

Letter sent to

Our ref: TRC/MMG  
06 January 2005

Dear

### INVITATION TO TENDER

I act on behalf of the NHS Greater Glasgow Board in relation to the disposal of surplus land at the former Lennox Castle Hospital, and I invite you to tender for the instruction to act as Independent Valuer for the disposal of part of the site. I am awaiting a proposal from a third party to develop part of the site for a use which is compatible with the Local Plan designation, 'greenbelt compatible leisure'. While this proposal is being prepared, I am assembling the advisory team which will include legal and property advisers and the Independent Valuer. The role you are being invited to tender for is documented in the NHS in Scotland Property Transactions Handbook, and a copy of the relevant section is enclosed. You may wish to access more of the Handbook, and I understand that this is available on-line at the Scottish Executive website.

The proposed disposal will be off-market, and as such some of the responsibilities outlined in the Handbook will not apply. However, in this case, the Independent Valuer's main responsibilities will be:

- To establish the guide price
- To advise, in consultation with the Property Adviser on the final price and where the final price is at a price below the guide price to certify jointly with the Property Adviser that it is the best offer reasonably obtainable

For the avoidance of doubt, the Independent Valuer is an additional source of advice and the appointed firm will not be a substitute for the Property Adviser who will lead the negotiations and liaise directly with the legal adviser, the developer and me. I therefore invite you to tender for this instruction and would be grateful if you would detail the following in your submission:

- rate per hour, with any fee abatement against scale fees shown
- a capped fee proposal
- experience of acting as an Independent Valuer or similar role and curriculum vitae
- experience, if any, of valuations involving 'greenbelt compatible leisure' or similar non-residential developments
- clients, previous and current who are involved in any aspect of the leisure industry.

While the invitation is to your firm to undertake the instruction, it would be a requirement of the appointment that you personally would carry out all aspects of this instruction. The closing date and time for submissions is Friday 14 January 2005 at 12.00 noon and I look forward to hearing from you in due course.

Yours sincerely

**Tom Campbell**  
**Chief Executive**

## PAI T A: MANAGEMENT

- 2.4.3 ensuring that the mandatory requirements are followed;
- 2.4.4 commissioning professional advice;
- 2.4.5 issuing the necessary instructions to legal and other professional advisers;
- 2.4.6 in the case of disposals, ensuring that the planning potential of the property is completely clarified, agreeing the marketing arrangements, arranging for offers to be opened, and taking account of professional advice on the acceptance of offers;
- 2.4.7 in the case of acquisitions, ensuring that the need for additional property has been clearly established, that best value is obtained and where leasing of property is proposed that it is the most cost effective option;
- 2.4.8 resolving any differences with professional advisers;
- 2.4.9 deciding when transactions should be notified to the Accountable Officer;
- 2.4.10 acceptance of offer following submission to and approval of Accountable Officer where required;
- 2.4.11 supervising the completion of the transaction, and co-ordinating the necessary input from legal and other advisers;
- 2.4.12 completion of all appropriate certification, including the commissioning of supporting certification from appropriate professional advisers;
- 2.4.13 completion of monitoring proformas and provision of further supporting information to assist and support post-transaction monitoring;
- 2.5 Holding Bodies have a particular responsibility for co-ordinating receipt of

advice from those involved in transactions, ensuring that the necessary action is taken and ultimately making the required decisions following any necessary notification to the Accountable Officer.

### Property Advisers

2.6 The arrangements for handling NHS Scotland property transactions provide for the appointment of a Property Adviser to supply key professional advice to the Holding Body. (Guidance on the appointment of Property Advisers is given in paragraphs 1.7 to 1.11 of Part C).

### Independent Valuer

2.7 An Independent Valuer must be appointed in major or potentially difficult disposal cases to provide additional professional advice. The Independent Valuer must be independent of the marketing agent appointed to handle the sale. The circumstances in which an Independent Valuer must be appointed are;

2.7.1 where the property itself is of an unusual or exceptional nature; or

2.7.2 where it is likely to be difficult to establish what planning uses might be permitted, or the uses upon which prospective purchasers might base their bids; or

2.7.3 where the selling price is likely to be in excess of £3m; or

2.7.4 where direct sale to a commercial organisation is involved (see Part C paragraph 2.30.7)

2.8 The Independent Valuer's main responsibilities are:

- to establish the guide price;
- to advise, in consultation with the marketing agent on the final price in sales on the open market;
- to advise on the acceptability of offers and bids received within the sale deadline;

### Independent Valuer

1.10 For certain disposals (see paragraph 2.7 of Part A), an Independent Valuer must be appointed in addition to a Property Adviser. The Independent Valuer can be a District Valuer, or a suitably qualified private sector valuer, otherwise unconnected with the disposal, appointed by competitive tender. The Independent Valuer is an *additional* source of advice, not a substitute for the Property Adviser, who must be appointed for every transaction.

