

LONDON BOROUGH OF BRENT

MEETING OF THE EXECUTIVE COMMITTEE 22 September 2003

REPORT FROM THE DIRECTOR OF HOUSING SERVICES

FP NO: ISSUE 18

FOR ACTION

NAME OF WARD(S)
ALL

REPORT TITLE: **HOUSING MANAGEMENT SERVICES FOR THE PRIVATE SECTOR
LEASING SCHEMES**

Above

Below

Confidential Line

(except Appendix 2)

1. Summary

- 1.1 The Housing Management Services for the Private Sector Leasing (PSL) Schemes are currently being provided by Brent Housing Partnership Ltd (BHP Ltd) under an interim agreement for a 12 month period. This report requests approval to invite tenders in respect of this service contract as required by Contract Standing Orders 88 and 89.
- 1.2 This report also provides a further update on the various issues raised at the meeting of the Executive held on 31st March 2003, in respect of the Housing Management Services for the PSL Schemes.

2. Recommendations

- 2.1 The Executive to give approval to the pre-tender considerations and evaluation criteria as set out in 6.11 of the report.
- 2.2 The Executive to instruct officers to invite tenders and evaluate in accordance with approved evaluation criteria referred to in 2.1 above.
- 2.3 The Executive to note that this report includes an update on the outstanding matters that were highlighted in the report presented to the Executive, at the meeting held on 31st March 2003, in respect of the Housing Management Services For The Private Sector Leasing Schemes (paragraph 7.0).

3. Financial Implications

- 3.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1 million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 89.
- 3.2 The contract value will depend on the number of properties that are procured under the PSL schemes by the Council. Officers forecast 300 properties are to be procured during the contract period. The estimated value of this service contract is over £500k over the life of the contract.

- 3.3 The cost of this contract will be funded from the General Fund through existing budgets. There is a direct relationship between temporary accommodation supplied through this contract and the level of Housing Benefit subsidy losses the Council generates by using hotel accommodation or leased accommodation to rehouse homeless families.
- 3.4 If the tenders received are above the current budgetary provision, a further report will be submitted to Members seeking authority to proceed.

4. Staffing Implications

- 4.1 This service is currently being provided by BHP Ltd and there are no implications for Council staff arising from the tendering of this contract.

5. Legal Implications

- 5.1 The estimated value over the three year life of the contract is over £500k, so under the Council's Standing Orders and Financial Regulations, a competitive tendering process must be entered into. This service is not subject to the full application of the European Public Procurement regulations.
- 5.2 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 contracts and recommending award of the contract.
- 5.3 The requirement to provide accommodation to persons in housing need arises under Part VII of the Housing Act 1996. The Council is bound by statute to provide temporary accommodation to certain applicants who are assessed as homeless under the Housing Act 1996. A duty to provide accommodation for a minimum period of 2 years ended through the introduction of the Homelessness Act 2002. The Council is now required to provide suitable accommodation until a homeless household can obtain a settled housing solution.
- 5.4 Section 27 of the Housing Act 1985("s27") permits delegation by the Council of management responsibility for its housing stock to a third party with the consent of the Secretary of State. Consent was received from the Office of the Deputy Prime Minister at the end of June of 2003, in respect of the current housing management service being provided by BHP Ltd, for a period of 12 months in the first instance. The Secretary of State has requested further details on how the PSL schemes will be managed at the end of BHP Ltd's current agreement. A separate consent is required where a different service provider is awarded the contract to provide the Housing Management Service for the PSL schemes.
- 5.5 A tenancy granted pursuant to the Council's Housing Act 1996 Part VII duties is not a secure tenancy by virtue of schedule 1 para 4 of Housing Act 1985 unless the Council so elects, by way of allocation under Housing Act 1996 Part VI.
- 5.6 Leases taken by the Council are credit arrangements under s48 of the Local Government and Housing Act 1989, and the Council is required to provide credit cover for the rent payable over the term of the lease (called the initial cost). Regulation 30 of the Local Authorities (Capital Finance) Regulations 1997 states that the initial cost is nil where the term of the lease does not exceed 10 years and the local authority has decided that the Council is to use the dwellings for accommodation in exercising their duty under Part VII of the Housing Act 1996.

5.7 Under both schemes Stamp Duty must be paid on both the lease to the Council calculated on the rent passing and also £5 on the counterpart lease. Currently, the duty rates are 1% of the average rent for leases up to 7 years and leases between 7 and 35 years 2%. Any tenancy agreement between the Council and its tenant will also attract Stamp Duty. The Council will be liable to pay Stamp Duty on leases that are entered into and the tenants will be liable to meet costs of Stamp Duty on tenancies granted.

6. Detail

6.1 This report seeks approval from the Executive for the tendering of the housing management services contract, in respect of the PSL schemes, and for the procurement process to be undertaken.

