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|  | Cabinet 12 November 2018 |
| | Report from the Strategic Director of Resources |
| Business Rates and associated IT Support Contract Award | |

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| Wards Affected: | All |
| Key or Non-Key Decision: | Key |
| Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small> | Part Exempt – Appendix 1 is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)” |
| No. of Appendices: | Three: <ul style="list-style-type: none"> • Contractor List (Exempt) • Tender Evaluation Scores • Equality Analysis |
| Background Papers: | None |
| Contact Officer(s): <small>(Name, Title, Contact Details)</small> | Margaret Read, Operational Director Resources, Email: Margaret.Read@brent.gov.uk Tel: 0208 937 1521 |

1.0 Purpose of Report

- 1.1 This report requests authority to award a contract for the provision of Business Rates and associated I.T. Support as required by Contract Standing Order No 88.
- 1.2 This report also summarises the procurement process undertaken and following the completion of the evaluation of final tenders, recommends to whom the contract should be awarded.

2.0 Recommendations

- 2.1 That Cabinet award the contract for the provision of Business Rates and associated IT Support Services to Capita Business Services Ltd with effect from 1 May 2019 for a period of five years with an option to extend

for a further three years.

- 2.2 That delegated powers provided through regulations issued under the Deregulation and Contracting Out Act 1994 for the assessment and collection of Business Rates be granted to Capita Business Services Ltd with effect from the 1 May 2019.

3.0 Detail

- 3.1 The Council invited tenders for the provision of the Business Rates and associated I.T. Support Services in accordance with the competitive with negotiation tendering procedure following prior approval by Cabinet on 13 November 2017 having regard to a detailed options appraisal.
- 3.2 The existing Revenues and IT Support contract with Capita Business Services Limited began in 2011 and is scheduled to expire on 30th April 2019. The scope of the existing contract includes the collection of Council Tax from approximately 109,000 domestic properties, Business Rates from 9,000 businesses in the Borough and the provision of I.T. specific to the Revenues and Benefits service. The contract was for a 5 year period with provision for extension by a further 3 years for which the extension period has been fully utilised.
- 3.3 A decision was taken by Cabinet in November 2017 to bring the Council Tax service in house but to retender the Business Rates service. The proposed scope for the new contract which is scheduled to commence on 1 May 2019, includes the Business Rates service with associated IT Support, telephone call handling and printing.

The tender process

- 3.4 The new contract will be let for a five year term with an option to extend for a further three year period.
- 3.5 Using the competitive with negotiation tendering procedure (which permits the Council to either elect to award a contract on the basis of an initial tender or to negotiate with suppliers, as appropriate), advertisements were placed in the Official Journal of the European Community (OJEU) on 3 May 2018 seeking initial expressions of interest. This elicited initial viewing by twenty five organisations. Selection questionnaires for short listing and an information pack containing the specifications and tender approach were made available at the same time and two suppliers subsequently returned completed questionnaires.
- 3.6 Checks were carried out on the basis of the contractors' financial viability, economic standing, business probity and technical ability and on 30 July 2018 the two suppliers, as detailed in Appendix 1, were invited to tender.
- 3.7 The tendering instructions stated that the contract would be awarded on

the basis of the most economically advantageous offer to the Council and that in evaluating tenders, the Council would have regard to the evaluation criteria and weightings as set out below:

- Price (50%), apportioned between price (47.5%) and social value (2.5%);
- Quality (50%) apportioned as shown in Table 1 (“Quality Evaluation Criteria and Weightings”) below;

Table 1 – Quality Evaluation Criteria and Weightings

| Quality | | 50% |
|----------------|---|------------|
| b1 | Staffing Arrangements (including location, recruitment and selection and training and development) and profile over the contract term | 10% |
| b2 | Core IT Systems and Applications, (including any relevant infrastructure, hardware, software, procedures and support) | 8% |
| b3 | Billing, Collection and Enforcement Organisation and Processes to Maximise the Net Debit and Collection | 10% |
| b4 | Performance Monitoring, Management Reporting and Statistical Information for Service Delivery | 3% |
| b5 | Audit, Security and Governance Arrangements | 3% |
| b6 | Year End and Printing | 4% |
| b7 | Transition and Exit Arrangements | 4% |
| b8 | Open Book Arrangements and Change Control | 2.5% |
| b9 | Social Value | 2.5% |
| b10 | Identification and management of risks (including business continuity planning and disaster recovery) | 3% |

