

Report to Cabinet



**Epping Forest
District Council**

Report Reference: C-072-2011/12

Date of meeting: 23 April 2012

Portfolio Holder: Housing

**Subject: Development Agent for Council Housebuilding Programme
– Selection Criteria for Tenders.**

Responsible Officer: Alan Hall (01992 564004)

Democratic Services: Gary Woodhall (01992 564470)

Recommendation:

(1) That the Selection Criteria to be used for the tenders received to undertake the role of Development Agent for the Council's Housebuilding Programme, attached as an Appendix, be approved; and

(2) That the contract with the appointed Development Agent includes a provision for an incentive payment of £5,000 if the Development Agent is successful with its application to the Homes and Communities Agency (HCA), on behalf of the Council, for the Council to achieve Development Partner status with the HCA.

Executive Summary:

The Cabinet has previously agreed its approach to the introduction and implementation of a new Council Housebuilding Programme, and has already approved the criteria to be adopted to shortlist five to seven interested organisations to tender, through a Pre-Qualification Questionnaire (PQQ).

The next stage is for the Cabinet to approve the proposed Selection Criteria to be used for the tenders received from the five to seven shortlisted organisations, which must be agreed in advance of the Invitation to Tender (ITT) and must be notified to tenderers as part of the ITT, in order to comply with EU procurement regulations. The proposed Selection Criteria is attached as an Appendix.

Senior Housing Officers are working closely with the Council's development consultants, John Bigby Housing Consultants, which is managing the appointment process on behalf of the Council. One issue that requires member authority (for inclusion within the Invitation to Tender) is a proposed incentive payment to be made to the appointed Development Agent, if it is successful with its application to the Homes and Communities Agency (HCA), on behalf of the Council, for the Council to achieve Development Partner status with the HCA.

Reasons for Proposed Decision:

The Cabinet has determined that it wishes to approve the Selection Criteria itself, which must be agreed in advance of the Invitation to Tender (ITT).

Other Options for Action:

(a) To agree a different Selection Criteria and/or weightings.

- (b) Not to approve an Incentive Payment, or to approve a different amount.

Report:

1. At its meeting on 5 December 2011, the Cabinet agreed its approach to the introduction and implementation of a new Council Housebuilding Programme, based on the construction of around 20 new homes each year for at least 6 years. A key element of the approach is the appointment of a suitably-experienced organisation to act as the Council's Development Agent for an initial four-year period, with options to extend the Agreement for three further individual years.
2. The Development Agent will provide and co-ordinate all professional building services, including: financial, architectural, employers agency, quantity surveying, cost consulting, planning supervision, engineering, surveying, town planning, construction management and supervision, and project management. Most suitably-experienced organisations already have framework agreements in place with consultants to provide this myriad of services.
3. The Council will enter into a Development Agreement with the selected Development Agent and, in return for a fee, the Development Agent will provide a full development service - comprising all the required consultant specialisms - on behalf of the Council. The Development Agent will use its existing framework agreements and contracts with its appointed consultants to provide the Development Team to undertake the development process.
4. Once the Development Agent has been appointed, it will work with officers to formulate a Development Strategy for the Council, setting out the proposed approach to planning, funding and delivering the Housebuilding Programme, including the approach taken and the assumptions used for development appraisals, for adoption by the Cabinet.
5. The Council will pay the Development Agent for both its own and its consultants' services under the Development Agreement. When appointed, the Development Agent and its Team will seek to develop sites in three distinct stages:

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|-------------------------------|---|
| Stage 1 (Feasibility Stage) | For each site identified by officers and approved by the Cabinet to pursue, the Development Agent will undertake a detailed technical and financial appraisal. This will assess whether or not the site is suitable for development, what could be provided on the site and its viability (costs and income). The Feasibility Reports will be considered by the Cabinet, to determine whether or not development should be pursued and planning permission sought. |
| Stage 2 (Planning Stage) | For each site that the Cabinet agrees should be pursued, the Development Team will undertake all the necessary design, planning and engineering work to submit a detailed planning application. |
| Stage 3 (Post-Planning Stage) | For sites that receive planning permission, the Development Agent will bring them together into appropriately-sized "development packages", probably comprising around 20 new homes. They will then invite competitive tenders from contractors to undertake the construction works, in accordance with the Council's Contract Standing Orders and EU procurement regulations, and then supervise and project-manage the construction process on behalf of the Council, up until the end of the 12 months Defects Liability Period. |

6. The Cabinet has previously determined that it wishes to approve both the PQQ (including the Selection Criteria for shortlisting down to five to seven organisations to invite tenders) and the Selection Criteria for the main tender exercise. The Cabinet also agreed that the Housing Portfolio Holder should be involved in the PQQ process itself, and has also appointed a Selection Panel - comprising members and officers - to recommend an appointment to the Cabinet, following a formal technical appraisal of each tender and a presentation/interview to the Selection Panel.

7. At its meeting on 12 March 2012, the Cabinet agreed the PQQ and the associated PQQ Selection Criteria. It is now necessary for the Selection Criteria for the main tender exercise to be approved.

Approach to the Selection Criteria

8. The Cabinet has already determined that the Development Agent should be selected based on the most economically advantageous tender (MEAT) to the Council, taking account of both price and quality. It is proposed that the weighting between quality and price be set at 60% (quality) : 40% (price), which is quite common for such appointments.

