

Report of: Executive Member for Housing and Development

Meeting of:	Date	Ward(s)
Executive	21 May 2015	All

Delete as appropriate	Exempt	Non exempt
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THE APPENDIX TO THIS REPORT IS NOT FOR PUBLICATION

SUBJECT: Procurement Strategy for Temporary Accommodation

1 Synopsis

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of Procurement and Management of Temporary Accommodation in accordance with Rule 2.5 of the Council's Procurement Rules.
- 1.2 The council seeks to procure a range of short term licensed and longer term leased temporary accommodation options to enable it to discharge its statutory homelessness duties, and its duties under the Care Act and Childrens Act.

2 Recommendations

- 2.1 To approve the procurement strategy for the Procurement and Management of Temporary Accommodation as outlined at paragraph 1.1, through two separate Framework Agreements;
 - a) Procurement and Management of emergency licensed Nightly Purchased Accommodation
 - b) Procurement and Management of longer term leased Temporary Accommodation
- 2.2 To note the Executive will be asked to approve the award of the contract at the conclusion of the procurement process.
- 2.3 To note that the terms, conditions and pricing of the contracts will be in line with any borough protocols agreed at a London wide or sub regional level for similar services.

3 Background

3.1 **Nature of the service**

The council wishes to procure new contracts for the procurement and management of temporary accommodation for homeless households, to replace existing contracts which are due to expire or have recently expired.

It is intended to procure two separate Framework Agreements;

- a) Agreement for the provision and management of emergency licensed Nightly Purchased Accommodation; to enable the council to temporarily house people whilst it conducts its investigations under the Housing Act 1985 and 1996, the Care Act and Childrens Act.
- b) Agreement for the leasing and management of longer term (3-5 years) temporary accommodation; to enable the council to accommodate people it has accepted a homeless duty for but is yet unable to house in permanent housing.

It is proposed to appoint up to 25 accredited lettings and management agents to the two frameworks who will then be awarded contracts to procure and manage properties in the private rented sector on the council's behalf for the purposes of housing its clients.

The contracts will enable the council to temporarily house homeless households it has a statutory duty to under the homelessness legislation as laid down in the 1985 and 1996 Housing Acts. Additionally the council will be able to fulfil its duties under the Care Act and Childrens Act, through offering temporary accommodation to clients who have No Recourse to Public Funds (NRPF).

The council currently has a Framework Agreement in place with 14 agents for the Procurement and Management of Nightly Purchased Accommodation, which is due to expire in April 2016. There is also a recently expired contract in place for the Procurement and Management of longer term Leased Temporary Accommodation.

In addition there are a number of Service Level Agreements in place between the No Recourse to Public Funds service and a number of providers.

This procurement exercise seeks to consolidate all of the above into two newly procured 4 year Framework Agreements.

3.2 **Estimated Value**

The costs of temporary accommodation (TA) are funded by rents charged to occupants. Much of this rent is met by housing benefit (HB) payments. Historically, no budget has been set for TA, as expenditure was fully covered by income. However, since the implementation of the Local Housing Allowance and Benefit Caps, housing benefit subsidy no longer covers the full cost of TA.

With regard to NRPF clients, they are not eligible for HB due to their immigration status. Their TA costs are covered by general fund contingency.

The total projected value of the two suggested Framework Agreements (for licensed and leased TA) would be approximately £11.5m per year, ie £46m over the four year life of the framework. Appendix A sets out the costs incurred over 2012/13 and 2013/14.

3.3 **Timetable**

A project plan with key dates, based on the council's Governance Arrangements, is in place. The proposed contract commencement date is 1st April 2016.

The current Framework Agreement for the procurement and management of Nightly Purchased Accommodation expires on 31st March 2016.

There are no statutory deadlines for the procurement of this service.

The commissioning team have consulted with other council departments who also have requirements for temporary accommodation, ie NRPF team, Childrens and Adult Social Care

services. It has been agreed that these services should be joined up in terms of providing temporary accommodation services. The new agreements will be jointly procured and managed by Private Housing Partnerships (Housing Needs & Strategy) in order to achieve best value for the council.

