



Cabinet
15 August 2016

**Report from the Strategic Director
Community Wellbeing**

Wards Affected:
ALL

**Authority to Participate in the Joint Procurement of
Community Equipment Goods and Services as part of the
London Community Equipment Consortium**

1.0 Summary

1.1 This report requests approval for Brent Adult Social Care to participate in a collaborative procurement with the London (Community Equipment) Consortium for the establishment of a framework for provision of community equipment goods and services. The proposed procurement is to be led by the London Borough of Hammersmith & Fulham therefore approval is also sought as required by Contract Standing Order 85 to use Hammersmith & Fulham's Contract Standing Orders and Financial Regulations.

2.0 Recommendations

2.1 That Cabinet give approval to the council to participate in a collaborative procurement led by the London Borough of Hammersmith & Fulham to establish a framework for community equipment goods and services.

2.2 That Cabinet give approval to the collaborative procurement exercise detailed in 2.1 above being exempt from the normal requirements of Brent Council's Contract Standing Orders and Financial Regulations for good operational and/or financial reasons in accordance with the Contract Standing Order 84(a) and 85(c).

2.3 That Cabinet give approval to the pre tender considerations set out in at paragraph 3.16 of this report.

3.0 Detail

Background

- 3.1 Local authorities have a statutory duty (under the Care Act 2014, Children and Families Act 2014) to make arrangements for the provision of disability aids and “community equipment”, to meet the assessed eligible needs of individuals who are resident in their area.
- 3.2 The demand for community equipment services and tele-care solutions within the Borough continue to rise and last year the demand for equipment to support individuals both increased by 16%. This is a reflection of demographic changes (according to 2011 census the number of people in Brent aged 65+ and 75+ increased by 8% and by 17% respectively 2001-2011) and future projections predicting increases of 17% in the number of adults with a severe disability between the ages of 16-64 by 2030.
- 3.3 Technological solutions are increasingly being considered as alternatives to traditional models of care for service users with a complex of needs, the benefit of which has been envisaged to include providing cost effective and less intrusive care solutions in some cases, keeping service users independent and safe in the community, reducing demand for hospital based services (avoiding admissions/timely discharge), helping avoid expensive residential care, and avoiding/ reducing the cost of residential care packages.
- 3.4 Brent Council is a member of the London Community Equipment Consortium (“the Consortium”) a group of 20 London boroughs namely Barnet, Barking & Dagenham, Bromley, Greenwich, Royal Borough of Kensington & Chelsea, Hammersmith & Fulham, Harrow, Camden, Ealing, Hackney, Hillingdon, Hounslow, Islington, Lewisham, Richmond, Southwark, Wandsworth and Westminster, working collaboratively to procure and develop community equipment services..
- 3.5 The contract between the Council and Medequip, under the framework for Integrated Community Equipment Services (iCES) (established by a collaborative procurement procedure on 1st April 2010 by the Royal Borough of Kensington & Chelsea on behalf of the Consortium) expires on 31st March 2017.
- 3.6 Under the existing contract Medequip supplies and delivers community equipment and undertakes all fittings/installations, adjustments, servicing/testing, collections, refurbishments, recycling and disposals of items of equipment purchased by authorised prescribers on behalf of the 20 Consortium members who accessed the framework.
- 3.7 Given the expiry of the council’s existing contract on 31 March 2017, Officers have been reviewing options for the future delivery of the equipment service. Officers consider that there are good financial and

operational reasons to participate in a collaborative procurement. As a result of the current collaboration, the council has achieved financial benefits as a result of increased buying power and economies of scale, multiple boroughs using common equipment, sharing refurbished specialist items to savings in equipment prices and lower activity price, sharing business processes and IT systems. Ongoing improvements made over the life of the contract have enhanced service delivery, this could not have been achieved without joint working.

- 3.8 To understand the service requirements for future community equipment services (post March 2017) Hammersmith & Fulham (H&F) on behalf of the Consortium has undertaken a detailed commissioning review, which includes consultations with stakeholders and an options appraisal. Ideally a six month implementation period is required for this type of service but, unfortunately an agreed way forward has been marked by delays, due in part to difficulties recruiting a project manager.
- 3.9 The delay put at risk service provision post March 2017, when the existing contract expires. In view of these delays in May 2016 Officers explored the possibility of Brent Council separately accessing other frameworks established by other authorities. For various reasons however it was determined that it was not practicable for Brent to use these other frameworks and that remaining with the Consortium would be a more suitable option for the council given the steps detailed in Paragraph 3.10 to address the risk of further delay.
- 3.10 It is considered that it will be cost effective for the Council to continue to work collaboratively with the Consortium through the lead borough Hammersmith & Fulham to establish a new community equipment framework. The Consortium now have in place dedicated resources and a clear timetable and strategy to ensure the procurement timetable is delivered to deadline. Participating in the collaborative procurement will provide the council with the ability to fulfil its duty to deliver community equipment services from 1st April 2016, and will deliver the financial and operational benefits detailed in paragraph 3.7 rather than operating independently to procure its own single borough contract.
- 3.11 Whilst all the Consortium members will have full input into the procurement process, London Borough of Hammersmith & Fulham will act as a central purchasing body for the purposes of undertaking this procurement exercise and concluding framework agreement with the successful applicant. Each Consortium member will join the framework by signing an access agreement. The Consortium members consider that to save costs, as the lead authority is the London Borough of Hammersmith & Fulham, that Council's Standing Orders should be used for the procurement process.
- 3.12 Given the London Borough of Hammersmith & Fulham are leading on the procurement, approval is sought for this collaborative procurement