Evaluation process

- 3.8 The initial tender evaluation was carried out by a pre-determined panel with representatives from Corporate Finance, Brent Digital Services and Brent Customer Services and expert advice being provided by Employment, Skills and Enterprise, IT Security and Governance and Pensions.
- 3.9 All initial tenders had to be submitted no later than 5.00 p.m. on 20 August 2018 and all tenders were opened on that day. Following a review of the two tenders received, it was determined that both were non-compliant with requirements set out within the Instructions to Tender.
- 3.10 Clarification of tenderers proposals was also sought with a view to facilitating a comparative evaluation of initial tenders, as far as reasonably practicable. Clarification responses received in conjunction with the initial tender submission were then evaluated by the Tender

Evaluation Panel that concluded that the bids remained non-compliant. The panel also considered and determined in accordance with the Instructions to Tenderers and as part of the evaluation that there was a requirement for a performance bond for the tendered service.

- 3.11 As both initial tenders were non-compliant, the Council elected to negotiate with Tenderers concerning the qualified matters of their tender and where appropriate, certain other aspects of their submissions. Following the conclusion of negotiations, an invitation to submit final tenders was issued to both tenderers on 9 October 2018 requiring submission of final tenders by 12.00 pm on 16 October 2018.
- 3.12 On that date, compliant final tenders were received from the 2 Tenderers and these were provided to members of the Tender Evaluation Panel. The Panel then met to evaluate the extent to which the award criteria was addressed in relation to submitted method statements revised pursuant to negotiations. Evaluation scores previously determined by the Tender Evaluation Panel for initial tenders which were unchanged for the final tender submissions, were retained.
- 3.13 The Tender Evaluation Panel evaluated final tenders in compliance with the evaluation methodology issued with the Invitation to Submit Final Tenders. This specified that prices submitted for payment annually in advance would be applied for that purpose.
- 3.14 The scores obtained by Tenderers A and B for their final tenders are included in Appendix 2 with the names of the tenderers contained in Appendix 1.
- 3.15 Following evaluation of final tenders, officers recommend the award of the Business Rates and associated IT Support Service contract to Capita Business Services Ltd.
- 3.16 The contract will commence on 1 May 2019 subject to the Council's observation of the requirements of the mandatory standstill period noted in paragraph 5.2 below.

4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders require that contracts for supplies and services exceeding £2M shall be referred to the Cabinet for approval of the award of the contract.
- 4.2 The estimated value of this contract is over this threshold as it potentially amounts to £3M if the contract runs for the full term permitted by any extension period.
- 4.3 It is anticipated that the cost of this contract will be funded from within the existing contract budget held by Brent Customer Services, subject to the details outlined in this section of the report.

- 4.4 The recommended Contractor shall deliver the service remotely using their offices situated at Bromley.
- 4.5 Each of the tenderers was asked to submit pricing schedules for payment profiles as follows:
- Quarterly in advance
 - Annually in advance

Following a review of the pricing submitted, it was determined that quarterly in advance offered the Council the most appropriate balance between value for money and risk having regard to the prices submitted.

- 4.6 The current annual cost of the Business Rates service from information relating to the Revenues and IT Support Service contract is approximately £360,000 after applying forecast indexation for the current contract year. The average annual cost under the new contract arrangement is £390,000. This would therefore represent an increase of £30,000 per annum which will be met from within the Brent Customer Services budget. There will also be one final contract payment to be made during 2019/20 relating to the existing contract with Capita which expires on 30 April 2019 which is anticipated to be approximately £191,195 based upon forecast indexation. This cost will also be met within the existing budget.
- 4.7 The cost of the new contract arrangements indicated in paragraph 4.6 above excludes annual indexation for the Business Rates service which shall be applied to the contract price annually.
- 4.8 The Contractor shall be responsible for annual collection of circa £140M Business Rates. Consequently, any changes to performance could have a significant effect on the Council's overall financial status. Provision has been made within the contract for collection performance targets with financial incentives and deductions in place to address any variations that may occur.

