

	<p style="text-align: center;"><b>Executive</b> <b>12 March 2012</b></p> <p style="text-align: center;"><b>Report from the Director of Legal and Procurement</b></p>
<p style="text-align: right;">Wards Affected: [ALL]</p>	
<p style="text-align: center;"><b>Appointments to a framework for electronic legal resources</b></p>	

Appendices 2 and 3 are not for publication

## **1.0 Summary**

- 1.1 This report concerns purchase of on-line legal resources for use by Legal Services. It follows a report to the Executive in September 2011 which gave approval for the procurement of a framework for use by an association of London Boroughs known as the London Boroughs Legal Alliance (LBLEA), with Brent leading that procurement. The report now updates on the bidding process and seeks approval for delegation to the Director of Legal and Procurement to make appointments to the framework.

## **2.0 Recommendations**

- 2.1 The Executive to note the progress of the bidding process for a multi-provider framework for on-line legal resources as set out in section 4 of the report.
- 2.2 The Executive to delegate authority to the Director of Legal and Procurement to make appointments to the framework once the evaluation is completed.

## **3.0 Background**

- 3.1 The provision of on-line legal resources encompasses a range of reference material and sources that are used by local authority lawyers in preparing legal advice. Access to up to date case law, precedents and information of a legal nature is a necessity for lawyers and is acknowledged as a large expenditure item in both law firms and in house legal departments. These resources include but are not limited to:

- UK and EU case law;
- Authoritative commentary from leading legal authors on key areas of law such as housing, social services and planning;
- Full text of primary and secondary legislation;
- Guidance on practical application of the law (known as a know-how service);
- Leading journals with articles on emerging legal issues or complex legal problems;
- Standard forms and precedents (eg court forms or industry standard leases);
- Updating services that notify users of changes to legislation or significant developments in case law.

- 3.2 Discussions between the Heads of Legal Services in the London Boroughs Legal Alliance (LBLA) revealed the fact that each borough spent a large amount of money on the procurement of hard copy law books and/or on line legal knowledge management systems from a handful of specialist companies. A few hard copy books are still required, for lawyers to use in court or tribunals, however the main trend is to online resources. These services are currently provided to Brent and other London Boroughs by a mixture of publishers - LexisNexis, Thomson Reuters and other smaller organisations such as the Practical Law Company. It is a small and specialised market.
- 3.3 Accordingly the Director of Legal and Procurement reported to the Executive meeting in September 2011 about a proposal for Brent to lead a collaborative procurement for the other LBLA boroughs. The proposal was for the procurement to lead to the establishment of a framework with one or more suppliers on it, which the LBLA boroughs and other local authorities could call off.
- 3.4 In the case of Brent, being able to call off this framework is a step towards its preparation for the move to the Civic Centre, when there will be no space for the hard copy resources currently used by the lawyers.
- 3.5 The London Borough of Brent is leading on the collaborative procurement project in conjunction with Kennedy Cater Ltd, the company providing support to the LBLA. It was considered that the most straightforward and cost effective means of procuring a framework for the London Boroughs Legal Alliance was for a combined procurement exercise where one borough's Standing Orders are used. Therefore the September 2011 Executive report approved the use of Brent's Standing Orders and Financial Regulations, but also approved the adoption of a negotiated rather than a tendered process on the basis of the exclusive rights that the different publishers held in their products.
- 3.6 Because the LBLA members wanted a framework that covered a range of different products, a lot of work was put into scoping the

requirements and deciding how to evaluate. It was noted that the range of products fall into three categories:

1. On-line Legal library, consisting of case law, legislation that is updated as the legislation itself is amended, and publications such as academic journals and some precedents
2. Legal textbooks in electronic form (in exceptional cases to include some hard copies)
3. Know-how service combining practice notes, drafting tips and links to precedents and case law.

- 3.7 As set out in the previous Executive report, a negotiated process was adopted. However even with a negotiated process it is necessary to award on the basis of the most economically advantageous bids using award criteria that have been communicated in advance to the bidders. It was recognised that the evaluation had to look at the different combinations of products that would meet the needs of the LBLA across the three products outlined in the previous paragraph as opposed to evaluating each product in isolation. Appendix 1 has an abridged version of the evaluation criteria and methodology that was communicated to the bidders.

#### **4.0 Procurement Process**

- 4.1 Pre-qualification questionnaires (PQQs) were sent to the 5 suppliers operating in the market for at least one of the products listed at paragraph 3.6 above. The five suppliers are identified in Appendix 2 (not for publication). The purpose of the PQQs was to ensure that the suppliers met minimum standards of financial standing and technical capacity. The PQQs were marked out of 36 with a pass mark of 22. Bidders A, B and C exceeded the pass mark and were invited to the next stage.
- 4.2 These three suppliers were sent a bidders' pack with a Statement of Requirements and quality questionnaire. The quality questions were grouped into categories corresponding to the quality evaluation criteria set out in appendix 1. In addition, each supplier was sent a personalised pricing schedule for it to insert prices for its own products. Bidders were told that pricing evaluation was based on all 10 current members of the LBLA calling off the framework for all products listed in paragraph 3.6 above.
- 4.3 After the closing date for bids, the evaluation panel conducted two rounds of negotiation workshops with the 3 suppliers in order to explore aspects of the bids, particularly around pricing, licence terms for the on-line products and technical service levels. The evaluation panel consisted of two non-legal officers from Brent's Legal and Procurement Department (a procurement officer and the business manager), three lawyers (from Brent, Islington and Kensington & Chelsea) plus an adviser from Kennedy Cater as referred to above.

