



Executive
9th October 2006

**Report from the Director of
Children and Families**

For Action

Wards Affected:
ALL

**Award of Domiciliary Care Services for Disabled Children
and Young People**

Forward Plan Ref: C&F06/07-013

Appendices 2 and 3 of this Report are Not for Publication

Appendices 2 and 3 are not for publication as they contain the following category of exempt information as specified in Schedule 12A to the Local Government Act 1972, namely:

“Information relating to the financial or business affairs of any particular person (including the authority holding that information)”.

1.0 Summary

- 1.1 This report requests authority to award the contract for the provision of domiciliary care services for disabled children and young people as required by Contracts Standing Order 88. This contract is for a period of 3 years, commencing on 4 December 2006, with an option to extend the contract for a further two-year period. This report summarises the process undertaken in tendering this contract and following the completion of evaluation of the tenders, recommends to whom the contract should be awarded.

2.0 Recommendations

- 2.1 That Members award the contract for domiciliary care services for disabled children and young people to Servicescale Limited (trading as Personnel and Care Bank) for a period of 3 years commencing on 4 December 2006 with an option to extend the contract for a further two-year period.

3.0 Detail

- 3.1 Under Section 17 of the Children Act 1989, the Council has a duty to assess the needs of disabled children as 'children in need' and to provide a range of services which promote the upbringing of such children within their family, minimise the effect on disabled children of their disabilities and give disabled children the opportunity to lead lives which are as normal as possible.
- 'Care at home' is one of a range of services which can therefore be provided to disabled children and their families under these duties.
- 3.2 Schedule 2 paragraph 8, Children Act 1989, enables the Council to make 'home help' services available to families of children in need. The Chronically Sick & Disabled Persons Act 1970 also requires the local authority to provide 'practical assistance' within the home where it is satisfied that it is necessary to do to meet the needs of a disabled person.
- 3.3 The Council also has a duty to assess the ability of carers to continue to provide care to family members. Under Section 6 of Carers and Disabled Children Act 2000 and Carers (Recognition and Services) Act 1995, if a person with parental responsibility for a disabled child provides a substantial amount of care on a regular basis for the child and asks a local authority to carry out an assessment of their ability to provide care for the child, the local authority must carry out such an assessment under the respective Acts.
- 3.4 Currently the majority of the care at home services are being provided by one agency, Personnel and Care Bank, under a contract tendered in 2004 for a period of 15 months and which was due to expire on 31 March 2006. Children and Families had considered the future provision of care at home services for some time. In order to determine the most suitable option for the delivery of the care at home services, it was necessary to put in place interim arrangements between the Council and the current contractor to cover the period between 1 April 2006 to the anticipated start date of the new contract (4 December 2006) by extending the original terms and conditions of contract.

The Tender Process

- 3.5 The Executive approved the invitation of tenders for the provision of domiciliary care services at the meeting of the Executive of 13 February 2006.
- 3.6 The new contract will be let for an initial term of three years with an option to extend for a further two-year period.
- 3.7 The process used by the Council for the procurement of this contract was a two stage tender process (the restricted procedure) pursuant to the EU Procurement Regulations 2006 and in accordance with Council's Contract Standing Orders and Contract Procurement and Management Guidelines. The two stage tender process allowed the Council to eliminate unsuitable contractors at the pre-qualifying stage.

3.8 The tender process was assisted and supported by officers from Housing and Community Care, Finance & Corporate Resources, the Procurement and Risk Management Team and Legal Services.

Stage One - Shortlisting of Interested Contractors

3.9 Advertisements were placed in the trade press, national and local newspaper in February 2006 to invite expressions of interest. The Council's standard pre-qualification questionnaire ("PQQ") together with a Summary of Information about the Council and the Borough and the advertisement was also posted on the Council's external website.

3.10 Contractors responding to the advertisement were requested to complete and return the PQQ (both in hard copy and on CD ROM) together with relevant supporting evidence. A total of 35 PQQs were subsequently received from various organisations including the current contractor.

3.11 All PQQs were checked to ensure that they had been completed fully and that all the relevant supporting information had been submitted. A number of contractors failed to complete the PQQ fully or supply all relevant supporting information and were therefore rejected from the tender process.

