



Executive
11 April 2011

**Report from the Director of
Housing and Community Care**

Wards Affected:
[ALL]

**Amendment to committee report 15th November 2010:
Authority to Invite Tenders for the Procurement and
Management of Temporary Accommodation**

“APPENDIX A IS “NOT FOR PUBLICATION”

1.0 Summary

- 1.1 This report acts as an amendment to the Executive Committee report dated 15th November 2010. It provides an update to the approval given by the Executive pursuant to Contract Standing Orders 88 and 89 to invite tenders to conclude a framework agreement for the Procurement and Management of Temporary Accommodation pursuant to the Council's Private Managed Accommodation Scheme (PMA).
- 1.2 This report seeks approval for an amendment to the evaluation sub-criteria and to the procurement process for the award of contract for the above named tender.

2.0 Recommendations

- 2.1 The Executive to give approval to amend the original evaluation criteria as set out in the table at paragraph 3.5.3 to be used to evaluate tenders for appointment to the framework.
- 2.2 The Executive to give approval to the change in tender procedure in the call for competition.
- 2.3 The Executive to give approval to officers to invite expressions of interest, agree shortlists, invite Tenders for a framework agreement for the Procurement and Management of Temporary Accommodation and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above.

3.0 Detail

- 3.1 The Executive previously gave authority to tender for a PMA contract at the meeting of 15th November 2010. Following approval, a procurement process commenced however, this process has been recently aborted due to procedural irregularities identified during the tender evaluation stage. In addition to which, during the tender process a decision was made to amend the sub-criteria and weightings contained in the Invitation to Tender documentation, such actions being contrary to the Public Contract Regulations 2006. Therefore, to ensure the council conducted this tender in a fair, transparent and non-discriminatory manner officers decided to abort the voluntary advertised EU process and restart a new tender procedure.
- 3.2 The new tender process is not being advertised voluntarily in the Official Journal of the European Union (OJEU). The service has been classified as Part B under the Public Contract Regulations 2006 (PCR 2006); there is no strict requirement to advertise the proposed contract in the OJEU. It is intended to advertise the revised tender on the council's website, in a local paper and a trade housing journal to ensure maximum opportunity for organisations to participate in the tender.
- 3.3. The procurement is a collaborative procurement comprising of 7 West London Authorities. Council officers have ensured all participating Authorities included in the process are aware of the delays in the process and all have agreed with the council's decision with respect to restarting the tender process and are continuing to participate in the new tender.
- 3.4 The revised tender will result in a delay of up to 4 months. Therefore officers are currently implementing a short term interim contract arrangement – (to be procured in accordance with the council's Constitution, namely Contract Standing orders 86(b)) to ensure the council maintains service provision and achieves financial savings.
- 3.5 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive. The table includes an amendment to the original evaluation criteria and process. The new contract specification removes any financial losses for the council for properties that are void, so there is no need to ask questions relating to void performance. The rent collection function will now be carried out by the council, so similarly there is no requirement to ask a question covering rent arrears performance. The question on equal opportunities has been removed as this will be tested at the Pre- Qualification Question Stage. The Question on Timetable to implement services has been removed as this will be incorporated in question 'A. Procurement of properties'. The Question on Electronic Invoicing has been removed as this will now be a contract instruction.
- 3.5.1 The split between price and quality has been changed from 50/ 50 to 70/30 respectively. This additional increased weighting on price is to

ensure that bidders reflect the importance of offering a competitive management fee.

3.5.2 The recommended changes to the sub-criteria were discussed and agreed at a West London Housing partnership meeting on the 11th March 2011.

3.5.3

Ref.	Requirement	Response	
(i)	The nature of the service.	To procure and manage temporary accommodation properties, let to homeless persons as nominated by the council through a framework agreement operated by multiple providers.	
(ii)	The estimated value.	£2.6m based on the procurement of 500 unit's accommodation for a four year contract.	
(iii)	The contract term.	It is anticipated to be the 4 th July 2011 for 2 years with the option to extend by up to a further 2 years.	
(iv)	The tender procedure to be adopted including whether any part of the procedure will be conducted by electronic means and whether there will be an e-auction.	<p>Formal tendering by way of a "Two-Stage Tender" process in accordance with the Council's Standing Order 96(a) and (c). Stage 1 – Call for expressions of interest and short-listing; Stage 2 –Invitations to tender.</p> <p>The main elements of the PMA service are classified under the PCR 2006 as Part B. As a Part B service contract only some of the EU procurement rules apply – namely, obligations relating to technical specifications and post-award information. There is no requirement for a Contract Notice to be published in the OJEU, but there is a requirement to send a Contract Award Notice to the Office of Publication of the OJEU.</p>	
v)	<p>Executive</p> <p>Exec meeting Approval to proceed</p> <p>Dispatch of expressions of interest/issue of PQQ</p> <p>PQQ Return Close Date</p>	<p>Date of action</p> <p>10th March 2010</p> <p>1st April 2011</p> <p>4th April 2011</p>	<p>Date of completion</p> <p>1st April 2011</p> <p>1st April 2011</p> <p>14th April 2011</p>

