

CABINET

13 December 2022

Title: Procurement of Contract for Right to Buy Valuations	
Report of the Cabinet Member of Finance, Growth and Core Services	
Open Report	For Decision
Wards Affected: All	Key Decision: No
Report Author: Jane Shaw, Home Ownership Manager	Contact Details: E-mail: jane.shaw@lbbd.gov.uk
Accountable Strategic Leadership Director: Leona Menville, Interim Strategic Director, My Place	
Summary: The Council (Leasehold Services) has a legal responsibility to undertake valuations where a request has been submitted to the Council to buy a council property under the Right to Buy Scheme and issue offer notices within prescribed statutory timescales. The current service is being undertaken via an extended waiver. Forecasts show that the spend in this area will breach Find a Tender thresholds in the next three years and therefore the Council will need to tender the requirement as per Public Contracts Regulations 2015.	
Recommendation(s) The Cabinet is recommended to: (i) Agree that the Council proceeds with the procurement of a contract for Right to Buy Valuations on a maximum five-year term (3 + 2) in accordance with the strategy set out in the report; and (ii) Delegate authority to the Strategic Director of My Place, in consultation with the Cabinet Member for Finance, Growth and Core Services, the Strategic Director of Finance and Investment and the Chief Legal Officer, to conduct the procurement and enter into the contract and all other necessary or ancillary agreements, including contract extensions, with the successful bidder.	
Reason(s) The Council currently does not have a contract for these services. To ensure compliance with the Council's Contract Rules and Public Contracts Regulations 2015 and assist in achieving the priority of 'Well-Run Organisation'	

1. Introduction and Background

- 1.1 Right to Buy (RTB) is a government scheme which gives qualifying council tenants a chance to buy their homes. Once we have all the documentation from every applicant, a valuation is arranged of the property which is a free service offered under the scheme and is carried out by a qualified RICS Registered Valuer.
- 1.2 Each property is valued individually according to the market value at the time the RTB application is made and will take into account any known structural defects, estimates of any service charges and improvement contributions over the reference period (first 5 years of the lease), tenants' improvements, any specific covenants or conditions, and a location plan.
- 1.3 My Place (Leasehold Services) have a legal responsibility to undertake valuations where a request has been submitted to the Council to buy a council property under the Right to Buy Scheme and issue offer notices within prescribed statutory timescales.
- 1.4 Following a recent audit carried out on the RTB process, concerns were raised over the documentation of valuations not being sufficient and the reasonableness and evidence to substantiate how the valuation was arrived at.
- 1.5 The service is currently being provided by Richard John Clarke under a previously agreed extended Waiver to provide valuations.
- 1.6 It was the intention to procure the valuation service previously but due to change over in staff, the full procurement for a long-term contract had not been completed.

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured

- 2.1.1 The Council is looking to appoint a suitably qualified firm, or organisation, to undertake Right to Buy valuations and Joint Venture (Shared Ownership) valuations, Shared Ownership Stair-casing valuations for its housing stock.
- 2.1.2 The valuation will be an open market valuation in accordance with the Housing Act 1980, as consolidated by the Housing Act 1985, and in accordance with published guidance from the Department for Housing, Communities & Local Government.
- 2.1.3 The valuation must also:
 - (i) include any scope or development value which the market would reflect, e.g. a large garden, or wide frontage with potential to build a separate demise, garage or extension on.
 - (ii) state clearly the reasoning and assumptions, and where appropriate, provide a breakdown of the different elements, e.g., the amount attributable to a large garden, or wide frontage with potential to build a separate demise, garage or extension on.
 - (iii) include the details of at least 3 suitable comparable properties recently sold in the open market in the last 6 months, together with confirmation of the source of the comparable evidence. Specify if sold at auction or by any

other means. Where this is not possible, alternative properties should be used, but must be supported by any assumptions or allowances made.

2.2 Estimated Contract Value, including the value of any uplift or extension period

2.2.1 £510,000 over 5 years based on an estimate of £300 per valuation on an average of 28 valuations per month with an additional allowance for lease extensions which will be a slightly higher valuation to take into account any negotiations the valuer may need to carry out on behalf of LBB

2.2.2 The table below shows the current position as of 31 October 2022 in respect of RTB applications and the number of valuations requested.

