

(22/232) - Appendix 1 – Procurement Process

In pursuance of Cabinet’s decision of 29th June 2021, officers have undertaken a procurement process to identify an appropriate private sector entity with whom to form a strategic development Joint Venture (‘JV’).

This Appendix provides details of the process undertaken.

1. Procurement Objectives

The procurement objectives which the Council required any partnership solution to meet were supported by Overview & Scrutiny Board in May 2021 and agreed by Cabinet in June 2021. They are as follows:-

1.	to form a long term partnership to fund, enable and, where appropriate, develop a programme of key sites, and for the Council to have an equal decision-making authority within the partnership
2.	to deliver high quality new housing and regeneration in line with local needs now or in the future, with the overarching aim of delivering significant levels of affordable housing in excess of local planning policy requirements
3.	to undertake activities to increase environmental sustainability and carbon reduction in the short, medium and long term
4.	to drive the agenda of having a good mix of homes, a mix of types and tenures including homes that meet the needs of all ages and those with disabilities
5.	to maximise social value contribution from the activities of the partnership
6.	to drive the pace of development
7.	to acquire (from any source) and/or sell land for the purpose of achieving the Objectives, in particular delivering significant levels of affordable housing
8.	to maximise grant funding into the partnership
9.	the Council to invest its land to receive meaningful returns and it also has some appetite for risk, subject to investments being balanced by commensurate reward
10.	to enable the Council to reinvest its returns to increase the level of affordable housing

2. Procurement Route

For reasons given in the Cabinet report of 29th June 2021, the procurement process chosen was the competitive dialogue process. This is a strictly regulated process under the Public Contracts Regulations 2015.

Phases of Competitive Dialogue Procurement process

The competitive dialogue procurement process consists of the following phases, which are detailed in previous reports and summarised below:-

Phase 1 – “Find a Tender” Notice & Selection Questionnaire

- The first phase of the procurement seeks to select a shortlist of bidders based on their past experience, financial standing and their ability to meet key compliance standards. This is achieved through the assessment of a Selection Questionnaire (SQ).
- This Phase is commenced by publishing the opportunity to the whole of the market through a ‘Find A Tender’ notice, along with the detailed procurement documents that explain the opportunity and how the partner will be selected. Those interested can express interest and then complete the SQ.
- The Council then assesses the SQ responses by ensuring bidders pass the compliance and financial standing hurdles and then scoring the technical experience questions. The aim of this stage is to take forward a shortlisted number of bidders that have the potential to deliver the Council’s requirements.

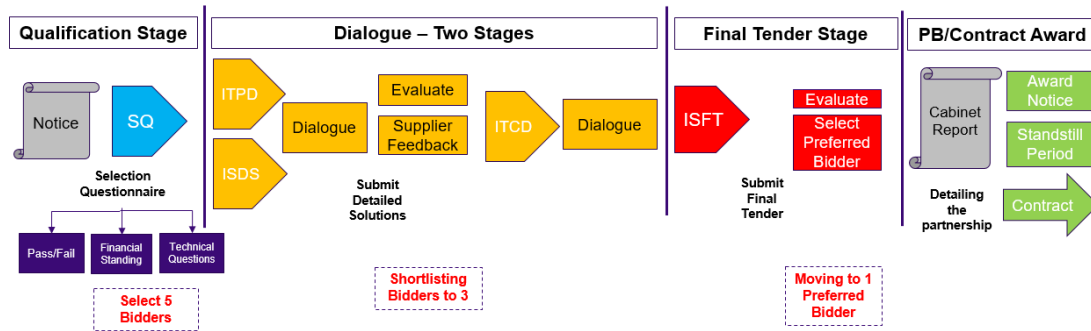
Phase 2 – two stage Dialogue process with an interim submission to shortlist bidders

- The Dialogue stage is the opportunity for bidders to present their solutions, responding to a series of tender questions and detailing to the Council how they will deliver the requirements that the Council has set out in the procurement documents. The dialogue enables the bidders to outline their potential responses and approaches and to discuss and understand what the Council is seeking to achieve. On the basis of these discussions, bidders then submit their solutions for assessment.
- The Council ran a two-stage dialogue process whereby a series of 4 dialogue sessions were undertaken with each bidder, then a response to each of the evaluation questions was submitted by bidders. The responses were evaluated and moderated, and the highest scoring 3 bidders shortlisted to move to the second stage of Dialogue. The second stage provided the shortlisted bidders with a further 4 dialogue sessions each, to enable them to improve their solution, before submission of final tenders for evaluation, in order to arrive at the Council’s Preferred Bidder.

Phase 3 – Selection and contract optimisation

- Once the Preferred Bidder has been selected there is a contract optimisation stage. During this stage, the Council will seek to ‘clarify, specify and optimise’ the bid to refine the solution and ensure the contracts are effective.