	PQQ Evaluation Issue invitation to tender Tendering period Tender close date Tender Evaluation/ Tender Appraisal Panel & Draft Recommendation Report to Democratic Services for Leaders briefing Leaders Briefing Final Report to Democratic Services for despatch to Executive Meeting Brent Cabinet/ Executive meeting decision Conclusion of framework agreement and notices to successful and unsuccessful tenderers Standstill period (period of time that the Council will not be able to enter into any formal contractual arrangement with the successful tenderer[s]) Contract start date	15 th April 2011 15 th April 2011 6 th May 2011 6 th May 2011 31 st May 2011 1 st June 2011 13 th June 2011 14 th June 2011 15 th June 2011 4 th July 2011	15 th April 2011 6 th May 2011 6 th May 2011 27 th May 2011 31 st May 2011 1 st June 2011 13 th June 2011 14 th June 2011 28 th June 2011 4 th July 2011
(vi)	The evaluation criteria and process.	Shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines namely the pre qualification questionnaire and thereby meeting the Council's minimum	

		<p>requirements in relation to financial standing requirements, technical capacity, technical expertise and compliance with statutory requirements such as health and safety. Candidates who meet the Council's minimum requirements will be selected to tender and issued with invitations to tender.</p> <p>The Framework Agreement will be concluded on the basis of the most economically advantageous offer, with the tenders received to be evaluated against the evaluation criteria:</p> <ul style="list-style-type: none"> ○ Tendered Prices – 70% weighting ○ Quality Assessment – 30% weighting based on the following criteria: <p>Procuring, repairing and maintaining properties and managing tenants in properties</p> <ul style="list-style-type: none"> a. Procurement of properties – 15% b. Repairs / maintenance – 10% c. Complaints handling – 3% d. Anti-social management – 2% <p>Financial and legal considerations on tenders returned are to be given by the Housing Finance Team and representatives from the Council's Legal and Financial services respectively. Where required, these representatives will participate in the evaluation panel.</p> <p>A further report will be presented to the Executive seeking approval of the award recommendation.</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. Financial Services have been consulted concerning this contract.
(viii)	The Council's Best Value duties.	The conclusion of the framework agreement based on the most economically advantageous tender by way of a Two-Stage Tender process as detailed above. These will assist the Council in achieving best value for the proposed service.
(ix)	Any staffing	None

	implications, including TUPE and pensions.	
(x)	The relevant financial, legal and other considerations.	See paragraphs 4.0 to 6.0 below

3.7 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with the Council's Contract Standing Order 88.

4.0 Financial Implications

- 4.1 Part 4, section 2.5 of the Council's Constitution states that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite expressions of interest, agree shortlists and invite tenders.
- 4.2 The estimated value of this 4 year contract is £2.6 million and will be funded entirely from Housing Benefit Subsidy.
- 4.3 The DWP have reduced temporary accommodation subsidy for all forms of temporary housing for homeless households from 1st April 2011.
- 4.4 Officers had previously forecast an overspend of £1.3 million against the agreed Temporary Accommodation budget in 2011/12. This forecast took into account both the expected increase in homeless approaches as a result of changes to the Local Housing Allowance, and the impact of changes to the Housing Benefit subsidy regime for temporary accommodation.
- 4.5 The introduction of the PMA scheme will help to reduce the expected overspend, by reducing the use of hotel accommodation for homeless households. This, and other work being done to manage temporary accommodation costs, has been taken into account when reviewing previous financial projections.
- 4.6 Current forecasts suggest that the PMA scheme will reduce overall costs on hotel accommodation by approximately £400,000. This reduction has been taken into account within the latest forecast - based on current projections, officers expect there to be a shortfall against the agreed budget of approximately £1 million. However work is on-going to reduce the financial impact of the various changes further.