3.12 PQQs and supporting information were then copied and sent to a qualified accountant within Finance and Corporate Resources in order to carry out a financial assessment and to a Health & Safety Officer within Housing & Community Care to carry out a health and safety assessment. PQQs and supporting information were also sent to a panel of officers in order to assess the technical capacity of the contractors - the PQQ panel was made up of officers from Housing and Community Care and Children and Families Departments. As a result of this shortlisting process it was determined that a total of three contractors should be invited to tender.

Stage Two - Invitation to Submit and Evaluation of Tenders

3.13 The three shortlisted contractors were invited to tender on 13 April 2006. 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 following criteria (as approved in outline by the Executive on 13 February 2006):

- Registration with the Commission for Social Care Inspection and satisfactorily meeting the National Minimum Standards;
- Staff recruitment, induction, training, supervision and equalities issues;
- Application of Health & Safety;
- Administration practices and record keeping;
- Adherence to procedures;
- Service user satisfaction;
- Quality systems in operation;
- Business continuity arrangements;
- Complaints handling;
- Best value considerations;

- Implementation plan;
- Care programming processes;
- Human Resources including the ability to facilitate continuity of care, availability and extent of staff skills, particularly for specialist care;
- Diversity of staff;
- Proposals for innovation in service delivery; and
- Cultural sensitivity and equalities in service delivery.

The weightings of the criteria are indicated in the Tender Evaluation Grid attached as Appendix 1 to this report.

- 3.14 All tenders had to be submitted no later than Friday 16th June 2006. Three tenders were received which were opened on 16 June 2006.

Tender Evaluation Process

- 3.15 The three tenders were subsequently photocopied and sent to an evaluation panel. The evaluation panel consisted of two officers from the Children and Families Department and one officer from Housing and Community Care. Each panel member read the tenders and identified a number of areas for further clarification. All three organisations were then invited to meet with the evaluation panel in order to discuss the contents of their proposals and to obtain clarification on certain points of their proposals.
- 3.16 Two of the panel members also visited the operational facilities of the three tenderers. The purpose of these visits was to ensure that the tenderers were complying with the National Minimum Care Standards for Domiciliary Care, to undertake a file audit, to check various documents pertaining to services being provided to disabled children and young people as well as to verify statements made in their tenders. References were also requested.
- 3.17 Tenderers were also required to submit a pricing schedule, with their tenders, for the different levels of service to be provided and for the various times of the day, Monday to Sunday when the service may be required to be provided. The range of domiciliary care services to be provided ranges from personal care, developing life skills, accessing local social/community events (level 1), providing continuing care, that is catheter care, tracheotomy tube care, (level 2) to palliative care for service users with a poor prognosis (level 3).
- 3.18 Following the site visits, interviews and receipt of references, the panel met again to finalise its overall evaluation of the tenders, marking tenders against the evaluation criteria agreed by the Executive on 13 February 2006 (as listed above at paragraph 3.13).

Tender Evaluation Conclusions

- 3.19 A copy of the Tender Evaluation Grid used by the evaluation panel is provided at Appendix 1 and shows the final scores awarded by the panel to each contractor submitting a tender. The marking process was adjudicated by an officer from the Procurement and Risk Management Unit. The pricing schedules submitted by each tenderer are attached as Appendix 2 and the names of the tenderers are contained in Appendix 3. As the tenderers' names

have been withheld from publication, for the purposes of this report, the tenderers are referred to as Tenderers 1, 2 and 3.

- 3.20 Tenderer 1 was the highest scoring tenderer. The hourly rates offered by Tenderer 1 were also in line with the current market rate and the lowest of all three tenderers. Tenderer 1 therefore offered the most economically advantageous tender and officers therefore recommend it be awarded this new contract. Tenderer 1 is the Council's current provider of domiciliary care services for disabled children and young people and of the three tenderers it had the most experience of working with children (outside of the current contract with the Council) and with other local authorities. They also had a clearer understanding of the service to be provided and were able to produce various documents relevant to the provision of domiciliary care services to children and their families.
- 3.21 Tenderer 2 was the second lowest scoring tenderer and offered the highest hourly rate of the 3 Tenderers. Tenderer 2 did not have adequate experience in providing domiciliary care for disabled children and their families, that is, experience to the scale of the number of hours of domiciliary care services required to be provided under the new contract. Tenderer 2 has quality systems in place, however, officers had concerns on how these systems were adhered to by the organisation. Tenderer 2's policy of continuity of care was poor - they believed in regularly changing carers to avoid complacency on the carers' part as well as the service user and their family. Continuity of care is a key element of this contract.
- 3.22 Tenderer 3 was the lowest scoring Tenderer whose hourly rate was the second highest of the three tenderers. Tenderer 3 did not have relevant experience in providing domiciliary care for disabled children and young people and therefore could not produce documents pertaining to the service during the site visit. Contractor 3 does not have the staff with relevant skills to work with disabled children and young people and therefore is relying heavily on the application of the Transfer of Undertakings and (Protection of Employment) Regulations 2006 - that is, the transfer of current contractor's agency staff to Tenderer 3 on the award of the contract pursuant to those regulations.
- 3.23 The Executive is asked to award the contract for the provision of domiciliary care services for disabled children and young people to Tenderer 1, being the Council's current provider of these services. As noted above, this contract will commence on 4 December 2006.

