



Cabinet
15 November 2016

**Report from the Strategic Director
Community Wellbeing**

Wards Affected:
ALL

**Authority to Participate in the Joint Procurement of
Community Equipment and Services with the London
Boroughs of Harrow and Barnet**

1.0 Summary

- 1.1 Cabinet approval was obtained on 15th August 2016 to participate in a collaborative procurement with the London (Community Equipment) Consortium for the establishment of a framework for provision of community equipment and services led by the London Borough of Hammersmith & Fulham (LB H&F).
- 1.2 The LB H&F framework was intended to commence on the 1st April 2017 but due to delays in the LB H&F procurement process officers have been informed that the deadline of 1st April 2017 may not be met.
- 1.3 Brent's current community equipment and services contract is due to expire on 31st March 2017 and in order to address the risk of not having a new contract (and community equipment service in place) at the expiry of the current contract, Barnet Council have agreed to lead on an accelerated tender procurement process for the establishment of a framework for community equipment and services, in collaboration with the London Boroughs of Harrow and Brent. Approval is therefore sought to take part in this collaborative procurement, as required under the Council's Contract Standing Order 85.
- 1.4 The Council will retain the right to also access the LB H&F agreement once it is established should it offer greater value for money.

2.0 Recommendations

- 2.1 That Cabinet give approval for Brent Council to participate in a collaborative procurement led by the London Borough of Barnet to establish a framework for community equipment 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 3.15 of this report.
- 2.4 That Cabinet delegate authority to the Strategic Director of Community Wellbeing in consultation with the Lead Cabinet Member for Community Wellbeing to approve the award of a call-off contract from the Barnet framework agreement for community equipment and services to ensure that service provision is in place for the 1st April 2017.

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 On 15th August 2016 Cabinet approval was obtained for the Council to participate in a collaborative procurement of community equipment Services as part of the London (Community Equipment) Consortium.
- 3.3 The Cabinet report of 15th August 2016 referenced the increasing demand for community equipment services (and tele-care solutions) within the borough and the increasing use of technological solutions as alternatives to traditional models of care. It also set out the operational and financial benefits of the current and future collaborative arrangements to procure and develop community equipment services.
- 3.4 Under the existing framework agreement Medequip supplies and delivers community equipment on behalf of the 20 Consortium members who access the current framework. Prior to obtaining Cabinet approval on 15th August 2016, officers' reviewed options for a new procurement as the current framework is due to expire on 31 March 2017. The intention was to use the LB H&F framework once established but there

have been further delays in the procurement process, in addition to that detailed in the Cabinet report of 15th August 2016.

- 3.5 Officers understand that LB H&F issued an invitation to tender (ITT) at the end of August 2016 but due to errors in the procurement documentation the procurement was cancelled and a new (ITT) was issued at the end of September 2016. This has caused a four week delay in the process and it now appears unlikely that the new LB H&F framework will be in place at the expiry of the existing contract. Even if the LB H&F framework is put in place prior to the expiry of the existing contract, officers consider it is doubtful the successful tenderer (a single provider) will be able to mobilise operations across the 20 authorities who will access the framework, including Brent, by 1 April 2017. This will clearly impact on the delivery of the community equipment services within Brent.
- 3.6 As a result of this delay, Barnet Council proposed the establishment of a separate framework agreement with Brent and Harrow Councils. Officers have been informed that Barnet have in place dedicated resources and a clear timetable and strategy to ensure the procurement timetable is delivered to deadline, given that a single provider will be mobilising operations across only the three boroughs.
- 3.7 Participating in the collaborative procurement will provide Brent Council with the ability to fulfil its duty to deliver community equipment services from 1st April 2017, and will deliver the financial and operational benefits detailed in the 15th August 2016 report to Cabinet referenced in paragraph 3.2 above, rather than operating independently to procure its own single borough contract. Given the tight deadline, Barnet Council has already issued their Invitation to Tender. Brent has been named in the ITT as able to access any framework that may be let, but this is without any obligation or commitment to participate at the current time.
- 3.8 Whilst it is proposed that Brent, Barnet and Harrow Councils will have full input into the procurement process going forward, Barnet Council will act as a central purchasing body for the purposes of undertaking this procurement exercise and concluding framework agreement with the successful tenderer. Each party will access the framework by signing an access agreement. The parties consider that to save costs Barnet Council's Standing Orders should be used for the procurement process, as they are the lead authority.
- 3.10 It is proposed that the new framework will run for a period of four (4) years from 1st April 2017.
- 3.11 It is proposed that Brent will call-off from the framework immediately after 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. The Council can also terminate the contract at any time by giving six (6) months written notice to the

provider. A report has been submitted to Cabinet addressing the call-off and the proposed arrangements under s75 of the NHS Act 2006 with Brent Clinical Commissioning Group.