3.4 **Options appraisal**

There are no existing frameworks that could be used for these contracts. The council has a statutory duty to provide these services, therefore new arrangements need to be put in place and we must re-procure.

It is proposed to undertake a competitive tender exercise to establish two new frameworks with an increased number of providers and more rigorous standards and robust pricing.

It is anticipated that there may be a large number of providers interested in these contracts. The preferred route is therefore to conduct a competitive tendering exercise using the two-stage Restricted Procedures, to enable the shortlisting of only providers that meet the council's minimum requirements.

There is currently an insufficient number of providers on the existing arrangements. This means that the council often has to go outside of current arrangements, resulting in the payment of higher rates. The benefit of establishing a framework with a sufficient number of providers who all abide by the same terms (minimum standards) means that standards will be more consistent, contract management more efficient and prices will be kept down due to internal framework controls.

Requirements for this service fluctuate depending on demand, therefore, the contracts need to be flexible. Frameworks which do not guarantee volume or value of work to any one provider are therefore a more suitable arrangement than an overall block contract with one provider for this service. Some small block bookings may be arranged as part of the overall frameworks.

3.5 **Key Considerations**

The purpose of these contracts is to ensure homeless clients are housed in suitable, secure and safe accommodation that meets minimum standards. It is also about supporting clients to participate and (re-)engage with the community, tackle worklessness and contribute to the local economy.

It is recognised that the use of private sector accommodation to house homeless clients is expensive. However, due to housing demand pressures and the shortage of social housing, the council is heavily reliant on the private housing sector to source temporary accommodation for those who present as homeless.

The council has limited access to other, more cost effective types of temporary accommodation, such as its own three reception centres, and the use of vacant council stock earmarked for future redevelopment.

However, these only meet approximately 10% of the demand for temporary housing.

The council will make every effort to place clients in accommodation that meets their needs, in terms of size, location and proximity to services and facilities. Priority criteria have been agreed to ensure clients' specific needs, such as the needs to remain in borough, are accommodated subject to the availability of accommodation.

Clients will be linked up with local services to provide them with advice and support around training and employment, managing their finances, sustaining their tenancies, and any help with personal issues.

The co-location of council services at the new customer centre at 222 Upper Street provides excellent opportunities for joint working for the benefit of clients in temporary accommodation. In addition, each client will be allocated a dedicated Temporary Accommodation Officer, who will

visit them and liaise with them on a regular basis, and carry out accommodation checks to ensure ongoing compliance with standards requirements.

Through the framework the council will be able to appoint providers to provide additional services to NRPF clients to allow them to resolve their immigration status quicker (which long term will also save the council money).

The Framework Agreements will set out detailed and ambitious Accommodation Standards for all properties procured as temporary accommodation, ensuring they meet minimum standards set by the council.

Framework providers will be expected to be accredited through one of the landlord accreditation frameworks, and sign up to the London Rental Standard (new standards set by the mayor for London's private rented sector)

(<http://www.london.gov.uk/sites/default/files/London%20Rental%20Standard%20-%20May%202014.pdf>).

Training, support, advice and information will be provided to the framework providers by the council, through briefings, newsletters, bulletins, classroom training etc. There will be an expectation that providers commit to continuous improvement through the award of CPD points offered by various landlord training and accreditation providers.

All existing providers on the framework will be contacted regarding any TUPE implications.

London Living Wage requirements have been considered and do not apply to these contracts.

3.6 **Evaluation**

This tender will be subject to OJEU procurement rules, and will be conducted in two stages, known as the Restricted Procedure as the tender is 'restricted' to a limited number of organisations. The first stage is Selection Criteria through a Pre-Qualification Questionnaire (PQQ) which establishes whether an organisation meets the financial requirements, is competent and capable and has the necessary resources to carry out the contract. The PQQ is backwards looking and explores how the organisation has performed to date, its financial standing, information about their history and experience.

