

**DELEGATED POWERS REPORT NO.**

**1601**

**SUBJECT:** Environment, Planning and Regeneration Directorate Contracts

**Control sheet**

**All of the following actions MUST be completed at each stage of the process and the signed and dated report MUST be passed to the Governance Service for publishing**

<b>All reports</b>		
1. Governance Service receive draft report	Name of GSO Date	Andrew Charlwood 05/03/2012
2. Governance Service cleared draft report as being constitutionally appropriate	Name of GSO Date	Andrew Charlwood 08/03/2012
3. Finance clearance obtained ( <i>report author to complete</i> )	Name of Fin. officer Date	Jayne Fitzgerald 18/04/2012
4. Staff and other resources issues clearance obtained ( <i>report author to complete</i> )	Name of Res. officer Date	Not applicable
8 Strategic Procurement clearance obtained ( <i>report author to complete</i> )	Name of SPO Date	Lesley Meeks 12/04/2012
5. Legal clearance obtained from ( <i>report author to complete</i> )	Name of Legal officer Date	Steven Strange 02/04/2012
6. Policy & Partnerships clearance obtained ( <i>report author to complete</i> )	Name of P&P officer Date	Andrew Nathan 06/03/2012
7. Equalities & Diversity clearance obtained ( <i>report author to complete</i> )	Name of officer Date	Andrew Nathan 06/03/2012
8. The above process has been checked and verified by Director, Head of Service or Deputy	Name Date	Tim Wallis 23/04/2012
9. Signed & dated report, <u>scanned or hard copy</u> received by Governance Service for publishing	Name of GSO Date	Chidilim Agada 24/04/2012
10. Report published by Governance Service to website	Name of GSO Date	Chidilim Agada 24/04/2012
11. Head of Service informed report is published	Name of GSO Date	Chidilim Agada 24/04/2012
<b>Key decisions only:</b>		
12. Expiry of call-in period	Date	Not applicable
13. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet Members & Head of Service	Name of GSO Date	Not applicable

**ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER  
(EXECUTIVE FUNCTION)****Subject** **Environment, Planning and  
Regeneration Directorate Contracts****Officer taking decision** Interim Director of Environment,  
Planning and Regeneration**Date of decision** 23 April 2012

<b>Summary</b>	This report details current contractual arrangements within the Environment, Planning and Regeneration Directorate which require to be regularised.
----------------	---

**Officer Contributors** Mark Rawlings, Business Support Officer**Status (public or exempt)** Public**Wards affected** All**Enclosures** Not applicable**Reason for exemption from call-  
in (if appropriate)** Not applicable

Contact for further information: Mark Rawlings, Business Support Officer, Environment  
Planning and Regeneration, 020 8359 2376

Serial No. 1601
-----------------

## **1. RELEVANT PREVIOUS DECISIONS**

- 1.1 Audit Committee, 16 June 2011 and 6 September 2011 – reviewed and agreed the Procurement Controls and Monitoring Plan produced following the comprehensive review of the Council's contract monitoring arrangements.

## **2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 2.1 The regularisation of contracts and the efficient handling of placements, going forward, will progress the priorities of the Council's Corporate Plan 2011-2013. It will support the objective of "Better services with less money" through enabling efficient procurement and contract management. By providing a range of quality services which enhance the council's reputation, it will contribute towards the priority 'A successful London suburb'

## **3. RISK MANAGEMENT ISSUES**

- 3.1 There is a significant reputational risk attached to failure to regularise existing contractual relationships within the timescales presented to the Audit Committee.
- 3.2 Environment, Planning and Regeneration undertake responsive and regular duties that deliver basic services. If the contracts identified in this report are not regularised and extended, the Council will not be able to deliver these services. If these are not delivered responsively, Health and Safety issues could consequently arise.
- 3.3 Each of the contracts included in this report has been evaluated with the service / contract manager to ensure that they deliver value for money and service quality.

## **4. EQUALITIES AND DIVERSITY ISSUES**

- 4.1 Pursuant to the Equality Act 2010, public sector organisations have a responsibility to take into account equalities as part of every procurement/tendering exercise.
- 4.2 The Council is also under an obligation to have due regard to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief; sex and sexual orientation.
- 4.3 This duty also applies to a person who is not a public authority but who exercises public functions and therefore must, in the exercise of those functions, have due regard to the general equality duty. This includes any organisation contracted by a local authority to provide services on its behalf.

