



Cabinet
16 June 2014

**Report from the Strategic Director of
Adult Social Care**

For Action

Wards affected:
ALL

**Authority to Award a multi lot Framework Agreement for
Home Support Services**

Appendix 3 of this report is “Not for Publication”.

1.0 Summary

- 1.1 This report requests authority to appoint service providers to a Brent-led Framework for Home Support as required by Contract Standing Order 88. This report summarises the process undertaken in tendering this Framework and following the completion of the evaluation of the tenders, recommends providers to be appointed onto the Framework.
- 1.2 This new framework replaces the current framework which expires in September 2014.
- 1.3 The basic principles of how we commission homecare and manage this market have not changed fundamentally. However, the new framework will bring greater sustainability and capacity to the market in Brent. It also begins to tackle the underlying challenges in the home care market of fair pay for the workforce through ensuring key issues such as travel time are factored into rates of pay. It also maintains a strong focus on value for money, and gives the council the flexibility to address a range of other issues such as London Living Wage in the future through mini-competitions, whilst bringing a stronger focus on the quality of services and how we assure this.

2.0 Recommendations

- 2.1 That the Cabinet approves the appointment to the West London Alliance Framework to provide Home Support of those providers listed in Appendix 1 for a period of four (4) years.

- 2.2 That the Cabinet agrees to the award of Call-Off Contracts to all those providers listed in Appendix 1 to enable Brent to use these providers for its own home care needs

3.0 Detail

Background

- 3.1 On 18 June 2012 the Executive gave approval for Brent to lead a procurement process to create a multi-lot Framework on behalf of the West London Alliance group of boroughs, plus Southwark & Wandsworth and associated health partners, for the provision of Home Support Services.
- 3.2. The Framework was split into six lots and advertisements were placed in various publications and media locally and nationally in November 2012 to seek initial expressions of interest from care providers, which elicited 286 initial enquires.
- 3.3 Subsequently 148 expressions of interest in the form of Pre-Qualification Questionnaires (PQQ) were returned completed. Assessment of the PQQs involved a pass/fail stage and a scored stage. The scored stage included lot-specific questions. 97 of the PQQs passed the pass/fail stage and went through to the scoring stage.
- 3.4 In the scored section there was minimum threshold of 60% across the all questions within the PQQ. Furthermore the evaluation methodology stipulated that following the invitation to tender (ITT) stage the following number of providers would be appointed on to the Framework for each lot, following ranking by overall scores:
- Lot 1 = 40 bidders
 - Lot 2 = 20 bidders
 - Lot 3 = 40 bidders
 - Lot 4 = 20 bidders
 - Lot 5 = 20 bidders
 - Lot 6 = 30 bidders
- 3.5 Fifty-six providers across all lots passed the PQQ scoring stage on the basis of the criteria above, however 41 failed. Detailed below is the number of providers that passed the scoring stage for each lot:
- 3.6.1 Lot 1 = 27
- 3.6.2 Lot 2 = 22
- 3.6.3 Lot 3 = 25
- 3.6.4 Lot 4 = 11
- 3.6.5 Lot 5 = 8

At this stage in the process the numbers of providers passing the PQQ stage were not sufficient, when compared with the numbers hoped to be appointed to the Framework (see paragraph 3.4).

- 3.6 In July 2013 the Adult Social Care WLA directors considered the situation and agreed to the carrying out of a procurement review, to include inviting the market to a provider event to offer feedback on the process.
- 3.7 In the meantime three participants, Southwark & Wandsworth and Hillingdon decided not to continue with the WLA procurement and opted to pursue a more localised procurement strategy.
- 3.8 Following on from the procurement review a further recommendation to continue with the existing procurement was considered and approved at the next WLA Directors meeting in October 2013. A decision was taken for the minimum score threshold used at PQQ stage to be consistent with other recent tenders undertaken by Brent Adult Social Care. This minimum score threshold requires providers to score at least 50% of the score available to pass the PQQ stage, as opposed to 60%.
- 3.9 Applying a threshold of 50% and also carrying out a due diligent clarification process of the PQQs previously submitted, resulted in 48 more providers passing the PQQ scoring stage and therefore increasing the number from 56 to 104 shortlisted to ITT providers. This number provided procurement assurance and alleviated some of the capacity concerns.