5.0 Staffing Implications

- 5.1 None specific.

6.0 Legal Implications

- 6.1 The requirement to provide accommodation to persons who are homeless and satisfy the qualifying criteria for assistance arises under

Part VII of the Housing Act 1996 (“the 1996 Act”) as amended by Homelessness Act 2002. The Council has a statutory duty pursuant to section 193 of the 1996 Act to provide temporary accommodation to homeless applicants who satisfy the following criteria: they are homeless or threatened with homelessness; they are eligible for assistance; they are in priority need of accommodation, they have a local connection with the Borough of Brent and they are not intentionally homeless. The circumstances in which the Council will cease to be subject to any such duty are set out in section 193(6)-(7B) of the 1996 Act, which include the applicant accepting an offer of accommodation under Part VI of the 1996 Act under the Council’s allocation scheme and accepting an offer of an assured tenancy from a private landlord. Unless the homeless applicant has a “restricted” person in their household where the restriction relates to that person’s immigration status, the Council can also discharge its duty under section 193 of the 1996 Act by providing the homeless applicant a qualifying offer of an assured shorthold tenancy and the applicant is advised in writing in advance that he is under no obligation to accept such an offer of accommodation.

- 6.2 The Council also has a statutory duty under section 188(1) of the 1996 Act to secure that temporary accommodation is available to homeless applicants pending a decision regarding their homelessness application. This is where the Council is satisfied that such applicants are homeless, eligible for assistance and have a priority need for accommodation. That duty ceases once a decision is made and if the decision is that the applicant does not qualify for assistance under Part VII of the 1996 Act, the homeless applicant has the right to request a review of such a decision and in those circumstances the Council has the discretion (as opposed to duty) under section 188(3) of the 1996 Act to house the homeless applicant in temporary accommodation pending the review by the Council of its decision. If the decision is that the homeless applicant qualifies for assistance under Part VII of the 1996 Act, the Council is under a duty to provide temporary accommodation pursuant to section 193 of the 1996 Act as detailed in the previous paragraph.
- 6.3 The Procurement and Management of Temporary Accommodation is considered to be a part B service under the Public Contracts Regulations 2006 (PCR) and as such the application of the PCR to this procurement is limited. The procurement of Part B services however is still subject to the underlying EC principles of equal treatment (of economic operators), fairness and transparency which must govern all public procurement. In addition, there are obligations relating to ensuring that technical specifications are prepared relating to the subject matter in a non-discriminate manner and there are obligations to submit post-award information. There is no requirement for a Contract Notice to be published in the OJEU, but there is a requirement to send a Contract Award Notice to the Office of Publication of the OJEU. Recent case law and government guidance requires that Part B services are sufficiently advertised so as to maximize competition.

This requirement is satisfied as Chief Officers intend to advertise the service widely as referred to in paragraph 3.2 above.

- 6.4 The estimated value of the procurement over the potential life of the framework agreement puts it under the category of a High Value Contract as defined by the Council's Contract Standing Orders. In addition the Council's Contract Standing Order 96 states that a formal tendering process must be conducted for Part B services. Contract Standing Order 96 (c) (i) provides that 21 days should normally be allowed for organisations' to express an interest, however for this tender officers have allowed interested candidates 18 days' to submit a PQQ, which is deemed sufficient time to submit an application.
- 6.5 When embarking on a tender the practice is for the Executive to give approval for pre-tender considerations, however in light of previous approval given for the original tender – an advert has already been placed on the council's website and trade journal seeking organisations to express an interest in accordance with the timetable laid out above. However, approval is required from the Executive for the revisions made to the tender evaluation criteria to invite tenders as set out in paragraph 3.5.3.
- 6.6 Once the tendering process is undertaken Chief Officers will report back to the Executive in accordance with the Council's Contract Standing Orders, explaining the process undertaken in procuring the service and recommending the conclusion of the framework agreement.

7.0 Diversity Implications

- 7.1 No amendment to original report.

8.0 Background Papers

- Executive committee report 15th November 2010.
- Report to the Policy Co- Ordination Group, 30th Sept 2010. Report Title: Likely impact of proposed changes to the Housing Benefit Group.

Any person wishing to inspect the above papers should contact:
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Appendix A