	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Total year to date
Live RTB cases	301	330	375	346	345	332	307	307
RTB1 received	47	43	49	42	45	40	33	299
Valuation requested	15	25	30	43	33	23	25	194
Flat completion	17	15	5	8	5	12	7	69
House Completions	9	19	14	6	13	8	10	79
Denied	6	15	1	9	15	13	24	83
Withdrawn	28	20	21	39	24	17	28	177

2.2.3 My Place currently has 307 live Right to Buy applications that could be subject to a valuation being undertaken.

2.2.4 Since April 2022 we have instructed the current valuer to undertake valuations on 194 cases.

2.2.5 Since April 2022 we have completed on 148 cases which all would have been subject to a valuation being undertaken.

2.2.6 The number of cases denied since April is 83 and are unlikely to have had a valuation undertaken at the property. The main reason for this is the Right to Buy application would not have been progressed as the tenants would not have met the eligibility criteria.

2.2.7 The number of cases withdrawn is currently at 177; most of these cases would have had valuations carried out. The main reason they would have been withdrawn can be split into two categories: (i) the tenant could not obtain a mortgage; (ii) the tenant decided not to proceed with the application.

2.3 Duration of the contract, including any options for extension

2.3.1 Three years with option to extend for a further two years at the discretion of the Council.

2.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?

2.4.1 The contract is subject to Public Contract Regulations 2015 but is not subject to the Light Touch Regime.

2.5 Recommended procurement procedure and reasons for the recommendation

2.5.1 A full open tender will be carried out and advertised on Find a Tender, Jaggaer/Bravo (e-tendering), Contracts Finder and the Council's website. The tender will be published via the Jaggaer/Bravo Solution procurement portal.

2.5.2 The procurement is required to be let under an open procedure. The open procedure will allow for the maximum number of suppliers to respond, which will encourage SMEs and will likely produce the best value for money for the Council.

2.5.3 Suppliers will be required to have sufficient accreditation relevant to the services and have sufficient financial standing.

Indicative Procurement Timetable

Stage	Estimated Date
Report to Cabinet	13 December 2022
Publish tender opportunity in Find a Tender, Jaggar /Bravo, Contracts Finder and the LBBD website	January 2022
Tenders returned	March 2023
Tender Evaluation completed by	April 2023
Award Report approved	April 2023
Standstill period	April 2023
Award of Contract	May 2023
Implementation	May 2023
Contract Commencement	June 2023

2.6 The contract delivery methodology and documentation to be adopted

2.6.1 The Contract will be let using the Council's standard Terms and Conditions for Services.

2.6.2 A schedule of rates will be completed for all required services to provide cost certainty.

2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract

2.7.1 To continue to issue RTB Offer Notices within statutory timescales, which will be reported and measured under the contract on a quarterly basis. Internal audits will be carried out periodically ensuring that valuation reports are produced more accurately. Guaranteeing properties are sold at current market value.

2.8 Criteria against which the tenderers are to be selected and contract is to be awarded

2.8.1 The tenders will be evaluated through a scoring matrix based on 40% Quality, 10% Social Value and 50% Pricing. The service specification can be stipulated relatively clearly but as this is a legal requirement, it is important that the report is of a high standard and includes comparable evidence to ensure the risk of challenge is minimal and LBBD can clearly demonstrate how the purchase price has been arrived at and that they meet the obligations in line with current legislation. It is recommended that quality isn't lower than 40% as this will have a negative impact on the quality and accuracy of the valuation reports which could lead to properties being over or under valued.

2.9 How the procurement will address and implement the Council's Social Value policies

2.9.1 The Social Value toolkit will be published as part of the tender documentation pack. A delivery plan (what) and method statement (how) question relating to social value will hold 10% of the overall evaluation. The social value coordinator will be invited to sit on the evaluation panel to grade this delivery plan and method statement alone, while the main evaluation panel members will be asked to evaluate the whole tender response.

2.10 Contract Management methodology to be adopted

2.10.1 This contract will be managed by the Home Ownership Manager. The My Place Contracts and Procurement Team will chair quarterly contract review meetings with the supplier and will be the point of escalation for any supplier or performance related issues. The Strategic Director of My Place will have overall accountability for the running of the contract.

3. Options Appraisal

3.1 Option One – Open procurement procedure for a 3-year contract with the option to extend for an additional 2 years. This is the most favourable option as it allows the council to dictate the service requirements without any scope limitations to social value, it ensures that local organisations have a better chance to secure contracts with the councils due to the award criteria being heavily weighted on the pricing.

3.2 Option Two – Do nothing. This is not an option as the council has legal responsibility to carry out these valuations. This would lead to waivers which could see the spend in this area breach procurement thresholds which may lead to challenges which could result in the council being fined.

