

	<p style="text-align: center;"><b>Executive</b> 18<sup>th</sup> June 2007</p> <p style="text-align: center;"><b>Report from the Director of Housing and Community Care</b></p>
<p style="text-align: right;">Wards Affected: None</p>	
<p><b>Sub Regional Temporary to Permanent Housing Schemes</b></p>	

Forward Plan Ref: H&CC-07/08-2

## 1.0 Summary

- 1.1 This report describes developments in the prospective Sub Regional Temporary to Permanent (TTP) Housing Scheme since the Executive last considered the matter on 16<sup>th</sup> April 2007. The report requests approval of evaluation criteria and approval to invite tenders for the collaborative procurement of accommodation units for the Sub Regional TTP Housing scheme and the provision of management and maintenance services for the units as required by Contract Standing Orders 88 and 89.

## 2.0 Recommendations

- 2.1 The Executive to note the tendering process being adopted by the Royal Borough of Kensington & Chelsea (RBKC) to procure the supply of units of accommodation for the Sub Regional TTP Housing scheme and management and maintenance services for those units as part of a collaborative procurement with other West London Authorities.
- 2.2 The Executive to give approval to the pre - tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 3.4.1 of the report.

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2.3 The Executive to give approval for the Royal Borough of Kensington & Chelsea to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in paragraph 2.2 above.

### **3.0 Detail**

#### **3.1 Background**

3.1.1 The Supply and Demand and Temporary Accommodation report presented to the Executive on 16<sup>th</sup> April 2007 provided Members with an update on the progress in developing temporary to permanent housing schemes. The report introduced the work undertaken by West London authorities to develop a Sub Regional Temporary to Permanent (TTP) Housing Scheme. The Executive were informed that a bid had been submitted under the Government's Settled Homes Initiative (SHI) to pilot these housing schemes and the Sub Regional scheme bid accounted for £16m of the £30m funding available. Since then, the outcome of the bid has been announced and the Sub Regional TTP Housing Scheme has been allocated £6m and has received a recommendation that a further £4million be provided from the Housing Corporation to deliver 286 SHI units of the 1,400 units in total to be procured by the West London authorities (see paragraphs 3.2.9 and 4.5).

3.1.2 At the meeting the Executive gave approval to invite expressions of interest for the provision of management and maintenance services and the provision of units for the Sub Regional TTP Housing Scheme as required by Contract Standing Orders 88 and 89. The Executive also approved the provision of management and maintenance services and the provision of units for the Sub Regional TTP Housing Scheme to be procured as part of a collaborative procurement with other West London Authorities. It was further agreed that the Royal Borough of Kensington & Chelsea (RBKC) will lead on this procurement and that their Standing Orders and Financial Regulations will apply to the procurement process.

3.1.3 At the time the Executive considered the report the West London authorities had not determined the best means of procuring the units of accommodation and related management and maintenance of that accommodation or considered the tender evaluation criteria to be recommended for approval. As a result this further report is being submitted to the Executive to advise what supply of accommodation and services arrangements would be procured including appropriate pre-tender considerations and seeking authority to invite tenders.

#### **3.2 Sub-regional Temporary To Permanent Housing Scheme**

3.2.1 Following a major evaluation of temporary to permanent housing options funded by the London Centre for Procurement Excellence (LCPE), the West London boroughs of Brent, Ealing, Hammersmith & Fulham, Harrow, Hillingdon, Hounslow and Kensington & Chelsea are jointly

entering into a major programme of activity. The aim is to develop a substantial volume of temporary to permanent housing that also enables the boroughs to discharge their homelessness duty. Details of the findings of the LCPE report can be found on the following website <http://www.lcpe.gov.uk/Housing/default.asp>.

