

CABINET

8 MAY 2018

GATEWAY 1 PROCUREMENT COMMENCEMENT: TEMPORARY ACCOMMODATION DYNAMIC PURCHASING SYSTEM (DPS)

Portfolio Holder: Councillor Howard Doe, Deputy Leader and Portfolio Holder for Housing and Community Services

Report from: Richard Hicks, Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive

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SUMMARY

This report seeks permission to commence the procurement of a temporary Accommodation Dynamic Purchasing System (DPS) for a period of 4 years with the option to extend for a further 2+2+2 (total 10 years). This Gateway 1 report has been approved for submission to the Cabinet after review and discussion at RCET Directorate Management Team Meeting on 29 March 2018 and Procurement Board on 11 April 2018.

The RCET Directorate Management Team and Procurement Board have recommended that this project be approved as a Category B, High-risk procurement.

Political and service sensitivities have been considered and no concerns are foreseen with this.

1. BACKGROUND INFORMATION

1.1 Budget & Policy Framework

1.1.1 The budget for temporary accommodation provision is made up of funding from the Council's general fund budget and funding from Central Government, in the form of Flexible Homeless Support Grant.

1.1.2 Local Authorities have a duty to provide accommodation as set out in the Housing Act 1996 pt VII; section 188 which requires the Council to provide temporary accommodation whilst a decision is made on the applicant's homelessness application, where the Council owes a full housing duty to an applicant section 193 requires the Council to provide temporary accommodation. This duty applies to households that the Local Authority believe are homeless, eligible and may have a priority need.

1.1.3 To ensure that temporary accommodation is affordable the Temporary Accommodation Charging Policy is applied with affordable rates. These are set lower than the cost of what the landlord charges for the accommodation. Typically, a two-bedroom accommodation is charged to the Council at a rate of £35 per night; however, the cost charged to the tenant is £26 per night. This means there is a difference of £9 per night per property.

1.2 Service Background Information

1.2.1 Historically, the provision of temporary accommodation has been procured on a spot purchase basis. This developed because of central government changes that led to housing associations withdrawing from providing temporary accommodation and leasing schemes for local authorities.

1.2.2 The unit price of temporary accommodation has been capped for a number of years. Benchmarking, undertaken with other Councils across Kent, highlights that the average unit price of accommodation in Medway is cheaper than the prices paid by the districts across Kent.

1.2.3 Recent changes to the subsidy for temporary accommodation means that the funding for accommodation no longer grows as the amount of people in temporary accommodation increases. From April 2017, all councils receive a grant (Flexible Homeless Support grant) that replaces a payment of £60p/w per case management fee, which was payable under the subsidy regime.

1.2.4 The market for temporary accommodation is becoming increasingly competitive because a number of upper and lower tier authorities are procuring accommodation in Medway to discharge their functions under the homelessness or social care legislation. Changes to the homelessness legislation, which came into force in April 2018 coupled with the roll out of Universal Credit means that the market will continue to become more competitive leaving the Council at risk of unit price increases. Temporary accommodation continues to rise both nationally and locally. Households in temporary accommodation have risen by approximately 50 households per year, rising from 104 households in December 2013 to 366 households in January 2018.

1.3 Funding/Engagement From External Sources

1.3.1 N/A

1.4 Parent Company Guarantee/Performance Bond Required

- 1.4.1 Due to the nature of the services, the Council would not seek a parent company guarantee/performance bond. As the accommodation must undergo stringent standards tests for accommodation, any pre-requisite for standards would already be met and this would be reviewed on a frequent basis. Should the standard drop below the threshold then the Council can terminate the agreement and house the occupier elsewhere.

2. PROCUREMENT DEPENDENCIES AND OBLIGATIONS

2.1 Project Dependency

- 2.1.1 N/A

2.2 Statutory/Legal Obligations

- 2.2.1 The Council has a statutory obligation to provide temporary accommodation for all residents who pass the eligibility criteria. As the criterion is set, the Council cannot effectively forecast the number of users of the service and therefore the cost of the contract.

