

DPP2 PANEL HANDBOOK



Centenary Quay, Woolston

DELIVERY PARTNER PANEL 2
A GUIDE FOR PUBLIC SECTOR USERS
JUNE 2014



Homes &
Communities
Agency

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For DPP2 contact details, please see the final page of this handbook.



New Hendon Village, Countryside

INTRODUCTION

The Delivery Partner Panel 2 (DPP2) is a Framework panel that speeds the construction of residential and mixed-use development on public sector land. It supports the Government's ambition to release public sector land, which would be better managed by the private sector, to support development of 100,000 new homes by 2015. Panel Members are National and Regional House Builders, Housing Developers, House Building Contractors and Registered Providers who have a sound track record of delivering housing-led development in line with the Government's ambition.

The framework has been procured by the Homes & Communities Agency (HCA) and is made available free of charge to all public sector bodies as part of the HCA's facilitative role in delivering the public land agenda. DPP2 provides a simple, speedy and OJEU-compliant procurement route for organisations, including those unfamiliar with disposing of development land.

The purpose of this document is to provide public sector organisations with a guide to using DPP2 and to present the benefits of DPP2 as a speedy and robust procurement route for the delivery of housing-led development on public sector land.

The framework was procured through a fully compliant OJEU process, and as such, it can be used to procure development speedily

via mini competition, as opposed to a full OJEU tender.

DPP2 can be used to procure a developer to take responsibility for all stages of the development process, from obtaining planning permission, through design and construction of houses and associated infrastructure, to marketing and sales. Quality standards can be set to meet the needs of each individual project.

DPP2 can also be used for soft market testing, which provides the opportunity of gaining the views on the viability of a specific proposal before offering the opportunity to the market. Panel Members can provide soft market testing and early stage viability advice free of charge.



Warwich Chase - Site manager and scaffolder



The Leazes, Throckley

DPP2 is based largely upon the HCA's original Delivery Partner Panel (DPP), but with some significant changes. For example, there are 4 geographic Lots: Northern, Midlands, South East (excluding London) and South West, and there are 25 Panel Members in each Lot.

The Panel Members comprise of National and Regional House Builders, Housing Developers, House Building Contractors and Registered Providers, all of whom have demonstrated that they are active in each of the geographic areas where they are represented. This will offer a wider choice for users than was available on DPP.

The Greater London Authority (GLA) has procured a similar, but separate panel that will cover London. Details of this panel can be obtained from LDP@london.gov.uk.

DPP2 commenced on 1 April 2013 and will run until 31 March 2017. Projects procured through the Panel can run on for up to 10 years beyond the end of the Panel. No new procurements can be made under the original DPP, but those procurements that have already started under DPP may continue.

Most of the supporting documentation referred to in this guide is available via HCA's external website: www.homesandcommunities.co.uk/dpp

Further information can be obtained from dpp2@hca.gsi.gov.uk

SCOPE OF THE PANEL

DPP2 will be used for the procurement of development on housing-led sites. This will include all activities necessary to construct housing and associated infrastructure, marketing and sales and transfer of freehold to eventual owners, including, but not limited to:

- raising of development finance
- obtaining planning permission
- supply chain management
- design and construction of homes
- provision of affordable housing (in association with a registered provider)
- design and construction of infrastructure to support housing
- sales and marketing of houses
- aftercare and maintenance
- development and disposal of sites for residential use
- development and disposal of mixed-use, housing-led sites, mixed-use elements to include community facilities, retail or commercial development ancillary to and in support of housing
- refurbishment / retrofit of existing houses, residential buildings, empty homes and associated buildings
- refurbishment, restoration, conversion of heritage or other buildings for residential use
- demolition, site remediation and enabling works to prepare sites for residential or mixed-use development
- development of Extra Care accommodation
- self-build enabling as part of a larger development
- maintenance and site management

"We used the DPP to help us select a development and construction partner for the regeneration of our Larner Road estate in Erith, London Borough of Bexley. For such a large scale and high profile scheme, we needed a partner who would bring commitment, expertise and investment to the project and the DPP enabled us to achieve this."

Maggie McCann, Development Director - Orbit Homes



GMV, Countryside

USE OF THE PANEL BY OTHER PUBLIC SECTOR BODIES

Public Sector organisations identified in the OJEU Notice as being able to use DPP2 are shown below. These will extend to any subsequent successor organisations.

ORGANISATION	WEB LINK (WHERE AVAILABLE)
Central Government Departments, their agencies and non-departmental public bodies	www.direct.gov.uk/en/DI1/Directories/A-ZOfCentralGovernment/index.htm
Defence Infrastructure Organisation	www.mod.uk/defenceinternet/microsite/dio/
Oil & Pipeline Agency	No web site - go through Defence Infrastructure Organisation
British Waterways	www.britishwaterways.co.uk/home
Department for Environment, Food and Rural Affairs	www.britishwaterways.co.uk/home
Environment Agency	www.environment-agency.gov.uk/
Natural England	www.naturalengland.org.uk/
Department for Transport	www.dft.gov.uk/
Highways Agency	www.highways.gov.uk/
London & Continental Railways Ltd	www.lcrhq.co.uk/
British Rail Board (Residuary)	www.brbr.co.uk/
Network Rail	www.networkrail.co.uk/
DVLA	www.dft.gov.uk/dvla/
VOSA	www.dft.gov.uk/vosa/
Highspeed 2	www.hs2.org.uk/abouths2Ltd

