



Executive
14 December 2009

**Report from the Director of
Housing and Community Care**

Wards Affected:
All

**Authority to award contracts for the procurement and
management of temporary accommodation**

Appendix 4 of this Report is not for publication

Forward Plan Ref: H&CC-09/10-15

Summary

- 1.1 This report requests authority to award contracts as required by Contract Standing Order No 88. This report summarises the process undertaken in tendering contracts for the Procurement and Management of Temporary Accommodation and, following the completion of the evaluation of the tenders, recommends to whom the contracts should be awarded.

2.0 Recommendations

- 2.1 That the Executive award two contracts for the Procurement and Management of Temporary Accommodation to:
- Pathmeads Housing Association
 - Stadium Housing Association

3.0 Detail

Background

- 3.1 The Council has traditionally used the Housing Association Leasing Scheme (HALS) to provide temporary accommodation for homeless families. At the end of October 2009 there were 2,698 HALS units in use. As the Council has a target to reduce the use of temporary accommodation by 2010, it is envisaged that the demand for a temporary accommodation service will be approximately 240-360 new units per year over the next five years.
- 3.2 The current contracts for the procurement and management of temporary accommodation have been in operation since February 2003. Under the contracts

the Council contracts with the Service Providers to source suitable housing for homeless families. The Service Providers source suitable properties and enter into head leases with the property owners, generally for a 3 year term. The Council is provided with nomination rights in order that the Council can nominate tenants to properties made available by the Service Providers. The tenants enter into an Assured Shorthold Tenancy with the Service Providers and pay rent (generally via the Housing Benefit paid to homeless families). The Service Providers provide management and maintenance services which are covered by the rent. The Council pays a weekly nomination fee to the relevant Service Provider for each property. There are minimum property standards and furniture standards specified by the Council, and the Service Providers have to provide a high-quality housing management service. Performance is monitored through performance indicators and regular monitoring meetings.

- 3.3 The existing contracts were awarded to three Housing Associations - namely, Pathmeads Housing Association, Stadium Housing Association and Shepherds Bush Housing Association.
- 3.4 As the existing contracts are due to expire on 31 January 2010 authority was sought and obtained from the Executive on 26 May 2009 to tender for new Procurement and Management of Temporary Accommodation contracts.

The tender process

- 3.5 Officers considered that the structure of the new contracts should reflect the structure of existing contracts as set out in paragraph 3.2 but revised the contract Output Specification to improve the efficiency of the service and value for money for the Council.
- 3.6 The advertisement for the tender and the Pre Qualification Questionnaire (PQQ) was placed on the Council's website and published in local and trade press on 7 July 2009, with a closing date of 17 August 2009. The advertisement requested submissions from all 'suitably qualified and experienced organisations'. This was to make it clear that the contract was open to all organisations, whether public or private sector. Twelve organisations returned PQQs by the due date.
- 3.7 Shortlisting was undertaken on the basis of the contractors' financial and economic standing, business probity and professional and technical capability. This evaluation included consideration of health and safety, quality assurance, equal opportunities and disabilities awareness.
- 3.8 Six of the organisations failed the Health and Safety assessment, so could not be considered further. Another two organisations did not meet the financial standing required.
- 3.9 An Invitation to Tender was sent to the four remaining organisations on 7 September 2009, with a return date of 12 October 2009.
- 3.10 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 by the Executive on 26 May 2009) together with appropriate weightings:

Evaluation Criteria		Weighting
a)	Financial competitiveness and affordability	60%
b)	Ability to source a suitable range and standard of properties	10%
c)	Ability to address ongoing property maintenance and general property management needs	10%
d)	Ability to become aware of and respond effectively on an ongoing basis to the concerns of tenants arising with respect to their occupation of the properties	5%
e)	Ability to deliver flexible housing solutions which are responsive to varying tenant needs	5%
f)	Ability to collect, maintain, analyse and provide statistical and other information	5%
g)	Demonstration of how service standards are maintained and monitored	5%

- 3.11 The tender submission required the completion of method statements, giving full details of how the tenderer would perform the requirements of the specification and of their approach to working in partnership with the Council and other organisations, together with a pricing document giving the unit cost of the nomination fee on a weekly basis.

