

CABINET

20 September 2016

Title: Re-Tendering of the Contract for Insurance, Claims Handling and Operational Risk Management Services	
Report of the Cabinet Member for Finance, Growth and Investment	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
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Accountable Director: Kathy Freeman, Finance Director	
Accountable Strategic Director: Jonathan Bunt, Strategic Director for Finance and Investment	
Summary: <p>In readiness for the expiry of the current contract for the provision of Insurance Services on 31 March 2017, officers will tender the contract using the Competitive Procedure with Negotiation in accordance with Public Contracts Regulations 2015. This procedure enables some dialogue between tenderers and the Council to ensure that the best possible insurance coverage is obtained.</p> <p>There is a limited market for the provision of Insurance Services for Local Authorities and an independent Insurance Broker will be engaged to ensure the widest possible selection of insurance companies is available to quote. Insurers expressing an interest in this contract will be short listed following a comprehensive evaluation. The Insurer to be appointed will have to prove they offer the best value for money solution for the Council.</p> <p>It is anticipated that minimal savings on Insurance Premiums can be obtained in current Insurance market conditions. The current total annual premium is £1,322,000; however there will be several options explored regarding length of contract and deductibles which may offer up a small saving.</p>	
Recommendation(s) The Cabinet is recommended to:	
(i) Approve the tendering of the Council's requirements for the provision of Insurance, Claims Handling and Operational Risk Management Services in accordance with the strategy set out in the report; and	
(ii) Delegate authority to the Strategic Director for Finance and Investment, in consultation with the Cabinet Member for Finance, Growth and Investment and the Director of Law and Governance, to conduct the procurement and enter into the contract and all other necessary or ancillary agreements, including the exercising	

of any extension options that are deemed to be in the best interest of the Council, with the successful bidder(s) and/or other related parties in accordance with the strategy set out in the report.

Reason(s)

The decision to tender the Council's insurance programme is required due to the expiry of the existing contract in March 2017. The re-procurement will enable the Council to obtain insurance on the best terms available in a fluctuating market and should enable best value being achieved.

1. Introduction and Background

- 1.1 The existing contract, which was let in April 2012, for the Council's insurance programme is with Zurich Municipal (ZM) and expires on 31 March 2017. ZM were appointed as the Council's insurers after a tender process in line with the European procurement directives in 2012. The market for Local Authority insurance in 2012 was limited; however, there are now a number of new insurers that are willing to quote on Local Authority insurance programmes, although this is still not an expansive volume.
- 1.2 The current contract was for three years with an option for a further two years. This option was exercised as it was felt to be in the best interests of the Council at that time, given the state of the insurance market rates, to ensure value for money. However we now have to tender as the Council is coming to the end of the extension option.
- 1.3 An Insurance Broker is already retained by LBBD to provide Insurance advice as and when required. They were appointed after a joint procurement with Thurrock Council for 3 years with effect from 1 July 2014 for a total Contract value of £30,000 split 50/50. The contract included the conduct of Insurance Tenders for both authorities at an additional cost of £5,500 each authority.
- 1.4 The insurance broker is there to ensure the widest possible selection of insurance companies, from the limited Insurance Market available, to quote as it is a specialist area and some Insurers will only deal with an Insurance Broker intermediary. The broker will be able to access insurance markets, like Lloyds of London, that cannot be accessed by other methods as these markets do not respond to electronic tendering.
- 1.5 The broker will also be responsible for all the OJEU notifications, putting together the market presentations, ensuring that the offering is in line with current insurance practices and law, coverage is able to adapt to any changes in possible requirements in the foreseeable future, and also if there is a challenge to the tender process or the award, the broker bears the responsibility and any claim will be made against their Professional Indemnity Insurance and not the council, and any award for compensation will be against them.
- 1.6 The insurance programme which makes up the contract consists of 32 insurance policies that cover the Council for most eventualities. The main types of insurance are:

- Public, Employee and Professional Liability Insurance
- Property
- Leaseholder
- Motor

1.7 The current levels of self insurance (deductibles) carried by the Council for the main types of insurance is:

- £150,000 in respect of Liability Claims
- £150,000 in respect of Property Claims

These deductibles are applied for each and every claim.

The Council maintains an Insurance Fund to ensure that the financial liability for claims below the deductible will not impact on budgets. This is actuarially audited every three years.

2. Recommended procurement procedure and reasons for the recommendation

2.1 The contract is for three years with a potential to extend for a further two years on a 1 year +1 year basis making a possible total of five years and is subject to the (EU) Public Contracts Regulations 2015

2.2 In light of the fact that Insurance provision is a service contract and contractually complex, in that there are 32 very different types of Insurance policies required, it lends itself to the competitive procedure with negotiation. This allows a dialogue with the tenderers to obtain the best quotation possible.

2.3 Although the competitive procedure with negotiation is seen as more risky when handled poorly; it is considered the standard route for the provision of Insurance services (e.g. Cardiff CC, Manchester Fire Service and West Sussex CC amongst others). If the general principles are followed, with a limited specialised market, the risk of utilising the competitive procedure with negotiation is very low.

2.4 The contract will be reviewable annually in respect of any material changes to what is being insured, ie buildings being taken off cover or major reductions in staffing levels or if the claims experience improves or deteriorates outside of accepted parameters and so there may be increases or decreases in premiums in line with the contract conditions.

2.5 The contract is estimated to be valued at approximately £6.6 million over the potential five year term.

2.6 Other options that will be explored that may have a bearing, possibly producing potential savings, will be the levels of deductibles within the policies; these will be subject to negotiation.

