



Report Title: **IT Software Licence Renewal and Maintenance Framework Agreements**

Forward Plan reference number (if applicable): **18**

Report of: **Director of Corporate Resources**

Wards(s) affected: **N/A**

Report for: **Key Decision**

1. Purpose (That is, the decision required)

1.1 To seek Member agreement to approve framework agreements with suppliers for the provision of IT Software Licence Renewal and Maintenance Support.

2. Introduction by Cabinet Member (if necessary)

2.1

3. Recommendations

3.1 That Members agree, as allowed under Contract Standing Order (CSO) 11.03, to award the **IT Software Licence Renewal and Maintenance Framework** for non-proprietary software and support to the suppliers detailed in paragraph 1.1 of Appendix 1 of the Report on the basis that they submitted the most economically advantageous tenders.

3.2 That the agreements be awarded for a period of three years with the option to extend for one further year on the basis detailed in the report.

Report Authorised by: **Julie Parker, Director of Corporate Resources**

Signed:*J. Parker*.....16/9/08.....

Contact Officer: David Hatley, Senior Supplier Manager, IT Services, Telephone 020 8489 3235, e-mail david.hatley@haringey.gov.uk

4. Chief Financial Officer Comments

4.1 The Chief Financial Officer has been consulted on the contents of this report and notes that this framework agreement provides a flexible supply arrangement as it does not tie the Council into set volumes of work but does provide access to a range of

quality service providers. All orders with these suppliers will be placed by the Council's IT business unit with estimated annual spend of circa £400k.

5. Head of Legal Services Comments

- 5.1 This report is recommending the award of a framework agreement with a total estimated value in excess of the current applicable EU threshold of £139,393. As such full EU procurement rules are applicable.
- 5.2 Regulation 19 of the Public Contracts Regulations 2006 (PCR 2006) allows contracting authorities to enter into framework agreements with economic operators.
- 5.3 The framework agreement has been duly tendered in accordance with EU procurement rules and Contract Standing Orders (CSO). An OJEU notice was issued and the contract was tendered using the restricted procedure.
- 5.4 IT Services wishes to establish the framework agreement with the 3 economic operators indicated in Appendix 1 of this report. This is compliant with the provisions of the PCR 2006.
- 5.5 As the estimated value of the framework agreement (£1,200,000) is in excess of £250,000, the proposed award must be approved by Members according to CSO 11.03. This says that the Cabinet must award all contracts over this value.
- 5.6 The award of this contract is a key decision and as such under CSO 11.04 must be in the Council's Forward Plan. IT Services have confirmed that the contract details are included item no. 18 in Forward Plan version 75 covering the period 15th Aug to 14th Dec. 2008.
- 5.7 The Head of Legal Services confirms that there are no legal reasons preventing members from approving the recommendations in paragraph 3 of this report.

6. Head of Procurement Comments

- 6.1 The procurement opportunity was advertised in OJEU, appropriate trade publications and local press. Of the 21 expressions of interest, only 3 valid tenders were received.
- 6.2 Since EC Directives make it clear that a Framework Agreement must contain 1, 3 or more (not 2) suppliers, the Council has accepted all 3 bidders onto the Framework even though scores vary across the evaluation criteria.
- 6.3 The Council is not obliged to award any work to these suppliers if mini-competition between them fails to demonstrate overall Value for Money. The Council's interests are therefore safeguarded and shall be closely monitored by IT Services.

6.4 The Head of Procurement is therefore satisfied with the procurement process and the safeguards that exist to ensure Value for Money.

7. Local Government (Access to Information) Act 1985

This report contains exempt and non-exempt information. Exempt information is contained in Appendix 1 and is **not for publication**. The exempt information is under the following category (identified in the amended schedule 12A of the Local Government Act 1972)

(3) information relating to the financial or business affairs of any particular person (including the authority holding that information).