The procurement process is illustrated in the diagram below:-



SQ: Selection Questionnaire | **ITPD:** Invitation to Participate in Dialogue | **ISDS:** Invitation to Submit Detailed Solutions | **ITCD:** Invitation to Continue Dialogue | **ISFT:** Invitation to Submit Final Tenders

Throughout the procurement process, from launch to identification of Preferred Bidder, cross party members have been kept updated on the progress of the procurement exercise through procedural milestone update reports to Overview & Scrutiny Committee, Audit Committee and the Risk & Governance Champions of Audit Committee

3. Award Criteria & Evaluation Methodology

Tenders were evaluated by reference to a clear and consistent evaluation framework, comprising a 60% Quality 40% Price split, as approved by Cabinet in June 2021.

The award criteria and evaluation methodology were published to all bidders at procurement launch:-

Question No.	Evaluation Criteria	Tier 1 Weighting	Tier 2 Weighting (expressed as a % of the overall weighting)
Price			
1a	Financial Submission	40%	18%
1b	Construction Cost Overrun Risk		Risk Flag
1c	Development Management Fee		5%
2	Assumptions At this ISFT Stage, Question 2 (Commercial Offer: Assumptions) will have a threshold score of 2. A Bidder who scores less than a 2 in this question at this ISFT Stage will be disqualified and excluded from any further participation in this Procurement.		10%
3	Funding Proposal		7%
Quality			
4a	Scheme Concept and Design – Illustrative Masterplan – Musham Bank	60%	9%
4b	Scheme Concept and Design – Scheme Concept Design – Sandybed Crescent		6%
4c	Scheme Concept and Design – Scheme Concept Design – Rievaulx Road		6%
5	Programme		6%
6	Skills and Capabilities		5%
7	Partnership Approach		9%
8	Approach to procurement of contractors and supply chain		5%
9	Legal		11%
10	Social Value		3%

5. Tender Evaluation Questions - what were bidders tested on?

As the Council is procuring a partner and the framework through which the partnership will operate, the procurement evaluation criteria was designed to test bidders' ability to put forward partnership solutions that would meet the Council's requirements across the above 10 different areas.

As a way of testing the bidders' development and partnership skills and resources - including their access to funding - the evaluation methodology used the 8 committed initial SBC sites, (which sites vary in size and development complexity), as a case study, to assess how bidders would seek to operate a development JV in partnership with the Council, which would meet all of the Council's objectives, if the JV were to deliver development on those sites.

The ten areas tested in the procurement were:

(Q1) Commercial Offer: Overall financial offer

- this question tested the financial implications of the bidders' solutions through three elements; 1(a) the overall financial return which might be generated from the 8 SBC sites, and amount of affordable housing generated above planning policy levels through those sites; 1(b) the financial risk of the bidders' construction approach; and 1(c) the commercial fee being offered for providing development management services.

(Q2) Commercial Offer: Narrative & Assumptions

- this question tested the robustness of the bidders' assumptions in the financial model, through a requirement for benchmarked/ market evidence – showing that the build costs / sales values etc. that bidders put forward were appropriate and achievable in the market.

(Q3) Commercial Offer: Funding Proposal

- this question tested the funding strategy being offered for the JV based on the 8 case study sites.

(Q4) Scheme Concept & Design

- this question tested bidders' abilities and approach to master-planning and design, using example designs for 3 of the 8 schemes.

(Q5) Programme

- this question tested the pace at which development could be undertaken, based on bidders' detailed programmes for case study schemes delivered through the JV model.

(Q6) Skills & Capabilities

- this question tested the quality and structure of the bidder's team that would be committed to the JV, including how continuity would be ensured through the lifetime of the partnership, e.g., scaling teams up or down to manage fluctuations in the market during the course of the partnership's lifetime. It also tested how the bidder would work in partnership with the Council to support the (new) Council's asset strategy.

(Q7) Partnership Approach

- this question tested the bidders' partnership model, including a detailed explanation of how their partnership solution would work, how decisions would be taken and how financial elements would flow through the partnership.

(Q8) Approach to Procurement of Contractors and supply chain

- this question tested the bidders' proposal for ensuring that value for money is secured by the JV in its contractual arrangements for procuring goods, works and services, including how construction contracts/ subcontractor packages would be let, how construction cost risk is managed, and the role of the JV partner.

(Q9) Legal

- this question required the full legal suite to be agreed and tested how the legal arrangements for the partnership would address the Council's requirements, including the terms of the partnership agreement, relevant land agreements and service contracts.