2.7 It is confirmed that the relevant provisions of the Public Contract Regulations 2015 will be fully adhered to and will be awarded in accordance with the provisions of those regulations.

- 2.8 The contract will be published in OJEU, contracts finder and the LBBB website late September, with Tenders back by 30 November 2016. The contract will be awarded no later than 31 January 2017 for a 1 April 2017 commencement. This period is to allow for the cooling off period and mandatory consultations with leaseholders.
- 2.9 The contract terms will be standardized Insurance Market policy terms and conditions as determined by Insurance Law and practice, there will be a provision to outline specific special terms by both the Council and the Supplier(s). These will be discussed and agreed as part of the tendering process.
- 2.10 The current cost of the Council's insurance premium is £1,322,000. It is anticipated that in the current climate savings on the premiums paid will be minimal, but the service required is mandatory and as such is required based on the market at the time of tendering.

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

The evaluation panel will consist of representatives from Insurance, Risk Management, Finance, Procurement and the appointed Insurance Broker. Contracts will be awarded on the basis of the best value for money offer to the authority.

Quality of product will be weighed against price using the following criteria:

60% Cost and 40% Quality

Pricing	60%
Quality Split	40%
Flexible Claims Handling Arrangements	50% of 40%
Local Government Sector Experience	20% of 40%
Underwriting Approach	20% of 40%
Operational Risk Management Experience & Resources	5% of 40%
General Service Standards & Requirements	5% of 40%

3. Options Appraisal

3.1 Three options were explored

- Option one was to continue to procure insurances as a standalone authority. Using an Insurance Broking Intermediary, which gives access to more Insurers, this would see LBBB achieve a value for money contract at the best rates the Insurance market has at this time.
This is the preferred option
- Option Two was to join in the ILC (Insurance London Consortium). This was explored but due to the way that the Consortium purchases their contract the costs to the Council would exceed the cost of procuring as a standalone entity with support from an external Broker.
This option was rejected.

- Option Three was a Shared Service and One Policy arrangement with other London boroughs. A careful and full exploration of the costs, benefits and savings, both cashable and non cashable is being undertaken at the present time but is not at a stage that a joint procurement is possible in the short time frame available. However this may be something to take forward in the future due to potential benefits and savings that may become available. This option was rejected.

3.2 An assessment of the costs associated with Options 1 and 2 is at Appendix A.

4. Other Considerations and Implications

4.1 **Risk and Risk Management** - The principal reason for having Insurance is to ensure budgetary certainty. The knowledge that you are covered for the amount over the excess in the Policy allows resources to be used elsewhere.

If the Council did not buy insurance and was completely self funded then if, for example, a School valued at £12 million was burnt down it would have to be rebuilt and paid for out of current resources whereas with insurance in place, the Council is only liable for the first £150,000. This is exemplified by the Campbell Infant School fire claim that was settled by Insurers at £2.5m which would have had to have been found from revenue if the Council was not insured.

5. Corporate Procurement

Implications completed by: Euan Beales, Head of Procurement and Accounts Payable

5.1 The Council's Contract Rules require all contracts in excess of £50,000 are to be formally tendered. The report has outlined that a restricted two (2) stage process would be used, this conforms with the Council's requirements.

5.2 In addition, the value of the services require the process to be conducted in line with EU Procurement regulations, where mandatory minimum timescales must be adhered to.

5.3 The paper has reviewed a number of options, with the recommended approach being an open market tender, which is to be completed by an external Broker, this would reduce the risk as the Broker would be a market expert, whereas the Council does not currently have the require expertise to minimise risk and the premiums whilst ensuring the best terms are achieved.

6. Financial Implications

Implications completed by: Katherine Heffernan, Group Manager, Service Teams Finance

6.1 The insurance premium is funded from insurance premium budgets across all departments of the Council, including General Fund, HRA and DSG. Any premium increase as a result of the tender process could result in a budget pressure.

6.2 According to paragraph 2.10 of this report, any savings on the current insurance premium derived from the tender process is likely to be minimal, but if there are any savings they would be in scope for Procurement Gainshare.

7. Legal Implications

Implications completed by: Kayleigh Eaton, Contracts and Procurement Solicitor, Law and Governance

7.1 This report is seeking approval to tender a three year contract with an option to extend for a further period of up to two years for the provision of the Council's Insurance, Claims Handling and Operational Risk Management Service, from the 1st April 2017.

7.2 It is anticipated that the estimated value of the new contract will be approximately £6.6 million over the five years which is in excess of the threshold for service contracts (currently set at £164,176) under the Public Contracts Regulations 2015 (the Regulations) and therefore a competitive tendering process will be required, which will be subject to the full application of the Regulations.

7.3 Contract Rule 28.7 of the Council's Contract Rules requires that all procurements of contracts above £500,000 in value must be submitted to Cabinet for approval. Furthermore, in line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contract following the procurement process with the approval of Corporate Finance.

7.4 It is noted that the proposed procurement route is to be conducted in accordance with the Regulations using the competitive procedure with negotiation. The procedure permits negotiations throughout the bidding process and is available in exceptional circumstances, for example where the needs of the Council cannot be met by an off the shelf product. Justification provided by the report author would appear to suit the requirements of using this procedure. Providing the procedure is used and conducted in accordance with the Regulations the requirements of competitive tendering should therefore be met.

7.5 The report author and responsible directorate are advised to keep the Law and Governance Team fully informed at every stage of the proposed tender exercise, who will be on hand and available to assist and answer any questions that may arise.

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

List of appendices:

- Appendix A – Financial Assessment of Options