Home Office	www.homeoffice.gov.uk/
Department for Culture Media and Sport	www.culture.gov.uk/
Judicial System (Ministry of Justice)	www.justice.gov.uk/
DEFRA	www.defra.gov.uk/
DCLG	www.communities.gov.uk/corporate/
The Crown Estate	www.thecrownestate.co.uk/
Department of Education	www.education.gov.uk/
Olympic Delivery Authority	www.london2012.com/about-us/the-people-delivering-the-games/the-olympic-delivery-authority/
Department of Energy and Climate Change (including Coal Authority)	www.decc.gov.uk/
Nuclear Decommissioning Authority NDA Properties Ltd	www.nda.gov.uk/
Business Innovation and Skills	www.bis.gov.uk/
Land Registry	www.landregistry.gov.uk/
Local Authorities	www.direct.gov.uk/en/DI1/Directories/LocalCouncils/AToZOfLocalCouncils/DG_A-Z_LG
A Minister of the Crown	www.parliament.uk/mps-lords-and-offices/government-and-opposition/1/her-majestys-government/
Royal Mail	www.royalmail.com/

USE OF THE PANEL BY OTHER PUBLIC SECTOR BODIES

English Heritage	www.english-heritage.org.uk/
Community Land Trusts	www.dft.gov.uk/
Olympic Park Legacy Company	www.legacycompany.co.uk/
Department for Health Arms Length Bodies	www.dh.gov.uk/en/Aboutus/OrganisationsthatworkwithDH/Armslengthbodies/index.htm
NHS Property Services Ltd	
Special Health Authorities	www.nhs.uk/ServiceDirectories/Pages/SpecialHealthAuthorityListing.aspx
Strategic Health Authorities	www.nhs.uk/ServiceDirectories/Pages/StrategicHealthAuthorityListing.aspx
Primary Care Trusts	www.nhs.uk/ServiceDirectories/Pages/PrimaryCareTrustListing.aspx
Mental Health Trusts	www.nhs.uk/ServiceDirectories/Pages/MentalHealthTrustListing.aspx
Care Trusts	www.nhs.uk/ServiceDirectories/Pages/CareTrustListing.aspx
NHS Foundations Trusts	www.monitor-nhsft.gov.uk/home/about-nhs-foundation-trusts/nhs-foundation-trust-directory
Ambulance	www.nhs.uk/servicedirectories/pages/ambulancetrustlisting.aspx
Extracare Providers	www.housingcare.org/elderly-uk-assisted-living-extra-care-housing.aspx
NHS Hospital Trusts	www.nhs.uk/servicedirectories/Pages/ServiceSearch.aspx

Community Health Councils	www.nhs.uk/servicedirectories/pages/serviceSearch.aspx
Local Health Boards	www.nhs.uk/servicedirectories/Pages/ServiceSearch.aspx
General Practitioners	www.gmc-uk.org/doctors/register/LRMP.asp
Acute Trust (NHS)	www.nhs.uk/ServiceDirectories/Pages/AcuteTrustListing.aspx
ALMOS	www.almos.org.uk/member_list
Fire Authority	www.fireservice.co.uk/information/ukfrs
Education Establishments	www.education.gov.uk/edubase/search
BBC	www.bbc.co.uk/
Police Authorities	www.online.police.uk/forces.htm www.apa.police.uk/your-police-authority/contactinformation www.apa.police.uk/transition-to-pccs
Ministry of Defence Registered Providers	www.mod.uk/DefenceInternet/Home
Housing Associations	www.tenant-services-authority.org/server/show/nav.14538
Almshouses (A local asset backed vehicle or asset investment vehicle between a body listed and a private sector partner)	www.almshouses.org/
National Parks	www.nationalparks.gov.uk/

USE OF THE PANEL BY OTHER PUBLIC SECTOR BODIES

Panel users should compare the time, benefit and cost of Panel competition against other procurement options. Off Panel procurement processes will be more costly and time-consuming.

DPP2 is offered to Partners free of charge. The only obligation is for Partners to collect some simple data around outputs and key performance indicators and, if requested, to provide feedback on any projects procured through the Panel.

"Bournville Village Trust used DPP to secure this Joint Venture disposal, and we procured a developer quickly: from expressions of interest through to selection of the preferred bidder in just four months".

John McNulty, Director of Development - Bournville Village Trust

Public bodies wishing to procure through the Panel will firstly be required to sign up to an access agreement with the HCA. This will enable them to use the Panel as a Partner Organisation to the HCA.

There is no obligation on Partners to use the Panel once they have signed up and provision of HCA funding is not dependent on Partners using the Panel.

Once the letter of agreement has been signed, the HCA will provide the Partner with access to its e-tendering system, which holds additional information necessary to enable them to use the Panel (e.g. Panel Members' contact details, tendered overheads and profit rates, and Framework Agreements).

A draft access agreement is available and further details on how to sign up to, and how to use the Panel, can be obtained from: claire.barclay@hca.gsi.gov.uk

Partner Organisations are encouraged to procure through DPP2 and the HCA's Technical Panels, wherever appropriate, as these enable public sector bodies to achieve significant savings in time and cost of procurement over a separate full OJEU compliant procurement process.

Details of HCA's Technical Panels are also available via HCA's external Website,

www.homesandcommunities.co.uk/ourwork/technical-panels

The HCA will provide help, information, guidance and support to Partners in their use of the Panel. However, Partners' own procurement protocols should also be followed.

"As a small association which does not have a significant development programme, the HCA's Delivery Partner Panel was an ideal solution for the procurement of our first Extra Care scheme, which has recently started on site.

We don't have a development department, but found the process easy to follow. Any queries were dealt with in a very helpful and timely manner by the HCA team in Milton Keynes."

Martin Burke, Chief Executive - Sussex Housing & Care



Scotswood Consultation Partners

PANEL MEMBERSHIP

46 companies are members of the DPP2, with 25 represented on each regional lot.