6.2 The Council introduced the PSL Schemes to help achieve the Government's target to have no homeless family in Bed and Breakfast accommodation by March 2004, unless in an emergency, and then for a period of no longer than 6 weeks.

6.3 The PSL Schemes require the Council to lease properties from private landlords or housing associations to be used as temporary accommodation for homeless families. Properties are leased for a minimum period of 3 years and a maximum period of 10 years. The private landlord or housing association remains responsible for all disrepair and maintenance obligations towards the property for the duration of the lease term.

6.4 All leased properties acquired under the PSL Schemes are let by the Council to homeless households using a non secure tenancy agreement. The Council has a responsibility to provide these tenants with housing management and tenancy services.

6.5 Reports presented to the Executive on 18 November 2002 and 31 March 2003 give further details of the Council's PSL schemes; the Direct PSL Scheme and the Housing Association PSL Scheme. At the meeting held on 31 March 2003, the Executive granted an exemption under standing orders allowing the Council to contract with BHP Ltd to provide a housing management service for the PSL Schemes for a 12 month period without tendering the contract. The housing management service involves a delegation of housing management functions and the Director of Housing was given authority to apply for an amendment to the consent received from the Secretary of State under Section 27 of the Housing Act 1985 (which was given on 11 September 2002 in respect of the transfer of housing management functions to BHP Ltd) to enable BHP to perform housing management functions in respect of the PSL Schemes for a period of 12 months.

6.6 The Secretary of State gave approval to the Council to extend the range of housing management functions which are delegated to BHP Ltd to include the provision of services for the PSL Schemes on 24 June 2003. As the provision of services by BHP Ltd for the PSL schemes are only for 12 months, in the first instance, the Secretary of State will need to be notified where another provider is selected to provide this service. The award of this contract will need to be subject to consent from the Secretary of State for the service provider to carry out the functions.

6.7 BHP Ltd has been providing housing management services in respect of the PSL Schemes since 1 August 2003. There are currently over 30 units in management under the PSL scheme. Officers forecast that a further 120 properties will be

leased from private sector landlords or housing associations over the next 12 months. Further information related to the BHP service is provided in Appendix 2.

- 6.8 The current service provided by BHP Ltd will end on 31 July 2004. This report seeks authority to proceed with the procurement of a housing management service provider for the PSL schemes. The contract of the housing management service for the PSL Scheme will be for a three year period and will commence on the expiry of the current interim service being provided by BHP Ltd. The contract will have the possibility of two 1 year extensions to be granted, subject to review of performance (up to a total maximum contract term of 5 years).
- 6.9 A service specification has been adopted for the housing management service being provided by BHP Ltd for the PSL schemes. The service specification, contract terms and conditions will be revised following further consultation with agencies which provide a similar service and where possible, tenants occupying similar temporary accommodation. It is anticipated that this exercise will be completed by the end of September 2003.
- 6.10 The final tender pack will comprise of the following:
- Service Specification
 - Contract Terms & Conditions
 - Contract Award Criteria
 - Contract Monitoring Requirements
 - Council's procedures covering property acquisitions, nominations and tenancy lettings procedures, income and rent arrears recovery procedures, and the Council's Complaints Procedure.
- 6.11 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.	Housing Management Services for the PSL schemes.
(ii)	The estimated value.	In excess of £500k over the term of the contract
(iii)	The contract term.	3 years with the possibility of two 1 year extensions to be granted, subject to a review of performance (up to a total maximum contract term of 5 years).
(iv)	The tender procedure to be adopted.	A two stage tendering process

(v)	The procurement timetable.	<p>Indicative dates are:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Executive Decision <input type="checkbox"/> Adverts placed <input type="checkbox"/> Expressions of interest returned <input type="checkbox"/> Shortlist drawn up in accordance with the Council's approved criteria <input type="checkbox"/> Invite to tender <input type="checkbox"/> Deadline for tender submissions <input type="checkbox"/> Panel evaluation and shortlist for interview <input type="checkbox"/> Interviews and contract decision <input type="checkbox"/> Report recommending Contract award circulated internally for comment <input type="checkbox"/> Executive approval <input type="checkbox"/> Contract start date 	<p>22 Sept 2003 13 Oct 2003 12 Dec 2003 09 Jan 2004 16 Jan 2004 12 Mar 2004 27 Mar 2004 w/c 26 April 2004 Jun 2004 July 2004 1 Aug 2004</p>
(vi)	The evaluation criteria and process.	<p>Shortlists are to be drawn up in accordance with the Council's Contract Management Guidelines, namely the select list questionnaire and thereby meeting the Council's financial standing requirements, technical capacity and technical expertise. The panel will evaluate the tenders against the following criteria:</p> <ul style="list-style-type: none"> • Demonstrated ability to provide the housing management service efficiently and effectively • Demonstration of value for money in delivery of high quality services • Demonstrated ability to identify and respond to changing priorities with due regard to the diversity and varying needs of the community • Demonstrated commitment to the operation of a quality assurance policy in all aspects of service delivery • A demonstrated ability to collect, maintain, analyse and provide statistical and other information. 	

