



**Executive
13 February 2012**

**Report from the Director of
Finance and Corporate Services**

Wards Affected:
ALL

Tender for the provision of a framework for passenger transport services for participating boroughs in the West London Alliance – update report

1.0 Summary

- 1.1 Brent Council is participating in the West London Alliance Transport Efficiency Programme in collaboration with the London Boroughs of Barnet, Ealing and Hounslow. Brent Council has agreed to act as the Lead Borough for the procurement of the Passenger Transport Framework on behalf of other participating Boroughs.
- 1.2 Following a report to the September 2011 Executive seeking authority to invite tenders for a Passenger Transport Framework Agreement to commence 1st April 2012, this report seeks an amendment to the pre-tender considerations as required by Contract Standing Orders 88 and 89 contained in that report.

2.0 Recommendations

- 2.1 The Executive note the issues encountered with the procurement of the Passenger Transport Framework as set out in paragraph 3.2
- 2.2 The Executive gives approval to amend the pre-tender considerations for the procurement of the Passenger Transport Framework as detailed in paragraph 3.7.

3.0 Detail

- 3.1 In the report to the Executive in September 2011, Officers requested authority to tender a single framework for the provision of contracted passenger transport services for the carriage of vulnerable adults, children/young people with Special Educational Needs (SEN) children, disabled people, patients and other authorised individuals (the "Framework"). At this time, the report recommended adopting a Restricted or two stage process for the procurement of the Framework.
- 3.2 The tender was advertised via Tender Electronics Daily in OJEU, local newspaper and a Private Hire Trade Journal; in addition a 'Trade Day' was also held. Given this

level of engagement it was anticipated that interest in the procurement would be significant and up to one hundred Pre-Qualification Questionnaires (“PQQ”) were expected to be received. However less than half this number were actually returned and fewer still were short listed to be invited to tender. PQQs were failed for a variety of reasons including not being able to demonstrate evidence of an adequate Health and Safety policy, poor financial background and/or issues with staff training. Despite the disappointing response, Officers proceeded to invite tenders with a closing date for tender returns of 26th January 2012. Fewer than expected tenders were received. Officers from the relevant WLA authorities involved in the procurement met to review tenders and concluded that there were insufficient responses to establish a Framework with sufficient coverage for all vehicle types across all relevant boroughs.

- 3.3 Given the disappointing response to the procurement, Officers from the WLA boroughs met to consider the reasons for this and the most appropriate way forward. It was considered that a combination of insufficient advertising and an overly complicated Pre-Qualification process may have led to reduced participation. Given the need to ensure adequate coverage for the Framework, Officers felt that re-advertising the Framework Procurement and following an Open or one stage procurement process would generate greater interest.
- 3.4 The key difference between a Restricted and an Open process is the timescales for return of documents. In a Restricted process, generally a minimum of 37 days must pass between the OJEU advert being placed and submission of the PQQ and a minimum of 40 days between the invitation to tender and the subsequent return of the tender documents. An Open process allows the issue of a Minimum Standards Questionnaire (“MSQ”) which is broadly similar to a PQQ at the same time as the tender documents; a minimum of 52 days (though this is subject to reduction where the contract notice is despatched electronically and where tender documents are made available electronically) must then elapse prior to return of both documents for evaluation.
- 3.5 It is proposed that for the new Open process, the MSQ will be broadly similar to the original PQQ but simplified for ease of completion. Those sections of the PQQ that are deemed not to be strictly necessary such as the Business Continuity Section will be deleted. Other sections such as the Quality Assurance Section will be reduced in length. All other Sections will remain the same. Additionally amending the procurement process to an Open rather than Restricted procedure would allow for the same methods of engagement with the market to be employed but Officers would ensure adverts also appear in Coach and Bus Trade Journals as well as ensuring adverts appear in local press for each of the four participating Boroughs. Additionally Officers intend to hold a briefing day with potential bidders as was previously undertaken but with an added section covering a guide to completing the MSQ.
- 3.6 The estimated value of this Framework is £46M for all Participating Boroughs over the full four year term with the value of call-off made by Brent Council under the Framework estimated to be £5.6m.

Pre-Tender Considerations

- 3.7 In accordance with Contract Standing Orders 88 and 89, the pre-tender considerations are as detailed in the report to the Executive of 19 September save that Officers seek approval to tender via an Open procurement process for the

appointment of the Framework for use by WLA members, with the procurement timetable revised as follows:

Indicative dates are:

Stage	Date
Adverts placed in trade press and OJEU	Late February
Invite to Tender	1 st March
Deadline for tender submission	10 th April
Panel evaluation	Mid April onwards
Executive approval	25 th June
Framework start date	July/August

4.0 Financial Implications

- 4.1 There are no new financial considerations other than the cost of Officer time and advertising which are deemed to be unavoidable.

5.0 Legal Implications

- 5.1 The estimated value of the framework agreement for Passenger Transport Services over its lifetime is in excess of £500k and therefore the procurement and award of the framework agreement is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts. In accordance with Contract Standing Order 88, the Executive may approve pre-tender considerations in respect of High Value Contracts.
- 5.2 The estimated value of the framework agreement over its lifetime is higher than the EU threshold for Services under the Public Contracts Regulations 2006 ("the EU Regulations"). Transport services are classed as Part A Services under the EU Regulations and therefore the framework agreement must be procured fully in accordance with the EU Regulations, to include advertising the framework agreement in the Official Journal of the European Union. A change from the Restricted to the Open procedure will require re-advertising of the procurement in the Official Journal of the European Union.
- 5.3 The risk of a legal challenge from a supplier that participated in the original process is minimal; especially as they will be able to participate in the new process should they choose to do so. Additionally standard Brent contract terms specify that the council reserves the right to amend or cancel the procurement process at any time and that the council cannot be liable for any expense incurred by the participant during the tender process.

5.4 Once the tendering process is undertaken, Officers will report back to the Executive in accordance with Contracts Standing Orders, explaining the process undertaken in tendering the framework agreement and recommending award.

6.0 Diversity Implications

7.1 Officers have screened the proposals set out in this Report and consider that there are no significant diversity implications.

7.0 Staffing/Accommodation Implications (if appropriate)

7.1 The services are currently provided by external contractors and there are no implications for Council staff in Participating Boroughs arising from tendering the requirement.

Background Papers

September 2011 Executive report.

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