### Further Advice

1.11 Where any Holding Body is in doubt as to an appropriate Property Adviser, Independent Valuer or any other professional adviser, advice is available from DAS Land and Property Division (see paragraphs 2.11 to 2.13 of Part A). Holding Bodies should consult their Legal Adviser at all appropriate stages of a property transaction, and generally keep all advisers up to date with progress at other times. Further guidance on the use of professional advisers is given in the individual sections dealing with particular types of transaction.

1.12 **The Property Adviser's formal recommendation must be obtained in writing before conclusion of a binding contractual commitment by the Holding Body in every transaction** (unless alternative arrangements have been agreed with the Department). This includes advice on the formal valuation aspects, purchase and sale prices, planning aspects, lease terms and completion of transactions. The Property Adviser's agreement should be sought for the terms of a proposed lease in every case. ***Where notification of a transaction to the Accountable Officer is required, the notification should include the Property Adviser's advice and recommendation*** (see Annex I). Where a Body proposes to act contrary to the Property Adviser's advice, where this is related to mandatory responsibilities, this must be recorded in the Certificate (see Annex III).

### Conflict of Interest

1.13 Holding Bodies should note that where the Valuation Office Agency is used it may on

rare occasions in *open-market disposals* of NHS property find itself in the position of being asked to provide valuation and related advice not only to the disposing Body, but also to a potential public sector purchaser of that property (ie other than under trawl procedures where separate arrangements apply). Where this arises the Agency will immediately declare such a conflict of interest and discuss with the parties whether or not it should continue to act for both bodies or whether it should restrict its advice to one body. In the event that the Agency after discussion felt that it should no longer represent the NHS Scotland body, then that body should commission the assistance of a private sector agent. Similar considerations apply in the case of private sector firms offering property or legal advice. Bodies should consult with the firms concerned where a conflict of interest appears to arise.

### Respective Roles

1.14 The achievement of a successfully concluded transaction depends critically on obtaining good professional advice with each party performing their respective roles effectively. Because of the distinctive roles of each party involved in a transaction, critical requirements are advance planning, early consultation with professional advisers, and effective communication together with clarity in the allocation of action requirements and the recording of decisions reached. For the efficient management of transactions it is vital that professional advisers are aware of the Holding Body's objectives and priorities (which should reflect the Department's) and vice versa. Holding Bodies for their part should be conscious of the distinctive roles of particular advisers.

1.15 In the interests of speeding up property transactions, professional advice should be sought as early as possible in the process. The proper handling of a complex property transaction can take time and it is important to plan ahead.

1.16 Ultimately the Holding Body is responsible for co-ordinating the necessary input and taking appropriate decisions (if necessary after consultation with the Department). After any notification of a transaction to the Accountable Officer, the

Title .....

Signed (when proceeds received) .....

Date .....

The Holding Body's property manager should note below any changes in the transaction between acceptance of offer and receipt of proceeds.

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**9. Advice of Independent Valuer (if appointed)**

**9.1 CHIEF EXECUTIVE**

I am satisfied that:

9.1 the proceeds and conditions of disposal in the above transaction are the best obtainable for the public interest at this time in terms of the Department's NHS Scotland Property Transactions Handbook;

9.2 (in circumstances where the final price is at a price below the guide price) the price is the best offer reasonably obtainable.

Signed .....

(at stage of acceptance of offer/or before transaction is notified to the Accountable Officer)

Date .....

Independent Valuer's Name and Address

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**9.2 QUALIFICATIONS**

Any qualifications which professional advisers or the Holding Body's in-house property manager may wish to record should be entered below; if additional space is required, a separate sheet should be used. If advisers have, exceptionally, made deletions in the certification (other than where already provided for), the reasons should be explained here.