(vii)	Any business risks associated with entering the contract.	The following business risks are considered to be associated with entering into the proposed contract. <ul style="list-style-type: none"> • Changes to the Housing Benefit subsidy regulations applied for temporary accommodation • Impact of poor performance around Housing Benefit administration will affect the viability of the scheme • The risks have been identified in the report presented to the Executive on 31st March 03, in respect of the Housing Management of PSL Schemes.
(viii)	The Council's Best Value duties.	The supply of temporary accommodation was included within the Best Value review undertaken by the Housing Resource Centre. The tendering process will incorporate recommendations arising from this review, which affect the provision of housing management services for temporary housing.
(ix)	Any staffing implications, including TUPE and pensions.	None
(x)	The relevant financial, legal and other considerations.	See sections 3 and 5 above

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

7.0 Additional Matters

7.1 This report also provides an update to Members on the outstanding matters which were highlighted to the Executive at the meeting held on 31 March 2003, in respect of the Housing Management Services for the Private Leasing Schemes. These issues are addressed as follows:

a) Consultation with Service Users on the PSL Schemes

Consultation with service users in respect of the PSL Schemes had not been undertaken initially, due to the short timescales that were permitted in constructing and implementing the schemes. It is difficult to identify the actual end users of the PSL schemes as every homeless household is considered for any of the different types of temporary accommodation that are currently available. As part of the tendering exercise, officers will consult on the PSL schemes with existing tenants and homeless households who attend our Private Sector Housing Forums.

b) Introduction of an over-arching agreement for Housing Association PSL Scheme

In respect of the Housing Association PSL Scheme, consideration is to be given on introducing an over-arching agreement explaining the expectations and obligations of the Council and Housing Association in respect of each individual lease. At present, the Council has not leased any properties with Housing Associations under the Housing Associations PSL Scheme. Although the Housing Associations have registered their interest in leasing their properties under the PSL scheme, further negotiations are still being undertaken to establish a commercially viable option for both parties. The Housing Association PSL Scheme is currently being discussed with the Genesis Housing Group and Notting Hill Housing Trust.

c) Confirmation on whether VAT attracted to lease rent payments will be fully recoverable.

Residential housing rents are exempt from VAT. Therefore the lease rent payments made by the Council to private sector landlords will be VAT exempt.

Under the Housing Association PSL Scheme, lease rent charges may include VAT that may not be recoverable by the Council. This is because Housing Associations could include VAT charged on their costs of providing management services, which are Vat-able, as part of the lease rents invoiced to the Council. If VAT on the provision of management services is not shown separately on the invoice, but included in the rents, VAT recovery will not be possible.

Officers will consider the impact of VAT payments in their negotiations with Housing Associations when finalising leases for properties procured under the Housing Association PSL Scheme.

d) Impact on Stamp Duty payments derived for increased housing management costs

The Council is liable to pay Stamp Duty on all leases at a rate of 1% of the average rent. The amount of stamp duty paid on leases acquired under the Housing Association PSL scheme would be higher than that of the Direct PSL scheme. The lease rents charged by Housing Associations include their costs of leasing properties from private sector landlords and their costs of meeting their housing management responsibilities under the lease with the Council.

The Council is able to claim housing benefit subsidies for the housing management costs contained within the lease rent charges. Where these costs are charged separately, the Council will not be able to claim Housing Benefit subsidies of the housing management costs. The increase costs of Stamp Duty derived from including the Housing Association housing management costs within their lease rent charge will be significantly lower than if the housing management costs were to be totally met by the Council.

8.0 Background Information

- 8.1 B&B Action Plan Version 2 (April 2002)
2003/2004 B&B Action Plan (January 2003)
Report to Executive 18th November 2002, PSL Schemes
Report to Executive 30th March 2003, Housing Management Service For The PSL Schemes
PSL Scheme Procurement Files
B&B Project Team, B&B Action Plan Performance Files, PSL Scheme Files

Any persons wishing to inspect the above papers should contact:

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Appendix 1
DRAFT Tender Evaluation Grid

	CONTRACTOR				
	1	2	3	4	5
Demonstrated ability to provide the housing manage service efficiently and effectively					
Demonstration of value for money in delivery of high quality services					
Demonstrated ability to identify and respond to changing priorities with due regard to the diversity and varying needs of the community					
Demonstrated commitment to the operation of a quality assurance policy in all aspects of service delivery					
A demonstrated ability to collect, maintain analyse and provide statistical and other information					

SCORING

- 1 = POOR**
- 2 = PARTLY MET**
- 3 = MET**
- 4 = EXCELLENT**