

LONDON BOROUGH OF BRENT

MEETING OF THE EXECUTIVE COMMITTEE
14 JUNE 2004

REPORT FROM THE DIRECTOR OF HOUSING SERVICES

FOR ACTION

NAME OF WARD(S)
ALL

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

Above Below

Forward Plan Ref [HSG -03/04 25]

Confidential Line

Appendix 3 of this report is not for publication

1. Summary

- 1.1 This report requests authority to award a contract for housing management services in relation to the Private Sector Leasing Schemes as required by Contract Standing Order No 89. This report summarises the process undertaken in tendering this contract and, following the completion of evaluation of the tenders, recommends the award of the contract.

2. Recommendations

- 2.1 That Members grant delegated authority to the Director of Housing to apply for an amendment to the Consent received from the Secretary of State under section 27 of the Housing Act 1985, given on 11 September 2002, in respect of the transfer of housing management functions to BHP, to enable BHP to perform housing management functions in respect of the PSL schemes from 1 August 2004.
- 2.2 That Members agree to delegate to Brent Housing Partnership the housing management functions necessary to give effect to the contract, subject to receipt of s.27 consent.
- 2.3 That Members authorise the Director of Housing to decide the exact wording of the delegation to be included in the contract.
- 2.4 That Members award the contract for the Housing Management Services for the Private Sector Leasing Schemes to Brent Housing Partnership Limited subject to the consent of the Secretary of State to the delegation of the relevant housing management functions to BHP.

3. Financial Implications

- 3.1 The Council's Contract Standing Orders state that contracts for services exceeding £500k shall be referred to the Executive for approval of the award of the contract.

- 3.2 The estimated value of this contract is over this threshold per annum. Full details of the estimated value of the contract are set out in Appendix 3.
- 3.3 The Director of Finance approved that representation on the evaluation panel could be provided by a senior officer within the Housing Service's Finance Team.
- 3.4 The cost of this contract will be funded from the Temporary Accommodation Budget and the rent charged to tenants occupying properties acquired under the PSL scheme. The tender prices quoted by the tenderers identified in Appendix 3 are within the budget projection for the next financial year. A breakdown of prices is shown in Appendix 3.
- 3.5 The contract value depends on the number of properties that are procured under the PSL schemes by the Council. Officers forecast that during the contract period the Council will have 200 properties in management at the start of the contract and that procurement will increase at a rate of 15-20 properties per month. In year 3 of the contract the supply of properties is forecasted to reach a peak of 600 units, and at this stage the number of new units being leased will be offset by the number of leases expiring and coming out of management (paragraph 7.6).
- 3.6 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. The PSL scheme expenditure attracts a higher rate of Housing Benefit subsidy than the amount awarded to the use of hotel accommodation. Therefore, the use of PSL schemes assists the Council in controlling expenditure incurred against the Housing Benefit Deficit budgets. For 2004/05, the Council can claim full subsidy on non-HRA leased accommodation up to cap of £354.56 per week. The PSL schemes also enable the Council to comply with the Statutory Order preventing the use of hotel accommodation for homeless families for a period of six weeks or longer (paragraph 7.2).
- 3.7 As of the 1 April 2004, Part 1 of the Local Government Act 2003 replaces the capital finance legislation in Part 4 of the Local Government and Housing Act 1989. Under Section 7 of the new legislation, an authority shall be taken to have entered into a credit arrangement where:-
- it enters into a transaction which gives rise to a liability on its part, and
 - the liability is a qualifying liability.
- 3.8 The requirement that a transaction gives rise to a liability is satisfied if proper accounting practices deem it to be so or if it is specified as such in regulations made by the Secretary of State. The requirement in respect of qualifying liability is satisfied in relation to any liability other than (i) a liability to repay money, (ii) a liability in respect of which the date for performance is less than 12 months after the date on which the transaction giving rise to the liability is entered into, and (iii) a liability of a description specified in the regulations made by the Secretary of State.
- 3.9 The effect of these is that a lease is a credit arrangement if proper accounting practices or regulations deem it to be or if it is excluded as such by regulations issued by the Secretary of state.

- 3.10 The Secretary of State has made the Local Authority (Capital Finance and Accounting) (England) Regulations 2003 (SI 2003 No 3146) and regulation 2 provides that liabilities which are not required to be included in any balance sheet in accordance with any proper practices are excluded from the definition of “qualifying liability”. Proper Practices are defined in regulation 31 and they are essentially the code of practice on local authority accounting and the best value code issued by CIPFA.
- 3.11 The effect of this is that leases required by CIPFA to be on the balance sheet are credit arrangements while leases not required by CIPFA to be on the balance sheet are not.
- 3.12 The proposed leases are not required to be included in any balance sheet required by CIPFA. The properties will have a nil value as leased assets on the Fixed Asset Register and will not be included on any balance sheet. As such the proposed leases under the new legislation will not be a qualifying liabilities and are not liable to the credit arrangement requirements.

