



Cabinet (Resources) Panel

5 November 2013

Report Title	Procurement of a Preferred Partner List of Registered Providers and Development Partners	
Internal decision designation	AMBER	
Cabinet Member with Lead Responsibility	Councillor Peter Bilson Economic Regeneration and Prosperity	
Key Decision	Yes	
In Forward Plan	Yes	
Wards Affected	All	
Accountable Strategic Director	Tim Johnson, Education and Enterprise	
Originating service	Regeneration	
Accountable officer(s)	Jane Trethewey Tel Email	Section Leader, Housing Development 01902 55(5583) Jane.trethewey@wolverhampton.gov.uk
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Recommendation(s) for action or decision:

The Cabinet (Resources) Panel is recommended to:

1. Approve a formal procurement process through the Official Journal of the European Union (OJEU) to appoint a number of partners to a Development and Partnering Framework to work with the council to deliver housing projects.
2. Delegate authority to the Cabinet Member with lead responsibility for Economic Regeneration and Prosperity to approve the process and framework criteria to be used for the procurement of a Framework Panel of Preferred Partners.

Recommendations for noting:

1. The Cabinet (Resources) Panel is asked to note that following the evaluation of tenders' stage, a further report will be taken to Cabinet (Resources) Panel to approve the appointments to the Framework Panel.

1.0 Purpose

- 1.1 The purpose of this report is to seek approval for a new Housing Development and Partnering Framework to be procured through OJEU, to appoint a number of Housing Associations and Development partners to a legal framework for a four year period.

2.0 Background

- 2.1 Wolverhampton Council established a Preferred Partners Framework 12 years ago, under Housing Corporation guidelines at that time. This Framework enabled the council to work with five housing association partners to jointly commission social housing programmes. At the time when this Framework was established, the allocation of Housing Corporation funding was directly to housing associations and was site specific. This Framework ensured funding allocation was targeted to meet local housing needs. Partners were selected to the Panel who were able to deliver the council's approved development programme and neighbourhood renewal priorities. This included disposal of council-owned land to a partner housing association for development of social housing and development of supported / specialist housing schemes.
- 2.2 The Homes and Communities Agency (HCA) was established in December 2008 as a successor body to the Housing Corporation. Housing associations were later known as Registered Social Landlords but are currently referred to as Registered Providers.
- 2.3 The current Framework is now out of date as it does not meet the council's current procurement requirements or EU regulations. The council's housing requirements have also changed and under the self-financing regime, the council is now in a position to utilise Housing Revenue Account (HRA) finance for our own development programme. The council currently awaits HCA Board approval to recommend Investment Partner (IP) Status which will allow the council to draw down funding for approved schemes and bid directly for further HCA funding. It is anticipated that this approval will be given at the end of October 2013.
- 2.4 Over the last two years, 'Improving the City Housing Offer' reports to Cabinet have outlined the council's ambitions to increase the delivery of high quality affordable housing. A range of different approaches have been proposed including direct procurement by the council of development partners, disposal of sites with S106 requirements, and work with our Strategic Construction Partnership contractors. The addition of an up to date, EU compliant Preferred Partners Framework will create an important additional means for delivery of new homes for the city.
- 2.5 A new Framework is therefore required to be developed and procured in order to deliver housing projects in line with current regulations and to maximise the use of external resources and capital investment in housing-led regeneration.
- 2.6 The new Framework will enable both Registered Providers and other development partners to tender to be part of the Framework. It will allow for similar types of work as the previous framework but will also include a range of other housing- led regeneration

and housing initiatives (as outlined in section 3.4) including enabling partners to bid for land / property which the council is disposing of, to provide affordable housing opportunities in line with the council's strategic objectives.

- 2.7 Registered Providers and development partners who tender to be part of a Framework Panel will be required to have Investment Partner status with the HCA and hence eligible for their own funding allocation from the HCA. The pooling of resources as appropriate to enable project delivery would also be possible under the Framework.
- 2.8 The criteria for membership of the Framework Panel will ensure the necessary contracting capacity among Framework Partners.
- 2.9 However, the Framework can be structured and procured in such a way as to also allow for continued delivery of housing schemes / initiatives using other delivery methods including:
- Site Development using the council's Strategic Framework Contractors (for small site development)
 - Utilising the HCA's Delivery Partner Panel (DPP) procurement option to select a developer partner to develop larger sites.
 - Direct tendering for a development partner.
 - Disposal of council-owned sites to private sector developers for housing development with S106 affordable housing obligations
- 2.10 A Framework Panel of Preferred Partners would add a further option to progress housing projects and would give greater capacity to deliver a range of housing development proposals and other housing initiatives using the most appropriate method and ensuring value for money.
- 2.11 Without a Framework a formal tender process would be required for any development scheme where costs were less than £4,348,350 (the EU threshold for works) and for projects with costs above this threshold a full OJEU Notice would be required. A Framework Panel procured through OJEU will enable the award of individual contracts without requiring a full OJEU compliant procurement process for each contract.
- 2.12 Partners on the Framework Panel will be pre-qualified under set terms and conditions, speeding up the procurement process and reducing costs for each project. The terms and conditions of the Framework Agreement will set out clearly the mechanism for awarding contracts to the Framework suppliers.
- 2.13 The appointment process will ensure that successful Framework partners meet all the necessary requirements (health and safety, financial, equality, quality standards, etc.) in order to undertake contracts for the council. It will also provide the council with the ability to specify key outcomes such as local employment and training, local management of housing etc.
- 2.14 The evaluation process will also give consideration to best practice in employment terms when selecting Framework partners.