(Q10) Social Value

- this question tested how social value would be captured through the partnership through detailed social value commitments offered by the bidder. Social value priority themes include: promoting skills and employment, supporting growth of responsible local businesses, creating healthier, safer and more resilient communities and promoting social innovation.

6. Evaluation Teams & Process

An Evaluation Panel comprising 15 subject matter experts, including SBC housing, planning, legal and construction expertise, and NYCC's Head of Finance (Commercial), together with legal, procurement, development, property, design and strategic finance consultants specialising in local government JV arrangements, evaluated all bidders' solutions against each of the evaluation criteria and tender evaluation questions, through each stage of the procurement shortlisting process.

An independent Moderator was engaged as part of the process to ensure the process of evaluation was undertaken in a fair and non-discriminatory manner.

All officers and advisors involved in dialogue and the evaluation of bids undertook detailed training in the competitive dialogue and evaluation process in December 2021 and again in April 2022.

All officers involved in the dialogue and evaluation of bids signed confidentiality statements and conflict of interest declarations at each stage of the procurement process.

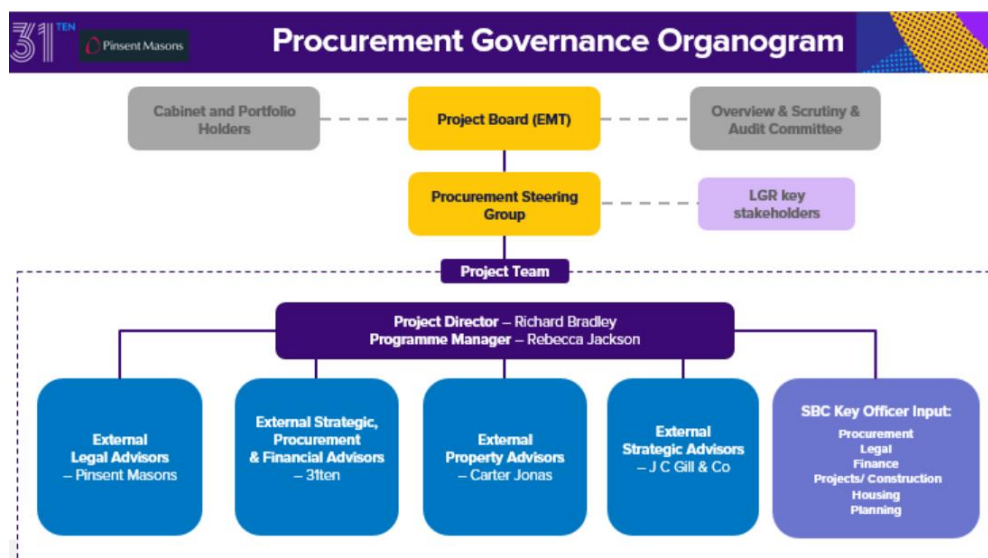
7. Procurement Governance

To ensure robust governance throughout the procurement exercise, the following measures were implemented:-

- Appointment of a dedicated Project Director and Programme Manager in November/ December 2021;

- Continued appointment of a nationally recognised advisory team, comprising 31ten, Pinsent Masons LLP, Carter Jonas, J C Gill & Co Ltd to support the process and form part of the Evaluation Team alongside Council officers;
- Appointment of an external experienced Moderator, to ensure that tender evaluation was carried out in a transparent, non-discriminatory and open way;
- Bespoke training provided to all Evaluation Panel members on the procurement process, evaluation and moderation.
- Clear and structured internal project governance measures embedded, including:-
 - A wide ranging Project Team, drawn from all relevant professional disciplines; including Housing, Estates & Strategic Land, Finance, Procurement, Legal, Planning, Projects & Construction, Communications;
 - The Project Team reporting in and escalating issues to the Project Board, comprising the Council's EMT, including CE, s.151 officer and Monitoring Officer;
 - Establishment of a Procurement Steering Group from procurement launch, comprising a representative from each external advisor and the Project Director, Programme Manager and Head of Procurement, meeting weekly to manage strategic issues and escalations to Project Board where necessary;
 - Regular procedural milestone reporting to elected Members;
 - Engagement with NYCC and Local Government Reorganisation work-stream leads during the unitary authority transition period.

The procurement governance arrangements implemented are illustrated below:-



8. Arriving at the Preferred Bidder

The tender evaluation scoring process was conducted through 2 different methodologies, published to all bidders at the procurement launch.

For all “Quality” questions bidder responses were assessed against a standard scoring matrix, with scores being derived by assessing how well the responses delivered against the Council’s requirements as detailed in the procurement documents.

For the “Price” element of the scoring the actual financial elements of each bidder’s submission were assessed against each other through a comparative scoring approach.

The Preferred Bidder is the party that scored the highest cumulative score from their answers to the questions.