3. BUSINESS CASE

3.1 Procurement Project Outputs / Outcomes

3.1.1 As part of the successful delivery of this procurement requirement, the following procurement project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?
1. Standardised Accommodation Costs	At present, the cost of accommodation can vary between landlords, under this system there will be an upper threshold for accommodation costs which can only reduce.	The Housing Team	At the DPS inception report.
2. Adequate Supply	At present, the Council's supply is met on an adhoc basis dependent upon demand. The establishment of a DPS will ensure adequate supply when needs arise to save administrative time.	The Housing Team	At the DPS inception report.
3. Increased Competition	At present, landlords are appraised on an as and when basis. By allowing the use of e-auctions within the DPS, the team will be able to further reduce the cost of accommodation.	The Housing Team & Procurement	Annually
4. Standard quality threshold for accommodation	At present, all temporary accommodation is inspected under HHSRS. With the new service standards, it will improve ongoing maintenance and management.	The Housing Team	Annually

3.2 Procurement Project Management

3.2.1 The project management of the procurement will be undertaken by the Category Management team with the direct involvement of the Strategic Housing team to provide the expertise and documentation relevant for the service requirements.

3.3 Post Procurement Contract Management

3.3.1 The contract management will be undertaken by the Strategic Housing team. Should there be consistent issues or failure to adhere to the key performance indicators as set out with the contract documentation, then the Category Management team will intervene for resolution.

4. MARKET CONDITIONS AND PROCUREMENT APPROACH

4.1 Market Conditions

4.1.1 It is anticipated that there are many potential landlords/associations who would be eligible to bid for this project. Whilst increasing the number of potential entrants to the market for competitive purposes it is also the intention of the procurement exercise to expose and award contracts to only those who are able to meet the temporary accommodation standards report and comply with the Council where required. It will therefore be important to ensure the tender documents are neither too open nor loose.

4.2 Procurement Process Proposed

4.2.1 It is proposed that a Dynamic Purchasing System (DPS) will be used to best meet the needs of the Council. This has been suggested for various reasons:

- A DPS is continually growing – the Council has the best opportunity to ensure new landlords are always enrolling in the system to meet our needs.
- A DPS remains continuously competitive due to its nature (new entrants are allowed at any point in time).
- The market for landlords is continually changing, by allowing admittance for the entire duration will mean new starters can join and dissolved firms leave fluidly.
- It gives us the flexibility of having numerous providers; it eliminates the risks associated with main providers not having sufficient capacity to deliver the required statutory service.

4.3 Evaluation Criteria

4.3.1 It is proposed that admittance to the DPS will be based on a number of Pass/Fail quality checks. Then the “Call Off” list will be established with the cheapest providers having a priority for usage (hence being at the top of the list). Price criteria will be based on the maximum price of accommodation per group e.g. 1 bed, 2 bed and so on. The award

criteria will be on lowest price only, i.e. a direct award. There will be a provision for not awarding a supplier from the top of the list if certain conditions must be met (e.g. disabled access required).

5. RISK MANAGEMENT

5.1 Risk Categorisation

1. Risk Category: Procurement Process	Likelihood: Medium	Impact: Medium
Outline Description: The procurement process could either result in too few or too many suppliers to be appointed onto the DPS. The result being a lack of competition or an overly cumbersome appointment process.		
Plans to Mitigate: Ensure the tender documentation is sufficiently detailed but not to the degree that it disengages bidders.		
2. Risk Category: Financial	Likelihood: Medium	Impact: High
Outline Description: The Council now receives a lump sum for delivering these services but the number of users of the service is variable. Should the lump sum not cover the operating costs of the project then there will be an overspend which needs to be sought elsewhere.		
Plans to Mitigate: By extracting the most cost effective solutions from the market, the Council should be able to mitigate any further financial pressures.		
3. Risk Category: Contractual	Likelihood: Low	Impact: Low
Outline Description: The overarching agreement works by the landlord letting the Council a property who in turn sub-lets it to the tenant. The sub-letting needs to ensure liability resides with the tenant for any damage to the property to protect the Council from claims arising.		
Plans to Mitigate: The sub-letting agreement needs to be 'water tight' to ensure the Council can recoup payment from the tenant for any claims of damages by the landlord.		
4. Risk Category: Current service provision	Likelihood: Medium	Impact: Medium
Outline Description: Risk of losing good providers of temporary accommodation as a result of the procurement process, due to either not wanting to engage with the process or not being able to be as competitive as other providers.		
Plans to Mitigate: Ensure that we engage with our providers prior to procurement and provide them with appropriate guidance. Category management to deliver a detailed insight into the procurement process and make it as simple for the potential bidders as possible.		