to be exempted from the normal requirements of the Council's Contract Standing Orders

- 3.13 It is proposed that the new framework will run for a period of four (4) years from 1st April 2017.
- 3.14 It is proposed that Brent will call-off from the framework immediately it is established. Call off contracts would also run for a period of four (4) years from 1st April 2017, with the option for the council to extend the contract by a further 2 years. A report will be submitted to Members in due course addressing the call-off and the proposed arrangements under s75 of the NHS Act 2006 with the Brent Clinical Commissioning Group.

The tender process

- 3.15 The tender will follow a single stage open process. Although there is no commitment at this time, a prior information notice (PIN) was published on 23rd June 2016 in the Official Journal of the European Union (OJEU) notifying potential providers of the future procurement. Brent's participation is subject to Cabinet approval.
- 3.16 **Pre-tender considerations**

In accordance with the Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of Cabinet:

Ref.	Requirement	Response	
(i)	The nature of the service.	Framework of Community Equipment Goods and Services	
(ii)	The estimated value.	£136,000,000 and £280,000,000 (collective value across all consortia members). Brent's estimated contract value is £10,200,000.	
(iii)	The contract term.	4 years	
(iv)	The tender procedure to be adopted.	Open procedure (Single stage process) due to the limited number of suppliers that operate within this market.	
v)	The procurement timetable.	Indicative dates are:	
		PIN	23 June 2016
		Issue invite to tender	1 August 2016

Ref.	Requirement	Response	
		Deadline for tender submissions	31 August 2016
		Panel evaluation	4 th October 2016
		Consortia members seek individual Cabinet authority to enter Access Agreements	3 November 2016
		Standstill period	21 November 2016
		Contract start date	1 April 2017
(vi)	The evaluation criteria and process.	<p>Tenderers will be required to submit their proposals, based on invitation to tender documentation which details the full scope of the requirements and expected performance levels. There will be some pass/fail elements which will include documents returned by tenders on financial stability and insurance levels, for example. All award criteria and scoring methodology will be included in the ITT documents and the split between quality and price is expected to be 55:45. They will then provide details of the products, delivery methods and pricing for their proposed solutions. The quality evaluation will include the quality of online equipment ordering and management system (IT system quality), the community equipment service quality and equipment quality (evaluated on a sample basis, focusing on key items). Equipment quality will be assessed by a panel of prescribers. A full list of quality evaluation criteria and weightings will be produced based on previous model however the main themes will be:</p> <p>Equipment means of delivery Data Systems Service User Interviews Officer Interviews</p>	
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed contract.	
(viii)	The Council's Best Value duties.	The competitive procurement of a framework supports the council's Best Value duties.	

Ref.	Requirement	Response
(ix)	Consideration of Public Services (Social Value) Act 2012	See section 8.0 below
(x)	Any staffing implications, including TUPE and pensions.	See Section 7 below.
(xi)	The relevant financial, legal and other considerations.	See section 4.0 and 5.0 below

4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £250,000 shall be referred to the Cabinet for approval.
- 4.2 The potential for procurement savings are expected to be limited due to an expectation that the overall contract price will increase given the limited number of suppliers in the community equipment services marketplace.
- 4.3 Each borough participating in the procurement and wishing to access the Framework agreement will need to pay a one-off fee of £11,700 to do this.
- 4.4 Under Section 75 of the NHS Act 2006 Brent Council has pooled their community equipment budget with Brent Commissioning Clinical Group (CCG) to jointly commission the service, managed by Brent Council. The budget is split with Brent Council contributing 41% and the CCG 59%.
- 4.5 The estimated value of the services that Brent Council would call off under the framework agreement during the 4 +2 year period of the contract is £10.2m.