4. Staffing Implications

- 4.1 This service is currently being provided by Brent Housing Partnership under an interim agreement. There are no implications for Council staff arising from retendering the contract.

5. Legal Implications

- 5.1 The estimated value of this contract over its lifetime is over £500,000 therefore the procurement and award of the contract is subject to the Council’s own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.2 This Contract is a Part B Service under EU Procurement Regulations and is therefore not subject to the full application of the EU Procurement Regulations.
- 5.3 The requirement to provide suitable accommodation to persons in housing need arises under Part VII of the Housing Act 1996, as amended by the Homelessness Act 2002. The Council is bound by statute to provide temporary accommodation to applicants who are assessed as homeless under the Housing Act 1996. A duty to provide accommodation for a minimum of 2 years was 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 Use of PSL Scheme accommodation in the manner proposed amounts to using the Council’s own stock to discharge its Part VII duties. The former prohibition on using the Council’s own stock to discharge the Council’s Part VII duties for more than 2 years in any 3 has been abolished by the Homelessness Act 2002.
- 5.5 Section 27 of the Housing Act 1985 (“s.27”), as amended, 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 2003, for the housing management functions carried out by BHP in respect of the PSL scheme. The Secretary of State

has requested further details of how the PSL scheme will be managed once the 12 month interim provision provided by BHP expires.

- 5.6 A tenancy granted pursuant to the Council's Housing Act 1996 Part VII duties is not a secure tenancy unless the Council so elects, by way of allocation under Housing Act 1996 Part VI.
- 5.7 As of the 1 April 2004, Part 1 of the Local Government Act 2003 replaces the capital finance legislation in Part 4 of the Local Government and Housing Act 1989. Under the Act a Council must not enter into a credit arrangement unless such arrangement is within its borrowing limit
- 5.8 It is noted that the proposed leases are not required to be entered into any balance sheet required by CIPFA. As such the leases are not credit arrangements and compliance with section 8 of the Act is unnecessary.
- 5.9 Under both schemes Stamp Duty Land Tax must be paid on both the lease to the council calculated on the rent passing. Any tenancy agreement between the Council and its tenant will also attract Stamp Duty. The Council will be liable to pay Stamp Duty Land Tax on leases that are entered into and the tenants will be liable to meet costs of Stamp Duty on tenancies granted. As many leases and tenancies will be under the stamp duty land tax threshold (currently £60,000 over the term of the lease in respect of residential leases), the obligation will apply only in respect of larger properties and on leases longer than 5 years.
- 5.10 The Council must also be satisfied that the Mortgagee (if any) consents to the arrangement. A mortgagee has a wide-ranging power to repossess properties that are let without consent and would acquire vacant possession.

6. Diversity Implications

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

7.0 Detail

- 7.1 This report requests that the Executive award the contract for Housing Management Services for the Private Sector Leasing (PSL) Schemes to Brent Housing Partnership Limited (BHP).
- 7.2 The PSL schemes are a cost effective way of providing temporary accommodation for homeless families as the management and maintenance costs are covered by rent. The PSL scheme was introduced in 2002 to help to achieve the Government's target to ensure that by March 2004 no homeless household with dependant children stays in hotel accommodation (B&B) for a period of six weeks or more. The target is now enforceable under legislation in the form of an Order under the Housing Act 1996. The Order came into effect from 1st April 2004.
- 7.3 Under the PSL Scheme the Council leases properties from private sector landlords or Housing Associations to provide temporary accommodation for homeless households. Properties are leased for periods between 3 and 10 years. The private sector landlord or Housing Association is responsible for all disrepair and maintenance obligations towards the property for the duration of the lease term.

The Council has responsibility for the housing and tenancy management of homeless households that occupy the leased properties. The Council will grant the homeless family a non-secure tenancy to occupy these properties. The reports presented to the Executive on 18 March 2002 and 31 March 2003 give further information on the Council's PSL schemes.