6. CONSULTATION

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 No internal stakeholders need to be engaged.

6.2 External Stakeholder Consultation

6.2.1 There is no statutory requirement to consult; however, we will look to engage with our existing providers of temporary accommodation.

7. PROCUREMENT BOARD

7.1 The Procurement Board considered this report on 11 April 2018 and supported the recommendation as set out in section 11 below.

8. SERVICE IMPLICATIONS

8.1 Financial Implications

8.1.1 The procurement requirement and its associated delivery, as per the recommendations at section 11 below, will be funded from existing revenue budgets.

8.1.2 Further detail is contained within Section 2.1 Finance Analysis of the Exempt Appendix.

8.2 Legal Implications

8.2.1 The contract value is above the financial threshold set out under the EU public procurement regime, and so the Public Contracts Regulations 2015 ("PCR") require that the DPS agreement must be let through an OJEU compliant procurement process.

8.2.2 The terms and conditions for the DPS agreement and the template call-off contract/order form will be bespoke documents. Sufficient time will need to be factored in for Legal Services to draft these documents prior to the procurement process commencing. The initial procurement process, as well as the call-off procedure to be set out in the agreement, must comply with regulations 34 and 54 of the PCR, so special care will also be required for Category Management to ensure that the DPS processes are compliant.

8.2.3 The Homelessness Code of Guidance for Local Authorities (2018) states that:

"where a housing authority has contracted out the operation of any homelessness functions, the housing authority remains statutorily responsible and accountable for the discharge of those functions. This includes any public sector equality duty obligations under section 149 of the Equality Act 2010. The housing authority will therefore need to ensure that the contract provides for delivery of the homelessness

functions in accordance with both the statutory obligations and the authority's own policies on tackling and preventing homelessness.

Housing authorities should ensure they have adequate contractual, monitoring and quality assurance mechanisms in place to ensure their statutory duties are being fully discharged.”

8.2.4 These matters will need to be considered and appropriately dealt with in the DPS agreement prior to putting the DPS opportunity out to tender. Legal Services will therefore require suitably robust and detailed instructions as to how the client department wants these mechanisms to operate.

8.2.5 Following Gateway 3 approval, the documentation and contract approval form should be sent to Legal Services to complete the DPS agreement. This process should be included in the procurement timetable to ensure that formal contract completion does not delay implementation of the DPS agreement.

8.3 Procurement Implications

8.3.1 The procurement of a Temporary Accommodation DPS will be undertaken following all the necessary EU guidelines outlined in Public Contract Regulations 2015 and in line with Medway Council's Constitution.

9. OTHER CONSIDERATIONS

9.1 Diversity & Equality

9.1.1 Consideration has been given to the impact of equality and diversity; however, it will not have an adverse effect.

9.2 Social, Economic and Environmental Considerations

9.2.1 Consideration has been given to the impact of Social, Economic and Environmental factors; however, it will not have an adverse effect.

10. OTHER INFORMATION

10.1 Due to the geographical needs to the end service the properties required need to be situated either in Medway or as close to the surrounding boundary as possible. As such, it is suggested that Medway adopt this process in isolation although it has been asked of the Kent Buying Consortium whether there are any synergies in tendering this collaboratively – there are no immediate needs coming from the consortium nor are there any existing frameworks, which the Council can utilise.

11. RECOMMENDATION

- 11.1 The Cabinet is asked to agree to proceed with the tendering of a Dynamic Purchasing System for the provision of Temporary Accommodation.

12. SUGGESTED REASONS FOR DECISION

- 12.1 It is recommended to pursue this course of action to ensure there is an adequate number of competitive suppliers who are accessible by the Council to immediately meet the ongoing needs.

LEAD OFFICER CONTACT

Name **Title**
Department **Directorate**
Extension **Email**

APPENDICES

Exempt Appendix – Financial Analysis

BACKGROUND PAPERS

The following documents have been relied upon in the preparation of this report:

Description of Document	Location	Date
None		