot 1

Surveying-related consultancy services across a number of general disciplines and specialist services for refurbishment and repair projects and for new build projects. Some architecture-related services may be required. Four consultants will be appointed.

Lot 2

Consultancy services for Mechanical and Electrical projects
One consultant will be appointed

Lot 3

Lift consultants
One consultant will be appointed

It should be noted that the way that the services are being specified under this framework means that they are more suitable for housing refurbishment projects and for smaller new build. Experience relating to other property types will be tested through mini-competition where necessary, however overall the framework will prove useful to widen procurement options available.

- 3.5 The OJEU notice was placed on the basis of the Council's participation in all 3 lots, however Executive approval is now required to allow the Council's participation through the Invitation to Tender stage.
 - 3.6 Under Contract Standing Orders, every proposal to use a framework requires approval of the relevant Chief Officer, as well as confirmation from the Borough Solicitor that use of the framework is legally permissible. In this case there is the potential for a high number of call offs from lot 1 of the BHP framework in particular. In view of the fact that the terms of the framework are widely drawn - there is explicit reference to the Council being able to use the framework in the OJEU notice - and the fact that the same legal adviser from Brent Legal Services is advising both parties, there should be no need to check legal permissibility each time. Therefore it is recommended that it would be sensible for a waiver of Contract Standing Orders to be agreed in relation to the usual requirement to confirm that each use of the framework is legally permissible.
 - 3.7 The recommended exemption at paragraph 2.3 as explained further in paragraph 3.6 above does not affect the requirement for all such call off contracts to be awarded in accordance with Contract Standing Orders, either by the Strategic Director, or by the Executive for contracts valued at £250,000 or more.
 - 3.8 The reason for requesting an exemption from the Council's Contract Standing Orders is because as this is a BHP procurement, BHP need to comply with their own standing orders. The Council's Contract Standing Orders cannot then be complied with as well. However the legal adviser for both these projects has confirmed that BHP's Contract Standing Orders are very similar to the Council's own, and as BHP are subject to the EU Public procurement regime in the same way as the Council, there is no detriment to the Council by the disapplication of the Council's procedures.
4. **Key Risks**
- 4.1 Collaborative procurements work best if all the participants have common requirements. In this project, Brent officers will have the opportunity to feed into the specification developed by BHP.
 - 4.2 There is a risk that the framework doesn't meet Brent's needs at the end of the procurement e.g. the type of firms appointed do not have experience in working on schools projects. While there is no indication at present that this is likely to occur, there is no risk in relation to this approach because the Council is not committed to a certain volume of call offs.

5.0 Financial Implications

- 5.1 There are no direct financial implications flowing from the recommendations set out in this report which is seeking Executive approval to participate in the BHP collaborative procurement.
- 5.2 However, by entering into the proposed arrangement the Council should expect to make savings in the future as it can anticipate lower costs for the specified services when contracts are let. These savings will be quantified as and when contracts are called off the proposed frameworks.
- 5.3 Whenever there is a need for these construction–related services, a budget will be identified from the appropriate capital programme.
- 5.4 The costs of participating in the collaborative procurement comprise officer time and will be contained within existing revenue budgets within the Department.

6.0 Legal Implications

- 6.1 This report is seeking authority to participate in the collaborative procurement with BHP.
- 6.2 The framework is being procured by means of a collaborative procurement exercise. Under Brent Contract Standing Orders (CSOs), paragraph 85(c), such collaborative procurements need to be tendered in accordance with Brent Standing Orders and Financial Regulations, unless the Executive grants an exemption in accordance with Standing Order 84(a). A request for an exemption from the application of Brent CSOs under 84(a) can be approved by the Executive where there are good operational and / or financial reasons, and for this report these reasons are set out in the body of this report.
- 6.3 It will be necessary to ensure that the tender documents meet Brent's requirements as far as possible and clearly set out Brent's rights and responsibilities in view of the fact that BHP will be entering into the main framework agreements, with the right for Brent to enter into call-off contracts.

7.0 Diversity Implications

- 7.1 There is no diversity implications associated with the recommendations set out in this report.

8.0 Staffing/Accommodation Implications

None

9.0 Background Papers - none

Contact Officers

Deborah Down, Joint Head of Contracts (Legal) team
0208 937 1543, deborah.down@brent.gov.uk

Sarah Chaudhry, Head of Strategic Property
0208 937 1705, sarah.chaudhry@brent.gov.uk

Richard Barrett, Operational Director of Property & Projects
0208 937 1330, richard.barrett@brent.gov.uk

ANDREW DONALD
Strategic Director, Regeneration and Growth