



**Executive**  
16 July 2012

**Report from the Director of  
Environment and Neighbourhood  
Services**

Wards Affected:  
[ALL]

**Authority to Tender a Collaborative Cross Borough  
Procurement of Parking Services**

## 1.0 Summary

- 1.1 This report sets out current plans for re-tendering of Brent's contracts for parking enforcement and notice processing via Cross Borough procurement. The report provides an update on the collaborative working to date and seeks approval for the procurement arrangements.
- 1.2 This report requests approval to invite tenders for the joint contract, as required by Standing Orders 88 and 89.
- 1.3 The Participating Boroughs have given their agreement that this requirement should be tendered by Brent as Lead Borough for this collaborative Procurement.

## 2.0 Recommendations

- 2.1 That the Executive note the feasibility work completed to date by Brent Council with assistance from the WLA participating members and also the high level governance model proposed.
- 2.2 That the Executive note that a joint contract for parking services will be a Collaborative Procurement run by Brent Council.
- 2.3 That the Executive approve an exemption from Contract Standing Order 89 (Pre-tender Consideration) to allow an advert to be placed and a pre-qualification process to be run without the approval of evaluation criteria, subject to approval of such matters at the September 2012 Executive.
- 2.4 That the Executive approves an exemption from Contract Standing Order 105 for the inclusion of a Best and Final Offers stage during the tender process.
- 2.5 That the Executive give approval to the pre-tender considerations for the proposed

Parking Services contract as set out in section 4 of the report.

- 2.6 That the Executive give approval to officers to invite tenders for a Parking Services contract.

### **3.0 Detail**

- 3.1 In December 2011, the Executive approved the extension of the current parking contract with APCOA Parking Services (UK) Limited to July 2013 to cover the Olympic period so as to ensure business continuity. At the same time, officers advised of the possibility of collaboration with other West London Alliance (WLA) members and sought to explore this possibility.
- 3.2 The WLA have coordinated the collaborative working, initially establishing a Working Group consisting of the Parking Managers for Hillingdon, Hounslow and Ealing as well as a Procurement representative from Brent. Other members of the WLA were invited to participate however Barnet have recently tendered, Harrow are continuing with an in house provision and Hammersmith and Fulham and Westminster chose to focus on Tri Borough working.
  - 3.2.1 The Working Group scoped the variety of services that could potentially be included, collated the various inputs of personnel and equipment across the Parking service to provide a snapshot of the current arrangements across the four Boroughs. A Steering Group, consisting of senior management and/or Director from each of the four Boroughs was also then established and chaired by Brent's Director of Environment and Neighbourhoods.
- 3.3 Seven organisations that can provide a range of parking services and are considered to be market leaders in the Parking industry were selected to participate in soft market testing. The organisations were provided with the collated information, together with a range of questions addressing issues such as benefits of partnering, key areas for savings and potential issues relating to joint working. Soft market testing was undertaken by the Steering Group over two days in the first week of May.
- 3.4 The outcome of the soft market testing was initially mixed with some providers suggesting that there would be little in the way of efficiencies whilst others were very interested in the possibility of winning four contracts in one tender process and the savings this could generate. Further clarification was sought and it was estimated that a saving of 3% could be attributed to collaboration with further savings on purchase of equipment such as the Management Information System. Brent's current contract is in the region of £4.5 million so a potential saving of £135k per annum.

In addition, other synergies exist, such as the possibility of sharing a car pound with one or more WLA member which would reduce not only staffing levels but also fees attributed to rent and maintaining the facilities. Sharing the cost of the procurement exercise as well as sharing best practice across the boroughs is also a key benefit.

- 3.5 The method of packaging the contract was also discussed at the soft market testing and it was the general opinion that a single contract rather than a multi lot contract would offer the greatest economies of scale whilst avoiding the potential difficulties of having two suppliers for a single service. Traditionally Brent have let their parking contracts on a two lot basis, lot one covers the main aspects of parking enforcement with the supply of Civil Enforcement Officers (CEO) for on street operations, CCTV and Moving Traffic. Lot one also covers permit administration, running of the Parking

Shops and the Suspensions Office as well as Pay and Display Level One Maintenance and cash collection.