- *Quality*

9. In order to assess the Quality element of the tenders received, as part of the Invitation to Tender (ITT), tenderers will be asked to provide detailed information on 7 key aspects of the Development Agent role and will also be required to give a Presentation to the Selection Panel on a further key area, as well as have an Interview with the Selection Panel, with the use of pre-set questions on other areas of the role. Each of these 8 key aspects will be scored between 0-5, and an agreed weighting applied to each element.

- *Price*

10. The proposed Pricing Structure will comprise the following 4 elements, for which each tenderer will be required to state a sum or a percentage in their tender:

(a) **Feasibility Stage** – A lump sum for each site, to undertake Technical and Financial Appraisals.

(b) **Planning Stage** – A percentage of the estimated works cost for each site (as assessed in the Technical and Financial Appraisal), to undertake all the required work up to and including the receipt of Planning Permission.

(c) **Post-Planning Stage** - A percentage of the actual works cost for each development package (based on the tender submitted by the successful works contractor), to procure the works contractor through the invitation of competitive tenders and to supervise and project-manage the construction process, up to the end of the Defects Liability Period.

(d) **Additional Services** – A lump sum to formulate the Council's Development Strategy and to apply for Development Partner status with the HCA on behalf of the Council.

11. The lump sums and percentages submitted by each tenderer for the above will then be applied to officers' best pre-tender estimates of the likely numbers of sites and development packages that will come forward over the 6 year maximum of the Development Agent contract (in respect of (a)-(c) above) and officers' pre-tender estimate of the average works cost for individual sites and development packages.

12. This process will arrive at an overall (notional) tender sum for each tenderer over a six-year period. A score will then be applied to each tender, with the lowest tender receiving

the maximum score of 40%, with the other tenders receiving scores in relation to the lowest tender. For example, if the lowest (notional) tender is £2.5m, and the second lowest tender is £2.25m, the second lowest tender would receive a score of 36% and so on.

13. The proposed Selection Criteria, together with officers' pre-tender estimates in respect of relevant quantities and costs, is set out in the Appendix for approval.

Application for Development Partner Status with the Homes and Communities Agency (HCA)

14. One of the Council's requirements is that the appointed Development Agent will formulate and submit an application to the Homes and Communities Agency (HCA), on behalf of the Council, for the Council to achieve Development Partner status with the HCA. One of the key aspects of this application will be the HCA's assessment of the experience and capability of the Development Agent to undertake the Council's development role.

15. If the Council can achieve Development Partner status, potentially, it could enable the Council to access HCA grant funding for the Council's developments, perhaps as much as £30,000 per property. Although the proposed Pricing Structure includes a lump sum to the Development Agent to submit an application to the HCA on the Council's behalf, it is therefore essential to ensure that the Development Agent submits a good application, in order to maximise the Council's chances of success. For this reason, it is suggested that the contract with the appointed Development Agent includes provision for an incentive payment of £5,000 to be made if the Development Agent is successful with its application to the HCA, on behalf of the Council.

Resource Implications:

Development Agent/Team fees estimated at around £2.5million over 6 years.

Legal and Governance Implications:

EU Procurement Regulations and EFDC Contract Standing Orders.

Safer, Cleaner and Greener Implications:

The proposed Selection Criteria includes an evaluation of each organisation's approach to project delivery and programme management, which will cover health and safety issues, design standards and sustainability issues.

Consultation Undertaken:

None.

Background Papers:

Housing Policy File H496.

Impact Assessments:

Risk Management

The proposed Selection Criteria includes an evaluation of each organisation's approach to risk management.

The main risk is that the Selection Criteria does not give sufficient or the correct weighting to the most important factors, and/or does not result in the best organisation being appointed at the end of the process, having regard to price and quality. It is therefore important to ensure that the Selection Criteria covers the main key aspects of the role, that the weightings are appropriate and that the Pricing Schedule is appropriate and workable.

Both the Council's Procurement Officer and the Essex Procurement Hub have been consulted on the preparation of this report, which should assist with reducing any potential challenges.

Equality and Diversity

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?
None.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
N/A.

Appointment of a Development Agent for Epping Forest District Council

SELECTION CRITERIA TO BE ADOPTED FOR TENDERS RECEIVED

1) Overall Weighting:

Quality	- 60%
Price	- 40%

2) Quality Assessments:

Ref.	Area to be Assessed	Weighting (%)
1	Approach to Development Strategy	5.0 %
2	Approach to achieving HCA Development Status for the Council	5.0 %
3	The Development Team – Including leadership, composition of the Team, experience/competency, business continuity etc.	12.5 %
4	Approach to communication / relationship management with the Council	5.0 %
5	Approach to risk management	5.0 %
6	Approach to the project delivery	12.5 %
7	Approach to programme management	7.5 %
8	Presentation and Interview	7.5 %
	Total	60.0 %

3) Pricing Structure, Quantities and Basis of Assessment:

Ref.	Element	Estimated Quantities	Assumed Works Cost (Site/Package)	Lump Sum/ % of Works Cost
1	Feasibility Stage – inc. Technical & Financial Appraisal	60 Sites	N/A	Lump Sum
2	Planning Stage – inc. work up to/ including receipt of Planning Permission	50 Sites	Based on works costs of £500,000 per site	% of estimated works cost
3	Post-Planning Stage – inc. procurement of contractor and supervision / project-management of the construction process	6 Packages	Based on works costs of £2.5m per package	% of actual works cost
4	Additional Services – Formulation of Development Strategy and application for Development Partner status with the HCA.	N/A	N/A	Lump Sum

