



**Executive**  
19 October 2009

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

Wards Affected:  
ALL

**Authority to tender contract for private sector leased  
accommodation (Brent Direct Lease Scheme and South Kilburn  
Temporary Accommodation Scheme)**

Forward Plan Ref: H&CC-09/10-08

**1.0 Summary**

1.1 This report seeks authority under Contract Standing Orders 88 and 89 to invite tenders for a new contract for the Housing Management Services for The Brent Direct Lease Scheme (BDL) and South Kilburn Temporary Accommodation Scheme (SKTA) to commence from 30<sup>th</sup> June 2010 for two years with an option to extend for up to one year.

**2.0 Recommendations**

- 2.1 The Executive to give approval to the pre - tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 3.1 of the report.
- 2.2 The Executive to give approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above.
- 2.3 The Executive to approve the extension of South Kilburn Temporary Accommodation Contract to June 30<sup>th</sup> 2010.

**3.0 Detail**

3.1 The Council has a statutory duty to provide suitable accommodation to persons in housing need under Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002. The Brent Direct Lease (BDL) Scheme enables the Council to lease accommodation from private sector landlords in order to provide temporary accommodation

for homeless households as and when the need arises. The contract is currently provided by Brent Housing Partnership. There are currently just under 3,750 homeless households in various temporary accommodation schemes and this includes 600 currently in Private Sector Leasing schemes.

3.2 The BDL scheme utilises Housing Benefit subsidy to fund the lease rental and management costs of the scheme. The BDL contract enables the Council to re-house homeless families with children from Bed & Breakfast accommodation into self-contained properties. The specification for the contract has been revised and will incorporate improved property procurement and management standards recently agreed by West London Boroughs. The revised specification has incorporated efficiency targets for housing management functions such as voids management and rent collection.

3.3 The current contract was awarded to BHP in 2004 (with the Executives approval which was granted on the 14<sup>th</sup> June 2004) this has recently been extended and will now expire on the 30<sup>th</sup> June 2010.

- The scope of services includes a full property management service to include property acquisition, viewings and lettings process, rent accounting and arrears service, tenancy management services, contractor property inspections, administering decants, void periods and property handbacks, management requirements and performance management.

3.4 In addition there is the South Kilburn Temporary Accommodation scheme which is the management of void properties in South Kilburn as temporary accommodation. This is part of the South Kilburn regeneration project; some of the existing blocks will be demolished to be replaced with high quality affordable housing for South Kilburn residents. It is proposed that once the existing properties have been decanted, then the properties will be used as temporary accommodation until they are ready to be demolished.

3.5 As noted in the Executive report dated 18<sup>th</sup> March 2008, the rationale behind the South Kilburn Temporary Accommodation scheme is to:

- make the best use of empty properties,
- assisting the Council in meeting Government targets by minimizing the length of stay for homeless families in hotel accommodation and increasing the availability of self contained accommodation
- assisting the council in reducing its overall Housing Benefit Subsidy loss on hotel placements and reducing the risk of squatting and vandalism, should the void properties in South Kilburn remain empty for a length of time.

- 3.6 The scope of services includes a full property management service to include property acquisition, viewings and lettings process, rent accounting and arrears service, tenancy management services, contractor property inspections, administering decants, void periods and property hand backs, management requirements and performance management.

The current management of the South Kilburn Temporary Accommodation scheme is also through Brent Housing Partnership. The current contract is due to expire on the 15<sup>th</sup> November 2009 and approval is now being sought from the Executive to extend this to 30<sup>th</sup> June 2010, whilst the procurement exercise takes place. The estimated value of the extension is below £21,000 (this is based on approximately 15 properties in management).

- 3.7 Section 27 of the Housing Act 1985 permits delegation by the Council of its housing management functions for any of its housing stock to a third party with the consent of the Secretary of State.
- 3.8 For any of the implementation of options for the South Kilburn Temporary Accommodation Scheme, the Secretary of State's approval will need to be sought and obtained as set out in paragraphs 6.8 to 6.10 below. The Council has sought such approval on previous occasions in relation to the private sector leasing arrangement (as described in paragraph 3.2), for example for the award of the BDL Scheme contract to BHP. Although the South Kilburn Temporary Accommodation Scheme are part of the South Kilburn Master Plan, separate Secretary of State consent still needs to be sought and obtained,
- 3.9 Subject to and following the Executive's decision as to the way forward for the South Kilburn Temporary Accommodation Scheme, an application for approval of the Council's delegation of housing management functions to BHP for this scheme will be submitted to the Secretary of State. It is anticipated that approval will be granted within 1 – 2 months based on previous applications made for such consent.
- 3.10 Through procuring both contracts together, the new contract will realise the following benefits;
- Efficient use of internal resources e.g. staffing time and costs of combining both tenders rather than duplicating the exercise by doing two separate exercises.
  - Attracting the larger service providers who would not usually wish to tender for smaller contracts.
  - Through a larger contract split into lots, achieves greater economies of scale.
  - Reduce the need for separate on-going contract management