- 3.2.2 The seven West London boroughs are seeking to appoint one or more providers to develop a temporary to permanent housing scheme for homeless households in West London. This scheme will comprise the acquisition of 1,400 units to provide temporary accommodation to statutory homeless households. The properties will be leased to the local authorities for use as temporary accommodation and will convert to affordable rented accommodation, with the providers as landlords, at the end of the lease period. At this point, the authorities can discharge their homelessness duties to provide temporary accommodation to those homeless households once their temporary accommodation has converted to affordable rented accommodation.
- 3.2.3 The Government has established a target for local authorities to reduce their use of temporary accommodation by 50% by April 2010. The West London boroughs have developed strategies to reduce the use of temporary accommodation to achieve this target. The development of temporary to permanent housing forms an element of these strategies, although it is recognised that this programme can only reduce the use of temporary accommodation in the long-term. There could be some impact on the 2010 target if rents for some of the properties are charged at sub market rents or where additional capital funding is provided so as to reduce rents at an earlier stage e.g. through the Government's SHI programme (as described at paragraph 3.1.1), thereby allowing the local authorities to discharge their homelessness duties under section 193 of the Housing Act 1996, as the properties would not be considered as temporary accommodation for the purposes of meeting the 2010 target.
- 3.2.4 Approximately 14,000 homeless families currently occupy temporary accommodation in West London. By and large this accommodation is regarded as providing good standard medium term housing albeit at high rent levels. Families are able to access the same schools and health care provision over an extended period of time. Opportunities to move on to permanent affordable stock for these families are very limited. Data from the Department for Communities and Local Government shows how lettings to homeless families have dropped in recent years. For larger families it is virtually non-existent due to the lack of larger units.
- 3.2.5 Some £450M per annum is being spent on the provision of temporary accommodation in London as a whole. The largest part of that payment is going to private sector landlords through Private Sector Leasing arrangements. The Department of Communities and Local Government is keen to encourage the development of temporary to permanent housing schemes which demonstrate that overall expenditure on short

term temporary accommodation can be reduced or used efficiently in order to secure additional social housing assets over the longer term. Schemes which have received support include the London Borough of Brent's Private Finance Initiative, the London Borough of Newham's Local Spaces scheme and the London Borough of Ealing's Save Haven scheme.

3.2.6 Temporary to permanent housing involves a provider acquiring properties on the open market using private finance and leasing them to a local authority for temporary accommodation. The householders are then Council tenants occupying the properties under a non-secure temporary licence or tenancy. The costs of the scheme are met through the Government's housing benefit system and at the point when most of the loan has been repaid, the properties are converted to permanent affordable rented social housing and the lease ceases, with the family being granted an assured tenancy direct from the provider.

3.2.7 The Sub Regional TTP Housing Scheme involves a multi borough approach to procuring temporary to permanent housing. There are a number of advantages to this approach including:

- Potential reductions in the charge for management services because of volume acquisitions and longer term nature of the scheme;
- Cheaper borrowing rates;
- Buying on a multi borough basis will allow high-cost boroughs to spread their portfolio across lower priced areas in the sub region; and
- Savings in management and maintenance costs.

3.2.8 The West London TTP Housing scheme will involve one or more providers being appointed to acquire a portfolio of housing across the sub region. As a result the scheme will benefit from considerable economies of scale. The appointed provider/s will be expected to manage and maintain the properties. Where a provider only wishes to acquire the properties, then it will need to 'buddy up' with an organisation that will carry out the management and maintenance functions.

3.2.9 As noted previously the Department for Communities and Local Government has established a separate SHI programme to encourage local authorities to develop temporary to permanent housing schemes, with the aim of helping the boroughs meet the target referred to in paragraph 3.2.3. The West London authorities have successfully bid for £6m funding, and have also received a recommendation from the Greater London Authority evaluation panel for the Housing Corporation to support an addition £4m to deliver a total programme of 286 SHI units. The SHI funded units will be integrated into the overall TTP Housing programme for the West London sub region which anticipates the provision of 1,400 units broken down as follows:

	Total TTP Units
Brent	300
Ealing	200
Hammersmith and Fulham	200
Harrow	100
Hillingdon	200
Hounslow	200
Kensington & Chelsea	200
Total	1400

3.2.10 The Sub Regional TTP Housing Scheme will be delivered by a joint contract between one or more of the participating West London authorities and the provider/s. The contract will be for a period up until the point in time that the units convert to affordable housing. It is proposed that this contract will include:

- The rent level agreed;
- The requirement to enter into a lease with each authority for the units they require;
- The number of units that are required (their location and size);
- The timetable for implementation;
- The standards required;
- The option for both parties to extend the lease beyond its initial term; and
- Trading arrangements between the authorities.