4. Financial Implications

- 4.1 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 of the award of the contract.
- 4.2 The budget for 2006/7 is £360,000 and the estimated value of the domiciliary care services contract over the life of the contract (including the option to extend the term for a further two years) is above the contracts for services threshold - the estimated value of the contract is £1,805,000.

4.3 The preferred tender's affordability has been assessed on the basis of the cost incurred by the Council for the current provision of this service; the service to be provided under the new contract will be the same as that provided presently. The Council will achieve savings under the new contract in the first 16 months of the contract as the new contract specifies that the Pricing Schedule will be reviewed in September 2007 and the new rates will take effect as of April 2008. The Council will also achieve savings as the hourly rate for domiciliary care services tendered by the current contractor (being Tenderer 1) for the new contract is the same as that charged by the current contractor under the existing contract. Therefore the service will be provided within budget.

5.0 Legal Implications

- 5.1 As noted in the 13 February 2006 report to the Executive, the Council can enter into the proposed contract pursuant to its powers under the Chronically Sick and Disabled Person Act 1970, the Children Act 1989 and section 2 of the Local Government Act 2000, all in conjunction with section 111 of the Local Government Act 1972.
- 5.2 The estimated value of the contract over its lifetime exceeds the EU threshold for Services contracts and the nature of these services means that they fall within Part B of the Public Contracts Regulations 2006 ("the EU Regulations"). The procurement of Part B Services contracts is not subject to the full tendering requirements of the EU Regulations although is still subject to overriding EU principles of equality of treatment, fairness and transparency in undertaking the tender process including contract award.
- 5.3 The estimated value of the contract over its lifetime is in excess of £500,000. The procurement and award of the contract are consequently subject to the Council's Contracts Standing Orders in respect of High Value contracts and Financial Regulations. As a result the Executive approval is required for the award of this contract.
- 5.4 For the restricted procedure, the EU Regulations stipulate that the minimum number of tenders selected to be invited to tender following the PQQ shortlisting stage must not be less than five. However, the number invited to tender may be less if there are an insufficient number of suitable tenderers subject to there being a sufficient number to ensure genuine competition. For this procurement only three tenderers were invited to tender, as it was determined that the other interested organisations were not suitable for selection - three tenderers amounts to a sufficient number to ensure genuine competition in accordance with the regulations.

6.0 Diversity Implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications. However, it should be noted that diversity and equality perspectives were incorporated into both the assessment and evaluation process, with the evaluation panel having regard to diversity and equalities when reviewing the tenders and discussing the tenders with the tenderers during their presentations.

- 6.2 The new contract will require the contractor to deliver services which are:
- culturally sensitive by providing cultural awareness training for all care workers, matching specific language requirements where possible and recruiting a local workforce which reflects the communities of Brent;
 - able to offer parents/carers a male or female support worker if specifically requested; and
 - able to care for disabled children and young people through all staff receiving specialist training in specific areas such as management of challenging behaviour and assisting with intensive personal care for children with higher technology dependency and health care needs.
- 6.3 The Contractor will be monitored to ensure that they are complying with their requirements through checking of records and service reviews, monthly monitoring meetings, receipt of feedback from parents/carers as well as Service Users (where they are able to give feedback) and the provision of daily log sheets, etc.

7.0 Staffing Implications

- 7.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from the award of the contract.
- 7.2 The staff currently involved in delivering the service have never been local government employees whilst delivering the services and there are no direct pension implications in relation to this group of employees.
- 7.3 As officers are recommending the award of contract to the current provider of domiciliary care services, the application of the Transfer of Undertaking (Protection of Employment) Regulations 2006 will not be an issue.

Background Papers

Domiciliary Care Tender File

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