Lot two predominantly covers back office processing of Penalty Charge Notices (PCNs) and the handling of enquiries at the initial stage of the process and the supply of the Management Information System that supports the entire operation. Although originally tendered as separate lots, both contracts are currently let to the same company, APCOA Parking Services.

- 3.6 Brent currently handles appeals to an Adjudicator and formal representations via its in-house Parking Control Team, which also manages the contracted - out services as client. Officers are currently exploring the wider implications of outsourcing the formal representation part of the service; however advice is to be sought of Legal Services and consideration of the Statutory Guidance issued by the Secretary of State prior to making any formal decision on how to continue this service. Officers will provide further details in the subsequent report to members.
- 3.7 The partner boroughs are seeking their own internal approvals to participate in the process, however their continued participation will rest with their ability to keep to the schedule. Brent has offered to lead the procurement for the project because the time line is critical. The current contracts expire on 3 July 2013 and an additional 12 month extension, in addition to the original maximum term has already been sought to cover the Olympic period. Brent will therefore set out a clear timetable for the participating boroughs to adhere to which will include a minimum 3 month implementation period and if the participating Boroughs are unable to maintain this timetable, they may need to review their participation.

#### **Procurement and tender evaluation**

- 3.8 It is the intention to seek approval to tender for the contract in this report. However as there are a number of outstanding issues in relation to TUPE, the specification and the final scope of the contract, it is envisaged that a secondary report addressing these issues will be prepared for the September Executive. As Contract Standing Orders 89 requires the approval of certain pre-tender consideration before the tender process starts, and the evaluation criteria are not yet finalised, an exemption is being sought in relation to this provision of Standing Orders.
- 3.9 Hounslow currently operate both the on street enforcement and back office processes in house, Ealing and Hillingdon operate their back office process in house with an external provider for the on street operations. As a result there are a number of different TUPE scenarios, especially as Brent potentially has no existing council staff liable for transfer if the appeals and representations team remain in house. The TUPE position for each borough will be assessed. A method of tender evaluation will be required to ensure that no one Borough is left in a detrimental position. For this reason a memorandum of understanding or some other form of legally binding document will be prepared for this collaborative procurement.
- 3.10 In addition, the specification and scope of services has yet to be finalised and this may involve the adaptation of enhanced services reliant on technical advances, therefore committing to evaluation criteria at this stage could potentially cause issues later on in the process. The September Executive report will therefore contain details of any technological adaptations and final specification highlights as well as confirmation of the final scope of the contract with recommendations for the evaluation criteria.

- 3.11 Parking services are defined as Part B services under the Public Contract Regulations 2006 however the provision of ICT software, which accounts for only a small percentage of the total estimated cost, is Part A. Where the value of the part B element outweighs the value attributable to the Part A element, then the contract may be treated as a Part B service under the regulations on the basis of aggregation.
- 3.11.1 It is therefore intended to tender as a Part B service to allow for a degree of flexibility in how we manage the procurement process. There will be a two-stage approach with Pre Qualification followed by Invitation to Tender (ITT) for selected providers but with an additional Best And Final Offers (BAFO) stage. It is anticipated that the BAFO stage will seek the top scoring providers overall to review their initial proposals and re-engineer elements in order to drive through the most economical offer to the collaboration. This also requires an exemption from Contract Standing Orders as a departure from standard tendering requirements.
- 3.12 Based on feedback from the market testing, the minimum duration of a contract of this size, to allow for set up costs, pay back of Capital Investment and to be deemed sufficiently attractive to the market would be 5 years. In order to allow for a similar level of reinvestment to be made after the initial five year term, a further five year option is desirable and will ensure up to date equipment and adoption of latest technologies. The five years plus five year option has broad agreement between the participating boroughs; however final confirmation of the contract term will be contained in the September report.

