



Cabinet
26 August 2014

**Report from the Strategic Director of
Regeneration and Growth**

For Action

Wards affected:
ALL

Brent Employment Services Provider Framework

1.0 Summary

1.1 This report sets out the terms of a provider framework agreement for the procurement of employment-related support services in Brent. To this end, the report explains the context and detail of the Brent Employment Services Provider Framework from conception through to anticipated delivery.

2.0 Recommendations

2.1 Cabinet to agree the pre-tender considerations and the criteria to be used to evaluate tenders for the Brent Employment Services Provider Framework as set out in paragraph 3.26 of this report.

2.2 Cabinet to agree the proposal to invite expressions of interest, agree shortlists, invite tenders for the Brent Employment Services Provider Framework and evaluate them in accordance with the evaluation criteria referred to in paragraph 2.1 above.

2.3 Cabinet to approve a waiver from Contract Standing Order 104 (b) to evaluate Framework tenders solely on the basis of 100 per cent Quality as opposed to considering the Most Economically Advantageous Tender (MEAT) for the reasons set out in Para. 3.28 to 3.34.

3.0 Detail

3.01 *Strategic Context*

3.02 The London Borough of Brent Regeneration Strategy 2010-2030 outlines the Council's strategic priority to increase employment and income levels of Brent residents, concentrating on those most in need and our priority neighbourhoods. The emerging Employment, Skills and Enterprise strategy

will propose further support for these aims, including by proposing a place-based approach and focusing on workless residents furthest away from the labour market. This is integrated with the Council's strategies for Housing and welfare reform.

3.03 The emerging Employment, Skills & Enterprise strategy will set out the overall vision for the delivery of employment, skills and enterprise services in the borough. The Council recognises the strength of partners across the public, private, community and voluntary sectors, particularly in having connections into local communities. Wherever possible, the Council will support the capacity of these partners so employment services can be delivered by those who best know our communities that experience a high level of unemployment and economic inactivity. Brent Council will take a strategic leadership role, working with partners to inform, steer and support their activities, achieving synergies and leading by example.

3.04 *Aim and purpose*

3.05 The Brent Employment Services Provider Framework is a list of preferred organisations able to deliver employment-related support services to Brent residents in pursuit of Borough priorities. It also allows the Council to identify appropriate partners to bid with for external funding opportunities and participate in partnership activities. This will include European Structural and Investment Funds, Big Lottery Fund and opportunities from central government departments including Department for Work and Pensions, Skills Funding Agency and Department for Communities and Local Government. Framework partners will act as a first port of call, acting as preferred providers with the capacity and capability to deliver employment-related services to meet the support needs of Brent residents.

3.06 Employment related services will support residents who are out of work or in low skilled, low pay work, find, secure and sustain meaningful employment opportunities. Target groups are explained in more detail in paragraph 3.15.

3.07 The Council takes a strategic role and will support the capacity of partners to deliver commissioned services using funding secured from both external and internal sources. To this end, the Framework formalises the relationship between the Council and its partners for the procurement of employment-related services, understanding that the role of the voluntary and community sector (VCS) is crucial in achieving the overall objectives of the emerging strategy. The Framework realises the emerging strategy's ambition to support delivery of employment services by those who best know and have unique in-roads to communities with high levels of unemployment and economic inactivity.

3.08 The Framework's aim is to support and contribute to the implementation of three key strategic priorities as set out in Brent's emerging Employment, Skills and Enterprise strategy:

- To address the growing economic and social polarisation in the borough by reducing economic and social deprivation in our worst performing neighbourhoods;
- To reduce poverty through employment and progression in work by promoting sustainable employment and the London Living Wage;
- To achieve better outcomes from mainstream provision and activities such as the Work Programme, Youth Contract and Jobcentre Plus.

3.09 The Framework will be used as an 'umbrella agreement' under which individual contracts (call-offs) can be agreed.

3.10 Employment related services can be commissioned through the Framework from October 2014 to October 2016, with the option to extend by +1 +1 years.