- 3.12 Officers consider that there are good financial and operational reasons to participate in a collaborative procurement either with the LB H&F or the London Boroughs of Barnet and Harrow. The intention is for the Council to use the Barnet Framework from 1 April 2016 and also retain the right to access the LB H&F framework once it is established should it offer greater value for money
- 3.13 Due to the tight timescales between award of the Barnet framework and the end of the current contract, delegated approval to award is required.

The tender process

- 3.14 The tender will follow a single stage open process. The advert and invitation to tender (ITT) was published on the 30th September 2016 in the Official Journal of the European Union (OJEU).

3.15 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 and Services	
(ii)	The estimated value.	Brent's estimated contract value is £6.6m. (This figure is based on the actual budget and not the estimated budget as reported to members in August 2016.)	
(iii)	The contract term.	4 years plus option to extend by a further 2 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:	
		Advert	30 th September 2016
		Issue invite to tender	30 th September 2016
		Deadline for tender submissions	4 th November 2016

Ref.	Requirement	Response	
		Panel evaluation	18 th November 2016
		Consortia members seek individual authority to enter Access Agreements and award framework / call off contracts	24 th November 2016
		Standstill period ends	12 th December 2016
		Barnet awards framework and consortia members award call-off contracts	12 th December 2016
		Contract mobilisation	December 2016 – March 2017
		Contract start date	1 st April 2017
(vi)	The evaluation criteria and process.	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 are included in the ITT documents and the split between quality and price is 55:45. Tenderers 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 catalogue items which we set based on actual use, quality and performance and outcomes for service users. The Tenderer will have to price those products. Alternative products with the same or better performance would also be considered if their pricing is the same or is better, and tenderers will be asked to detail these separately showing the price saving accompanied by documentation showing the increased level of performance compared to existing products). Equipment quality will be assessed by a panel of prescribers. Quality evaluation criteria and weightings listed below:	

Ref.	Requirement	Response																								
		<p>Quality: Weight</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Method Statement Question</th> <th>% Weight</th> </tr> </thead> <tbody> <tr> <td>Service Model</td> <td>10%</td> </tr> <tr> <td>Mobilisation</td> <td>12%</td> </tr> <tr> <td>Equipment Catalogue</td> <td>23%</td> </tr> <tr> <td>Management of Service</td> <td>16%</td> </tr> <tr> <td>Delivery / Collection</td> <td>5%</td> </tr> <tr> <td>Cleaning / Contamination</td> <td>2%</td> </tr> <tr> <td>Customer Service</td> <td>8%</td> </tr> <tr> <td>Service Development</td> <td>8%</td> </tr> <tr> <td>Information Management</td> <td>5%</td> </tr> <tr> <td>Data Protection</td> <td>6%</td> </tr> <tr> <td>Social Value</td> <td>5%</td> </tr> </tbody> </table> <p>Price:</p> <ul style="list-style-type: none"> • Equipment 55% • Activity 20% • Management 25% 	Method Statement Question	% Weight	Service Model	10%	Mobilisation	12%	Equipment Catalogue	23%	Management of Service	16%	Delivery / Collection	5%	Cleaning / Contamination	2%	Customer Service	8%	Service Development	8%	Information Management	5%	Data Protection	6%	Social Value	5%
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(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.																								
(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 £0.5m 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 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 would be £1.1m per annum, equating to £6.6m over the 4 year period of the contract including the option to extend a further two years.

5.0 Legal Implications

- 5.1 Under the EU procurement regulations, a framework for the provision of Community Equipment & 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 Barnet, Brent and Harrow Councils by the Barnet Council. 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 Barnet 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 3.13, it is proposed that Brent will call-off from the framework immediately after it is established. Given the restricted timescales for the procurement and contract implementation Cabinet approval to award is requested to be delegated to the Strategic Director of Community Wellbeing in consultation with the Lead Cabinet Member for Community Wellbeing.
- 5.6 Should the Council wish to have the ability to access the LB H&F agreement should it offer greater value for money, officers will need to ensure that any call-off from the Barnet framework allows for termination on notice.

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 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.
- 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 and specialist in nature, with a limited number of suppliers. Dividing the contract into small “lots” to facilitate bids from small local businesses with specialist skills, 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.

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