### **Governance**

- 3.13 The Executive report for Cross-Borough Procurement of Cultural Services in January 2012 set out proposals for a Lead Borough Model (weak) in Partnership model. In this model one borough will take the lead and chair all officer meetings.
- 3.14 For the purpose of the procurement, it is proposed to implement a similar model for this procurement and Brent have offered to lead the process with assistance from WLA; Brent will also provide Legal advice. Subject to agreement by all three Councils, each Council will be a party and signatory to the joint contract.
- 3.15 The approach in section 3.13 above has been drafted to allow for each borough's administration to have sovereignty over its strategic decisions for its parking service. Service performance and development would continue to be regularly monitored and discussed with the Lead Members and decisions to be taken to the Executive as required.

## **4.0 Pre Tender Considerations**

- 4.1 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Executive.

| <b>Ref.</b> | <b>Requirement</b>         | <b>Response</b>   |
|-------------|----------------------------|---|
| (i)         | The nature of the service. | Parking Enforcement Contract tendered on a single Lot basis with potential bidders invited to submit a BAFO following a negotiation stage. To include IT provision and car pound. |

| Ref.   | Requirement                         | Response  |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
|--|-------------------------------------|---|-----------------------|--|----------------|-------------------|----------------------------------|--------------------|--|-------------------|---|--------------|------------------|------------------|---------------------------------|----------------------|-------------------------------------|-------------------|------------------|-----------------------|-------------------|-------------------|--|--------------------|--------------------|---------------|--|--|
| (ii)   | The estimated value.                | Estimated value for Brent of £4.5 million pounds per annum would equate to a maximum value of £45 million over the proposed full 10 year term of the contract. The annual value of the contract if all four Boroughs participated would be £15 million or £150 million over ten years.  |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| (iii)  | The contract term.                  | The initial contract term will be for five years with a subsequent extension or extensions for up to five years in total.   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| (iv)   | The tender procedure to be adopted. | A two stage restricted tender process in accordance with the Council's Standing Orders with the exception of an additional BAFO stage.  |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| v)   | The procurement timetable.          | <table border="1"> <thead> <tr> <th>Indicative dates are:</th> <th></th> </tr> </thead> <tbody> <tr> <td>Adverts placed</td> <td>Early August 2012</td> </tr> <tr> <td>Expressions of interest returned</td> <td>Mid September 2012</td> </tr> <tr> <td>Executive approval for evaluation criteria</td> <td>19 September 2012</td> </tr> <tr> <td>Shortlist drawn up in accordance with the Council's approved criteria</td> <td>October 2012</td> </tr> <tr> <td>Invite to tender</td> <td>Mid October 2012</td> </tr> <tr> <td>Deadline for tender submissions</td> <td>End of November 2012</td> </tr> <tr> <td>Panel evaluation/shortlist for BAFO</td> <td>Mid December 2012</td> </tr> <tr> <td>Negotiation/BAFO</td> <td>Start of January 2013</td> </tr> <tr> <td>Contract decision</td> <td>Mid February 2012</td> </tr> <tr> <td>Report recommending Contract award circulated internally for comment</td> <td>Late February 2013</td> </tr> <tr> <td>Executive approval</td> <td>11 March 2013</td> </tr> <tr> <td>Mandatory minimum 10 calendar day standstill period – notification issued to all tenderers and</td> <td></td> </tr> </tbody> </table> | Indicative dates are: |  | Adverts placed | Early August 2012 | Expressions of interest returned | Mid September 2012 | Executive approval for evaluation criteria | 19 September 2012 | Shortlist drawn up in accordance with the Council's approved criteria | October 2012 | Invite to tender | Mid October 2012 | Deadline for tender submissions | End of November 2012 | Panel evaluation/shortlist for BAFO | Mid December 2012 | Negotiation/BAFO | Start of January 2013 | Contract decision | Mid February 2012 | Report recommending Contract award circulated internally for comment | Late February 2013 | Executive approval | 11 March 2013 | Mandatory minimum 10 calendar day standstill period – notification issued to all tenderers and |  |
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| Adverts placed   | Early August 2012                   |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Expressions of interest returned   | Mid September 2012                  |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Executive approval for evaluation criteria   | 19 September 2012                   |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Shortlist drawn up in accordance with the Council's approved criteria                          | October 2012                        |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Invite to tender   | Mid October 2012                    |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Deadline for tender submissions  | End of November 2012                |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Panel evaluation/shortlist for BAFO  | Mid December 2012                   |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Negotiation/BAFO   | Start of January 2013               |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Contract decision  | Mid February 2012                   |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Report recommending Contract award circulated internally for comment                           | Late February 2013                  |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Executive approval   | 11 March 2013                       |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |
| Mandatory minimum 10 calendar day standstill period – notification issued to all tenderers and |                                     |   |                       |  |                |                   |                                  |                    |  |                   |   |              |                  |                  |                                 |                      |                                     |                   |                  |                       |                   |                   |  |                    |                    |               |  |  |