3.11 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	To provide Brent Direct Leasing Scheme and South Kilburn Temporary Accommodation scheme.
(ii)	The estimated value.	£2,800,000 (£933,333 per year) for Brent Direct Leasing scheme and approximately £325,000 (£108,333 per year) for South Kilburn scheme both for the duration of the three year contract
(iii)	The contract term.	Commencing on 30 <sup>th</sup> June, 2010 for 2 years with the option to extend by a further 12 months.
(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>The contract is a Part [A] contract under the Public Contract Regulations 2006. Formal tendering will be a Restrictive Procedure as set out in the Public Contracts Regulations (2006).</p> <p>In order to maximize commercial advantage whilst looking to provide best service, bids will be accepted for the following lots.</p> <p>Lot 1- BDL management of 50% of properties (a maximum of 225 properties).</p> <p>Lot 2- BDL management of 50% of properties ( a maximum of 225 properties)</p> <p>Lot 3- South Kilburn approximately 70 properties</p> <p>In order to attract larger commercial originations and to open up the market place for competition these contracts will be advertised through the Official Journal of European Union (OJEU). Additionally in order to attract local providers, the contracts will be advertised in the local press, relevant trade journal and on the Councils web site.</p>
v)	The procurement timetable.	<p><b>Indicative dates are:</b></p> <p>Adverts placed 1 November 2009.</p> <p>Expressions of interest returned 2 December 2009.</p> <p>Shortlist drawn up in accordance with the Council's approved criteria 12 December, 2009.</p> <p>Invite to tender 13 December, 2009.</p> <p>Deadline for tender submissions 23 January 2010.</p> <p>Panel evaluation and interviews February, 2010.</p>

		<p>Panel decision</p> <p>Report recommending Contract award circulated internally for comment</p> <p>Executive approval</p> <p>Mandatory minimum 10 calendar day standstill period if Part A service contract– notification issued to all tenderers and additional debriefing of unsuccessful tenderers</p> <p>Contract start date</p>	<p>4 February, 2010.</p> <p>11 March 2010.</p> <p>April, 2010.</p> <p>May, 2010.</p> <p>30 June 2010</p>
(vi)	The evaluation criteria and process.	<p>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 financial standing requirements, technical capacity and technical expertise. Thereafter once candidates have been selected for tender, full documentation will be sent and thereafter the panel will evaluate the tenders against the following criteria:</p> <p>50 % price 50% quality</p> <p>consisting of;</p> <ul style="list-style-type: none"> <li>• Proposed staffing levels to deliver the service</li> <li>• Proposed method for delivering the specified arrears management service</li> <li>• Proposed method for delivering the specified voids management service</li> <li>• Methodology to demonstrate complaints' are handled fairly and compliantly.</li> </ul>	
(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 and Legal Services have been consulted concerning this contract	
(viii)	The Council's Best Value duties.	The Procurement process will ensure Best Value and compliance are achieved.	
(ix)	Any staffing implications, including TUPE	The service is currently provided by external contractors and there are no implications for existing Council staff.	

	and pensions.	TUPE could apply to the incumbent contractor in the event the contract is awarded to a different contractor.
(x)	The relevant financial, legal and other considerations.	

3.12 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

#### **4.0 Financial Implications**

4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 90.

4.2 The estimated value of this contract is £2,800,000 for BDL and approximately £325000 for South Kilburn, Scheme both are for the duration of the three year contract.

4.3 It is anticipated that the cost of this contract will be funded from Temporary Accommodation Housing Benefit Subsidy

4.4 There are no other financial considerations

#### **5.0 Staffing Implications**

5.1 These services are currently provided by an external contractor employed by the Council and there are no implications for Council staff arising from retendering the contract. There will be TUPE implications for BHP if they were not successful in bidding for this tender. It is anticipated that if the tender is won by an external contractor then TUPE would apply.

#### **6.0 Legal Implications**

6.1 The requirement to provide accommodation to homeless households arises under Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002 and the Homelessness (Priority Need for Accommodation) (England and Wales) Order 2002 which introduced extensions to the priority need categories and came into force in August 2002.

6.2 Local authorities have a duty under Part VII of the Housing Act 1996 to house homeless persons in temporary accommodation who satisfy the qualifying criteria (i.e. eligibility, homeless, priority need, not intentionally homeless and local connection). The Council can only discharge its duty to house qualifying homeless persons in temporary

accommodation under the circumstances set out in section 193 of the Housing Act 1996. The circumstances in which this duty can be discharged (in addition to the circumstances where the homeless applicant loses his accommodation by being no longer eligible for assistance, ceasing to occupy his temporary accommodation as his main or principal home or becoming homeless intentionally from the temporary accommodation provided) are as follows:

- (i) if the homeless person accepts an offer of permanent accommodation from the Council in the form of a secure tenancy under Part VI of the Housing Act 1996;
- (ii) if the homeless person accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord; or
- (iii) if the homeless person accepts a qualifying offer of an assured shorthold tenancy with the Council's approval and is advised in writing in advance that he is under no obligation to accept the offer and is advised that should he accept the offer of accommodation.