## **5. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 5.1 In the current economic climate supplier prices fluctuate on a regular basis. The suppliers listed have been identified as providing best value for money services within their specialism that meet the council's requirements.

- 5.2 Budget provision exists within current budget for the required purchasing power for the contracts mentioned in Section 8. The sums declared are maximum values of contract when considering the current workload and comparison with historic spend. Purchasing will not occur outside the current budget allocation for each service area without appropriate additional authority.
- 5.3 There are no issues to report regarding staffing, IT, property and sustainability.

## **6. LEGAL ISSUES**

- 6.1 The Public Contracts Regulations 2006, applies to contracts for works, services and supplies over particular financial thresholds. It also requires contracts above the threshold to be advertised and the current threshold for supplies and services contracts under the Regulation is £173,934. In addition, to offer equal opportunity in line with the general principles of non-discrimination, equal treatment, transparency, proportionality and mutual recognition as set out in the TFEU (Treaty on the Functioning of the European Union) the contracting authority should consider whether there is a market for the service/supplies they require in other member states prior to award of contract and if there is, they are required to appropriately advertise before awarding the contract.
- 6.2 Based on the contents of the report the proposed contracts are unlikely to give rise to cross-border interest for the duty to advertise to be engaged.

## **7. CONSTITUTIONAL POWERS**

- 7.1 Council's Constitution, Part 3, Responsibility for Functions, paragraph 6.1- provides that Chief Officers can take decisions, without consultation with the Cabinet Member concerned, where it is a decision authorised to be taken by the Chief Officer under the Contract Procedure Rules or it is in respect of operational matters within the Chief Officer's sphere of managerial or professional responsibility and is not significant in terms of budget or policy.
- 7.2 Council's Constitution, Contract Procedure Rules – Table 5-1 - provides that Directors/Heads of Service can accept contracts for works, supplies and services up to a value of £173,934 where the tender/quotation is the lowest or it represents value for money and is the best available option for the Council.
- 7.3 Council's Constitution, Contract Procedure Rules, Section 5.6 – sets out acceptance parameters for contract extensions, and provides that they are subject to:
- 5.6.1 In the case of an extension to a contract:
- 5.6.1.1 the initial contract was based on a competitive tender or quotations;
  - 5.6.1.2 the initial contract has not been extended before; and
  - 5.6.1.3 the value of the extension is less than half the cost of the existing contract without the extension and has a budget allocation.
- 7.4 Council's Constitution, Contract Procedure Rules – Table 5-2 – sets out acceptance parameters for contract extensions and provides that Directors/Heads of Service

may authorise and accept contracts up to a value of £173,934 but must report afterwards to the relevant Cabinet Member.

- 7.5 Council's Constitution, Contract Procedure Rules, Section 6.11 – provides that where Directors/Heads of Service are satisfied, following the making of suitable investigations, that there is only supplier in the market for the required supplies/services/works, the competitive tendering provisions will not apply provided that:

6.11.1 the Director/Head of Service and Commercial Director approve the entry into the contract with the single provider; and

6.11.2 there is compliance with the Authorisation and Acceptance procedures

## **8. BACKGROUND INFORMATION**

- 8.1 Following a review of contracts across the council it has been identified that the Environment, Planning and Regeneration (EPR) directorate utilises the services of 3 suppliers and transacts business under current arrangements that do not meet the council's Contract Procedure Rules and are therefore non compliant.

- 8.2 These are as follows:

### **8.2.1 District Valuers Office - Mill Hill East Viability Appraisal Independent Assessment**

An application for outline planning permission for the redevelopment of Inglis Barracks (ref: H/04017/09) was submitted in October 2009. The applicant, the Inglis Consortium, consists of the three landowners VSM, Annington and the London Borough of Barnet. The application was for a mixed use development which included 2,174 residential units. When the application was originally submitted it was proposed that 27.5% of the units would be affordable. However, following further viability work the applicant reduced the proposed provision to 15%. Such a position was contrary to adopted regional and local planning policy and as a result the Council, in its capacity as Local Planning Authority, asked that a detailed viability appraisal be submitted to evidence this position and that this appraisal be independently assessed. The applicant agreed this and in April 2010 submitted a Viability Appraisal and agreed to cover the cost of the independent assessment.

As the Council is both a member of the Inglis Consortium and the Local Planning Authority, it was considered important that the viability appraisal was considered by a truly independent third party. Therefore in agreement with the Greater London Authority the District Valuers Office was appointed in April 2010 to assess the Viability Appraisal. The cost of this appointment, in the sum of £46,000 has been completely covered by the applicant and therefore there has been no financial risk to the council.