| Ref.   | Requirement  | Response   |                    |
|--------|--|--|--------------------|
|        |  | <p>additional debriefing of unsuccessful tenderers (contracts covered by the full EU Regulations only]</p> <p>Contract start date</p>  | <p>4 July 2013</p> |
| (vi)   | <p>The evaluation criteria and process.</p>                      | <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, health, safety and environmental standards, technical capacity and technical expertise. Although concessions may be need to be made on the application of the usual financial ratios and assessments as the high value of the contract means that even the biggest providers in the market cannot meet the equivalent turnover requirements, see Financial Implications below.</p> <p>The panel will evaluate the tenders to establish the Most Economic Advantageous Offer but will confirm the agreed evaluation criteria in September.</p> <p>Officers shall seek the approval of the Executive once the collaborative service specification has been finalised.</p> |                    |
| (vii)  | <p>Any business risks associated with entering the contract.</p> | <p>There are numerous risks associated with this procurement process, not least the challenges that collaboration raises and the inclusion of a negotiated stage to the tender process; however with assistance from the WLA and utilising the experience already gained from cross borough working it is not anticipated this will be an issue.</p> <p>Technological advancements in the industry mean that the specification must allow for variations of requirements with the adoption of technology. These risks will be reduced by employing a carefully managed and full procurement process, as set out in this Report and close consultation with Brent's Legal Team.</p>   |                    |
| (viii) | <p>The Council's Best Value duties.</p>                          | <p>The Council has a duty under Best Value to secure cost-effective and efficient services that meet the needs of the Borough's customers.</p>   |                    |
| (ix)   | <p>Any staffing implications, including TUPE and pensions.</p>   | <p>There is approximately 120 staff currently deployed by the incumbent Brent provider who may be entitled to TUPE. See section 9 of this report.</p> <p>In addition, there are a further 9 current Brent staff who may be subject to TUPE should the decision be made to include the representations team.</p>  |                    |
| (x)    | <p>The relevant</p>  | <p>See sections 5, 6, and 7 of this report.</p>  |                    |

| Ref. | Requirement                                | Response |
|------|--|----------|
|      | financial, legal and other considerations. |          |

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

## 5.0 Financial Implications

5.1 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 89.

5.2 The estimated value of this services contract is £45 million, this figure is based upon the current annual cost of £4.5 million in direct payments to the contractor, however it is envisaged that the new contracts, with the adaptation of technology, will increase efficiency and drive down the total cost of the service to give the council better value.

5.3 It is anticipated that the cost of this contract will be funded from existing resources.

## 6.0 Staffing Implications

6.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract at this stage.

## 7.0 Legal Implications

7.1 The proposed Parking Services contract is a High Value services contract (exceeding £500,000 over the life of the contract) and as such, in accordance with the Council's Contract Standing Orders, the Executive shall be required to review and agree the pre tender considerations in accordance with Contract Standing Order 89 once finalised, so as to enable Officers to invite expressions of interest, shortlist and subsequently invite tenders for the services contracts. Here an exemption is being sought in relation to one of the pre-tender consideration on the basis that evaluation criteria cannot yet be finalised, but will be presented to the Executive in September.