Panel Members have demonstrated their ability and track record of delivering housing in the Lot areas for which they have been selected. DPP2 excludes London, which is covered by the GLA's London Development Panel.

Midlands Lot

- | | |
|---------------------------------|--|
| BDW Trading Ltd | Lovell Partnerships Ltd |
| Bellway Homes Ltd | Mansell Construction Services Ltd |
| Bloor Holdings Ltd | Mar City Developments Ltd |
| Bouygues Thomas Vale Consortium | Morris Homes Ltd |
| Bromford Housing Group Ltd | Persimmon Homes Ltd |
| Carillion-Igloo Ltd | Places for People Homes Ltd |
| Catalyst Housing Ltd | Redrow Homes Ltd |
| Countryside Properties (UK) Ltd | Taylor Wimpey UK Ltd |
| Crest Nicholson PLC | Wates Construction Ltd trading as Wates Living Space |
| Galliford Try Plc | Westleigh Developments Ltd |
| Keepmoat Ltd | William Davis Ltd |
| Kier Ltd | Willmott Dixon Holdings Ltd |
| Logic Homes Ltd | |

South West Lot

- | | |
|--------------------------------|--|
| Affinity Sutton Homes Ltd | Lovell Partnerships Ltd |
| BDW Trading Ltd | Mansell Construction Services Ltd |
| Bellway Homes Ltd | Mi-space (UK) Ltd |
| Bloor Holdings Ltd | Ocean Housing Group Ltd |
| Bouygues Leadbitter Consortium | Persimmon Homes Ltd |
| Bovis Homes Ltd | Places for People Homes Ltd |
| Carillion-Igloo Ltd | Redrow Homes Ltd |
| Catalyst Housing Ltd | Seddon Group Ltd |
| Crest Nicholson PLC | Taylor Wimpey UK Ltd |
| Galliford Try Plc | Wates Construction Ltd trading as Wates Living Space |
| Hill Partnerships Ltd | Willmott Dixon Holdings Ltd |
| Keepmoat Ltd | ZeroC Acheson Consortium Ltd |
| Kier Ltd | |

Northern Lot

- | | |
|-----------------------------------|--|
| BDW Trading Ltd | PE. Jones (Contractors) Ltd |
| Bellway Homes Ltd | Persimmon Homes Ltd |
| Carillion-Igloo Ltd | Places for People Homes Ltd |
| Countryside Properties (UK) Ltd | Redrow Homes Ltd |
| Galliford Try Plc | Seddon Group Ltd |
| Gentoo Group Ltd | Story Homes Ltd |
| Great Places Housing Group | Taylor Wimpey UK Ltd |
| Ignite Homes Ltd | Wates Construction Ltd trading as Wates Living Space |
| Keepmoat Ltd | Westleigh Developments Ltd |
| Kier Ltd | Willmott Dixon Holdings Ltd |
| Lovell Partnerships Ltd | Your Housing Group / Eric Wright Group |
| Mansell Construction Services Ltd | |
| Miller Homes Ltd | |
| Morris Homes Ltd | |

South East Lot

- | | |
|---------------------------------|--|
| BDW Trading Ltd | Keepmoat Ltd |
| Bellway Homes Ltd | Kier Ltd |
| Bouygues Leadbitter Consortium | Logic Homes Ltd |
| Bovis Homes Ltd | Lovell Partnerships Ltd |
| Catalyst Housing Ltd | Mulalley and Company Ltd |
| Countryside Properties (UK) Ltd | Persimmon Homes Ltd |
| Crest Nicholson PLC | Places for People Homes Ltd |
| Durkan Ltd | Redrow Homes Ltd |
| Fairview Estates (Housing) Ltd | Rydon Construction Ltd |
| Galliford Try Plc | Taylor Wimpey UK Ltd |
| Genesis Housing Association | Wates Construction Ltd trading as Wates Living Space |
| Higgins Group PLC | Willmott Dixon Holdings Ltd |
| Hill Partnerships Ltd | |

London area is covered by the GLA's London Development Panel

A list of Local Authorities by regional lot is available via the HCA website

FRAMEWORK AGREEMENT

All Panel Members have signed a Framework Agreement with the HCA, which has been executed as a Deed. The Framework Agreement also covers use of the Panels by Partner Organisations, who will only be required to enter in project specific contracts with Panel Members.

The following key features are covered in Framework Agreement:

- Subject to termination/suspension, the Framework Agreement will be for a 4 year term, finishing 31 March 2017.
- Panel Members may be required to execute Collateral Warranties and assign work in favour of funders, purchasers, tenants and/ or other third parties acquiring interest in the work carried out. These warranties and assignments will be limited to a maximum of one further assignment (see Schedule 7).
- Mini competition processes and evaluation criteria (see Schedule 6).

- Insurances, including £10m Employers Liability Insurance and £10m Public Liability Insurance (see Schedule 3).
- Schedule of Works (see Schedule 2).

As part of the mini competition, a project specific drawdown contract will need to be put in place between the Panel Member and the commissioning body. This contract will exist in conjunction with the HCA Framework Agreement. However, should contradiction occur, the project specific contract would take precedence.

The project specific drawdown contract will be in the form of one of the following:

- DPP2 Building Lease
- DPP2 Development Agreement or
- JCT Design and Build Contract

See Mini Competition for further information on project specific drawdown contracts.

“This was the first time that we had used the DPP. I was impressed by the quality of developers that were signed up to the Panel and it made the choice to use this as our procurement route very easy. Having a developer on board early in the scheme enabled us to get houses built for local residents in very challenging market conditions.”