The contract will establish the price for the different elements of the scheme and the quality standards that are required. It is intended that a maximum of 1,400 units will be procured.

Each participating authority has worked up its own individual specification (i.e. volume, unit size, location, type of tenure) best suited to meet its local housing needs. In addition there is a standard specification which will define the quality standards.

Individual boroughs will be required to draw down their share of units under the joint contract. Where a borough does not draw down the required number of units there could be 'trading' arrangement between the boroughs.

3.2.11 In addition to the joint contract, each borough will enter into a separate lease agreement with the provider for each property acquired. The borough will pay a lease charge to the provider to cover the loan repayments and running costs (see paragraph 4.4).

3.2.12 The lease agreement may also include the provision of the related services. There are two possible options for the delivery of the management and maintenance services – the first involves incorporating

the service functions into the lease and the second involves each borough entering into a separate services agreement.

- Where the service responsibilities are incorporated into the lease the provider will be responsible for the delivery of those services or may sub contract them out to a facilities manager. In the event of poor performance in relation to management and maintenance the authorities will have the option of contracting out the management and maintenance services.
- Where a borough enters into a separate services agreement, the agreement can either be with the provider or the provider's partner, if the provider does not want to carry out the service functions in addition to the acquisition of the property.

Further, in both cases there is a delegation of housing management functions and the consent of the Secretary of State to the delegation is required (section 27 of the Housing Act 1985) , which is explained further in paragraph 6.3 below.

3.2.13 Irrespective of which structure is used, the type of issues concerning management are:

- Details about who handles the arrangements e.g. signing up tenancies;
- The standards expected for the management and maintenance services; and
- Nomination arrangements (if any).

The lease elements would include the term of the lease (not more than 10 years but with the option to extend) and obligations to repair.

3.2.14 It is proposed that the contractual arrangements for the delivery of the management and maintenance services will be discussed with bidders as part of the negotiation process.

### **3.3 The Procurement Process**

3.3.1 This contract is being tendered in accordance with the negotiated procedure pursuant to the EU Procurement Legislation (see paragraphs 6.4 and 6.5 below).

3.3.2 The tender process has been supported by an external consultant, Civis Consultants and RBKC has sought external legal advice from Prince Evans Solicitors.

3.3.3 Further to the Executive granting approval to expressions of interest being sought, an advert was submitted by RBKC to the Official Journal of the European Union (OJEU) on 4 May 2007.

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3.3.4 Providers will be short listed by the tender evaluation panel based on the pre qualification questionnaire (PQQ) which had to be submitted by 6 June 2007 (see paragraph 3.4.1(v) below). The tender evaluation panel will be chaired by Tim Gray, West London Housing Partnership's Homelessness Co-ordinator, who is accountable to the RBKC for this tendering exercise, and made up of representatives from each of the seven West London authorities.

The PQQ selection process will be based on a pass/fail procedure with each standard (as stated in paragraph 3.4.1(vi)) being evaluated using a scoring system on a scale of 1 – 5, whereby 3 – 5 is a pass and 1 – 2 is a fail.

3.3.5 Following the PQQ evaluation, each of the short listed providers will be invited to submit initial proposals. The invitation to negotiate will include the tender documents. The instructions to tenderers will state that the contract will be awarded on the basis of the most economically advantageous offer to the local authorities and that in evaluating tenders the tender evaluation panel would have regard to the proposed criteria listed in paragraph 3.4.1(vi) below.

3.3.6 The relative weighting of criteria for the award of the contract will also be stated in the invitation to negotiate. It is currently proposed that the third criterion, 'Price/Value for Money' be given a weighting of 50% with the other criteria being weighted equally for the remaining 50%, making a total of 100% (see paragraph 4.3 also).