The Tender Evaluation Process

- 3.12 Three tenders were received by midday on the due date of 12 October 2009. The fourth shortlisted organisation contacted the Council to confirm that they did not intend to submit a tender.
- 3.13 Tenders were evaluated by a panel of officers from the Affordable Housing Development Unit, the Housing Resource Centre and the Supporting People Team as these teams have the direct involvement with the contract and service users. The tender documents were evaluated in accordance with an evaluation methodology that was made available to all tenderers. The tender documents were initially evaluated by the officers individually, and the panel then met on 17 November 2009 to agree the final evaluation scorings under the observation of an officer representing the Council's Procurement and Risk Management Team. The panel completed the scoring grid set out in Appendices 1 - 3. The marking regime for the quality aspects of the tender was as follows:

Assessment	Score	Interpretation
Unacceptable	0	Fails to meet requirement - major omissions/weaknesses
Weak	1	Limited evidence of ability to meet requirement - omissions/weaknesses in key areas
Adequate	2	Meets requirement but with some minor omissions/weaknesses
Good	3	Fully meets requirement
Excellent	4	Fully meets requirement demonstrating added value in proposals for delivery of service

Financial competitiveness and affordability were assessed by taking the unit cost of the nomination fee quoted by tenderers and applying the scenario set out in the evaluation methodology. This was a proportional price evaluation which assigns to each price a figure based on the ratio between it and the lowest price. Further details of the methodology are set out in Appendix 2.

3.14 The total scores received by the tenderers are set out in Appendix 3. The names of the Tenderers are set out in Appendix 4. The evaluation panel agreed to recommend that the contracts should be awarded to:

- Pathmeads Housing Association of Olympic Office Centre, 8 Fulton Road, Wembley, Middlesex, HA0 0TB
- Stadium Housing Association of Electric House, 296 Willesden Lane, London NW2 5HW

It is proposed that the contracts will commence on 1 February 2010 with a contract term of an initial three year procurement and management phase (with a possibility of up to two 1 year extensions of this phase) followed by a further management only phase of up to three years.

3.15 The organisations identified in paragraph 3.14 above were considered to represent value for money and giving the award to more than one contractor will ensure that the service provided is competitive and cost-effective with a sufficient quantity of housing being available to the Council.

3.16 The third tenderer (Tenderer A) had a slightly lower score than other tenderers in the qualitative assessment and its tender price was significantly more expensive than that of the other tenderers. Officers do not consider the tender is affordable and therefore are unable to recommend award of a contract to Tenderer A.

4.0 Financial Implications

4.1 The estimated value of the procurement and management of temporary accommodation over the five year life of the contract until the expiry of the final lease was £2.3 – £3.4 million. As the estimated value of the contracts is above the Council's Standing Orders threshold for High Value Service Contracts (of £500,000), the award of the contract is consequently subject to the Council's own Standing Orders and Financial Regulations in respect of High Value contracts. Although this service is not subject to the full application of the European Public Procurement regulations it is still subject to the overriding EU principles and to a competitive tendering process.