Richard Duddell, Rochdale Development Agency

SUBCONTRACTING

Panel Members can propose a subcontracted team within their mini competition bids. This enables maximum flexibility to be maintained in the use of the Panel and the most appropriate team to be put together for each project procured through the Panel.

The Panel Member will maintain full responsibility for any subcontractor appointed by them and will carry full liability for any subcontractors' or sub-consultants'

performance. The Panel Member can also incorporate Registered Providers in the team in this way.

Where there are specific requirements around the team that is required, for example, where the RP needs to be drawn from a specific list or where there is a requirement to use local labour or subcontractors, then these should be made clear during the mini competition process and proposals evaluated on that basis.



Construction site

THE PROCUREMENT PROCESS

The Panel has been procured through a two-stage fully OJEU compliant process. The OJEU Notice was published on 31/03/2012.

The Memorandum of Information (MOI) provided further information on the Panel and the accompanying Pre-Qualification Questionnaire (PQQ) established the capabilities and experience of the prospective Panel Members. Specific questions were posed on:

- corporate and business capacity to deliver housing in the Lot area, supported by evidence of housing delivery over recent years.
- technical capacity to deliver a range of types of home e.g. mixed-use, refurbishments, retrofit, heritage, extra care, self-build.
- ability to address key housing delivery issues e.g. raising funding, working with stakeholders, management of supply chain.

A team drawn from within the HCA marked the PQQs for each of the geographic Lots.

Shortlisted companies from each Lot were issued with an Invitation to Tender (ITT) for the second stage. The ITT consisted of a case study, specific to each Lot. Each case study was based upon real HCA sites that would be marketed in the near future. Details provided on each site included a site plan, an executive

summary, site constraints, development opportunities, planning information, design brief and the role and responsibilities of the developer.

Bidders were also required to submit a completed Development Appraisal Tool (DAT) model in relation to their proposals to develop the site. The evaluation of the financial elements within the DAT model included assessment of the key financial aspects (build costs, sales values and overheads and profit), which have been carried forward into the Framework Agreement as baseline figures for future reference. Overheads and Profit are carried forward converted to a percentage of gross development value, for both affordable and open market housing.

At mini competition stage, the overall land value will become the major aspect of the financial evaluation, but build costs, sales values, overheads and profit provided, should also be interrogated, as they normally would be at project specific tender stage. Any significant difference in the costs, values, overheads, and profit to those submitted at ITT stage will need to be justified and understood.



“The Council chose the HCA’s Delivery Partner Panel to procure a long-term strategic Lead Developer Partner for a major and challenging regeneration project for 5 sites in Hull. Because of the HCA’s rigorous pre-qualification processes, we were confident that expressions of interest would be from high-quality, committed developers prepared to work in partnership with the Council and local residents.”

Garry Taylor, Assistant Head of Service Housing Strategy and Renewal - Hull City Council

CONTRACTUAL STRUCTURE OF PANEL MEMBERS

The Panel Member organisations identified earlier are the parties who have entered into the Framework Agreement with the HCA.

To ensure compliant procurement, these organisations must also sign up to project specific drawdown contracts. They will carry full liability for all works or services undertaken by them through this Panel.

The majority of the Panel Members are single legal entities, although there are also Joint Ventures formed by two or more separate organisations. JVs carry joint and several liabilities. Further details regarding legal identity of Panel Members are available for signed up Panel users.

The Panel Members will take full responsibility for coordinating, managing and delivering all work procured through the Panel, and in the vast majority of cases will sign up to the project stage contract.



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HEALTH AND SAFETY

Panel Members have demonstrated through the entire tender process that they have the necessary skills, capacity, resources, experience and competence to deliver on the type of projects or elements of work they will be expected to undertake.

Another condition was that they needed to be registered with, and assessed by, a Safety Schemes in Procurement (SSIP) approved health and safety assessment

scheme. It is recommended that SSIP registration be confirmed on a project by project basis.

Although the HCA has considered health and safety as part of the tender process, Partners using the Panel retain the legal responsibility as construction Client under the Construction (Design & Management) Regulations 2007 to carry out competency checks on all appointees to a project, the HCA cannot take on this legal responsibility.



PROCUREMENT OF WORKS AND SERVICES FROM THE PANEL

Schedule 6 of the Framework Agreement provides details on the Project Tendering Procedure. The following provides general guidance aligned to these options:

All works and services procured through Framework Panels are subject to mini competition and DPP2 is no exception to this. A project tendering procedure is required to select the best Panel Member to undertake each piece of work procured through the Panel.

Opportunities to bid for work should be offered to all capable and available Panel Members. The DPP2 geographic Lots each have 25 Members, and if all Panel Members provided a full tender for each piece of work, the resultant level of competition would be too high. This would be wasteful and would not result in good and considered bids.

In order to reduce the number of bidders to a more reasonable level, a two-stage process is proposed prior to the invitation to tender. An initial enquiry should be undertaken to establish Panel Members' interest and capacity to bid, this is followed by a sifting brief, which is a qualitative exercise to select the Panel Members most suited to bid.