7.4 The Housing Management Services for the Private Sector Leasing (PSL) schemes are currently being provided by BHP under an interim agreement for a 12 month period. The Council has received consent under section 27 of the Housing Act 1985 from the Secretary of State to enable BHP to perform housing functions in respect of the PSL scheme for a period of 12 months. Given this, the Secretary of State will need to provide a further consent which permits the new service provider to carry out functions under this contract when the 12 month interim agreement with BHP expires. This report requests that the Executive gives approval for the Director of Housing to apply for an amendment to the Consent received from the Secretary of State under section 27 of the Housing Act 1985, given on 11 September 2002 in respect of the transfer of housing management functions to BHP, to enable BHP to perform housing management functions in respect of the PSL schemes from 1 August 2004.

7.5 Those housing management functions that require delegation to allow BHP to perform the contract will be included in the contract and are likely to include the following, (although the exact nature of the delegations will be finalised by the Director of Housing, on receipt of the Secretary of State's approval):

- a. accompanied viewings with potential tenants
- b. tenancy sign-up
- c. monitoring of repairs and maintenance undertaken by the private sector landlord, including voids turn-around
- d. rent collection, accounting and arrears management, including assistance with Housing Benefit applications
- e. initiating possession and/or rent recovery action

7.6 There are currently 140 properties under the PSL scheme in management. The number of units in management is forecasted to increase at an average rate of 20 units per month over the next 12 months. By 1 August 2004, officers forecast that there will be 200 units in management under the PSL scheme. The following table shows a profile of the number of units in management for the duration of the contract.

PSL Supply Profile

Financial Year	2003/2004	2004/2005	2005/2006	2006/2007	2007/2008
No. units in Mgt at end of year	340	580	600	600	600

7.7 The tender process

The Executive gave approval to the pre-tender considerations and the evaluation criteria and for officers to invite and evaluate tenders on 22 September 2003.

- 7.7.1 The new contract will be let for 3 years with the possibility of two 1 year extensions to be granted, subject to a review of performance. The maximum contract term is for 5 years.
- 7.7.2 Advertisements were placed in Housing Today and Wembley Observer on 6 November 2003 to seek initial expressions of interest, which elicited ten initial enquires. Shortlisting questionnaires and an information pack containing the outline specifications and the tender approach were sent out and four contractors (as listed in Appendix 3) returned the questionnaires.
- 7.7.3 Shortlisting was carried out on the basis of the contractors' financial viability, technical ability and experience in providing housing management services and on 29 January 2004, all four contractors were invited to tender.
- 7.7.4 The tendering instructions stated that the contract will 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 following:
- Demonstrated ability to provide the housing management services 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 respect of all aspects of service delivery
 - Demonstrated ability to collect, maintains, analyse and provide statistical and other information.
- 7.7.5 The tenderers were required to submit additional information providing details of their proposed arrangements for performing the services including (but not limited to) the following:
- Details of the delivery of all of the housing management detailed in the service specification, in particular the management of tenancies, rent accounting and arrears management and property management and the specific staffing levels to deliver these services
 - The services and systems provided to identify, recognise and support changing priorities or the diversity of tenants.
 - The processes and systems used to monitor and review performance in delivering housing management services and to ensure continuous improvement towards quality management and service delivery.
 - Details of the computerised systems being used for rent accounting, tenancy management and property management.
- 7.7.6 All tenderers were required to submit details of their policies and procedures in respect to health and safety and risk assessments.
- 7.7.7 All tenders had to be submitted no later than 12 March 2004. Tenders were opened on 15 March 2004 and valid tenders were received from two tenderers (as listed in Appendix 3). The other two companies which were invited to tender chose not to

submit tenders and they have both since advised that this was because they were not able to submit an offer under the terms proposed by the Council. In particular, these tenderers advised that they were unable to comply with the performance requirements and standard outlined in the contract specification.

7.8 Evaluation process

7.8.1 The tender evaluation was carried out by a panel of three officers from the Housing Resource Centre, one officer from the Housing Finance Team and one officer from the Affordable Housing Development Team.

7.8.2 It was agreed by the evaluation panel that a bid which did not achieve an overall quality threshold of 10 (5 X 2) should be eliminated. Where the threshold was met, the tenderer was to be invited to attend an interview to give a presentation on a contract delivery issue which was specified by the panel.

7.8.3 The two tenders were photocopied and given to each member of the evaluation panel. Each member of the panel read the tenders using evaluation sheets (see Appendix 1) to note down their comments on how well each of the award criteria was addressed.

7.8.4 The panel met on 19 March 2004 and 31 March 2004. At the meeting on 31 March 2004 each submission was marked by the whole panel against the award criteria.

BHP passed the overall quality threshold of 10 and it was agreed by the panel that BHP would be invited to attend an interview and give a presentation.