The District Valuers Office is the only supplier in the market for the required services.

*Retrospective approval is sought to the appointment of the District Valuers Office to carry out the independent assessment of the detailed viability appraisal submitted by the Inglis Consortium for the redevelopment of Inglis Barracks.*

### **8.2.2 Urban Practitioners - Finchley Church End Town Centre Strategy:**

Urban Practitioners were appointed in summer 2008 through a competitive quotation process to prepare a Town Centre Strategy for North Finchley. A contract sum of £65,000 was agreed. Work progressed and public consultation was undertaken in summer 2009 on a series of Issues and Options for the town centre. It was agreed that work should begin in parallel on a Town Centre Strategy for Finchley Church End on the basis of a similar brief and approach as for North Finchley. Given the knowledge that Urban Practitioners had built up of the local town centre economy and transport and movement issues, and the physical proximity of the two centres, they were invited to submit a bid for the project and to set out how their appointment would provide value for money. This included the fact that the team for the project would remain the same and would therefore be able to draw on their wider knowledge of the area, with Urban Practitioners responsible for project management, planning and urban design input, and the same sub-consultants advising on transport and movement issues, and on the local property market. An overall fee for the project of £45,000 was agreed which was considerably lower than the original fee for North Finchley and was considered to provide value for money for the council.

Based on expert knowledge and their wider knowledge of the project, it is considered that Urban Practitioners was the only supplier in the market for the required services.

*Retrospective approval is sought to the appointment of Urban Practitioners to prepare a Town Centre Strategy for Finchley Church End.*

### **8.2.3 Vaisala Limited**

Barnet Council undertakes a winter service that is innovative and effective in treating the network for snow and ice. The operational aspects of the service fully meet both the demands of the Highways Act 1980 and also the requirements and obligations of the Code of Practice for Highway Maintenance Management. Vaisala Limited has been providing an automated Winter Weather Forecast and Bureau services for a number of years. This service is an additional to the weather service provided by the Met office.

The Council has made the following two long term investments that underpin the service that Vaisala provides: the installation of the two weather stations in the Borough at a cost of £28,000 in 2001 and the thermal mapping of our Priority 1 routes that was carried out in 2004 at a cost of £40,000. Enabling Vaisala to provide the following benefits in our winter service:

- i) The service includes individual 24 hour temperature profiles at the two weather stations that can pin point the onset of freezing conditions, which is extremely useful in accurately timing the gritting operations. The information is also used to produce road temperature variations across our entire Priority 1 road network (some 240 kms). This enable a more accurate and reliable weather forecast which results in savings both in terms of road safety, as well as financial and environmental savings from the ability to adjust the gritting to suit the road conditions, and, where appropriate, gritting only part of the gritting routes.
- ii) All weather forecast data, together with the actual data, is recorded and saved and this enables the Council to justify its actions and defend any insurance or other

claims.

Not all the London Boroughs subscribe to this service; however, the Boroughs that do not subscribe are mainly smaller inner London Boroughs that, generally, are not exposed to weather variations across their areas of responsibilities (influenced by one "weather domain").

The, existing, five year contract with Vaisala expired on 31 October 2011. However, Vaisala continued to provide this service for the winter season 2011/2012 at a cost of £13,000. Officers are currently in the process of testing the market by identifying companies that have the capability to provide this service so that competitive quotations can be obtained and services procured in accordance with the Contract Procedure Rules.

*Retrospective approval is sought to the to the extension of the contract for the provision of winter weather forecast and bureau services by Vaisala Limited for a period of 1 month with effect from 1 November 2011.*

## **9. LIST OF BACKGROUND PAPERS**

9.1 None.

## **10. OFFICER'S DECISION**

**I authorise the following action:**

- 10.1 That retrospective approval is given to the appointment of the District Valuers Office to carry out the independent assessment of the detailed viability appraisal submitted by the Inglis Consortium for the redevelopment of Inglis Barracks.**
- 10.2 That retrospective approval is given to the appointment of Urban Practitioners to prepare a Town Centre Strategy for Finchley Church End.**
- 10.3 That retrospective approval is given to the extension of the contract for the provision of winter weather forecast and bureau services by Vaisala Limited for a period of 1 month with effect from 1 November 2011.**

<b>Signed</b>	<b><i>Pam Wharfe</i></b> <hr/> <b>Interim Director of Environment, Planning and Regeneration</b>
<b>Date</b>	<b>23 April 2012</b> <hr/>