Prior to starting the procurement process, it is important that Panel Members be provided with sufficient information for them

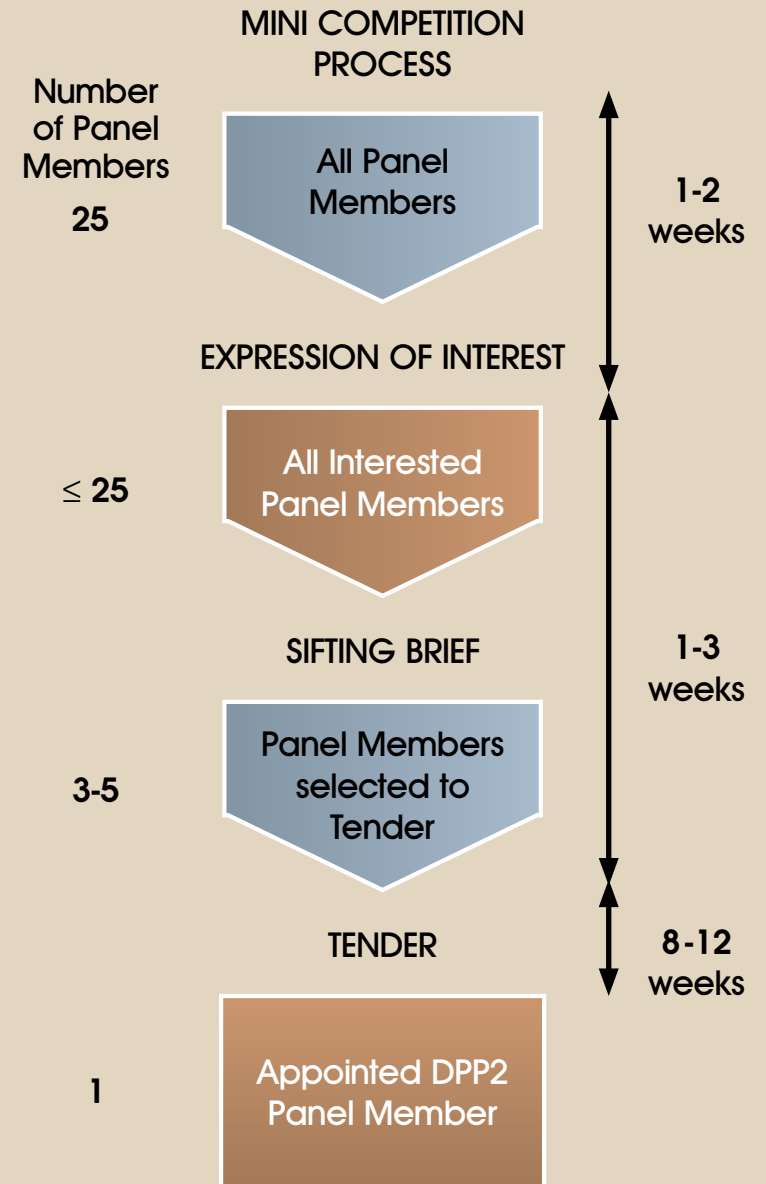
to make an informed decision on whether or not they wish to bid. The nature of their role should also be made clear to them, together with how they are expected to undertake the project.

Information that should be provided is given in the draft Expression of Interest (EOI) proforma available via the e-tendering system.

During the entire mini competition process, it is important that someone from the commissioning body is available to answer queries; this person should have a good knowledge of the project. All queries should be submitted via the e-tendering system and significant clarifications should then be similarly forwarded to the other bidders.

Panel Members can bid jointly, but one Panel Member will need to assume the position of lead. This lead Panel Member will sign the project contract with the Partner Organisation and will take full liability for the project. The other Panel Member(s), in contractual terms, will be a subcontractor to the first. Where two Panel Members bid together they cannot also make individual bids.

All DPP2 tenders must be returned using the e-tendering system (see Mini Competition e-tendering System).



SCOPE OF THE MINI COMPETITION

There is a fundamental principle within the Public Contract Regulations that the OJEU notice or EOI, competitive process and resulting award, must be consistent. With call offs from the Panel, it is similarly important that the information disclosed during the three stage mini competition process provides consistency from the initial outline of the development opportunity through to the award decision.

A Panel Member who declined to bid in the early stages may have grounds for challenge if 'goal posts' are moved at a later stage and the development opportunity then becomes more attractive to them.

The mini competition must cover the full range of works and services required. There is a risk that when development proposals are sought, which focus on a small section of the development opportunity, then this is viewed as inconsistent with the scale of the overall development opportunity. For example, where a site is offered to the Panel prior to obtaining planning permission, the mini competition must cover the eventual development as well as the initial services required to obtain the planning permission.

It is important that the mini competition makes clear the full scale of the opportunity

and site-wide development proposals must be sought (even if only in broad outline). A mechanism will then be required for agreeing financial details of later phases within the development agreement, where these cannot be established in the mini competition process. The development agreement will need to be made available at mini competition stage to ensure that all bidders are aware of the mechanism and can prepare their bids on the same basis.



DURATION OF PROJECTS PROCURED THROUGH THE PANEL

Work commenced during the Term of the Framework Agreement may be completed after expiry of the Framework Agreement to accord with individual development agreements or building leases.

Projects procured through DPP2 may have a duration of up to 10 years after the expiry of the Panel and this was made clear in the Memorandum of Information (MOI) issued at the start of the DPP2 procurement process.

MINI COMPETITION E-TENDERING SYSTEM

The HCA uses a simple web-based e-tendering system to manage all mini competitions procured through DPP2. All opportunities offered to Panel Members

must be offered via this system, which will support the efficient sharing of information, asking and answering of questions and submission of expressions of interest, sifting brief and tender responses.

Panel Members must not accept mini competition opportunities unless they are offered through the DPP2 e-tendering system. Schedule 6 of the Framework Agreement details this.

Guidance on the use of the e-tendering system is available and further advice, including log-in details, can be obtained from Claire Barclay claire.barclay@hca.gsi.gov.uk



If there are uncertainties about the viability of a site, or the best ways to bring a site forward, soft market testing can be undertaken with Panel Members to gain informal early stage advice on viability. This can be undertaken informally and does not need to involve all Panel Members. This advice is provided by Panel Members free of charge.