The tender process

- 3.10 All providers were informed of the outcome of the PQQ stage and the 104 bidders that were successful at PQQ stage were issued with the Invitation to Tender (ITT) documentation.
- 3.11 The Framework procurement documentation detailed that it would be created with the following Lots:
- Lot 1 - Personal care and home support services for adults in the community.
 - Lot 2 - Extra care and supported housing domiciliary care and support services.
 - Lot 3 - Reablement services and therapeutic approaches.
 - Lot 4 - Children's services including transition services.
 - Lot 5 – Enhanced Home Based Care (formerly referred to as Community nursing and integrated health and social care home based care).
 - Lot 6 - Housing Related Support, generic services.
- 3.12 It should be noted that the project officers from all the participating Boroughs involved in the tender facilitated a provider event on the 24th March 2014 prior

to the ITT submission to give guidance and support to tenderers on ensuring a good quality submission. This event was well attended.

- 3.13 It should also be noted that the opportunity was taken to revisit the target number of appointments for each lot of the framework. As an update to the information listed in paragraph 3.4 above, it was decided that the following should be notified to bidders as the desired number to appoint:

- Lot 1 = 60 bidders
- Lot 2 = 40 bidders
- Lot 3 = 40 bidders
- Lot 4 = 30 bidders
- Lot 5 = 20 bidders
- Lot 6 = 30 bidders

Tender Evaluation process

- 3.14 A multi-borough evaluation panel consisting of 37 evaluators from Adult Social Services, Procurement, Finance and Service Users, across all participating boroughs was established to undertake the tender evaluation process. The evaluation process consisted of the following 3 stages:

- **Stage 1** - A preliminary compliance review to ensure all tenders received were compliant; this process entailed checking all submitted tenders to ensure all documents required to support the tender were submitted and the ITT submission was in accordance with our instructions to tender (i.e. all sections of the ITT submission were completed in full).
- **Stage 2** – Full evaluation of price submission and quality responses. On the quality responses, providers were required, (in accordance with the evaluation methodology), to pass all questions. Providers would fail if they score “0” in any of the scored questions and fail to achieve 20% (half of the 40% of allocated for the overall quality score to be considered eligible for progressing to the evaluation of pricing. Upon completion of the evaluation a moderation exercise was carried out and final scores agreed.
- **Stage 3** – Ranking of providers. The ranking stage combined the price and quality score for Bidders within each Lot and ranked them with the highest scoring Bidder in each Lot being given a ranking of 1.

Stage 1 Evaluation – Preliminary compliance

- 3.15 Following stage one of the evaluation process two providers (referred to by their ITT IDs) failed stage 1, these were ITT 27 and ITT 49 and were therefore unable to proceed to stage 2 of the evaluation process

Stage 2 Evaluation – Quality element

- 3.16 The ITT stated that the Framework Agreement would be awarded on the basis of the most economically advantageous offer based upon price and quality, with 60% of weighted marks allocated to price, and 40% against quality.

- 3.17 The quality evaluation process assessed provider's responses to method statement questions with the following criteria:

For all Lots the criteria are:

- Meeting the needs of the individual and customer focus,
- Approach to safeguarding, performance and safe environment,
- Approach to staff recruitment, retention and training,
- Mobility and capacity building,
- Business Continuity Planning,
- Information systems and their use for monitoring service provision,
- Approach to partnership working with the Council and others.

For detailed weightings per criteria per lot please see Appendix 2.

For Providers Quality scoring outcome per lot please see Appendix 1.

- 3.18 The specified minimum threshold for the quality score was 20% (half of the 40% of mark allocated to quality). Six providers failed stage 2 on that basis:

- ITT 01 10.25%
- ITT 22 16.42%.
- ITT 28 14.63%.
- ITT 31 17.17%.
- ITT 42 18.67%.
- ITT 46 16.50%.

(A list of all the providers and their ITT IDs is attached in the confidential Appendix 3).

Stage 2 Evaluation – Price element

- 3.19 Providers were requested to provide hourly rates for each lot. For some lots tenderers were required to provide more than one rate dependant on the service type and provide a cost breakdown and assumptions underpinning their cost.

As detailed below:

Lot 1 - Personal care and home support services for adults in the community.

- Lot 1 Hourly Day Rate
- Lot 1 Live in 24 hours rate
- Lot 1 Sleeping Night 10 hours rate
- Lot 1 Waking Night 10 hours rate

Lot 2 - Extra care and supported housing(SH) domiciliary care and support services.