A limited or 'restricted' number of these organisations meeting the PQQ requirements as specified in the advertisement are then invited to tender (ITT). The second stage is the ITT is now forwards-looking using Award Criteria. Tenders are evaluated on the basis of the tenderers' price and ability to deliver the contract works or services as set out in the evaluation criteria in order to determine the most economically advantageous offer. The proposed award criteria are 80% Price and 20% Quality.

Due to the cost pressures within the TA and NRPF budgets it is essential that the most cost effective accommodation is sourced. Costs can vary widely, not necessarily reflecting standards of accommodation. A more detailed breakdown is provided in Appendix A.

By setting minimum accommodation standards that all properties need to comply with, and focussing on the use of the most cost effective properties, it is anticipated that the council will maximise value for money. The property standards mitigate the risk of poor quality accommodation.

3.7 **Business Risks**

The main risk is that the council is unable to source a sufficient quantity of properties at low cost that meet minimum property standards.

The ways in which it is proposed to manage these risks is to ensure that there is a sufficient number of providers on each framework. It is anticipated that having approximately 25 providers on

the frameworks, it will give the council access to a wide breadth of available properties. It is also proposed that the council increases its property inspections both before and during lets, to ensure standards compliance. Additionally, the delivery of the council's Temporary Accommodation Reduction Strategy 2014-17 will lead to reduced need for properties.

Implications for service users have been considered as part of Resident Impact Assessment. As the service proposed is not a new service, but the re-procurement of an existing service, there will be no impacts of any significance on service users.

Financially, the inability of the service to self fund through rents and charges must not be understated. Restrictions in HB subsidy and clients being affected by welfare reform has seen a reduction in the income collection to cover the costs of TA. The Medium Term Financial Strategy proposes a managed reduction to the TA overspend. This procurement will assist with this. It is our aim to reduce the number of households in TA, meaning the amount spent on temporary accommodation will reduce.

- 3.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to sign the Council's anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences. The adequacy of these measures will initially be assessed by officers and the outcome of that assessment will be reviewed by the Council's Procurement Board
- 3.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.6 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	Procurement and Management of Temporary Accommodation. See paragraph [1.2]
2 Estimated value	The estimated value per year is £11 million. The framework agreements are proposed to run for a period of four years. See paragraph [3.2]
3 Timetable	The timetable is outlined within this report. Estimated contract start date is: 1 st April 2016 See paragraph [3.3]
4 Options appraisal for tender procedure including consideration of collaboration opportunities	Outcome of options appraisal are described within this report. See paragraph [3.4]
5 Consideration of: Social benefit clauses; London Living Wage; Best value;	Outcomes are described within this report. See paragraph [3.5]

TUPE, pensions and other staffing implications	
6 Evaluation criteria	<p>The price/quality breakdown is: 80% price 20% quality</p> <p>The award criteria price/quality breakdown is more particularly described within the report.</p> <p>See paragraph [3.6] and Appendix 2.</p>
7 Any business risks associated with entering the contract	<p>Business risks are described within this report.</p> <p>See paragraph [3.7]</p>
8 Any other relevant financial, legal or other considerations.	See paragraph [3.8]

4 Implications

4.1 Financial implications

There are currently (@Jan.15) around 466 households in nightly booked accommodation (reduced from around 545 households at the start of the year) & 101 households in private sector leasehold (PSL) accommodation.

The 2014-15 forecast cost (payments to landlords) of nightly booked & PSL accommodation is £11m. It is anticipated that this will reduce to around £10.5m in 2015-16, on the basis that the number of households in nightly booked is maintained at current levels.

In addition, the anticipated annual cost of providing accommodation to clients with NRPF is in the region of £1m.

The total anticipated costs of the 2 framework agreements, is £11.5m annually & £46m (@current prices) over the 4 year life of the agreements.

The above costs are met from a combination of departmental budgets and general fund contingencies.