It is a separate process, that occurs before the formal mini competition process commences and can involve as many or as few of the Panel Members as is appropriate.

Informal soft market testing has traditionally been undertaken with developers on many projects. It is a way of gaining the views on the viability of a specific proposal before

taking it to the market. In the past, this has often been commissioned from property consultants, who contact developers in order to gain a market view.

DPP2 offers the opportunity to gain this early stage advice and viability input directly and at no cost. As well as the provision of advice on development costs, revenue and overall viability, Panel Members can also provide advice and input on the best ways to bring a site forward and on the information they need in order to be able to provide sound tenders for the development.

Panel Members can be used to:

- support Panel users to act as ‘critical friends’ to improve viability and deliverability of a development
- provide Panel users with a service to explore the art of the possible and improve deliverability
- warm up the market to boost interest in the opportunity

Working with Panel Members, this early stage, pre-development advice can be obtained without compromising any subsequent competitive process. Initial contact should be made with the nominated contacts for the relevant DPP2 Lot. All, or a selected number of these, can be contacted to ask if they are interested in providing early stage advice.

In many cases, it has been very useful to hold an informal briefing meeting for Panel Members to provide them with information about the site and to gain their initial responses / reactions as to the best way to progress with development. By holding a meeting with a number of Panel Members, there is good opportunity for idea generation. However, one benefit of meeting Panel Members individually is that they may be more willing to share ideas in that type of forum.

A site visit can be linked to the meeting and this provides a valuable opportunity for other stakeholders, for example the Local Authority, to be involved. The meeting should commence with presentations from the commissioning body and any other key stakeholders.

EARLY STAGE ADVICE

DPP2 can provide input on a range of issues including the following:

- Attractiveness of the opportunity
- Key local experience
- Perceived challenges
- Local market demand
- Design requirements and sustainability
- Comment on any initial master planning or design work
- Viability
- Contract and terms
- Mix and phasing
- Development constraints
- How to improve chances of success
- Initial ideas for adding value

It should be made clear exactly what information is required, or whether there are any specific issues to address, but more general views / ideas around how the site

can best be brought forward can also be requested.

Early stage advice and soft market testing is an informal process. Panel Members providing advice will have no contractual obligations for this and any information provided will not come with any form of warranty.

Panel Members do however, have a vested interest in ensuring information provided is sound and reasonable, because this will increase the chances of well-resolved and viable sites being brought to the Panel. Panel Members providing early stage advice will gain knowledge and information about the site through the process, but beyond this, they will have no other competitive advantage.

Any information gained through this process should be reviewed and incorporated as seen fit in the formal mini competition documents, where it is considered that this is appropriate. The formal mini competition process should then commence with all Panel Members. Panel Members should not draft mini competition documents.

"DPP gave us access to quality contractors able to respond to our brief within the very tight deadlines. It would never have happened without the DPP and the HCA's involvement."

Mohammed Shabir Affordable Housing Manager, Bradford Metropolitan District Council



EXPRESSION OF INTEREST (EOI)

The initial communication sent out to Panel Members providing them with information on the project must be issued via the e-tendering system. This should contain sufficient information for Panel Members to decide whether they wish to bid. At this stage Panel Members should respond with a simple 'Yes' or 'No'. If the response is 'No', Panel Members have agreed to give feedback on reasons why they have declined. This feedback is particularly useful for schemes where little interest has been shown.

Contact details for Panel Members are given within the e-tendering system.

This first stage is self-selecting and Panel Members may decline to bid at this stage, as it would be unreasonable to expect them to bid for every opportunity that is put to the Panel. One of the efficiencies of the Panel lies in ensuring that levels of competition are not too high and that only the most suitable firms bid for each opportunity. This first stage is the opportunity for the Panel Members to deselect themselves. If however, some Panel Members do not respond to the initial invitation by the due date, it is advisable to contact them again, perhaps by telephone, in case they did not action the initial invitation.

Following receipt of Expressions of Interest, there are choices on how best to proceed with the mini competition, to reflect the complexity and the quantum of information requested:

- If fewer than five Panel Members express an interest, then the project can move directly to tender stage.
- For schemes requiring bidders to submit a significant amount of supporting information, then Panel Members expressing an interest should be invited to respond to a sifting brief, to achieve a shortlist of between three and five Panel Members who would then be invited to submit a full project specific tender.
- However, for schemes where the submission will consist of little more than a price and layout plan, there may be some merit in offering the opportunity to all Panel Members who have expressed an interest. This pragmatic approach should result in an increased number of sites coming through the Panel.

A proforma EOI is available via the e-tendering system.



SIFTING BRIEF

The sifting brief should build on the information provided in the initial EOI, by providing any further information about the project to be commissioned that has been requested, or has become available. For example, more detailed site information could be made available to Panel Members at this stage, such as information on contamination, listed buildings, utilities etc.

A proforma sifting brief is available via the e-tendering system.

The sifting brief is the means to select a tender list when the level of interest is high. In order to do this, there needs to be a means of evaluating the responses received and of selecting a manageable tender list. The process by which to select or reject Panel Members needs to be sound, efficient and defensible.

The sifting brief should not be a second PQQ exercise and should not seek to check Panel Members' general capability, because this has already been established through the Panel procurement process. The sifting brief should focus very much on the specific project to be developed and should seek to test the capabilities and experience of the Panel Members in delivering the things that are critical to the success of that particular project. It also provides the opportunity to clarify and better understand what can be delivered on a particular site and to further test viability.

Probably the best way to approach the drafting of sifting brief questions is to identify the things that are particularly difficult or particularly important about the project and phrase the questions around these things. There should be **no more than 4 questions** and word limits of around 300 - 500 words should be given for each question.