3.3.7 The instructions to tenderers will also note that the negotiated procedure is to take place in successive stages to reduce the number of tenders to be negotiated by applying the award criteria stated in the tender documents. During negotiations the tender evaluation panel shall ensure equal treatment of all providers and will not provide any information in a discriminatory manner which may give some providers an advantage over others. Once negotiations have been conducted, the remaining participants will be invited to submit their best and final offer. The aim of the negotiations will be to identify the best tender and to ensure that it meets the requirements specified. The intention is to award the contract to a single provider, or a consortium of providers, or if this is not possible, to no more than 3 providers.

#### 3.4 Pre Tender Considerations

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

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Ref.	Requirement	Response																				
(i)	The nature of the service.	The contract is for the acquisition of property to provide statutorily homeless households with decent temporary accommodation that will eventually convert to permanent affordable social housing and the provision of management and maintenance services for this accommodation.																				
(ii)	The estimated value.	It is anticipated that the contract value for Brent's portion of the services to be procured will exceed £5,000,000. Bidders will be invited to submit their estimated cost based upon the volume of properties and services to be provided.																				
(iii)	The contract term.	The contract term is estimated to be for a period of up to 17 years, though it could be longer.																				
(iv)	The tender procedure to be adopted.	Negotiated procedure in accordance with the EU Procurement Legislation.																				
(v)	The procurement timetable.	<table border="1"> <thead> <tr> <th>Indicative dates are:</th> <th></th> </tr> </thead> <tbody> <tr> <td>Adverts placed in OJEU</td> <td>4<sup>th</sup> May 2007</td> </tr> <tr> <td>Expressions of interest returned</td> <td>6<sup>th</sup> June 2007</td> </tr> <tr> <td>Shortlist drawn up in accordance with the Council's approved criteria</td> <td>20<sup>th</sup> June 2007</td> </tr> <tr> <td>Invitations to Negotiate sent out</td> <td>25<sup>th</sup> June 2007</td> </tr> <tr> <td>Deadline for submission of Initial Proposals</td> <td>25<sup>th</sup> July 2007</td> </tr> <tr> <td>Negotiations (Specification, Price, Contract Terms)</td> <td>August 2007</td> </tr> <tr> <td>Submission of Final Offers</td> <td>Early September 2007</td> </tr> <tr> <td>Panel evaluation of Final Offers and contract award recommendation</td> <td>Mid September 2007</td> </tr> <tr> <td>Report recommending Contract award circulated internally for comment</td> <td>September 2007</td> </tr> </tbody> </table>	Indicative dates are:		Adverts placed in OJEU	4 <sup>th</sup> May 2007	Expressions of interest returned	6 <sup>th</sup> June 2007	Shortlist drawn up in accordance with the Council's approved criteria	20 <sup>th</sup> June 2007	Invitations to Negotiate sent out	25 <sup>th</sup> June 2007	Deadline for submission of Initial Proposals	25 <sup>th</sup> July 2007	Negotiations (Specification, Price, Contract Terms)	August 2007	Submission of Final Offers	Early September 2007	Panel evaluation of Final Offers and contract award recommendation	Mid September 2007	Report recommending Contract award circulated internally for comment	September 2007
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		Executive approval	8 <sup>th</sup> October 2007
		Mandatory minimum 10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers	9 <sup>th</sup> October 2007
		Contract start date	Mid October / Early November 2007
		Notice of award despatched to OJEU	Within 48 days after award
(vi)	The evaluation criteria and process.	<p>A two stage negotiated process involving the following process: OJEU advertisement; submission of pre-qualification questionnaires (“PQQ”); short-listing of those to be invited to negotiate; Invitations to Negotiate sent out; submission of Initial Proposals; negotiation; submission of Final Offers; evaluation of Final Offers; and recommendation to award.</p> <p>Tenderers will be short-listed (by the evaluation panel) to be invited to negotiate on the basis that they meet RBKC’s minimum standards in relation to business probity, economic and financial standing, technical ability and capacity, quality standards and compliance with statutory requirements (e.g. equal opportunities) which shall be assessed on the information submitted by interested organisations in the PQQ.</p> <p>Initial Proposals will be submitted and the tender evaluation panel will negotiate these proposals. Once negotiations are complete, RBKC will request the submission of Final Offers.</p> <p>The Final Offers will be evaluated by the tender evaluation panel and the contract awarded on the basis of the most economically advantageous offer. The panel will evaluate the tenders against the following criteria:</p> <ul style="list-style-type: none"> <li>(i) Technical merit, including capacity and capability to deliver at least one third of the total programme;</li> <li>(ii) Quality: ability to meet quality standards including performance management;</li> <li>(iii) Price: value for money as assessed by the level of rent charged and the level of capital required;</li> <li>(iv) Innovation: proposals for innovation and adding value including using own resources; and</li> <li>(v) Deliverability: ability to deliver the programme</li> </ul>	