- Lot 2 Extra Care & SH Hourly Day Rate
- Lot 2 Extra Care & SH Live in 24 hours rate

Lot 3 - Reablement services and therapeutic approaches.

- Lot 3 Reablement Hourly Rate

Lot 4 - Children's services including transition services.

- Lot 4 Level 1
- Lot 4 Level 2
- Lot 4 Level 3
- Lot 4 Level 4

Lot 5 – Enhanced Home Based Care (formerly referred to as Community nursing and integrated health and social care home based care).

- Lot 5 Hourly Day Rate
- Lot 5 Live in 24 hours rate
- Lot 5 Sleeping Night 10 hours rate
- Lot 5 Waking Night 10 hours rate

Lot 6 - Housing Related Support, generic services.

- Lot 6 Hourly Rate

- 3.20 The rates submitted by each Provider were entered into a price evaluation matrix; the calculation was in accordance with the following method:

$(\text{Lowest price} \div \text{Bidders price}) \times \text{Price weighting (60\%)}$.

This means that the lowest priced bidder scored 60% while the others got a score proportionally derived from this.

- 3.21 Bidders were required to submit a price to cover 4 years, fixed for the life of the framework with no provision for an automatic inflationary uplift during that time. If a bidder attempted to purposely come in at a low rate (known as loss leader) the WLA Evaluation Panel – “EP” had the right to reject on the basis of an abnormally low rate, which is not considered sustainable for the life of the framework. To ensure fair assessment supporting this right the EP followed the below process:

- Examined assumptions stated within the pricing schedules
- which were then considered in conjunction with the details of the submission of method statement 4.1 – the tenders supporting statement underpinning their pricing
- followed by detailed clarifications

Following this process no tenderers were excluded.

- 3.22 It was made clear to bidders that the Framework terms and conditions do not include an automatic right to an increase in the hourly rate; it is discretionary in circumstances of hardship only. This was the approach adopted by the WLA at high-level discussions.

- 3.23 It should be noted that the approach of a 4 year fixed price bid was taken forward in conjunction with an emphasis to the providers of (a) the need for a

sustainable offer and (b) ensuring consideration of various assumptions underpinning their cost breakdown including compliance with any upcoming legislation like national minimum wage, changes to pension requirements etc.

- 3.24 There was no mandatory requirement for prices to be submitted on the basis of all providers having to pay the London Living Wage "LLW" to their staff. A significant number of providers did however include LLW pay scales in their submitted rates i.e. they have already decided to pay all their staff at LLW levels. As LLW was not mandatory, any borough wanting to take the position that all provider staff must be paid the LLW will have to do a further competition from the Framework, i.e. LLW is one of the triggers for carrying out mini competition. However, bidders were required to demonstrate that the hourly rate incorporated, travel time, training, sickness and annual leave. This is in line with objectives set out in the Unison Ethical care Charter and United Kingdom Homecare Association Ltd (UKHCA).

For Providers Pricing scoring outcome per lot please see Appendix 1.

- 3.25 Fifty-one providers passed the requirements of stage 1 and 2 (mainly for more than one lot) and proceeded to stage 3 of the ITT process, ranking.

Stage 3 of the Evaluation – Ranking stage

- 3.26 The ranking stage combined total score of the price and quality score for Bidders within each Lot and ranked them with the highest scoring Bidder in each Lot being given a ranking of 1. The ranking for all Lots is presented in Appendix 1.

Conclusion

- 3.27 Having completed the evaluation, officers recommend the providers listed in Appendix 1 to be appointed to the West London Alliance Framework for Home Support Services. In Appendix 1 there are tables showing ranking lists based on combined scoring (quality and price) per lot per service type.

Next Steps

- 3.28 Following the Cabinet decision and expiry of call-in period, Brent as lead borough will need to issue framework agreements to each provider appointed, setting out terms and conditions and including the specification for each lot for which they are appointed.
- 3.29 Each borough, including Brent, then needs to enter into its own Call-Off Contract with each Framework provider that it wants to use. These include individual borough-specific requirements. Once a provider has a call-off contract with that borough, individual packages of care for service users can be placed. Brent is proposing to enter into Call-Off contracts with every provider being appointed to the Framework, and accordingly authority is requested for this in recommendation 2.2.