3.12 *Needs or duties it is designed to meet*

3.13 The Framework is designed to improve access to and deliver provision of meaningful and valuable employment related support services to Brent residents.

3.14 Framework providers will have the capacity and capability to support residents from our priority neighbourhoods who are most in-need, affected by welfare reform and looking to find work for the first time.

3.15 Predominantly through support services to help unemployed residents find and sustain work, we will be looking to support people who:

- have entry-level English as a Second or Other Language (ESOL) needs;
- have a physical health need;
- have a mental health need;
- have learning difficulties;
- have a history of substance misuse;
- are from Black, Asian and Minority Ethnic (BAME) communities;
- are homeless;
- are aged 16-24 and not in Employment, Education or Training (NEET);
- are unemployed for longer than 12 months and not already engaged by the Work Programme or other Jobcentre Plus employment related provision.
- are in receipt of inactive benefits receiving little to no support, or those who have not previously engaged with employment support.

3.16 *How does it differ from any existing policy or practice in this area?*

3.17 To date, programmes are commissioned in isolation through individual open procurement rounds. This is resource intensive, uncoordinated and lacks vision. For our VCS organisations, who are best placed to deliver employment related services to our residents, bid writing capacity is limited and resource to respond to commissioning in this way acts as a significant barrier to securing contracts.

3.18 Framework agreements exist in other service areas across the Council, however, to date such a mechanism for the procurement of employment-related services has not been implemented. In part, demand and capacity hasn't previously warranted a Framework. The recently established Employment & Enterprise service, which includes the remit to secure external money to commission programmes to partner organisations, now provides a prescient need.

3.19 *Benefits of a provider Framework to the VCS*

3.20 The reduction to tendering costs apply to both providers and commissioners, as going through the tender procedure is costly and time-consuming for both. Clearly, the main advantage to providers of being on a framework agreement is the chance of being awarded valuable business opportunities, but there are also broader motivations:

- Access to contracts: we have commissioned and will continue to commission contracts for employment-related services in response to funding secured by the Employment & Enterprise team;
- Coordination of partners and aligning delivery with Council strategic priorities;
- Increasing the likelihood of securing more external funding to the borough as a result of coordinated bidding activities;
- To simplify and support the bidding activity of partners by managing the bidding process;
- A capacity building platform to work with partners to secure and deliver successful, coordinated contracts, bids and other opportunities by providing feedback on submissions, brokering relationships, support with drafting and proof reading and acting as a critical friend.

3.21 The Framework also serves a broader function beyond a procurement platform. The emerging Brent Employment, Skills and Enterprise strategy is a strategy for the whole borough, and will require the coordination of partner activity, led and steered by the Council. The Framework will allow us to support the capacity of partners, whilst steering the delivery of employment related services that align to the Council's strategic aims.

3.22 Brent's economic context and learning from previous programmes including our Navigator pilot project have identified a need for high-quality interventions to support our residents' access to meaningful employment opportunities.

3.23 *Consulting the VCS*

3.24 Close consultation with providers across the public, private, community and voluntary sectors has identified demand in the market for funding to deliver high quality employment related services:

- This was affirmed at a market testing event held in early May in partnership with Brent CVS, where we presented our proposed Framework to local and regional partners. The response was positive and reflected the absence of

a coordinated borough approach to the delivery of employment related support services previously;

- Individual conversations with beneficiaries including VCS providers currently delivering employment-related support contracts on behalf of Brent Council including Ashford Place and Lift;
- Brent Employment Summit, which brings together key players across the employment, skills and enterprise landscape in Brent including Brent CVS and VCS organisations.

3.25 The Framework was welcomed widely by VCS providers who can see the benefits it brings to the sector. Partner organisations are now thinking about how they will bid to take advantage of this business opportunity, many of the smaller community-based providers considering a consortium approach.