		<p>to the timescale and quality required.</p> <p>The contract will be awarded to the most economically advantageous offer –the tender evaluation panel will provide a recommendation in accordance with RBKC’s Standing Orders and Financial Regulations and a further report will be brought to the Executive seeking approval of the award recommendation.</p>
(vii)	Any business risks associated with entering the contract.	<p>A number of risks have been identified with the Sub Regional TTP Housing scheme as a result of a risk analysis. These can be summarised as follows</p> <ul style="list-style-type: none"> <li>• Rising property prices during the property acquisition period;</li> <li>• Changes to the Government’s Housing Benefit regime;</li> <li>• Management and maintenance costs rising above the proposed inflation index, although allowed for in the contract;</li> <li>• Unavailability of suitable properties; and</li> <li>• Secretary of State Section 27 consent not being received.</li> </ul> <p>These factors could pose considerable risks to the viability of the scheme. Ultimately the sale of stock could mitigate most of these risks, however this option is regarded as a fall back position rather than an integral part of the delivery of the programme.</p> <p>Those organisations that are short listed will need to explain the steps that they will take to manage the risks associated with the scheme. Further details on how these risks will be managed will be considered during negotiations with organisations that have been invited to negotiate.</p>
(viii)	The Council's Best Value duties.	<p>The Corporate Best Value Strategy is to provide best value services and to serve our community. The competitive tender for the West London Temporary to Permanent Accommodation Scheme contract will ensure value for money and as part of the tendering exercise providers will need to submit proposals to secure continuous improvement in terms of the procurement, management and maintenance of properties.</p>
(ix)	Any staffing implications, including TUPE and pensions.	<p>There are no staffing implications.</p>

(x)	The relevant financial, legal and other considerations.	See sections 4.0, 6.0, 7.0 and 8.0 below.
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3.4.2 The Executive is asked to give approval for RBKC to invite tenders and evaluate them in accordance with the evaluation criteria outlined in paragraph 3.4.1(vi) and the proposed weightings set out in paragraph 3.3.6.

3.4.3 Members should note that the other West London authorities will also be considering and providing comment on the proposed award criteria and weightings. Officers will provide a verbal report at the Executive meeting on 18th June should there be any variations to the award criteria and weightings as a result of comments received by RBKC from other boroughs – the criteria and weightings are to be agreed at the West London TTP Project Board meeting on 12 June 2007.

#### **4.0 Financial Implications**

4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500,000 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.

4.2 As noted previously, an overall price is not possible to determine given the complexity of this project. In the report to the Executive of 16<sup>th</sup> April 2007 it was noted that it will not be until tenders are received that the West London boroughs will be in a position to have a clear idea of the financial implications of this procurement. The contract is in respect of the procurement and the subsequent management and maintenance of 1,400 properties for a period which could be for 17 years or longer. Bidders will be invited to submit their estimated cost based upon this volume of properties and the provision of services; the price will be subject to negotiation with tenderers. It is therefore anticipated that as an estimate the contract value for the provision of the services for Brent will exceed £5,000,000.