7.1 See Appendix 1 for exempt information.

8. Strategic Implications

- 8.1 This report describes the process to select and place suppliers onto a framework agreement to supply IT Software Licence Renewal and Maintenance Support for the Council. Framework Agreements are ideal for circumstances where quantities and prices have yet to be determined but the terms and conditions of the contract can be established at the outset and can remain in place throughout the agreement duration, to make the subsequent competitive procurement exercises within the agreement more efficient.
- 8.2 The range of software products included within this framework is listed in Appendix A section 1.2, however, this is only an indicative list based on current requirements. The Council can add new products and can upgrade, change or delete existing products as its requirements change over the Framework period. Appointment of a selection of suppliers means that competition can be maintained over this time and across a range of requirements. This is a better approach than appointing one contractor whose submission appears to be the most advantageous based on current requirements only as this does not provide any sort of guarantee that value for money will be maintained over the framework's duration and for new/amended products.
- 8.3 The agreements will run from Nov 08 for three years with the option to extend for one further year, as four years is the maximum duration allowed under the Procurement Regulations for a Framework Agreement. We can choose to let the contract expire at the end of three years or we can extend for the further year, terminate early at any time for convenience or, in the case of a material breach of contract, at any time subject to the prescribed notice period and re-compete as appropriate.
- 8.4 The indicative value for all the agreements over three years is £1,200,000. This will be funded through ITS's budget.
- 8.5 The use of the framework agreements will bring about benefits through mini competitions, greater control of spend and more standardisation of maintenance support. To date, requirements have been regarded as individual procurements and have been competed informally on an ad-hoc 'as required' basis. Currently,

around 5 suppliers provide the majority of the non-proprietary software licence and maintenance services to the Council. A category review identified the overall level of spend and led to a strategy being developed to put in place this Framework Agreement, competed under procurement regulations appropriate to the total spend value.

- 8.6 The contract includes a condition entitled 'Volume of Work' which states that 'The Service Provider accepts that the Council does not guarantee the number of Purchase Orders that will be awarded to the Service Provider or that any Purchase Order will be awarded to the Service Provider under this Agreement'. It also includes another condition under which the Council reserves the right to hold a separate procurement exercise for any requirement if it considers this to be a better solution than to place an order under the Framework Agreement.

9. Financial Implications

- 9.1 The anticipated budget for the work delivered by this tender over the three years of the agreements is £1,200,000.
- 9.2 The licences and maintenance support will be paid for from the IT Services budget.
- 9.3 It is not anticipated that other Directorates will use these Framework Agreements but if they do have any requirements that IT Services places on their behalf, it is anticipated that the cost will be re-charged to the appropriate Directorate budget.
- 9.4 Tenderers were asked to provide indicative pricing for our current non-proprietary software requirements. Tenderers were also asked to give different levels of support options in case there are instances where we can accept a lower level of maintenance support and achieve savings and/or select the option that offers the best value for money.
- 9.5 Their indicative schedules of rates are shown in Appendix 1, section 1.2. The tendered rates are comparable overall to the prices currently paid.

10. Legal Implications

- 10.1 A restricted tender process was followed in accordance with Contract Standing Orders. This requirement is of a sufficient value that it falls under the EU Procurement Regulations. The category is not subject to any procedural exemptions or restrictions so a Contract Notice was published in the Official Journal of the European Union (OJEU) on 29th May 2008. The timescales were calculated to comply with the EU Procurement Regulations.

11. Equalities Implications

11.1 In the Equality Public Duty Scheme adopted by the Council, the Council is committed to promoting equality through procurement.

11.2 The Council seeks to do this in three fundamental ways:

- i. **Equality of opportunity to tender for Council contracts.** The aim is to open up the supply chain so that all potential suppliers who are interested have the opportunity to tender through a process that is fair, transparent and accessible to all. (Equality Scheme, para 5.11 – 5.11.1)

In regard to the proposals in this report, the advert inviting an expression of interest was publicised in a range of outlets to attract as much range and diversity of potential suppliers as possible. Local Haringey journals were also used in order to attract potential local suppliers who might be interested.

The evaluation criteria and process were also made available to bidders. The requirements of accessibility, transparency and fairness are therefore satisfied in accordance with the Council's Equality Scheme in respect of procurement.