3.26 Pre-tender Considerations

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

Ref.	Requirement	Response	
(i)	The nature of the service.	<p>The Brent Employment Services Provider Framework is a list of preferred organisations able to deliver employment related support services to Brent residents on behalf of Brent Council. The Framework will be used:</p> <ol style="list-style-type: none"> 1) as an 'umbrella agreement' under which individual contracts (call-offs) can be agreed. 2) to identify partners for the council for external tendering opportunities. <p>Brent Council is looking for between five and 12 organisations (including consortia) to be on the Framework, from which employment related services will be procured.</p>	
(ii)	The estimated value.	£100,000 - £20 million	
(iii)	The contract term.	October 2014 - October 2016 with the option to extend by +1 +1 year(s).	
(iv)	The tender procedure to be adopted.	Open Process evaluation based on 100 per cent Quality for appointment onto the proposed Framework	
(v)	The procurement timetable.	Indicative dates are:	
		Specification and Evaluation to legal.	16 June 2014
		Cabinet	26 August 2014

		Expression of Interest window	27 August – 01 September 2014
		Invitation to Tender (ITT) launched through e-tendering portal (3 week tendering period)	01 September 2014 00:01
		Information event	10 September 2014
		ITT closes	21 September 2014 23:59
		Evaluation period including interview day (4 working days)	22- 25 September 2014
		Report recommending Contract award circulated internally for comment	01 October 2014
		Cabinet approval	10 November 2014
		Award notice	12 November 2014
		Standstill period (11 days)	12 November - 27 November 2014
		Framework awards confirmed	28 November 2014
(vi)	The evaluation criteria and process.	<p>The Framework will be administered through the London Tenders Portal. The questions within the ITT fall in to two categories:</p> <p>Qualification questions to assess bidders in terms of business probity, economic and financial standing, and technical or professional ability and capacity. This will be online-based and will include some pass/fail criteria and other non-scored questions.</p> <p>Questions assessing the tenderer's ability to deliver the services required. Tenders will be scored on the quality of their responses to these questions. The percentage of marks awarded to each section are clearly marked. Whilst not all questions are scored all questions are compulsory, and any tender that does not respond to all questions will be automatically disqualified. These questions will be within an attached document uploaded to the e-tendering portal.</p> <p>A panel of odd numbers comprising members of the Employment and Enterprise team will mark and score</p>	

		the bids. Results will be turned around in one week.
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed contract. Financial Services and Legal Services have been consulted concerning this contract.
(viii)	The Council's Best Value duties.	We are requesting exemption from Contract Standing Orders (CSOs) at Cabinet stage not to apply Most Economically Advantageous Tender (MEAT) but evaluate on quality at this stage. Competition on pricing would be secured at the mini-competition stage when procuring services through the Framework. Pricing and outcome payments in most cases will be set by an external funding commissioner, whose payments will be passed down to our Framework provider(s). If not, outcome payments will be aligned with market rate and awarded through a risk and reward model.
(ix)	Consideration of Public Services (Social Value) Act 2012	<p>The Framework will procure services of significant social and economic value, contributing widely to improving the employment rate and skills level in Brent. Health/wellbeing promotion and sustainable development are cross-cutting themes for the services procured through the Framework.</p> <p>Encouraging local voluntary, community and social enterprise (VCSE) sector organisations to apply to be a Framework provider using a VCSE friendly procurement process will maximise the opportunity for these providers to benefit from our contracts. Local VCSE providers are often best placed to understand and address local need at neighbourhood level. Local providers also retain, re-circulate and leverage funds in the neighbourhood, bringing social and economic benefit to our communities.</p> <p>The evaluation process also addresses good practice in adhering to environmental policies and operating ethically and responsibly.</p> <p>The Framework's procurement incorporates social value in line with the emerging Brent Social Value Policy.</p>
(x)	Any staffing implications, including TUPE and pensions.	See section 7 below.