4.2 Legal Implications

Part VII of the Housing Act 1996 as amended by Homelessness Act 2002 and the Homelessness (Priority Need for Accommodation) (England and Wales) Order 2002) govern the duties and obligations on housing authorities for prevention of homelessness and for securing that sufficient accommodation will be available for people who become are at risk of becoming homeless. In particular, the Council has duty under section 193 of the 1996 Act to provide temporary accommodation to homeless applicants who satisfy the following criteria: they are homeless; they are eligible for assistance; they are in priority need of accommodation; and, they are not intentionally homeless. The Council also has a duty to secure interim or emergency accommodation, pursuant to section 188 of the 1996 Act, for those persons it has reason to believe may be homeless, eligible for assistance, and have a priority need pending a decision on the section 193 duty, (if any) owed to the applicant.

The Council has power to acquire housing accommodation to be used for the purposes of satisfying its duties to provide accommodation for the homeless (section 17 of the Housing Act 1985). The properties will be offered either as emergency accommodation in compliance with the duty under section 188 of the 1996 Act or as temporary accommodation under section 193 of the

1996 Act. In addition, the Council may provide temporary accommodation in certain circumstances to persons who have No recourse to Public Funds in order to fulfil its duties under the Care Act 2014 and the Children Act 1989 Accordingly the Council may to enter into framework agreements with providers of such accommodation and services under section 1 of the Local Government (Contracts) Act 1997.

The first framework involves the short term leasing of properties by the Council and the management of and provision of other services in relation to those properties. Procurement of property management services is regulated by the Public Contracts Regulations 2015 but the leasing of properties falls outside the scope of those regulations. Where the different parts are objectively separable the Council must comply with the regulations if it wishes to award a single contract .The second framework involves the licensing and management of nightly purchased accommodation. The different parts of that procurement are objectively not separable and therefore the regulations will apply to the contract as provision of management and other services forms the main subject-matter of that contract .

Both procurements involve a mixture of property / property management services and social services but mainly the former. Accordingly each procurement constitutes a public services contract for the purposes of the Public Contracts Regulations 2015 and as the estimated value of each contract exceeds the financial threshold (£172,314) will need to be advertised in OJEU. The framework agreements will be procured using the restricted procedure in accordance with the rules relating to that procedure set out in the regulations.

4.3 **Environmental Implications**

The sourcing and management of private sector accommodation for the use of temporary housing by the council has the potential for some positive environmental impacts. By working closely with landlords and having minimum requirements for the quality of dwellings it takes on, the council may be able to encourage landlords to improve the energy efficiency of their housing stock, which will reduce carbon emissions and the impact of fuel poverty for residents. In addition, by having direct links with private sector landlords, it may be easier for the council to promote and target energy efficiency improvement schemes such as the Green Deal.

With regard to Property Management, there will be some environmental impacts associated with any repair or renovation works that may be required to the properties in use. These will have to be carefully managed to minimise resource use, waste generation and disturbance to biodiversity and neighbouring properties. However, such works may provide opportunities to build in energy efficiency measures.

4.4 **Resident Impact Assessment**

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

The initial screening for a Resident Impact Assessment was completed on 22/09/2014 and this did not identify any negative equality impacts for any protected characteristic or any human rights or safeguarding risks. The RIA is available on request.

5 **Conclusion and reasons for recommendations**

- 5.1 Local authorities have a legal duty to provide TA for certain groups of homeless households pending a decision on their homeless application. This ensures that homeless families are not forced to sleep on the streets.
The provision of carefully selected good quality temporary accommodation that meets minimum standards and is well managed, enables the council to fulfil its statutory duties.
- 5.2 The procurement of both short term licensed and longer term leased temporary accommodation options will enable the council to access a wide portfolio of accommodation options, and provide vulnerable clients with decent accommodation to suit their specific needs. This will provide clients with a safe and secure base from which to develop other areas in their lives, and enable them to engage with local communities.

Appendices

- Exempt Appendix A: TA costs and Breakdown of Award Criteria

Final report clearance:



Signed by: Executive Member for Housing and Development

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