- 3.30 This two-stage process should mean that the Framework is available for use by the 30th September 2014 when the current WLA Framework Agreement comes to an end.

4.0 Financial Implications

- 4.1 The framework agreement has no set agreed service levels or spend guarantee attached to it, which allowed for smaller micro organisations and the voluntary sector to take part in the tender exercise within each borough. This approach will also allow each borough to manage budgets accordingly.

The estimate value attached to this framework agreement, across all possible parties calling off this framework, is as per the below table.

Description	Estimated Value
Adult's Home Support	£60.0m
Children's Home Support	£1.8m
Extra Care	£6.0m
Total per annum	£67.8m
Additional avenues which could be included:	
Housing Support	£55.5m
Health (per body)	£1.5m
Other local authorities – potential of 3	£37.2m
Total additional avenues per annum	£94.2m
Overarching total per annum	£162.0m
Total estimated value over 4 years	£648.0m

- 4.2 The contract has specified a fixed price with no clause for inflationary increase for the life of the contract. This clause gives the council price stability for the life of the contract, allowing for inflationary increase to be removed from the Medium Term Financial Strategy for Home base support.
- 4.3 This framework includes options to call off 16 different services across 6 Lots using up to 51 providers. There are also a number of other variables in the framework that make estimating the potential cost of the provision challenging. These variables are:
- a) The providers have tendered prices that vary significantly; each provider has tendered a different price for each type of service they provide across the 6 lots.
 - b) Each provider has differing capacity on the volume of hours of care they can provide and these have not been identified as part of the tendering process. To compound this, there will be a number of member WLA boroughs calling off on this contract, impacting on individual provider capacity.
 - d) The geographical location of the provider in relation to the calling off Borough.

- 4.4 Due to the large disparity of prices per service, the providers have been grouped on the basis of their tender price to estimate the range of possible costs resulting in the utilisation of this contract:

Group 1: Using only the top third providers with the highest price

Group 2: Using only the middle third providers based on price

Group 3: Using only the bottom third providers with the lowest prices

		Group 1		Group 2		Group 3		Mean Average	
Lots	13/14 Commissioned Cost £'000's	Forecast Spend £'000's	Variance £'000's	Forecast Spend £'000's	Variance £'000's	Forecast Spend £'000's	Variance £'000's	Forecast Spend £'000's	Variance £'000's
Lot 1									
<i>Hourly Day</i>	10,208	11,757	1,549	10,636	428	9,942	-266	10,760	552
<i>Live in 24 Hours</i>	46	63	17	35	-10	22	-24	40	-5
<i>Sleeping Night</i>	78	94	15	70	-9	47	-32	70	-8
<i>Waking Night</i>	52	49	-3	43	-9	33	-19	42	-10
Lot 2									
<i>Extra care SH</i>	1,327	1,573	246	1,330	3	1,210	-117	1,370	43
Lot 3	0	0	0	0	0	0	0	0	0
<i>Reablement</i>	831	1,091	260	899	68	819	-12	936	105
Lot 4									
<i>Childrens</i>	337	416	79	341	4	317	-20	355	18
Lot 5									
<i>Hourly Day</i>	971	1,257	285	1,110	139	1,019	48	1,119	148
<i>Live in 24 Hour*</i>	0	0	0	0	0	0	0	0	0
<i>Sleeping Night*</i>	0	0	0	0	0	0	0	0	0
<i>Waking Night*</i>	0	0	0	0	0	0	0	0	0
Lot 6*									
<i>Hourly Day*</i>	0	0	0	0	0	0	0	0	0
Total	13,850	16,300	2,450	14,464	615	13,408	-442	14,692	842
Percentage Variance		17.69%		4.44%		-3.19%		6.08%	

*-Brent is unlikely to call off on these service types under these lots due to separate contracts already in place

- 4.5 The 2014/15 combined budget for Home Support is £14,376,000. The cost estimation have been based on the assumption that volumes of hours used will be static to enable a comparison solely based on price.

- 4.6 The Council has approved price led growth of £526,000 for Home based support as part of the 2014/15 budget setting process, after officers indicated the risk of a price increase in relation to this contract.