However, the other tenderer ('Tenderer B' – as particularised in Appendix 3) did not pass the overall quality threshold for the following reasons:

- (a) The tenderer did not give specific details on their experience or ability to managing temporary accommodation.
- (b) The staffing levels allocated to the delivery of the service were considered by panel as being insufficient to provide the service efficiently and effectively in order to meet required performance standards.
- (c) The tenderer was provided from a housing office located outside of Brent.
- (d) The tenderer did not provide sufficient information on their experience and ability to collect, maintain, analyse statistical information in respect to performance standard required.
- (e) The panel considered that the contract fee was considerably lower than management costs being incurred by RSLs and other providers who manage temporary accommodation in Brent. The panel considered that the fee was unrealistic and would not be enable tenderer to deliver a service in line with the performance and quality standards required by the Council.

Full details of the evaluation scores for both tenderers are contained in Appendix 2.

7.8.5 The panel meet with BHP on 6th May 2004 to evaluate their presentation. As Tenderer B did not meet the quality threshold it was not invited to attend an interview.

7.8.6 Tenderers were asked to price their bids as follows:

- a) the weekly management fee for managing up to 200 properties (this is known as the Standard Management Service Fee).
- b) the weekly management fee for managing over 200 properties (this is known as the Variable Management Service Fee, and only applies in respect of those units in management over the 200 unit threshold)

The fees proposed by both tenderers (as set out in Appendix 3) were lower than the fees that are being paid to BHP under the current interim arrangement. Although the prices tendered by Tenderer B are significantly lower than the prices tendered by BHP the panel felt that for the reasons set out in 7.7.3. Tenderer B was not capable of providing the service to the Council

7.8.7 This report therefore recommends the award of the contract for the Housing Management Services for the Private Sector Leasing Schemes to Brent Housing Partnership Limited subject to the consent of the Secretary of State to the delegation of the relevant housing management functions to BHP.

7.8.8 If the recommendations are agreed and the relevant consent obtained the contract will commence 1 August 2004.

7.8.9 Where the relevant section 27 consent is not received, officers will present a further report to the Members recommending options on how the housing management service can continue to be provided. However, officers consider that it is unlikely that the consent will not be provided. In receiving the consent for the interim service, the Secretary of State considered the effect the service had on BHP's ability to manage the Council's permanent housing stock and to bring the properties up to the Decent Homes standard. As this service only marginally adds to BHP's workload, and is in line with the purposes for which BHP was established, officers consider that it is very unlikely that the Secretary of State will not provide consent for BHP to continue to providing this service from 1 August 2004.

7.8.10 If Members decide not to award the contract the authority will incur difficulties operating the PSL scheme, which will fundamentally undermine its ability to meet its statutory responsibilities to accommodate the homeless. The tendering exercise has shown that a suitable alternative provider is unlikely to be found. The Council will either have to bring the service in house or apply for an extension of the current section 27 consent received for 12 months for BHP to continue to provide the service.

8.0 Background Information

8.1 Housing Management Services Contract for PSL Schemes Procurement File

8.2 Report To Executive, 22 September 2003, Housing Management Services for the PSL schemes

8.3 Report To Executive, 31 March 2003, Housing Management Services for the PSL schemes

8.4 Report To Executive, 18 November 2002, Private Sector Leases

Any person wishing to inspect the above papers should contact

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Appendix 1

EVALUATION CRITERIA GRID

Criteria	Score
1. A demonstrated ability to manage leased accommodation efficiently and effectively.	0 – 4
2. Demonstration of value for money in the delivery of high quality services.	0 – 4
3. A demonstrated ability to identify and respond to changing priorities with due regard to the diversity and varying needs of the community.	0 – 4
4. A demonstrated commitment to the operation of a quality assurance policy in all aspects of service delivery.	0 – 4
5. A demonstrated ability to collect, maintain, analyse and provide statistical and other information.	0 – 4
Total Score	Total / 20 (max score)

Scoring

- 0 Not Met**
- 1 Partially Met**
- 2 Met**
- 3 Fully Met**
- 4 Excellent**

Appendix 2

EVALUATION SCORES

Criteria	BHP	TENDERER B
1. A demonstrated ability to manage leased accommodation efficiently and effectively.	4	1
2. Demonstration of value for money in the delivery of high quality services.	3	1
3. A demonstrated ability to identify and respond to changing priorities with due regard to the diversity and varying needs of the community.	4	2
4. A demonstrated commitment to the operation of a quality assurance policy in all aspects of service delivery.	4	1
5. A demonstrated ability to collect, maintain, analyse and provide statistical and other information.	3	0
SCORE	18 / 20	5 / 20