(xi)	The relevant financial, legal and other considerations.	See sections 4 and 5 below.
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- 3.28 At the Framework stage, we are evaluating bids on the basis of 100 per cent quality rather than MEAT because payment terms for individual contracts will, in most cases, be dictated by external funding sources through risk and reward contracts. These funding sources will set a fixed payment term for outcomes, which could include a programme start, a job start and a sustained job outcome. DWP, SFA and major European Social Fund contracts apply risk and reward models that are a common and robust mechanism in the welfare to work sector to deliver value for money to the public purse. These payment terms will be passed down to our Framework provider(s). A provider will then demonstrate at call-off stage what their service will look like to deliver these outcomes at this price. The provider that demonstrates in their tender the most meaningful, balanced and achievable intervention that can deliver the outcomes for the set payment terms will be awarded the contract.
- 3.29 For funding opportunities where the commissioner has not set outcome payments, or for Council funded opportunities, we will model outcome payments on a robust value. This value will be in line with the market rate applied across welfare to work contracts, and reflect the fair and reasonable cost needed to deliver these outcomes. This will be paid through a risk and reward model, whereby providers will only receive payment for the outcomes achieved.
- 3.30 As a result of the variety of support needs and cohorts addressed by employment-related services, the Framework throughout its lifetime will commission a range of specialist services that address specific needs. As such, payment terms for outcomes will be wide ranging and differ between procurements depending on the speciality of the service. A mainstream job brokerage service for residents impacted by welfare reform demands a different pricing model than supporting residents with mental health conditions or young people not engaging in education, employment and training. As such it would undermine achieving MEAT to assess providers on cost at the Framework stage as we cannot apply one pricing model to reflect the various requirements of services to be procured through the Framework.
- 3.31 Assessing providers on a cost basis at this stage could result in the appointment of inappropriate Framework Providers who had scored highly on a theoretical pricing structure but were not the most appropriate providers and might not offer MEAT for the breadth of service provision required. The proposed procurement evaluation methodology will result in the appointment of providers who are specialists at what they deliver- ranging from mental health and physical disabilities through to young people; specialisms that are driven by very different pricing models when delivering employment-related services.

- 3.32 The call-off stage will robustly assess providers against best value principles that are specific and individual to that particular procurement and subsequently apply MEAT more effectively to individual opportunities.
- 3.33 In order to ensure that we obtain MEAT for each individual call-off under the Framework, we are assessing tenderer's ability to understand the cost implications and models applicable to different services and funding structures, together with their ability to lever in external funding. Providers will be asked to set out the cost implications of delivering three different types of service, explaining their anticipated resourcing costs to deliver set outcomes. We will compare this with the market rate and our own expectations and assess and score the response within the capacity and financial management section of the tender evaluation document.
- 3.34 In summary, we are requesting exemption from Contract Standing Orders (CSOs) at Cabinet stage not to apply MEAT but evaluate on quality at this stage, however with a robust safeguard built in to the tender to reaffirm our commitment to delivering value for money. Competition on pricing would be secured at the mini-competition stage when procuring services through the Framework. Pricing and outcome payments in most cases will be set by an external funding commissioner, whose payments will be passed down to our Framework provider(s). If not, outcome payments will be aligned with market rate and awarded through a risk and reward model
- 3.35 *Evaluation*
- 3.36 The Framework will follow an open procurement for High Value (HV) Part B Services. The value is difficult to quantify as it is dependent on external funding secured. Nevertheless it is anticipated to exceed the HV threshold of £250,000.
- 3.37 The Framework will be administered through the London Tenders Portal. The tender is in two parts.
- 3.38 Part one addresses qualification questions to assess bidders in terms of business probity, economic and financial standing, and technical or professional ability and capacity. This will be online-based and will include some pass/fail criteria and other non-scored questions.
- 3.39 Part two is the tender questions. Tenders will be scored on the quality of their responses to these questions. The percentage of marks awarded to each section are clearly marked. Whilst not all questions are scored all questions are compulsory, and any tender that does not respond to all questions will be automatically disqualified. Part two will be an attached document uploaded to the e-tendering portal.
- 3.40 The Framework will be assessed on quality and not cost. The call-off stage for specific opportunities will assess competitive costings between Framework providers at this later stage. This is discussed further in 4.0 and 5.0 under Financial and Legal implications.

