

	<p style="text-align: center;"><b>Executive</b> 18 October 2010</p> <p style="text-align: center;"><b>Report from the Director of Finance and Corporate Services</b></p>
<p style="text-align: right;">Wards Affected: All</p>	
<p><b>Authority to appoint to a framework for leaseholder right to buy insurance and to award a call-off contract</b></p>	

## **Appendix 1 of this report is not for publication**

### **1.0 Summary**

- 1.1 This report relates to the appointment of an insurance provider to the West London Alliance (WLA) framework in respect of Right to Buy insurance for leaseholders and the award of a contract to that supplier by Brent Council.
- 1.2 The proposed contract would be available from 1<sup>st</sup> November 2010 and this report summarises the process undertaken in tendering the framework and, following the evaluation of the tenders, recommends appointment to the WLA framework and the award of a Brent contract. .

### **2.0 Recommendations**

- 2.1 That the Executive appoints Acumis to the WLA single-provider framework for leaseholder right to buy insurance with effect from 1<sup>st</sup> November 2010, with the framework running for a period of 3 years.
- 2.2 That the Executive awards a contract to Acumis for the provision of insurance to Brent right to buy leaseholders for a period of 3 years commencing 1<sup>st</sup> November 2010.
- 2.3 The Executive notes the observations made by leaseholders set out in paragraph 3.20 below and Appendix 3 in response to the leaseholder consultation notice dated 20 August 2010 regarding the proposal to award the contract to Acumis as set out in paragraph 2.2

### **3.0 Background Detail**

- 3.1 On 15th March 2010 the Executive approved a report from the Director of Finance and Corporate Resources requesting authority to tender for a framework for Leaseholder Insurance for use by the West London Alliance authorities (Brent, Hillingdon, Harrow, Hounslow, Hammersmith & Fulham and Ealing).
- 3.2 The appointed organisation will be the sole provider on a framework for the WLA Councils' Right to Buy Leaseholders Insurance. It is not known how many other authorities will be interested in calling off this framework other than Brent.
- 3.3 Private dwellings (consisting of flats and maisonettes) sold under lease by the Council under the Right to Buy scheme require leaseholders to pay a share of the costs in the form of service charges. These charges are for maintaining the structure and shared parts of the block as well as our costs for providing services, to include buildings insurance. Under each lease the Council has to maintain buildings insurance. The cover is for usual householder's buildings insurance covering the usual perils to include fire and subsidence. The current policy has a small deductible (excess payable by the leaseholder) on claims relating to water damage and a £1,000 deductible on subsidence claims. The deductible is paid by the leaseholder in the event of a claim. Currently, the insurance policy covers 3,462 flats, and the current method of charging premiums is on the number of bedrooms. In the event of the property being sold the cover carries on as the lease provides that the freeholder (the Council) arranges cover. During the proposed three year term, insurance will be provided for further properties sold to tenants under the Right to Buy scheme. The framework to be tendered is to be specifically for buildings insurance for properties sold under the Right to Buy scheme and will not include insurance for other Council properties including those in the same building as insured properties. The Council remains the freeholder and as such is responsible for the exterior of the buildings where the properties are located. Contents insurance is arranged separately by the householder.

### **The Tender Process and Council's Contract Standing Orders**

- 3.4 The new insurance arrangements have been procured using the Restricted (two-stage) tendering procedure in accordance with the European Public Contract Regulations 2006.

### **Stage One - Pre – Qualifying Stage**

- 3.5 The process commenced on 29<sup>th</sup> March 2010 when a contract notice was placed in OJEU (*Official Journal of European Union*). The notice specified the Council's requirements and that the framework could also be used by other Councils who are part of the West London Alliance.