3.3 Option Three – Employ in-house-surveyors. This option was rejected as there aren't enough resources to carry out these services in-house at this moment in time. However, if this was to be a consideration, 2 staff members would be recommended at Grade P05 spinal point 38 £62,845 (with on costs) – spinal point 41 £66,994 (with on costs) would equate to £628,450 for the duration of this contract

3.4 Option Four – Reopen competition under the Fusion 21 Framework. This option was rejected due to the framework social value conflicting with the councils. The framework doesn't allow for the council to implement its own social value criteria. The frameworks social value criteria are done on a credit bases worked out on aggregate revenue through the framework. This allows the supplier to implement social value on a national basis which wouldn't benefit the Council's constituents.

4. Waiver

4.1 Not applicable for this procurement.

5. Equalities and other Customer Impact

5.1 My Place (Leasehold Services) have a legal responsibility to undertake valuations where a request has been submitted to the Council to buy a council property under the Right to Buy Scheme. The EIA screening tool at Appendix 1 shows that there are either mainly positive impacts or no perceived negative impacts on the protected characteristics, therefore at this time a full EIA is not required. The EIA Screening will be routinely reviewed for any changes in procurement / service.

6. Consultation

6.1 The proposals in this report were considered and endorsed by the Procurement Board at its meeting on 21 November 2022.

7. Corporate Procurement

Implications completed by: Euan Beales, Head of Procurement

7.1 The Council's Contract Rules require all spend over £50,000 to be conducted in an open market and this is the recommendation as set out in the report.

7.2 The evaluation methodology stated in the report is Quality 40%, Social Value 10% and Price 50%, I deem this to be an acceptable split as there needs to be a measured quality assessment in terms of the report outputs from the providers as these will drive the property purchase costs including asset alterations that may impact this.

7.3 In order to ensure a fluid process it is recommended that the Right to Buy team, in conjunction with the Residential Conveyancing Team, identify any fixed assets (such as Solar Panels) and full evaluation of capital owed and potential income loss is conducted, to ensure the asset is costed into the property price and also to enable a smooth transfer of ownership to the new asset owner

8. Financial Implications

Implications completed by: Sandra Pillinger Group Accountant

8.1 The estimated value of the proposed contract over five years is £510,000. This is based on an average of 28 valuations per month at £300 per valuation, plus £6,000 to allow for a higher valuation fee for lease extensions.

- 8.2 The annual budget required is £102,000. Costs are charged to My Place (cost centre F50300 Sales Leasing and Conveyancing) and are then recharged in full to the Supervision and Management budget within the HRA.
- 8.3 Valuation fees are anticipated to more than double under the new contract, as the £115 current fee is below the market average of £300 for a full valuation report. Provision for the increased expenditure will need to be made in the My Place budget and the HRA budget.
- 8.4 The estimated value of the waiver extension for nine months is £37,500. This is based on an average 36 valuations per month at £115 per valuation.

9. Legal Implications

Implications completed by: Lauren van Arendonk, Locum Contracts & Procurement Lawyer

- 9.1 This report seeks to approve an open tender procurement for the provision of valuation services on the right to buy property in the Borough. The contract shall be valued at £510,000 over five years based on an estimate of £300 per valuation. Roughly 28 valuations per month shall be taken.
- 9.2 An open tender procurement is recommended, with the ITT being listed on Find A Tender, in accordance with Public Contract Regulations 2015. This is also in accordance with Rule 13.1, being an approved procurement method. This method is also most likely to best achieve Council Objectives.
- 9.3 Any procurement process followed must still comply with the requirements of equality of treatment, transparency, mutual recognition, and proportionality. In addition to the above, the proposed procurements must comply with LBBB's constitution and contract rules.
- 9.4 As the value of the Contract exceeds £100,000, in line with rule 52.2 of the Contract Rules, the Contract will require sealing. Legal Services will be on hand to assist in any queries which may arise and assist in the sealing of the Contract documents.
- 9.5 The proposed procurement route set out in this report in respect of this contract is, therefore, compliant with the requirements of the applicable law and LBBB's constitution and contract rules.

10. Other Implications

- 10.1 **Risk and Risk Management** - The Council has a legal responsibility to carry out these valuations under current legislation. If we continue to operate without a contract in place, we have no control over the content which could be subject to challenge. If legislative timescales are not adhered to it could result in delay notices being served on LBBB which ultimately could have a financial impact on the organisation.

Currently this is being managed by a spreadsheet which alerts us to when the valuation is due back from the valuer. In the new contract this responsibility will be

passed on to the supplier and managed by KPI and regular monthly review meetings.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

Appendix 1 – EIA Screening Tool