4.3 The Sub Regional TTP Housing scheme will be financed by the appointed provider using loan finance to acquire and bring the properties up to the required standards. However some element of capital grant funding from the West London authorities may be required to make the scheme financially viable, although the availability of capital funding from the boroughs is limited. Providers will therefore be expected to submit proposals that ensure a minimum amount of capital grant funding will be required from the boroughs or none at all – this approach is likely to require some form of subsidy from providers, either by using existing properties or capital reserves. The level of capital grant funding required to be contributed by the boroughs will be a key consideration in awarding

the contract to the provider or providers – this is reflected in the weighting of the evaluation criteria; price has been weighted 50%.

4.4 The revenue funding for the scheme will be met from rents received from tenants. The rent levels will be fully supported and funded under the Government housing benefit system for the majority of tenancies. Some tenants may need to make personal contributions towards their rent payments depending on their level of household income. As the properties will be leased to the local authorities, the scheme will be eligible to receive the maximum housing benefit subsidy for self-contained leased accommodation up to the non-housing revenue account housing benefit subsidy cap – a figure set each year by the Department of Work and Pensions (DWP). As this system is currently being reviewed by the DWP the West London TTP Housing scheme is likely to be based initially on the housing benefit subsidy cap levels and then subsequently based on the new subsidy system should this be introduced.

4.5 In terms of capital funding, the West London authorities have been allocated £6 million from the Government's Settled Homes Initiative funding pot, with a further recommendation for the Housing Corporation to provide £4 million as capital funding to support the Sub Regional TTP Housing scheme. The Council's current capital programme does not include any funding for this scheme. Following the evaluation of tenders that are received, Officers will consider whether there is likely to be a capital funding gap which will impact on the deliverability of the scheme. Officers would then consider recommendations that would need to be made to the Executive on whether the scheme can proceed and, if so required, the level of capital grant funding that would be required to support the scheme.

## **5.0 Staffing Implications**

5.1 There are no staffing implications.

## **6.0 Legal Implications**

6.1 Standing Order 88 requires the Executive to consider a report setting out pre-tender considerations specified in Standing Order 89 prior to giving approval to invite tenders for contracts. The Executive, at the meeting held in April 2007, gave authority for RBKC to seek expressions of interest by advertising the procurement in accordance with EU Procurement Legislation. Authority to invite tenders was to be sought from the Executive by the submission of a further report which was also to provide full details of the proposed tendering procedure.

6.2 It is still undecided what the exact contractual arrangements will be, as they will be dependent upon what is proposed in the initial tenders submitted by organisations invited to negotiate; the OJEU notice stated that variant bids would be accepted.

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In terms of the overall contract, the West London authorities intend to issue a single joint contract between one or more of the participating authorities and an individual provider or a consortium of providers. However the authorities may consider issuing up to a maximum of three separate contracts. In the event that three separate contracts will be issued, each will be for approximately one third of the programme (i.e. 400 to 600 accommodation units) – the contract is not divided into specific lots at this stage.

- 6.3 With regards to the individual lease agreements, it is still unknown whether the provider of the accommodation will also be responsible for the provision of the services under the terms of the lease agreement or if a separate agreement will be entered into for the provision of the services, with either the provider, which could be subcontracted, or the provider's partner.

In either case consent of the Secretary of State will be required under section 27 of the Housing Act 1985. This entails making a specific application to the Secretary of State with a draft of the proposed management agreement (or lease containing management responsibilities). A General Approval has been issued which means that consent is automatically granted if certain pre-conditions are fulfilled, e.g. the management agreement is no more than 5 years; at least four tenders were invited etc. At present it is not clear whether the procurement process is designed to take advantage of the General Approval and so specific consent will probably be required.

- 6.4 The proposed contract combines both property transactions and the provision of services. It is arguable that the services are incidental to the property transactions (i.e. the granting of leases) and therefore the contract will fall outside the application of the EU Regulations. However as it is still unclear what the nature of the contractual arrangements will be, a cautious approach is being adopted with the contract being treated as a Part A Services contract subject to the full application of the EU Regulations (specifically the Public Contracts Regulations 2006). This is on the basis that the estimated value of the management and maintenance services will be in excess of £144,371 over the lifetime of the contract and the provision of management and maintenance services falls within Part A Services under the EU Regulations. This contract has been advertised in the OJEU as a public services contract.