- ii. **Influencing (promoting equality with) the people we do business with.** The aim is to ensure that we continue to operate a tender process embedded with equalities criteria that are part of the Pre-Qualification Questionnaires (PQQ) and in contract performance monitoring. The PQQ was used in regard to this tender evaluation, thus complying with the Equality Scheme in respect of procurement.
- iii. **Taking account of equalities issues when drafting contact specifications.** The aim is to ensure that goods, services or works provided on behalf of the Council not only meet the fit-for-purpose and value-for-money criteria but also meet the needs of Haringey service users in all their diversity and reflect the Council's commitment to equal opportunity.

12. Consultation

12.1 Not required.

13. Background

- 13.1 The aim of the IT Software Licence Renewal and Maintenance Agreement is to make a major contribution to the Council's objective to become an excellent authority and to be recognised as leaders in providing excellent, value for money, customer led services through the innovative use of our people and technology.
- 13.2 It will do this by ensuring that IT Services continues to be legally compliant by having the right licences in place for the software needed, at a competitive price and with the optimum level of maintenance support provided.
- 13.3 The aim of the tender is to identify reputable, competent suppliers with access to the software licences required and direct or indirect access to skilled maintenance support to ensure that IT Services can get the best use out of the software it buys. The approach is to introduce a framework agreement so that mini-competitions can be run to get the best offer against pre-agreed terms and conditions where this is not already clear from the indicative pricing schedule or where the indicative pricing

- needs to be re-confirmed. A mini-competition would be run for the higher value requirements as a matter of course as the prices submitted are indicative only.
- 13.4 The framework agreements will run for an initial period of three years, starting in Nov 2008. At the end of this period the Council may decide to exercise an option to continue the frameworks for a further year. The decision will be taken on the basis of the Council's ongoing requirements, the suppliers' performance and continued ability to demonstrate value for money for the services they provide.
- 13.5 Towards the end of May 2008 an advert inviting expressions of interest appeared on the Haringey Website, and was submitted to OJEU for publication (to reach a wide audience to try to achieve maximum participation) and it also appeared in Muswell Hill Journal, the Hornsey & Crouch End Journal and the Tottenham, Wood Green & Edmonton Journal.
- 13.6 21 pre-qualification questionnaires (PQQs) were sent out in response to requests received. 5 completed PQQs were returned.
- 13.7 The PQQ's were assessed according to the following criteria: organisation; capability; quality; environmental/sustainability; financial status/legitimacy; diversity; health and safety. The PQQ's were evaluated by IT Services.
- 13.8 All 5 potential suppliers satisfied the criteria (after some clarification) so all were invited to submit tenders. Bids were sought on the basis of the most economically advantageous tender and not simply the lowest tender.
- 13.9 3 valid tenders were received on the return date of Wednesday 27 August. One decline was received on 21 August and one tenderer did not respond at all. The tenderers are listed in Appendix 1.
- 13.10 The tenders were assessed by a panel of four members of IT Services staff using the Council's agreed tendering process and in compliance with Council Standing orders. The following criteria were used:

Sourcing statements	20%
Support arrangements incl. resource levels	20%
Licensing compliance	20%
Added value	8%
Staff awareness	7%
Price	25%

Each of these criteria was judged on the following scale

- 0 – unacceptable
- 1 – below expectations
- 2 – approaching expectations
- 3 – meets most expectations
- 4 – meets all expectations
- 5 – exceeds most expectations

13.13 The marks (out of 500) were as shown in Appendix 1, section 1.1. While there are some marks that are lower than would be preferred, these are existing software licence and support suppliers who provide good service and a competitive element so it is felt, therefore, that there is a low risk to the Council of non-performance, based on historical experience. As this is a Framework Agreement, there is no commitment or guarantee of work anyway so again, in the unlikely event that performance does become unsatisfactory, there will be other options available and the risk is managed.

13.14 As a result of the evaluation:

- 3 suppliers were selected;

Their indicative schedules of rates are shown in Appendix 1, section 1.2.

14. Conclusion

14.1 The report describes the process and results of the IT Software Licence Renewal and Maintenance Framework Agreement tender. The suppliers who have been selected onto the frameworks will provide the appropriate quality and quantity of software licences and value-for-money support services for a period of up to four years.

15. Use of Appendices / Tables / Photographs

15.1 Appendix 1 – Exempt Information under the criteria of Schedule 12A(3) of the Local Government Act 1972.