- 4.7 The above table identifies the potential additional cost of the contract which would be in the order of £842,000, if all the providers were used equally in relation to the number of hours of care called off from the contract. However, this is unlikely due to the variability in the contract mentioned in paragraph 4.3.
- 4.8 The table also shows that the potential annual cost of the contract is highly dependent on the usage of providers on the framework. In the event that the top third most expensive providers were used, the potential additional cost would be £2,450,000 per annum. Compared to a saving of £442,000 per annum, if the third most low-cost providers were used. This presents an issue of cost uncertainty for the council.
- 4.9 The scoring basis for this tender evaluation was based 60% on price and 40% on quality. Therefore, it can be expected that the low-priced providers would be ranked highest. Resulting in the council calling off provision from these providers first, and the higher priced providers only being utilised where capacity became limited with the low-priced providers.
- 4.10 Officers will seek to mitigate the cost uncertainty by carrying out mini tenders within the framework to take account of local needs. These new contracts could include types of contracts that would seek to achieve greater cost efficiencies through volume purchases.
- 4.11 In the event that capacity and usage of this contract led the forecasted spend to exceed the budget levels due to price, The Department would need to find additional unbudgeted savings within their service.
- 4.12 The department will monitor the spend related to the contract through the regular monthly budget and contract monitoring cycle. Any adverse projections will be addressed at the time to mitigate the risk of overspends.
- 4.13 In the event that these actions do not cover the potential additional costs the department would need to seek funding option through the Cabinet.

5.0 Legal Implications

- 5.1 The local authority has a duty under s2 Chronically Sick and Disabled Persons Act 1970, in conjunction with s29 National Assistance Act 1948 and Part III Children Act 1989, to 'make arrangements' for the provision of home care services to persons ordinarily resident in their area where they are satisfied that it is necessary to meet their needs. There is wide discretion within the legislative framework on what 'making arrangements' means but the Local Government Ombudsman [complaint no: 95/A4140] has ruled that a local authority must "be sure that is of suitable quality, meets the needs of the client, and offers value for money. It must be fair in its purchasing, not favouring one supplier against another for reasons unconnected with the quality of the service on offer."
- 5.2 The estimated value of the framework agreement over its lifetime makes it a High Value contract which is in excess of £250,000 and therefore the

procurement of and appointments to the framework are subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts. However, the procurement is of a service that is classed as a "part B" service under the European public procurement regime, so did not need to be tendered in accordance with those requirements; however there is still a duty under the relevant Regulations to act fairly and transparently to all bidders.

5.3 The procurement of the framework agreement is a collaborative procurement with other WLA authorities. Standing Order 85 details that any collaborative procurement should comply with the Council's Standing Orders and Financial Regulations. Brent led the procurement and therefore Brent's own Standing Orders and Financial Regulations applied to the procurement of the Framework.

5.4 Members should be aware that the decision to re-commence the PQQ process on the basis of a revised threshold quality score carries with it a very low risk of challenge from an organisation who might have submitted a PQQ but can make out that they did not do so because they were deterred by the original threshold score of 60%. However such a claim would not succeed because such an organisation would not be able to demonstrate any loss, as is required for a challenge under the EU Regulations governing public procurement.

5.5 In agreeing to the recommendations set out in this report, members need to be satisfied that making the recommended appointments represents the appointment of those tenderers who were most economically advantageous, in accordance with the published evaluation criteria (though in this case it should be noted that nearly all tenderers are recommended for appointment).

6.0 Diversity Implications

6.1 Section 149 Equality Act 2010 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. Failure to have due regard to this duty can render any decision unlawful.

6.2 The award of this new framework contract does not in itself create any diversity implications. A full EIA will be completed when transitions arrangements are being considered (changing from the current framework arrangements to the new framework) when there is greater clarity as to the packages of services that will be involved in the call off and/or mini competition from the new framework agreement to ensure that the duties set out in s149 Equalities Act 2010 are addressed. In addition to ensure there is no negative impact the call off contracts with the appointed to the framework providers will include:

6.2.1 Protection and enhancement of service and targeted provision for

protected groups

6.2.2 Quarterly contract monitoring and annual reviews for review requirements for protected groups

6.2.3 Annual user survey through the contract to identify the attitudes of protected groups and how they use the services.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no TUPE implications arising from the award of the Framework Agreements. There may be TUPE implications from the award of call-off contracts under the Framework Agreements.

Background Papers

Executive Report 18th June 2012

To obtain a copy of the full report please use the web-link below

<http://democracy.brent.gov.uk/documents/s8567/asc-home%20support%20V8.pdf>

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