

CABINET

28 SEPTEMBER 2010

REPORT OF THE CABINET MEMBER FOR CUSTOMER SERVICES AND HUMAN RESOURCES

This report is submitted under Agenda Item 18. The Chair will be asked to decide if it can be considered at the meeting under the provisions of Section 100B (4) (b) of the Local Government Act 1972 as a matter of urgency in order to avoid any delay in the appointment of the Joint Venture Preferred Bidder.

Title: Business Case and Appointment of Preferred Bidder for Joint Venture Strategic Partnership	For Decision
<p>Summary:</p> <p>This report details the final business case which supports the recommendation to enter into a Joint Venture and Partnership Agreement with a “Preferred Bidder” who has been selected using an OJEU Competitive Dialogue process. The business case for change is attached at Appendix 1 to this report.</p> <p>The Council has an ambition to deliver excellent, effective and efficient services to residents despite significantly reducing resources. October’s Comprehensive Spending Review (CSR) is likely to create further financial pressures so makes the need to change stronger. As a result of the CSR announcements, the public sector landscape will undoubtedly change radically over the next few years and if the Council is to continue to serve residents well it will need to become flexible and agile, efficient, stable and well-run as an organisation. There are a number of drivers:</p> <ul style="list-style-type: none">• Customer satisfaction has to improve, we need to show that we are meeting our residents demands• Residents demands need to be managed effectively so as our reducing resources are spent on those services most needed.• Resources need to be prioritised to address the implications of our rapidly changing demographics.• The budget gap, before CSR, is £44m over the next 3 years which equates to around 28% of the Council net budget requirement. <p>The work on this particular procurement culminating in Members receiving this report has been two years in the making. During 2009 it became apparent that Council’s resources would reduce significantly while the number and complexity of needs of our diverse community would increase creating pressures on demand for existing and future services. It was clear that LBBB would be unable to either fund or make the significant modernisation changes required, specifically to back office services, without help and it was agreed by Cabinet at its meeting on 7 July 2009 (Minute 21 refers) that officers should start looking for a private sector partner who could work with the Council to improve services and deliver some services more cheaply. At this point, the Council was only seeking an ICT partner. However it was clear that the Council would benefit if other linked back office services were added to the scope and at its meeting on 8 June 2010 Cabinet agreed to add three further services for potential delivery by the Joint Venture, these services being Revenues & Benefits, B&D Direct, Procurement and Accounts Payable.</p>	

Over the last 14 months, and in line with procurement regulations, the Council has been in dialogue with the market in order to develop a Joint Venture arrangement with a strategic partner. The procurement process is now coming to an end with a recommendation for a “preferred bidder” being made to Members by the officers sitting on the procurements Main Evaluation Panel.

The initial period of dialogue resulted in outline proposals being received from four potential partners – Agilisys, BT, Capita and Serco. Following evaluation by panels of staff, managers and Directors, a shortlist of two – Agilisys and Capita – was compiled and we began a second stage of dialogue which lasted from February to July 2010. The two Bidders submitted proposals covering the ICT, Revs & Bens, B&D Direct and Procurement & Accounts Payable services while also providing contractual commitments to creating jobs in the Borough.

The final evaluation stage began on 27 July 2010 and concluded with the Main Evaluation Panel setting the recommendation for a preferred bidder on 15 September. Details of each element of the final evaluation are commercially sensitive and are therefore contained within the private and confidential section of this report.

The financial climate has worsened considerably over the last 18 months and the budget gap to date is £44m over the next 3 years. Officers were given authority by Cabinet to seek a partner from the market to help the Council make the significant level of savings whilst improving services. As part of the procurement process, officers have:

- Evaluated the proposals submitted by the Bidders in the Procurement process.
- Challenged the bids, and concluded that the Preferred Bidder will deliver the council approximately £67m of savings net of running costs and investments over the 7 years of the contract. These savings coming from the reductions in the costs of the four transferring services, from increased revenue collection and from better procurement.
- Noted that the Preferred Bidder has guaranteed improvements to transferring services
- Noted that further savings from future transferred services are possible
- Noted that the Preferred Bidder has heard and understood the Council’s vision, ambition and sense of place
- Noted that the Preferred Bidder has contractually committed to create jobs in the Borough.
- Seen that there is a plan to offer shared services through the JV to other London Boroughs from Barking & Dagenham and create further job opportunities in the area
- Expect the Preferred Bidder will join a joint modernisation team with the Council to use their transformation expertise to help the Council deliver the further savings in the wider council.
- Noted that the Preferred Bidder will assist the Council to accelerate benefits realisation and achieve more savings earlier in order to address our budget pressures
- Noted that the Preferred Bidder will offer other consultancy rates at half the market price.

Wards Affected: None

Recommendation(s)

The Cabinet is recommended to agree:

- (i) That the Preferred Bidder, as recommended by the Main Evaluation Panel and named in the private and confidential section of the report, is accepted as the strategic partner for our Joint Venture and that this will include in Phase 1 the transfer of the following services:
 - ICT,
 - Procurement & Accounts Payable,
 - Revenues and Benefits services,
 - B&D Direct,
- (ii) That the Council will enter into a legally binding Joint Venture and Partnering Agreement with the Preferred Bidder;
- (iii) That the Council will enter into a legally binding Services Contract with the Preferred Bidder and associated legal documentation; and
- (iv) That the Corporate Director of Finance and Resources develops appropriate internal arrangements for the proper monitoring and management of the Joint Venture and Partnering Agreement and the Services Contract through a new Commercial Services Unit.

Reason(s)

To assist the Council in achieving its Community Priorities and delivering its Medium Term Financial Strategy.