3.41 Tender questions will assess a provider based on their track record of delivering high quality support services to particular cohorts and protected groups, showing an understanding of the challenges in Brent when supporting our residents into meaningful and sustainable employment. We want to see how providers quality assure and measure their performance, whilst assessing their financial and operational capacity and capability to deliver an employment-related support service. Providers will also identify their links with other specialist services across the borough and set out how they will work with local stakeholders including the Council and DWP. Evaluation scoring is allocated as below :

Section	Weighting
Your Background and Experience	20 per cent
Customers and Stakeholders	30 per cent
Capacity and Financial Management	20 per cent
Quality & Performance	30 per cent

3.42 A panel of odd numbers comprising members of the Employment and Enterprise team will mark and score the bids.

3.43 An information session will be held to provide advice and guidance on completing the tender documents.

4.0 Financial Implications

4.1 The Framework has an estimated value of between £100,000 - £20 million, depending on our ability to attract funding from external sources including:

- European Structural and Investment Funds
- Department for Work and Pensions
- Department for Communities and Local Government
- The Big Lottery Fund
- Various grant givers and funders across the public, private and charitable sectors.

4.2 Whilst the Framework will be used as the main method of procurement we reserve the right to:

- commission contracts outside of the Framework in line with Council procurement guidelines;
- remove partners from the Framework for poor performance;
- remove partners for failure to bid for any call-off contracts within a two year period.
- offer no guarantee of any call-off contracts.

In most instances, contracts will be based on a payment by results model. We cannot guarantee, from the outset, that all opportunities will follow this model, as every funding opportunity is different. Nevertheless this is unlikely.

4.3 As such the Framework makes no guarantee once it is established and therefore until a call-off contract is made, there is no contractual obligation or risk to the Council.

5.0 Legal Implications

- 5.1 An Employment, Skills and Enterprise strategy is not a statutory requirement. However, Section 1 of the Localism Act 2011 empowers the Council with, amongst other things, a broad power to do anything that individuals may do subject to any specific restrictions on local authorities, namely for the benefit of the authority, its area or persons resident or present in its area (referred to as the “General Power of Competence”). The Council's promotion of an Employment, Skills and Enterprise strategy and proposed Framework will benefit its residents.
- 5.2 Under the Public Contract Regulations 2006 (“the Regulations”) an employment support service is deemed as falling under Part B and as such the Regulations apply in part only. In order to comply with the relevant provisions contained in the Regulations, Officers must ensure adherence to the Treaty on the Functioning of the European Union (TFEU) Principles namely, transparency, equal treatment, proportionality and mutual recognition when procuring services. The structure and process proposed by Officers for establishing the Framework should comply with the TFEU Principles and the Regulations – as Officers intend to publish the proposed Framework opportunity on the Council’s e-Tender portal and will observe a voluntary standstill period.
- 5.3 The estimated value of the procurement over the potential life of the proposed Framework puts it under the category of a High Value Contract as defined by the Council’s Contract Standing Orders. In addition the Council’s Contract Standing Order 96 states that a formal tendering process must be conducted for Part B services. When embarking on a tender the practice is for Officers to seek Cabinet approval for pre-tender considerations in accordance with the criteria and timetable laid out in the body of the report.
- 5.4 Further, rather than seek to evaluate tenders in accordance with MEAT, Officers are proposing to evaluate solely on the basis of quality and to consider price when undertaking a mini-competition off the proposed Framework when intending to place a call-off contract, for the reasons set out in Para. 3.28 and 3.29 above.
- 5.5 Once the tendering process is undertaken Officers will report back to Cabinet in accordance with the Council’s Contract Standing Orders, explaining the process undertaken in procuring the service and recommending the conclusion and appointment of providers onto the proposed Framework.

6.0 Diversity Implications

- 6.1 Our Equality Impact Assessment addresses how the Framework meets our Public Sector Equality Duty under the Equalities Act 2010.
- 6.2 The Framework is anticipated to improve access to relevant and meaningful employment support across Brent’s diverse communities.

8.0 Background Papers

None

9.0 Contact Officer

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