- 3.6 Four organisations expressed interest. They were issued with a pre-qualifying questionnaire (PQQ) to complete by 31<sup>st</sup> May 2010. Four PQQ's were returned.
- 3.7 The PQQ's were evaluated on the ability to meet the following criteria:
- Appropriate financial and liquidity capacity through Standard and Poor's rating (or equivalent) and evaluation of last set of audited accounts.
  - Technical capacity of evidence of last 3 years in underwriting the classes of insurance in the contract notice.
- 3.8 The four respondents to the PQQ met the above criteria and were invited to tender on 30th June. Details of the Tenderers are as set out in Appendix 1 (not for publication).

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

- 3.9 An Invitation to Tender Pack (ITT) was issued to the four organisations to formally tender. The tendering instructions stated that appointment to the framework would be on the basis of the most economically advantageous offer to the Council and that in evaluating the tenders the Council would have regard to the following factors (*relative weighting in brackets*).
- Price (50%)
  - Quality (50% consisting of)
    - Ability to meet the specification (30%)
    - Customer Care (10%)
    - Service Levels (10%)
- 3.10 In evaluating price, the profile of Brent's current leaseholder stock was used as a sample for the tenderers to price against. Accordingly the tenderers were asked to complete a pricing schedule consisting of:
- (a) Types of property in Brent (eg 1 bed flat, 2 bed flat)
  - (b) Price for one years cover for each type of property
  - (c) Numbers within Brent of each type of property
  - (d) Total cost per type of property (b x c)
  - (e) Total annual contract price (calculated by adding together the Total Cost (d) for each type of property)
- 3.11 During the tender process all tenderers raised few questions which were responded to immediately by emailing all parties by blind copy. All tenders had to be returned by 4th Aug. They were all returned on time.

### **Evaluation Process**

- 3.12 One of the tenderers submission returned did not adhere to the Form of Tender by amending the document to state that they could not agree to all the conditions within the Instructions to Tender. All the other submissions had completed the Form of Tender in its entirety, this was

deemed as non compliant, and not evaluated. The organisation was notified of this.

- 3.13 The tender evaluation was carried out by a panel of officers from the Council's Insurance and Procurement Sections., plus an officer from Brent Housing Partnership.
- 3.14 The price tendered by Tenderer 3 was significantly lower than those tendered by Tenderers 1 and 2. The financial scores achieved by each tenderer as a percentage is shown in the table below. The actual premium levels to be charged by Tenderer 3 are in the Financial Implications section below. The premium levels tendered by all tenderers are in Appendix 2.
- 3.15 A breakdown of the evaluation of the "quality" criterion is shown in Appendix 2. For "Ability to meet the Specification" officers were assessing whether the tenderers were able to provide insurance cover that met the Council's Specification. For "Customer Care", officers evaluated the tenderers' complaints procedures and the availability of risk management advice. . For "Service Levels", officers evaluated back office support that would assist in responding to the Council's queries.
- 3.16 In the qualitative assessment, two (tenderers two and three) of the tenderers scored maximum marks for the Customer Care and Claims Handling criterion. Both had an excellent complaints procedures and provided risk management advice. Both had well-qualified UK based staff providing back office support. In relation to "Ability to meet the Specification", all the tenderers scored the same amount of marks. Under "Service Levels, Tenderer 1 scored lowest as they are a broker with limited delegated authority thus not being able to provide the same service levels as tenderers two and three.
- 3.17 A summary of the evaluation scoring for price and quality is detailed below.

#### **Summary Tender Evaluation Table**

(Please refer to Appendix 2 for the full evaluation score of Price and Quality).

	Price Score	Non Price Score	Total Score
Tenderer 1	23%	38%	60%
Tenderer 2	25%	38%	63%
Tenderer 3	27%	40%	67%

- 3.18 Therefore it is recommended that Tenderer 3 (Acumis) be appointed to the WLA framework for Leaseholder "right to buy" properties insurance from 1<sup>st</sup> November 2010 for 3 years.
- 3.19 It is also recommended that the Council call-off a three year contract from the framework so as to appoint Acumis as its provider for a period of 3 years from 1<sup>st</sup> November 2010.