- 4.2 The projected need for Temporary Accommodation units is 240-360 new units per year. If each of the proposed contractors provides 50% of the required units, the total annual cost will be between £102,500 and £154,000 for the new units. Over the life of the contract, and until the end of the last lease, the projected cost of all units procured under this contract is £1.42m - £2.13m. The cost of the existing units, procured under the current contract, will have to be met until the leases end. The tender prices quoted by the recommended tenderers are within the budget projection for the next financial year.
- 4.3 A breakdown of the tender prices is shown at Appendix 2.
- 4.4 The cost of these contracts will be funded from the general fund from the Temporary Accommodation budget. There is a direct relationship between temporary accommodation supplied through this contract and the level of housing benefit subsidy losses the Council incurs by using hotel accommodation to rehouse homeless families.
- 4.5 The tender prices submitted represent value for money as they reflect current trends in the market place, are commercially viable i.e. within Council budget, and show consistency in pricing approach or expertise. A number of interlinking projects and initiatives are being delivered to support the Council's work around managing homelessness demand effectively and reducing temporary accommodation (TA) usage. To reflect the downward trend in TA usage the contract has been adjusted to allow the Council to withdraw a property from the scheme if it is not let within eight weeks from a nomination request from the Service Providers.
- 4.6 The dynamics of the housing market are expected to change in the near future and it is anticipated that landlords will increasingly opt to sell properties rather than rent under rising house prices. As a result any properties acquired through the scheme may need to be retained for longer than eight weeks to ensure that suitable properties are available for the full range of nominees. The impact of the reduced tender prices on the Temporary Accommodation budget will therefore be broadly neutral after taking into account the estimated cost of void charges.
- 4.7 The tenderers were initially asked to price for a Performance Bond but this requirement was waived as the likely cost of the Bond was high and the recommendation is to award the contract to two Housing Associations, which are subject to strict financial regulations by the Homes and Communities Agency. The appointment of two contractors also reduces the risk to the Council as there is no reliance on a single provider.

5. Legal Implications

- 5.1 The estimated value of the Procurement and Management of Temporary Accommodation contracts over the five year procurement and management phase and the subsequent management until the expiry of the final lease is £2.3 - £3.4 million in total. The estimated value of the contracts is therefore above the Council's Standing Order threshold for High Value Service Contracts (of £500,000), and the award of the contract is consequently subject to the Council's own Standing Orders and Financial Regulations in respect of High Value contracts. As a result, Executive approval is required for the award of the contract.

- 5.2 The Procurement and Management of Temporary Accommodation contracts are considered to be a Part B service pursuant to the Public Contracts Regulations 2006 (“the EU Procurement Regulations”) and are therefore only subject to a partial application of the EU Procurement Regulations. The providers are providing administrative housing services to the Council, insofar as they are procuring, making available and maintaining suitable housing for homeless tenants to whom the Council is required to provide temporary accommodation (see paragraphs 5.4 and 5.5 below). It is not considered in these circumstances that the providers are providing property management services to the Council (which would be a Part A service), especially as the Council has no property interest in the properties sourced pursuant to the contract. The procurement of Part B services contracts is still subject to overriding EU principles of equality of treatment, fairness and transparency in undertaking the tender process, including contract award.
- 5.3 It appears that none of the existing contractors’ staff will transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 to the new organisations it is proposed to award contracts to, as identified in paragraph 3.14 above.
- 5.4 The requirement to provide temporary accommodation to persons in housing need arises under Part VII of the Housing Act 1996 (“the 1996 Act”). The Council is bound by statute under section 193 of the 1996 Act to provide temporary accommodation to homeless applicants who satisfy the following criteria: they are homeless or threatened with homelessness, they are eligible for assistance, they are in priority need of accommodation, they have a local connection with the Borough and they are not intentionally homeless. The circumstances in which the Council will cease to be subject to any such duty are set out in section 196(6)-(7B) of the 1996 Act, which include the applicant accepting an offer of accommodation under Part VI of the 1996 Act under the Council’s allocation scheme and accepting an offer of an Assured Tenancy from a private landlord.
- 5.5 The Council also has an interim duty to accommodate homeless applicants in temporary accommodation under section 188(1) of the 1996 Act pending a decision regarding their homelessness applications if the Council has reason to believe that such applicants may be homeless, eligible for assistance and have a priority need of accommodation. That duty ceases once a decision is made and if the decision is that the applicant does not qualify for assistance under Part VII of the 1996 Act, the homeless applicant has the right to request a review of such a decision and in those circumstances, the Council has a discretion (as opposed to a duty) under section 188(3) of the 1996 Act to house the homeless applicant in temporary accommodation pending a review by the Council of its decision. If the decision is that the homeless applicant qualifies for assistance under Part VII of the 1996 Act, the Council is under a duty to provide temporary accommodation under section 193 of the 1996 Act as set out in the previous paragraph.
- 5.6 As the tenants will enter into Assured Shorthold Tenancy agreements with the Service Providers, the Council will not be the landlord of these tenants and therefore it is not necessary to obtain consent from the Secretary of State under section 27 of the Housing Act 1985 regarding the delegation of the Council’s housing management functions.