Bidders should also be asked to confirm their willingness, availability and capacity to undertake the project.



A number of commissioning bodies have also undertaken a Bidders' Day at sifting brief stage. These have generally involved presentations by the area team, consultants, and local authority representatives, to interested Panel Members on a particular development. This could then be followed by a site visit, with opportunities for discussion and questions. The commissioning body should structure the Bidders' Days to suit the requirements of the particular development.





Nightingale Estate, Countryside

Examples of the type of questions that are suitable for use at sifting brief stage are given in the proforma available via the e-tendering system. These are examples only, and it is critical that the questions used reflect the needs and nature of the particular project. Some considerable thought needs to be given to preparing the sifting brief questions. These statements should be short and specific. Panel Members should be instructed not to submit general company information.

Evaluation and weighting criteria to suit the needs of the individual project should be defined and clearly communicated to Panel Members. It is appropriate to state the weighting to be applied to each question.

It is important to remember that the sifting brief should be a relatively quick, single stage exercise. It should be undertaken with a light touch, to ensure that the procurement process is as efficient as possible and waste is minimised for both Panel Member and contracting authority.

Following evaluation of the sifting brief, between 3 and 5 Panel Members should be asked to provide a full project specific tender via the e-tendering system, although as noted above, where the level of supporting information being sought is minimal, consideration could be given to inviting a greater number to submit final tenders.

It should be noted however, that Panel Members tendered for a place on the Panel on the basis that a maximum of five companies would be invited to tender for specific projects. While this figure is presented here for guidance only, it should be noted that above this figure, some Panel Members might consider the competition too great and therefore elect not to bid. The cost of preparation and submission of tenders can run into the thousands of pounds and Panel Members will take account of this when considering the level of competition and whether or not to bid.

As the Panel is made up of Members of differing financial size and capacity, not all Panel Members will necessarily have the financial strength to carry out all opportunities that will be offered through the Panel. Therefore, after the evaluation of the sifting brief, but before inviting the preferred Panel Members to submit a project specific tender, a financial review should be undertaken on the shortlisted companies. HCA's Business Appraisal team can carry out this review

free of charge, to ensure that the proposed bidders have sufficient financial capacity to undertake the specific project. This is a quick review carried out on financial information already held by the Business Appraisal team. (See Financial Appraisal). A further project specific financial vet on the preferred bidder should be undertaken later, prior to award.

If bidders are deemed to have insufficient financial capacity to undertake the project, they should not be offered the opportunity to tender.

Those companies who have not been shortlisted and invited to tender should be sent a notification of exclusion letter via the e-tendering system detailing the following:

- Sifting Brief Evaluation Criteria
- Their scores
- Reasons for their scores
- Total Number of Sifting Brief submissions received
- Number of successful Sifting Brief submissions
- Lowest successful score
- Highest successful score
- Contact details to request further information

A draft notification of exclusion letter is available via the e-tendering system. This can be amended to suit your particular project

INVITATION TO TENDER

The project specific invitation to tender will be specific to the Project concerned and will be used to agree the details and scope of the works and/or services required. Panel Members should be advised of the criteria to be used for evaluating tenders.

The scope of the DPP2 is broad, and because it can be used to deliver a range of activities, the mini competition processes used might vary considerably to reflect the needs of the work being procured.

All Works procured under the Framework Agreement will be subject to individual project agreements or drawdown contracts. This contract will exist in conjunction with the HCA Framework Agreement. However, should contradiction occur, the drawdown contract would take precedence.

Drawdowns from the Panel by Partners will utilise the following legal documents, which should be tailored to meet your project specific requirements:

- the DPP2 Building Lease*
- the DPP2 Development Agreement* or
- the JCT Design and Build Contract where the Panel Member is appointed as a contractor.

These documents are provided for information only. The HCA makes no warranties, representations, or undertakings about any of the content contained in these documents (including, without limitation, any as to the quality, accuracy, completeness, or fitness for any particular purpose of such content). The HCA will not be liable for any loss arising out of or in connection with the use of these documents in negligence, tort, by statute or otherwise and you are advised to seek independent legal advice before utilising the documents.

Copies of HCA's Building Lease and the Development Agreement are available upon request from dpp2@hca.gsi.gov.uk The JCT forms of contract are available at www.jctcontracts.com

It is important that one of these forms of contract are used, as these were specified during the procurement process as drawdown contracts. This will make the procurement far sounder and more resistant to challenge. However, each of these forms of contract will need to be tailored to the individual project.

Insurance levels should be checked to ensure that they are current and sufficient to cover the work being commissioned (see Insurances).

Panel Members selected to tender must all tender on the same basis and all be provided with the same information. The basis of the competition must be clear at the start and must not change significantly, otherwise the competition must be reopened.

The HCA's Development Appraisal Tool (DAT) is designed to appraise in detail the viability of an individual site and the completion of a DAT model will form the financial offer. At tender stage, land value would form the major part of the financial evaluation. Any significant difference in the costs, values, overheads, and profit to those submitted at ITT stage will need to be justified and understood.



Wherever possible, the elements comprising the overall financial bid should be established by the mini competition and not left to be open book, or simply agreed through negotiation with the successful Panel Member alone. Establishing a firm financial bid as part of the mini competition is the ideal and will minimise the procurement risk.

The Development Appraisal Tool, together with guidance on its use, is available via the e-tendering system. Please send any queries or technical questions about the tool to DATenquiries@hca.gsi.gov.uk in the first instance.