## **Leaseholder Consultation**

- 3.20 Details of the legal requirements of the leaseholder consultation process are set out in paragraphs 7.4 and 7.5 below. The purpose of complying with the leaseholder consultation legislation is that the Council can recover the full costs of the insurance of the leasehold “right to buy” properties from the leaseholders. If the leasehold consultation legislation is not complied with, the Council will only be able to recover £100 per annum from each leaseholder towards the cost of the insurance contract. BHP served the initial required consultation notice on leaseholders as part of the first stage of the initial consultation process on 9 February 2010 advising that the contract for insurance in respect of the leasehold properties was being tendered through a public procurement exercise. After the tenders were evaluated, BHP served a further notice as part of the second stage of the leaseholder consultation process on 20 August 2010 to inform them who the Council intends to award the insurance contract following the evaluation of the tenders in the procurement exercise and inviting them to make observations. That further notice expired on 20 September 2010. Details of the observations and queries made by leaseholders in response to the leaseholder consultation notice dated 20 August 2010 and the responses from BHP on behalf of the Council are set out in Appendix 3.

### **4.0 Call-off arrangements for Other WLA Boroughs**

This is a single-provider framework. The Council will enter into a framework agreement with the recommended insurance provider. Each Council, including Brent, that wants to call-off from the framework and so use the recommended provider as its insurer will enter into a further call-off contract with the insurer. For each call-off contract the insurer will issue an insurance schedule and standard policy conditions. Although the other WLA boroughs were not involved in the evaluation of the framework, they are aware that the framework was being procured and will be able to make their own judgement as to whether to make a call-off.

### **5.0 Extension of Current Contract**

The current contract was awarded in 2007 to Aspen, and the original term expired on 31<sup>st</sup> July 2010. The contract with Aspen has therefore been extended by 3 months to allow the new contract to take effect on 1<sup>st</sup> November. The need for this extension was not envisaged in March 2010 when the procurement of a new contract was considered by the Executive, as it was anticipated that the procurement could be completed and reported back to the July Executive. The extension is within the authority of the relevant Chief Officer under the Constitution. However under EU procurement law, such an extension is classified as a new contract. Fortunately there are no adverse implications on this, because the 3-month new contract / extension will have a value of around £135,000, below the EU tendering threshold.

## 6.0 Financial Implications

The cost of the London Borough of Brent's Leaseholder Right to Buy Insurance is £2,095,445.80 over a three year period. The total annual cost is therefore £698,481.93. This compares with a cost of £540,000 for the current contract – an increase of £158,481.93 (29.34%). The increase is due to two factors one of which is the overall increase in the cost of this type of cover. Although there is considerable capacity in the market for householders insurance there are a small number of providers specialising in leaseholders insurance which is evidenced by the number of submissions received for this tender. The second factor relates to our claims experience which has increased year on year during the present arrangement. The current insurers have taken some steps to improve the situation but these have not had time to work through in improved figures. The full cost of this insurance is recharged to leaseholders and, therefore, the budget impact is neutral.

## 7.0 Legal Implications

- 7.1 Under the EU public procurement regime, insurance contracts are classified as contracts for services. The value of these contracts over their lifetime is higher than the EU threshold for Services. Insurance contracts are also classified as Part A services and so the award of the contracts is governed by the full impact of the Public Procurement regime as set out in the Public Contracts Regulations 2006. The award is also subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations. A High Value contract is one over £500,000 and as such the Executive is required to make the award in accordance with Contract Standing Orders.
- 7.2 The Council's power to purchase insurance is mainly under section 111 of the Local Government Act 1972 as being ancillary or incidental to its main functions although there are some specific express powers to insure. In considering the recommendation of this report, Members need to satisfy themselves that an award of contract to the recommended tenderer will ensure best value for the Council.
- 7.3 This contract was advertised after amendments to the 2006 Regulations came into effect, giving unsuccessful tenderers increased remedies should they wish to challenge how a procurement was carried out. Assuming that Members agree to the recommendation, the Council must observe the 2006 Regulations (as amended) relating to the observation of a mandatory minimum 10 calendar day standstill period **before** the contract can be awarded. Therefore once the Executive has determined which tenderer should be awarded the contract, each tenderer will be issued with written notification of the contract award decision, together with its score in the evaluation and that of the successful tenderer, as well as the relative advantages of the successful tenderer. A minimum 10 calendar day standstill period will then be observed before the contract is concluded – this period will begin the day after all tenderers are sent notification of the award