2.15 In brief, the OJEU process will be as follows:

- The council drafts and agrees its requirements.
- OJEU Notice published
- Interested parties complete a Pre-Qualification Questionnaire
- Evaluation of Pre-Qualification Questionnaire submissions
- Selected suppliers from Pre-Qualification stage proceed to the Invitation to Tender (ITT) stage
- Competition period
- Receipt of tenders
- Interviews are held / evaluation of tenders against Framework criteria
- A report will be taken to Cabinet (Resources) Panel for approval to appoint Framework Panel partners
- The Standstill Period is observed
- The council appoints the successful suppliers

The timescale for the above process is dictated by the legal requirements of an OJEU procurement, but overall the process is expected to take around one year from the publication of the Contract Notice in OJEU. It is anticipated that the Framework will be in place by 1 April 2015.

2.16 Once the Framework Panel is established, contracts for particular projects and schemes will be awarded in accordance with the mechanisms set out in the Framework Agreement. These mechanisms will take into account the capacity and specialism(s) offered by the suppliers and will allow for either direct call-off from the Framework, or for further competition.

2.17 Wolverhampton Homes may be asked to manage delivery of some of the smaller scale developments on behalf of the council.

3.0 Progress and options

3.1 Advice from the council's Procurement Section is that the correct route for procurement of a Framework list of Partner organisations is through an OJEU process.

3.2 Discussions have also taken place with Sandwell Council who have experience of setting up an OJEU procured panel for this specific purpose, having procured a Housing Development Framework for the period 2010-15. These discussions have allowed Wolverhampton City Council officers to gain an understanding of how the procurement process worked in practice with local developers, timescales for the various stages of the process, types of activities which the Framework can apply to, the level of interest received, and some of the lessons learnt.

3.3 A joint approach to procurement with Sandwell Council was discussed as a possible option but this is unlikely to transpire due to different procurement timescales for each Council and other strategic issues. However, council officers will keep in contact with Sandwell's officers and there may at least be opportunities for shared learning.

- 3.4 The Framework will enable the council to work with Registered Providers and development partners on a range of housing projects and initiatives including:
- Council site development
 - Council estate regeneration
 - Potentially providing council grant for Registered Provider development
 - Development of specialist and /or supported housing schemes
 - Discounted sales for development
 - Market sale and market rent development
 - Construction contractor work
 - Development agent work
 - Other housing initiatives which may arise which support the aims of Wolverhampton Housing Strategy
 - Development which supports housing-led regeneration such as open space, environmental and community facilities
- 3.5 Some of the benefits of the Framework approach will be:
- A standard approach which creates certainty for partners
 - Accountability and transparency
 - Mitigates against risks and legal challenge
 - Provides a means to legally dispose of sites at less than best consideration for a development
 - Removes Pre-Qualification requirements, i.e. no need for individual checks for every scheme, as this will have been covered as part of the Framework
 - State Aid regulations compliance
 - Standard templates (e.g. development agreement, cost modelling etc.) make comparison clearer
 - Reduces timescale for project delivery
 - Creates cost savings
 - The Framework will comply with key national funding bodies, such as the Homes and Communities Agency (HCA)
 - Encourages economies of scale and supply chain stability

4.0 Financial implications

- 4.1 The cost of undertaking this procurement process will be met from existing approved budgets in Procurement, Legal and Housing Services.
- 4.2 A further report will be submitted to Cabinet (Resources) Panel to approve the appointment of the preferred partners.

[CF/21102013/C]

5.0 Legal implications

- 5.1 European Union public procurement law regulates the purchasing of contracts for goods, works or services by public sector bodies. Where the contract value exceeds a certain threshold, The Regulations require public bodies to publish a contract notice in the

Official Journal of the European Union (OJEU) and follow one of the prescribed forms of tendering process.

- 5.2 The Public Contracts Regulations 2006 allows for Framework agreements to be established. A Framework sets out the terms under which parties enter into contracts during the term of the framework.
- 5.3 A Framework Agreement should last for no more than four years and can only be extended in exceptional cases.
- 5.4 Procurement of a Framework Panel through OJEU will ensure that new housing development contracts and other housing projects carried out as contracts called off from the Framework are fully EU compliant.

[JH/181013/S]

6.0 Equalities implications

- 6.1 A Partner Framework Panel would be selected through a tender process and would be evaluated against pre-disclosed award criteria and pre-determined methodology which would ensure transparency, equality and proportionality. An Equality Analysis will be completed in respect of the agreed procurement process.
- 6.2 Any projects / initiatives progressed through the Framework would be subject to an Equality Analysis and community consultation as appropriate.

7.0 Environmental implications

- 7.1 The Framework will enable new housing developments to be taken forward across the city. These schemes can be developed to Code Level 4, and will meet the council's planning requirements in respect of environmental standards.
- 7.2 Housing-led regeneration will improve the function and visual amenity of neighbourhoods, particularly in areas of underutilised and unattractive land.

8.0 Schedule of background papers

- 8.1 Open Executive Information Item 26 September 2002, Joint Commissioning: Selection of Preferred Housing Association Partners
Cabinet 11 April 2012, Improving the City Housing Offer