6. Diversity Implications

- 6.1 There are variations between the population of Brent and those applying for assistance as homeless. For example, those in the Black category made up just under 20% of Brent's population in 2001, however they accounted for nearly half of all applications as homeless in 2002/03. Furthermore, those in the White category made up just over a fifth of all homeless applications, but were 45% of the resident population in the 2001 census. Reasons for these differences are complex and relate to a variety of social, economic and demographic factors, including income levels, family size, quality of housing and patterns of tenure.
- 6.2 The Housing Resource Centre's Equality Impact Assessment regarding homelessness and lettings identified that current policy is specifically designed to ensure that those who are less able to access their own housing solutions are assisted.

7.0 Staffing Implications

- 7.1 The service is currently provided by external contractors and there are no implications for Council staff arising out of the tendering of the new contract.

8.0 Background Information

- 8.1 Contract Documents for Procurement and Management of Temporary Accommodation 2010 contract.
Executive Report – May 2009.

Any person wishing to inspect the above papers should contact the Contact Officer:

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Qualitative Scores

Criterion	Tenderer A	Tenderer B	Tenderer C
Procure a suitable range and standard of properties (10%)	2 (20)	3 (30)	4 (40)
Address ongoing property maintenance and general property management needs (10%)	2 (20)	3 (30)	4 (40)
Become aware of and respond effectively to the concerns of tenants arising with respect to their occupation of the properties (5%)	2 (10)	3 (15)	4 (40)
Deliver flexible housing solutions which are responsive to varying tenant needs (5%)	2 (10)	3 (15)	4 (20)
Collect, maintain, analyse and provide statistical and other information (5%)	2 (10)	4 (20)	4 (20)
Ensure service standards are maintained and monitored (5%)	2 (10)	4 (20)	4 (20)
Total score (sum of figures in brackets)	80	130	160
Final weighted percentage score	20	32.25	40

Each evaluation criterion could attract up to a maximum of 4 marks. The mark awarded was multiplied by the weighting for each of the six Qualitative criteria detailed above (shown in brackets above) to provide a total score out of the maximum score possible of 160.

The achieved Qualitative score was then divided by 160 (maximum marks) and multiplied by 40 (total maximum Qualitative score) to give a final weighted percentage score.

Appendix 2

Procurement and Management of Temporary Accommodation Contract – Tender Prices

The tenderers were asked to give a weekly nomination fee for each unit.

	Tenderer A	Tenderer B	Tenderer C
Weekly nomination fee	£23.00	£8.92	£7.50
Weekly nomination fee if TUPE applies	£32.00	N/A	N/A

To calculate the price evaluation, the tender price for 500 units over 5 years was calculated (based on the average assessed need of 300 units per year, divided between the three tenderers, each of which had passed the initial qualitative assessment). The proportional scoring system then awards the full score of 60% (corresponding to the weighting for the 'Financial Competitiveness and Affordability' criterion) to the lowest price tender. The remaining tenders are awarded scores to reflect their individual value in relation to that of the lowest price tender.

For example, where the total contract price for Tender X is £1,000 and for Tender Y £500, Tender Y receives the maximum score of 60% and Tender X a score of 30% calculated as follows:

$$\frac{\text{Lowest price tender (Tender Y)}}{\text{Tender X price}} \times \text{Weighting} = \frac{£500}{£1,000} \times 60\% = 30\%$$

Tenderer	Unit Price	5 year price	Score
Tenderer A	£23.00	£2,990,000	19.57%
Tenderer A (TUPE price)	£32.00	£4,160,000	14.06%
Tenderer B	£8.92	£1,159,600	50.45%
Tenderer C	£7.50	£975,000	60%

Final Tender Scores

The final overall score was reached by adding the qualitative score to the tender price score.

Tenderer	Qualitative Score	Price Score	Total Score
Tenderer A	20%	19.57%	39.57%
Tenderer A (TUPE price)	20%	14.06%	34.06%
Tenderer B	32.5%	50.45%	82.95%
Tenderer C	40%	60%	100%