EVALUATION CRITERIA

Development-specific tender will be evaluated as follows:

EVALUATION	WEIGHTING USED AT ITT	MINI COMPETITION PROJECT SPECIFIC TENDER WEIGHTING RANGE
QUALITY Quality and Employer's requirements, Design approach	15%	10-25%
PROJECT MANAGEMENT & RESOURCES Programme, Approach to gaining planning, Construction approach and technical proposal, Risk assessment, Health & safety	35%	20-45%
TOTAL QUALITY Financial Offer, Land Value The following were also assessed at tender stage: Sales Values, Construction Costs, Overheads and profit	50%	30-70%
TOTAL SCORE	100%	100%

Weighting of evaluation criteria may be varied to suit the nature of the individual project. The exact weighting of the evaluation criteria and sub-criteria to be used will be detailed within the project specific invitation to tender and should reflect the relative importance of the criteria to the success of the project.

A draft Invitation to Tender proforma is available via the e-tendering system.

Financial evaluation at Project Specific Tender stage will focus on the land value, overheads and profit. Build costs and sales values included within a Project Specific Tender will be reviewed with reference to information included in Schedule 6A (DAT) of the Framework Agreement. Any significant difference in the costs or values provided within the Project Specific Tender will need to be justified and understood.

A summary of the tendered rates of DPP2 Panel Members is available via the e-tendering system.

Following evaluation of the project specific tender, unsuccessful bidders must be sent a notification of exclusion letter via the e-tendering system detailing the following:

- The name of the successful bidder
- The standstill period end date
- Award Criteria and sub-criteria (if applicable)
- Their scores
- Reasons for their scores
- Successful bidder's scores
- Narrative to explain why the successful bidder scored higher marks including characteristics and relative advantages of the winning tender compared to their tender (subject to any known confidentially/ IPR obligations)
- Contact details to request further information

A draft notification of exclusion letter is available via the e-tendering system. This can be amended to suit your particular project.

Successful bidders must be sent an Intention to Award Contract letter via the e-tendering system. This details, inter alia, the 10-day standstill period before the contract can formally be awarded (see Standstill Period).

If no challenges arise within the standstill period, the contract can be awarded to the successful bidder.

CONSTRUCTION WORKS

DPP2 can also be used to procure construction works. The evaluation criteria for construction works are available via the e-tendering system.

"We used the DPP for the first time and found the process for procuring a contractor to be straightforward and logical. We are working in partnership with the local authority and it was important that the procurement of a building contractor was carried out as quickly and as efficiently as possible. The DPP framework provided the structure to achieve this."

Craig Horn, Principal Development Manager – Peabody

ADDITIONAL INFORMATION

FINANCIAL APPRAISAL

General financial appraisal of bidders was undertaken prior to their being offered a place on the Panel. The HCA's Business Appraisal team will repeat this general appraisal on an on-going basis.

Financial appraisal of bidders should also be undertaken on a project specific basis to ensure that they can adequately fund the requirements of the project. This appraisal service is offered to Partners free of charge by the HCA's Business Appraisal team. Please contact simon.dixon@hca.gsi.gov.uk (0191 497 7542) or karen.muir@hca.gsi.gov.uk (0191 497 7683) for further information.

INSURANCES

Insurances should also be checked on a project specific basis, for example, Contractors All Risks Insurance will be sought on a project specific basis. Insurances may also need to be raised in some cases. At the time of appointment on to the Panel, all Panel Members held the following insurances:

- Employers Liability £10m
- Public Liability £10m
- Contractors All Risks £10m (or proof from insurers that a minimum of £10m could be obtained)

It is the Partner's responsibility to ensure that the required level of insurance for their project is in place.

Please refer to Schedule 3 of the Framework Agreement for further details on insurances.

TRANSFERABILITY BETWEEN LOTS

The Panel has been established on the basis that Projects within a certain Lot will be offered to Panel Members for that Lot only. However, in a limited number of circumstances work may be offered to Panel Members of another Lot, these are as follows:

- Where the project tendering procedure fails to identify a viable award decision
- Where the response to the mini competition process results in interest from too few Panel Members to create a sufficient level of competition, for example less than three Panel Members
- Where it is considered that exposure to Panel Members within the Lot is too high, or where insufficient capacity exists within the Lot
- Where it is uncertain exactly which Lot the site in question falls, or if it closely abuts an adjacent Lot
- Contact the DPP team to discuss any other perceived valid reason



STANDSTILL PERIOD

In order to ensure that the award process is concluded fairly, there is a requirement to defer finalising the award during a 10-day period, which provides unhappy bidders with the potential to explore having the contract award set aside.

The Remedies Directive changes the detail of this process, with a summary and request for feedback within the 10-day period replaced by the need to give a complete breakdown of the scoring and reasons for the scores given in the letter informing bidders of the start of the standstill period, there is no formal requirement for a debrief. However, if a bidder believes that the letter does not contain sufficient information, then

consideration should be given to providing this, either within the standstill period, or over a longer period (depending on how the request is made).

The Office of Government Commerce (OGC) has recommended that the standstill period also applies to mini competitions in excess of the relevant EU threshold and the adoption of the standstill period (and disclosure) will reduce the risk of call-off contracts being declared ineffective. This means that a clear evaluation approach for a mini competition is needed, otherwise there will be no mechanism for which to explain the award decision.

A draft Intention to Award Contract letter is available via the e-tendering system. This can be amended to suit your particular project.



Kilnwood Vale, West Sussex

DPP2 Champions are available to advise Partners on the use of DPP2. Contact details for the DPP management team are as follows:

E: deborah.vogwell@hca.gsi.gov.uk
T: (01234) 242574

E: rob.noble@hca.gsi.gov.uk
T: (01234) 242571

E: claire.barclay@hca.gsi.gov.uk
T: (01234) 242572

E: clare.moore@hca.gsi.gov.uk
T: (01234) 242573

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