decision – and additional debrief information will be provided to unsuccessful tenderers if requested. As soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the contract can commence.

- 7.4 With regard to leaseholder consultation requirements relating to service charges, the consultation requirements are set out in regulation 5(2) and Schedule 2 of the Service Charges (Consultation Requirements) (England) Regulations 2003 (S.I. 2003/1987) governing long term agreements in excess of twelve months where public notice is required. These provisions take effect in these circumstances because the contract for the insurance of these leasehold Right to Buy properties is for a term of more than twelve months and the expected contribution from each leaseholder is likely to be more than £100.00 per annum. If the consultation requirements are not followed, the maximum that could be recovered in service charges in respect of the insurance contract would only be £100.00 per annum per leaseholder. If the consultation requirements are complied with, the Council and Brent Housing Partnership (BHP), as the Council's managing agent, will be able to recover the costs of the insurance contract from the leaseholders of the Right to Buy properties. There is a two stage process regarding consultation with leaseholders and the first stage is described in paragraph 6.8 of the report that was presented to Members on 15 March 2010 which gave authority to officers to invite tenders in respect of the contract for the provision of insurance in respect of the leasehold "right to buy" properties.
- 7.5 The first stage of the consultation process is set out in paragraph 6.7 of the report to the Executive of 15 March 2010 seeking authority to tender for the insurance for the leasehold "right to buy" properties. The second stage of the consultation process involves the preparation of a proposal on behalf of the Council regarding entering into the insurance contract relating to the Right to Buy properties and serving a notice on the leaseholders and resident(s) association(s) giving notice in writing of the Council's proposal. The proposal needs to give details of the proposal relating to the proposed insurance contract including the parties to the proposed contract, the duration of the contract, and other details as set out in paragraph 4 of Schedule 2 of the above-mentioned 2003 Regulations. The notice must set out the proposal in writing and invite the making, in writing, of observations relating to the proposal and specify the address to which such observations may be sent, that they must be delivered within the "relevant period", which is 30 days beginning with the date of the notice, and the date on which the "relevant period" ends. Where observations are made by those persons and organizations which receive such a notice, the Council must have regard to those observations. Where observations are made by those persons and organizations which receive such a notice, the Council must have regard to those observations. Also, within 21 days of receipt of the observations, BHP (on behalf of the Council) must state its response to the observations must by notice in writing to the persons by whom the observations were made. Once this process is completed, the contract can be signed by the Council and the successful tenderer.

By completing this consultation process, Brent Housing Partnership, on behalf of the Council, will be able to recover the costs of the provision of the insurance pursuant to the contract from the leaseholders. The Notice relating to the second part of the leaseholder consultation process was served by BHP on 20 August 2010 and expired on 20 September 2010.

## **8.0 Staffing Implications**

8.1 None

## **9.0 Diversity Implications**

9.1 Officers have screened the proposals in this report, and believe that there are no diversity implications

## **10.0 Background Information**

Invitation to Tender pack

### **Contact Officers**

Karen Dobson – (senior category manager)  
Richard Walsh – (insurance manager)  
Procurement and Risk Management Unit  
Brent Town Hall Annexe, tel: 0208 937 1163

Clive Heaphy  
Director of Finance and Corporate Services