6.3 The existing South Kilburn Temporary Accommodation Contract with BHP is for a period of less than 12 months. Officers only have delegated powers under paragraph 2.5 of Part 4 of the Constitution and Contract Standing Order 112, to extend it for up to 6 months. The period of extension necessary to enable the contract to expire on 30 June 2010 (at the same time as the BDL contract) is seven and a half months and accordingly Executive approval is required for the extension. Legal advice has been given that this further extension will not be in breach of European Procurement legislation as the total value of the contract, even with the extension, will be less than the EU procurement threshold.

6.4 The proposed new Contract is a High Value Contract for the purposes of Contract Standing Orders and accordingly the approval of the Executive is required to invite tenders and to the pre tender consideration.

6.5 The proposed new contract will be procured and tendered in accordance with the Councils Contract Standing Orders and European Procurement rules which require a formal tendering process with advertising of the proposed contract.

6.6 Once the tendering process is undertaken Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contract and recommending award.

*Secretary of State Consent*

- 6.8 Paragraph 3.7 above sets out the basis of section 27 of the Housing Act 1985 in relation to the delegation of a Council's housing management functions subject to consent from the Secretary of State.
- 6.9 In relation to the BDL Scheme, consent from the Secretary of State was obtained in 2004 under section 27 of the Housing Act 1985 where the Secretary of State advised that he was agreeable for this arrangement, which commenced in 2002 in which Brent Housing Partnership managed the properties under the BDL scheme on behalf of the Council, to continue. The BDL scheme contract has been extended for 12 months from August 2009 and this is subject to consent and confirmation being provided by the Secretary of State that he is agreeable for this arrangement to continue for another 12 months pending a procurement exercise for the new BDL contract. In respect of the contract which is the subject of this report, even if BHP is awarded the contract, consent of the Secretary of State will be necessary.
- 6.10 In relation to the South Kilburn voids, in March 2009, the Secretary of State gave her consent to BHP managing the void properties as temporary accommodation on behalf of the Council under section 27 of the Housing Act 1985 and she also gave her direction to the Council to hold these properties outside the Housing Revenue Account under section 74(3)(d) of the Local Government and Housing Act 1989. Both these consents are valid until the void temporary accommodation South Kilburn properties are demolished. If another provider, other than BHP, is successful on being awarded the contract which is the subject of this report, consent will be required from the Secretary of State to authorize the arrangements for the alternative provider to manage the void properties at South Kilburn on behalf of the Council under section 27 of the Housing Act 1985.
- 6.11 The HRA is a record of revenue expenditure and income relating to an authority's own housing stock which is separate from an authority's General Fund. The Housing Revenue Account is ring-fenced as local authorities do not have general discretion to transfer sums out of the HRA or to support the HRA from the General Fund, save in limited and prescribed circumstances.
- 6.12 Under the HRA (Exclusion of Leases) Direction 1997, leases of up to ten years for dwellings that are taken out by local authorities since 31 March 1997 for the purpose of housing homeless households were directed to be excluded from the Housing Revenue Account. With the South Kilburn voids, the Council owns the freehold interest of these properties so this 1997 Direction does not apply and this was why it was necessary to obtain a Direction from the Secretary of State to hold those properties outside the HRA. For the BDL properties, these involve leases that are taken by the Council for a period of less than 10 years and such properties are automatically taken outside the HRA without the need for a Direction from the Secretary of State.



## **7.0 Diversity Implications**

There are variations between the population of Brent and those applying for assistance as homeless. For example, those in black category made up just fewer than 20% of Brent's population in 2001, however they accounted for nearly half of all applications as homeless in 2002/3. Furthermore, those in the White category made up just over a fifth of all homeless applications, but were 45% of the resident 2001 census. Reasons for these differences are complex and relate to a variety of social, economic and demographic factors, including income levels, family size, and quality of housing and patterns of tenure.

## **8.0 Other implications**

None

## **9.0 Background Papers**

- Report to Executive, 22<sup>nd</sup> Sept 2003 Housing Management Service for the Private Sector Leasing Schemes
- Report to Executive, 18<sup>th</sup> March 2008 Housing Management Arrangements for South Kilburn Temporary Accommodation Scheme

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## Appendix 1

### DRAFT Tender Evaluation Grid

<b>Weighting Criteria</b>	<b>Weighting</b>
<b>Price</b>	<b>50%</b>
<b>Quality</b>	<b>50%</b>
<ul style="list-style-type: none"><li>Proposed staffing levels to deliver the service</li></ul>	
<ul style="list-style-type: none"><li>Proposed method for delivering the specified arrears management service</li></ul>	
<ul style="list-style-type: none"><li>Proposed method for delivering the specified voids management service</li></ul>	
<ul style="list-style-type: none"><li>methodology to demonstrate complaint are handled fairly and compliantly</li></ul>	