- 4.4 The negotiation workshops resulted in improvement in price and guarantees on service availability from the original bid submissions. However at the time of preparing this report further information is still awaited from two of the bidders around service levels and licence terms. A large number of LBLA members have existing subscriptions that expire at the end of March 2012, such that there would be great difficulties if the decision were deferred until the April 2012 Executive. It is therefore proposed that the final decision to make appointments to the framework is delegated to the Director of Legal and Procurement. However the results of the pricing evaluation are attached as in Appendix 3, representing 40% of the marks. Based on the pricing results alone, two of the three bidders will be appointed to the framework, however this may change once the quality evaluation is completed.

## **5. Establishing the Framework**

- 5.1 The framework will set out the standard terms upon which individual boroughs can 'call off' a contract for their own use, at the price tendered by the company. The framework will be for 3 years with provision for a one-year extension, with call-off contracts having to be co-terminous with the framework. Once a company is appointed to a framework, the participating authorities would expect to 'call off' a subscription to the suppliers on the framework to achieve the benefits of agreed rates and service standards. The boroughs would not however be obliged to use the suppliers in all circumstances and could depart from the use of the framework if, for example, the company on the framework did not have a publication or other resource required for a specific legal speciality outside of the 'core basket' eg child protection.
- 5.2 The framework approach will enable individual Boroughs in the LBLA to buy-in to the service as and when existing contracts terminate, with the option of also allowing other London Boroughs and authorities in the south-east to join at a future date to secure greater savings through increased numbers of users.
- 5.3 The negotiation process has also been used to explore the availability of discounts on any residual hardcopy text materials that are still required by individual Boroughs eg textbooks required to be taken to court.

## **6.0 Financial Implications**

- 6.1 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 as High Value contracts.
- 6.2 The estimated value of this service framework is around £1m for 4 years, for the 10 current members of the LBLA.

- 6.3 It is anticipated that the cost of this contract will be funded from existing resources across individual London Borough Legal Alliance members. Brent's current expenditure is £41,945 per annum (including hardcopy text requirements), against which it is anticipated this framework will deliver savings.

## **7.0 Staffing Implications**

There are no implications for Council staff arising from establishing this framework agreement.

## **8.0 Legal Implications**

- 8.1 Under Contract Standing Orders, the award of appointments to a framework agreement exceeding £500,000 in value require that the Executive approve the appointments.
- 8.2 Here it is proposed that the decision is delegated to the Director of Legal and Procurement and it is within the powers of the Executive to do this. The reason for the request for the delegation is as set out in paragraph 4.4.

## **9.0 Diversity Implications**

The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

## **10.0 Background Papers**

Procurement File (save for legally privileged papers and submissions from individual bidders)

### **Contact Officer(s)**

Jo Swinton-Bland  
Business Support Manager  
Legal and Procurement Dept  
020 8937 1369

Deborah Down  
Joint Head of Contracts (Legal) team  
Legal and Procurement Dept  
020 8937 1543

**Fiona Ledden**  
**Director of Legal and Procurement**

## **Appendix 1 - Evaluation Criteria and Methodology**

### **PRICE – 40%**

The prices submitted will be combined with prices submitted by other suppliers to create a total cost for a package that meets the total requirement as set out in the Statement of Needs. Different combinations of suppliers will be evaluated to ascertain the lowest unit cost per fee earner price for all Authorities combined, per package.

### **NON-PRICE EVALUATION**

#### **A: QUALITY – 25-%**

- i. Quality of implementation strategy and initial training (5%)
- ii. Quality of on-going customer support and on-going training (5%)
- iii. Quality of Content / editorial services (15%)

#### **B: TECHNICAL – 10%**

- i. Solid technical infrastructure with capacity to deliver a consistent service (2%)
- ii. Long term product roadmap (4%)
- iii. Delivery of upgrades and updates to technical infrastructure (2%)
- iv. Support for technical faults (2%)

#### **C: CONTRACTUAL 15%**

- i. Software Licence terms (5%)
- ii. General terms and conditions (5%)
- iii. Service Levels (5%)

#### **D: PRICING APPROACH 10%**

- i. Transparency of pricing (4%)
- ii. Availability of additional discounts for volume purchasing (6%)

Evaluation will consist of two distinct stages.

### **STAGE 1**

Stage 1 will involve two parallel processes.

### **INDIVIDUAL SUPPLIER EVALUATION - QUALITY**

Firstly there will be Individual Supplier Evaluation. We will evaluate the responses to the Questionnaire by individual suppliers against each sub-criterion. Each question will be scored from 0 - 4, and then the question scores will be added up and translated into a score against the maximum

available for that sub-criterion as shown above. For each supplier the responses to each of the sections: Quality, Technical, Commercial and Pricing will added up to calculate a score representing 60% of the total available score.

### **OVERALL SCORE**

For a total score the Individual Supplier Evaluation scores will be added to the Package Evaluation score proportionately to the number of products supplied within the package. The 2 or 3 lowest scoring packages will be identified and explored further with the relevant suppliers in stage 2.

For example: in package A: supplier 1 provides 30%, supplier 2 provides 70%. Therefore 30% of supplier 1 individual score and 70% of supplier 2 individual score will be added to the package score making an overall score.

### **STAGE 2**

Stage 2 will consist of negotiations with individual suppliers to explore all areas of each supplier's bid which could lead to the scoring in stage 1 to be revisited.