7.2 The services to be provided under the proposed combined IT notice processing and parking enforcement contracts are Part A and Part B services, respectively. Part A services are subject to the full application of the Public Contract Regulations 2006 (as amended) ("the EU Regulations"), whereas Part B services are subject to partial application of the Regulations namely; service requirements must be sufficiently advertised, non-discriminatory provisions shall be included in the technical specification and publication of an award notice. However, Officers are recommending that both elements of the service, which have historically within Brent been advertised as 2 separate Lots, should now be amalgamated and tendered as a single contract. Where a service specified in both Parts A and B are to be provided under a single contract, then the contract shall be treated as a Part B services contract if the value of the consideration attributable to the services specified in Part B is equal to or greater than that attributable to those specified in Part A. For the tender of the parking services contract, Officers have confirmed that the value of the

on street enforcement service (Part B) has a greater value than the IT Notice Processing (Part A), therefore as the service is to be provided under a single contract, it may be advertised as a Part B service contract, for the purposes of the EU Regulations. Although, Officers have confirmed a voluntary advert will be placed in the OJEU, in addition to the requirements of Standing Orders for a Part B contract.

- 7.3 In accordance with EU Regulations selection and award criteria must be notified to all bidders when invited to submit an interest and/or tender. Any sub-criteria and weightings the council proposes for the tender must be contained in the invitation to tender documentation so as to allow tenderers to be in full receipt of the information the council will use to evaluate their submissions. Accordingly, Officers are proposing, with agreement from the participating WLA members, to include an additional stage to the usual Two-Stage Tender Procedure contained in Contract Standing Orders by inviting selected top scoring bidders to negotiation with a view to submitting 'Best and Final Offers' to provide the Parking Services. Ordinarily, a Best and Final Offers stage, under the EU Regulations are reserved for procurements using the Competitive Dialogue procedure that are subject to the full application of the EU Regulations.
- 7.4 Once the final specification and scope of services have been agreed amongst the participating WLA members Officers shall seek the approval of the Executive in relation to the pre-tender considerations, namely the evaluation criteria and process.
- 7.5 Further, in relation to the proposed collaborative procurement governance model, it is currently anticipated that Brent and all participating WLA members will execute a single joint contract with the successful contractor. However, Officers are exploring other governance and procurement methodology models suitable for this collaboration and intend to update Members on the chosen route and governance arrangements in the September Executive report.
- 7.6 In addition, where a decision is made to outsource the in-house Representations team, due regard must be followed in relation to the application or otherwise of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). Where TUPE applies, the affected in-house staff must be consulted on prior to tender, on any proposed changes in the service in accordance with the TUPE regulations.

## **8.0 Diversity Implications**

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

## **9.0 Staffing/Accommodation Implications**

- 9.1 The parking services under these two contracts are currently provided to the Council by APCOA Parking Services (UK) Limited. If an alternative provider is chosen, this may require staff to transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations, 2006 from the current contractor to a successful contractor.
- 9.2 Brent lease the premises currently used by the enforcement contractor. No charge is made to the contractor for the use of those premises. The lease on those premises, including the car pound, expires in Spring 2013, and it is unlikely that the lease will be renewed. As a result, any potential enforcement contractor will be required to

provide premises from which to operate, together with car pound facilities although it is anticipated that these facilities will be shared with the other Boroughs.

- 9.3 A subsequent report to the Executive seeking authority to award the contracts will advise further on potential staffing and accommodation implications in the future.

## **10.0 Background Papers**

- 11.1 Cross-Borough Procurement of Cultural Services Executive report January 2012.  
Parking Contracts Extension executive report December 2011

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

David Furse  
Senior Category Manager  
Tel 020 8937 1170  
Email: david.furse@brent.gov.uk

**Sue Harper**  
**Director of Environment and Neighbourhood Services**