5.0 Legal Implications

- 5.1 Under the EU procurement regulations, a framework for the provision of Community Equipment Goods & Services falls within Schedule 3 of the Public Contracts Regulations 2015 ('PCR 2015'). As detailed in this

report, the framework will be procured in accordance with the requirements of the EU procurement regulations and in compliance with the Treaty principles of equal treatment, proportionality and transparency.

- 5.2 The framework will be established through a collaborative procurement exercise to be undertaken on behalf of the council and the other Consortium members by the London Borough of Hammersmith & Fulham. It is a requirement of the Council's Contract Standing Order (CSO) 84(a) that every contract entered into in connection with the Council's functions shall be procured in accordance with the European legislation, the CSOs and Financial Regulations unless for good operational and/or financial reasons the Cabinet agrees otherwise.
- 5.3 The estimated value of the framework and indeed the contract which the Council would call off under the framework agreement during its lifetime is in excess of £500,000. It is therefore subject to the requirements of the CSO 85(c) which provides that any collaborative procurement shall comply with the Council's Standing Orders and Financial Regulations unless in the case of High Value Contract the agreement of the Cabinet is obtained under the CSO No 84(a).
- 5.4 As detailed in this report, the framework will be procured in accordance with the EU procurement regulations but it is intended that Hammersmith & Fulham Council's standing orders will be used for the procurement and exemption from the normal requirements of Council's Contract Standing Orders and Financial Regulations is sought from Cabinet, as it is a High Value Contract and for good operational and/or financial reasons set out in paragraph 3.7 and as detailed in this report, in accordance with the Contract Standing Order 85(c) and 84(a) respectively.
- 5.5 As indicated in paragraph 3.14, it is proposed that Brent will call-off from the framework immediately it is established. As the call-off contract will be a High Value Contract, Member approval to the award will be required and the intention is to submit a further report to Members regarding this.
- 5.6 The Council currently has a pooled community equipment budget with the CCG. In order for this arrangement to continue, the council and CCG will need to enter into a further agreement pursuant to s75 of the NHS Act 2006. This again will subject to a further report to Members.
- 5.7 Whilst there are no direct staffing implications relating to the establishment of the proposed framework, there are likely to be staff that will transfer from the current contractor to any new contractor pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) on the commencement of any call-off contract. Further details are contained in Section 7.

6.0 Diversity Implications

The proposals in this report have been subject to screening and officers believe that there are no negative diversity implications. However, it is expected that diversity and equality perspectives will be incorporated into the assessment process, with consideration given to diversity and equality issues during pre-tender stage of the procurement.

7.0 Staffing/Accommodation Implications

7.1 Whilst there are no direct staffing or accommodation implications arising from the establishment of the proposed framework, there are likely to be staffing implications on the award of any contract called off from the framework.

7.2 The service is currently provided by an external provider Medequip, so there are no implications for Council staff arising from the award of any call-off contract. Should another external provider be appointed to the framework, it is likely that TUPE will apply to some of the staff of the existing provider on the award of the call-off and Tenderers will in view of that be provided with employee liability information so that they can take into account the implications when submitting their tenders.

8.0 Public Services (Social Value) Act 2012

8.1 Since 31st January 2013, the Council, in common with all public authorities subject to the EU Regulations, has been under duty pursuant to the Public Services (Social Value) Act 2012 to consider how the services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the council might act with a view to securing that improvement and whether the council should undertake consultation. This duty applies to the procurement of the proposed contract as Services over the threshold for application of the EU Regulations are subject to the requirements of the Public Services (Social Value) Act 2012.

8.2 The community equipment market is high value, specialist in nature, with a limited number of suppliers. The Consortium considered dividing the contract into small "lots" to facilitate bids from small local businesses with specialist skills, however this would have the following disadvantages:

- Substantially increased contract and supplier management costs
- Increased communication difficulties
- Remove economies of scale

- 8.3 Officers believe this will be better addressed enabling smaller specialist businesses in the Brent area to access the market via possible sub-contracting opportunities with the appointed Provider.
- 8.4 Officers will also explore introducing specific measures to improve the economic, social and environmental well-being of the Brent area such as:
- Setting targets for local apprenticeships and /or local employment for both the prime contractor and sub-contractors
 - Advertising the opportunity (and /or any sub-contracting or supply opportunities) to local suppliers and /or encouraging them to bid (through our forums and engagement with providers on upcoming opportunities)
 - Improving environmental footprint is currently fulfilled through loaning, sharing, refurbishing and disposing of equipment and use of electronic systems to operate the service.

9.0 Background Papers

None.

Contact Officers

Fay Austin

Commissioning & Change Officer 020 8937 4051

Paul Rabin, Joint Pooled Fund Manager, 020 8937 4466

Jas Kothiria, Senior Category Manager Adult Social Care, 020 8937 1170

PHIL PORTER

Strategic Director, Community Wellbeing