- 6.5 The EU Regulations permit a contracting authority to use the negotiated procedure if the circumstances fit within one of the exceptions listed in EU Regulation 13. The two exceptions which the West London authorities will rely on to use the negotiated procedure for this tender are stated in EU Regulation 13(b) and (c) as follows:

*“13. A contracting authority may use the negotiated procedure with the prior publication of a contract notice in accordance with regulation 17(3) in the following circumstances —*

*(b) exceptionally, when the nature of the work or works to be carried out, the goods to be purchased or hired or the services to be provided under the contract or the risks attaching to them are such as not to permit prior overall pricing; or*

*(c) in the case of a public services contract, when the nature of the services to be provided, in particular in the case of services specified in category 6 of Part A of Schedule 3 and intellectual services, such as services involving the design of work or works, is such that specifications cannot be established with sufficient precision to permit the award of the contract using the open procedure or the restricted procedure”*

The competitive negotiated procedure is being used for this procurement on the basis that it is a complex project involving a hybrid of property transactions and property management and maintenance services. Therefore the TTP Scheme does not lend itself to overall pricing and makes it very difficult to establish specifications with sufficient precision for use of either the open or restricted procedures.

6.6 As noted in the report submitted to the Executive 16<sup>th</sup> April 2007, the procurement and award of a contract solely for management and maintenance services is subject to the Council’s Contract Standing orders in respect of High Value Contracts and the Council’s Financial Regulations. Therefore 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 contract and recommending award.

6.7 As this procurement is subject to the full application of the EU Regulations, the Council must observe the requirements of the mandatory minimum 10 calendar days standstill period imposed by the EU Regulations before the contract can be awarded.

The requirements include notifying all tenderers in writing of the Council’s decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council’s award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the contract may commence.

6.8 Local authorities have a duty under Part VII of the Housing Act 1996 to house homelessness persons in temporary accommodation who satisfy

the qualifying criteria (i.e. eligibility, homeless, priority need, not intentionally homeless and local connection). The Council can only discharge its duty to house qualifying homeless persons in temporary accommodation under the circumstances set out in section 193 of the Housing Act 1996 and the circumstances in which this duty can be discharged (in addition to the circumstances where the homeless applicant loses his accommodation by being no longer eligible for assistance, ceasing to occupy his temporary accommodation as his main or principal home or becoming homeless intentionally from the temporary accommodation provided) are as follows: (i) if the homeless person accepts an offer of permanent accommodation from the Council in the form of a secure tenancy under Part VI of the Housing Act 1996; (ii) if the homeless person accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord; or (iii) if the homeless person accepts a qualifying offer of an assured shorthold tenancy with the Council's approval and is advised in writing in advance that he is under no obligation to accept the offer and is advised that should he accept the offer of accommodation.

6.9 Council tenancies offered to homeless persons and other housing applicants under Part VI of the Housing Act 1996 are secure tenancies and these tenancies are governed under the Housing Act 1985. At present, the Council can discharge its duties if it offers an assured tenancy (not an assured shorthold tenancy unless as described in the previous paragraph 6.8 at (iii)) with a private landlord and this type of tenancy is governed by the Housing Act 1988. A private landlord in these circumstances is often a registered social landlord. The main practical difference between secure and assured tenancies is that the grounds for eviction and the eviction procedure are slightly different. In practice, it is more difficult to evict secure tenants than it is to evict assured tenants. The rights to succession are also different.

## **7.0 Diversity Implications**

7.1 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 applicants' policies and procedures in respect of diversity issues will form an element of the evaluation methodology that will be applied during the evaluation of the PQQs submitted by interested organisations.

## **8.0 Staffing/Accommodation Implications (if appropriate)**

8.1 There are no implications for Council staff arising from tendering of this contract.

## **9.0 Background Papers**

9.1 Sub Regional Temporary to Permanent Procurement File.

9.2 Copies of the PQQ and draft tender documentation are available from Manjul Shah, Head of Affordable Housing Development.

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