

 Brent	Cabinet 12 September 2018
	Report from the Director of Performance, Policy and Partnerships
Authority to Tender Concession Contract for Six-Sheet Advertising Across the Borough	

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	N/A
Background Papers:	N/A
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Peter Gadsdon Director of Performance Policy and Partnerships Email: Peter.Gadsdon@brent.gov.uk Tel: 0208 937 6095

1.0 Purpose of the Report

- 1.1 This report concerns the future provision of the Council's six-sheet free standing advertising units contract. The report requests approval to invite tenders in respect of the proposed six-sheet free-standing advertising units contract to start December 2019, as required by Contract Standing orders 88 and 89.

2.0 Recommendations

That Cabinet:

- 2.1 Approves inviting tenders for six-sheet free standing advertising units contract on the basis of the pre - tender considerations set out in paragraph 3.2 of the report.
- 2.2 Approves officers evaluating the tenders referred to in 2.1 above on the basis of the evaluation criteria set out in paragraph 3.2 of the report.

- 2.3 Delegates authority to the Director of Performance, Policy and Partnerships in consultation with the Leader to award the concession contract for a term of eight years plus one further two year extension (a total contract term including extensions of ten years).

3.0 Detail

3.1

- The purpose of this report is to highlight the rationale for and benefits associated with commencing a re-procurement exercise at the current time and to seek approval to proceed on this basis.
- Brent Council entered into a twenty year Concession Contract agreement with JC Decaux in 1999. The agreement has provided no income in revenues per annum for the Council with a total of zero income over the term of the agreement.
- The agreement has provided the council with the ability to deliver public sector messages on the reverse side of the free standing units and has funded the provision of seven automated public conveniences which are poorly used and in a poor state of repair.
- The current agreement is due to expire on 29 December 2019 and as such requires a re-procurement exercise in compliance with The Concession Contracts Regulations 2016.
- It is estimated that the outcome of the re-procurement exercise will be an increase in the Council revenues from no income per year to a significant six figure sum per year.
- The Council will retain the right to exclude certain types of advertising on the six-sheet displays in order to protect its reputation and ensure that ethical responsibilities are adhered to.
- Brent Council is working in collaboration with subject matter experts Fortuna Associates to re-procure this requirement. Fortuna has advised that market conditions are currently more favourable than at any recent time. It is therefore anticipated that the commencement of a re-procurement exercise will both take advantage of favourable market conditions and secure the associated revenues for the contract term.
- There are currently 72 six-sheet free standing advertising unit displays across the borough, some of which have been in place for the entirety of the current contract. It is anticipated that bidders will digitise the majority of the displays and may also rationalise and/or alter the locations of the display portfolio in order to maximise the revenue generation opportunity, subject to the receipt of planning consent.
- The council specification sets aside one in every six adverts for public service messaging on digital displays, which can be used for educational purposes or be rapidly changed in emergency situations if required.
- The options for procuring the replacement Contract are somewhat constrained by the applicability of The Concession Contracts Regulations 2016 for Concession Contracts of this value (detailed in 4.1) and the duopoly which exists in the supply market, the two dominant concessionaires are JC Decaux and Clear Channel.

- The commercial model will provide a guaranteed minimum revenue for the Council, whilst also enabling the generation of additional revenues via a gain share arrangement based on increases to the size of the advertising display portfolio.
- The proposed contract term is ten year, eight years initially with one further two year extension
- The authors appreciate that ten years is a considerable term, but feel that the capital investment required to digitalise the display portfolio will be considerable and as such the concession period is appropriate to allow the recouping of investment and maximise the revenues received by the council.