5.0 Legal Implications

- 5.1 The value of this contract over its lifetime is higher than the EU threshold for Services and the award of the contract therefore is governed in full by the Public Contracts Regulations 2015 ("the EU Regulations"). The award of the contract is also subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.2 As indicated in the Cabinet Report dated 13 November 2017 requesting authority to tender this contract, the Council must observe the EU Regulations relating to the requirement of a mandatory standstill period **before** the contract can be awarded. Therefore, once Cabinet has determined which tenderer should be awarded the contract, all tenderers

will be issued with written notification of the contract award decision. The intention is to do this by electronic means and as a result 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.

- 5.3 Following award of the contract, the Council will be required to publish a contract award notice in the Official Journal of the European Community within 30 days of the contract award.
- 5.4 There are no direct implications arising from the observance of the standstill period. However, any unscheduled events could have an impact on the Council's proposed implementation timetable and may ultimately affect the Council's ability to award the contract and commence service delivery from the proposed contract commencement date of 1May 2019.
- 5.5 Officers are of the opinion that the Transfer of Undertaking (Protection of Employment) Regulations 2006 as amended ("TUPE") shall apply to the letting of this contract. As the recommendation is to award the contract to Capita Business Services Ltd, there shall be no TUPE implications for its existing staff.
- 5.6 Pensions issues in relation to Capita staff are addressed in Section 9 of this report.
- 5.7 The Council's powers to enter into this contract derive from section 70 of the Deregulation and Contracting Out Act 1994. In accordance with regulations made under that Act, the Council is able to delegate the performance of its Business Rates Billing, Collection and Enforcement functions to a third party. Under the 1994 Act, much of the statutory function can generally be delivered by a third party. With most Council contracts, the Council retains responsibility for performing the statutory function whilst the contractor simply performs a service to further the delivery of the statutory function. As a result of the 1994 Act applying, the Council can therefore delegate the function of assessing Business Rates, as well as the service of collecting it.

6.0 Equality Implications

- 6.1 The recommendations within this report have been subject to screening (please see Appendix 3 to this report) and officers are of the opinion that there are no current equality implications arising from these.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 As this report affects all wards, consultation with specific ward members has not been conducted. As service delivery will remain unchanged for Business Ratepayers, consultation with Brent stakeholders has not been conducted.

8.0 Staffing / Accommodation Implications

- 8.1 Much of the current Business Rates service including associated IT Support and printing, is included within the contract currently provided by the Council's existing contractor (i.e. Capita Business Services Limited).
- 8.2 Under existing contractual arrangements with Capita, the Business Rates service is provided predominantly from the Capita offices in Bromley with the I.T. elements of the service being predominantly provided from Capita's data centre in West Malling, Kent.
- 8.3 If the recommendations within this report are approved, staff delivering the Business Rates service shall be located at Bromley and associated I.T. support arrangements shall be operated predominantly from West Malling, Kent.

9.0 Pensions Implications

- 9.1 The requirements of the Best Value Authorities Staff Transfers (Pensions) Direction 2007 have been incorporated within the contractual provisions. These specifically require the Council to ensure that the contract provides protection for the pension rights of former Brent Council staff. However at the time of Final Tender submission, there were no former Brent Council employees engaged by Capita for the Business Rates service that would be entitled to pension protection under the Best Value Authorities Staff Transfers (Pensions) Direction 2007.
- 9.2 For staff that were not formerly employed by Brent Council, pension provision is secured through the Pensions Act 2004 together with any existing contractual rights they may have to a pension.

10.0 Public Services (Social Value) Act 2012

- 10.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how 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. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.
- 10.2 As Indicated at paragraph 3.7, the Council has adopted a 5% weighting for social value, with 2.5% attributable to the price element of social value and 2.5% attributable to the quality element of social value. Various social value proposals have been put forward by the preferred bidder, including an annual contribution to Brent based community funds to

support local causes, student work placements, volunteer led workshops for the local community and the creation of locally advertised apprenticeships to be based in their Bromley offices.

11.0 Background Papers

11.1 None.

Report sign off:

ALTHEA LODERICK
Strategic Director of Resources