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

Ref.	Requirement	Response	
(i)	The nature of the Concession	The awarding of a concession relating to six-sheet free standing advertising unit displays across the borough of Brent in order to maximise the generation of revenues for the Council and its constituents.	
(ii)	The estimated value.	The estimated value of this Concession Contract is significant, with the Council anticipating a six-figure revenue stream per annum	
(iii)	The contract term.	The total term of the concession is ten year (eight years initially plus one further two year extension).	
(iv)	The tender procedure to be adopted.	The tender will be run in compliance with the Concession Contracts Regulations 2016.	
v)	The procurement timetable.	Indicative dates are:	
		Adverts placed and Invitation to Tender	17 th September 2018
		Deadline for tender submissions	31 st October 2018
		Panel evaluation and shortlist for interview	1 st November 2018 – 9 th November 2018
		Interviews and contract decision	w/c 12 th November 2018
		Report recommending Contract award circulated internally for comment	22 nd November 2018 – 4 th December 2018
		Cabinet approval	10 th December 2018

Ref.	Requirement	Response	
		minimum 10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers (contracts covered by the full EU Regulations only)	11 th December 2018 – 21 st December 2018
		Contract Mobilisation	w/c 7 th January 2019 onwards
		Contract start date	31 December 2019 or earlier if the current supplier appointed or is able to remove some units and the new supplier is in a position to install new units
(vi)	The evaluation criteria and process.	<ol style="list-style-type: none"> At selection stage shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines by the use of a selection questionnaire to identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise. At tender evaluation stage, the panel will evaluate the tenders against the following criteria: <ul style="list-style-type: none"> Price 65% Quality: 35% consisting of: <ul style="list-style-type: none"> Innovation (5%) Continuous Improvement (5%) Performance/relationship management (5%) Portfolio design methodology (10%) Revenue calculations (5%) Social Value (5%) 	
(vii)	Any business risks associated with entering the contract.	The obvious business risk when entering into a contract of this nature is the financial stability of the concessionaire and thus the reliability of the revenue stream. Brent will undertake a full financial appraisal as part of the tender process and will also reserve the right to request a parent company guarantee, bond and/or escrow account to provide adequate protection for the revenues.	
(viii)	The Council's	The Corporate Best Value Strategy is to provide best	

Ref.	Requirement	Response
	Best Value duties.	Value services and to serve our community. The competitive tender for the concession contract will ensure the maximisation of revenues to the Council
(ix)	Consideration of Public Services (Social Value) Act 2012	See section 8 below
(x)	Any staffing implications, including TUPE and pensions.	It is considered unlikely that TUPE will apply to this contract but the appropriate checks will be undertaken to ensure that any risks in this area are mitigated.
(xi)	The relevant financial, legal and other considerations.	Please see sections four and five below.

3.3 Cabinet is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

4.0 Financial Implications

4.1 The estimated value of this Concession Contract is significant, with the Council anticipating a six-figure revenue stream per annum.

4.2 There are no anticipated requirements from a funding perspective associated with letting this Contract, other than the cost of the resources required to deliver the project.

4.3 It is expected that the re-procurement of the contract will result in an increased financial contribution to Council revenue streams.

5.0 Legal Implications

5.1 The total value of the Concession means that The Concession Contracts Regulations 2016 will apply.

5.2 For High Value Contracts, the Cabinet must approve the pre-tender considerations set out in paragraph 3.2 above (Standing Order 89) and the inviting of tenders (Standing Order 88).

5.3 Officers are recommending that the Cabinet delegate the award of the contract once the tendering process is undertaken to the Director of Performance, Policy and Partnerships in consultation with the Leader.

5.4 As this procurement is subject to the full application of The Concession Contracts Regulations, the Council must observe the requirements of the mandatory minimum 10 calendar day standstill period imposed by The

Concession Contracts 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.

6.0 Equality Implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no equality implications which arise from the procurement exercise itself, any equality implications are likely to arise from the use of the Council's use of its free advertising.

7.0 Human Resources/Property Implications (if appropriate)

- 7.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.

8.0 Public Services (Social Value) Act 2012

- 8.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.
- 8.2 Given that one of the requirements of the specification is for one in every six reverse side advertising displays under the Contract will contain a public service message of the Council's choice which in itself delivers social value, and the qualitative total represents only 35% of the overall award criteria, it is considered that 5% is a more appropriate weighting to give to Social Value in this instance.

Report sign off:

PETER GADSDON

Director of Performance, Policy and Partnerships