Comments of the Chief Financial Officer

Both bidders presented fully costed proposals for meeting or exceeding the service performance levels specified by the Council in the specification. These proposals included further investment to continue the modernisation of direct services to residents and support services to wider Council functions, departments and community partners. The proposals also detailed the levels and timings of savings that would result from better management of tasks and technology; more capacity provided by the strategic partner to make progress more quickly; and access to procurement specialists to generate substantial savings in the Council's overall procurement costs. The bidders also made commitments to creating new jobs, backed up by contractual financial penalties which would provide the Council with funds to develop replacement initiatives if commitments had not been met.

The Council finance team conducted a rigorous financial appraisal of the proposals, subjecting their significant claims to challenge. Further scrutiny of the financial offers was made by an independent financial scrutineer who provided a robust analysis of the deal. The finance team also identified the likely savings in Council support services which would be released or enabled by the joint venture's contribution to the wider Council modernisation. Although the two bids are different in significant ways, the overall savings from the bids are similar, at around £67m – equivalent to approximately £10m a year. The breakdown of the savings (over the seven year contract period) is very complicated

however the high level analysis is:

	£m
Savings on delivery of the 4 transferring services	18
Procurement savings	16
Additional income from improved revenue collection	8
Savings in Council support costs - some direct savings of (£7m) and others “enabling” such as invoice processing	15
Future support costs savings through transformation activity - prudent view because of stage of development potential for much more	15
Less the costs of contract management in the Council	(5)
Total savings	<u>£67m</u>

equivalent to c£10m per annum

Comments of the Legal Partner

In 2009 the Council embarked on an extensive procurement process to find a strategic partner to work with it to deliver services more effectively, efficiently and cheaply. The Competitive Dialogue procurement process was followed pursuant to the Public Contracts Regulations 2006. That process has been described in detail in the body of this report.

The strategic partner evaluation process has now been concluded. The culmination of the procurement process is the identification of a Preferred Bidder as set out in the private and confidential section of this report and the recommendation set out above.

The Legal Practice has been involved in the strategic partner procurement and confirms that the contract was advertised in the Official Journal of the EU and in accordance with EU Public Procurement Regulations and the Council’s Contracts Rules.

The bidder recommended for appointment as the Preferred Bidder has successfully passed the various stages of the evaluation process and achieved the highest scores at the final stage of the process.

Paragraph 1.6 of this report states that once the cooling-off period has ended and the call-in period has passed the Interim (transitional) Agreement will be signed. This will commit the Council and the Preferred Bidder to signing the Joint Venture and Partnership Agreement and the Services Contract and associated legal documentation, and allow any early works to begin prior to signing.

The Legal Partner confirms that there are no legal reasons preventing the Cabinet from approving the recommendations of this report.

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1. Detail

1.1 The Procurement Process

It was important to ensure that this procurement was carried out properly and in line with EU Public Procurement Regulations and the Council's Contract Rules. We took advice and decided that the best route would be to follow a Competitive Dialogue process used for very complex procurements.

In March 2009 LBBD issued a Prior Information Notice (PIN) in the Official Journal of the European Union (OJEU) to announce that it would be undertaking a procurement process to select a partner for an incremental partnership.

A market testing exercise was then held to gain an understanding of the capabilities of companies working in the sector to help achieve Council's vision and ambition. This gave officers a better understanding of how to develop the approach and specifications.

In August 2009, Council published an OJEU Contract Notice to begin selection of a partner through the Competitive Dialogue process. This notice set the boundaries for the procurement and set out the intent to create a shared services centre to provide services from Barking & Dagenham to other organisations in London in order to meet our objective of creating jobs in the Borough.

Following a Bidders Day where Members, the Chief Executive and Directors presented LBBD's vision and ambition to attendees, we issued a Pre-Qualification Questionnaire (PQQ) to interested parties and began the process of selection. We received 11 responses to our PQQ, which we assessed to compile a longlist for our first stage of dialogue.

We issued an Invitation to Submit Outline Proposals (ISOP) to 4 bidders and received 4 responses. These were from Agilisys, BT, Capita and Serco.

We evaluated these responses through January and agreed on a shortlist of two – Agilisys and Capita - for Stage 2 of our dialogue and evaluation.

From February to July we engaged in a period of intensive dialogue with both bidders. This dialogue included meetings, interviews, workshops, site visits, reference site visits, briefings and roadshows. It involved staff at all levels, managers, the Trade Unions, Heads of Service, Directors and the Chief Executive/Acting Chief Executive with briefings held for Members and Cabinet.

Following a Cabinet decision we issued an Invitation to Submit Final Tenders (ISFT) to the two bidders, requesting proposals in four service areas - ICT, Revs & Bens, B&D Direct and Procurement & Accounts Payable.

In addition we required the bidders to respond to our requirements around creating new jobs in the Borough and Transformation capacity and capability to support the Council's modernising agenda.

The evaluation of the bids began on July 27th and included specialist staff from the services, managers, Directors and external support from the Legal advisors. In addition, areas such as Equalities & Diversity, Health & Safety and Fostering Opportunities were assessed by the appropriate council staff.

The Main Evaluation Panel made a recommendation on the Preferred Bidder on September 15th. This recommendation was based on the strict and complex evaluation criteria set for the evaluation.

This panel was chaired by Tracie Evans and includes CMT and Heads of Service.

1.2 Due Diligence

Market Testing

During this phase, Council engaged heavily with other Local Authorities to understand their experiences of Partnering arrangements. This included visits to organisations such as the Hammersmith & Fulham Bridge Partnership and Liverpool Direct where services including ICT, Revs & Bens and Contact Centres are delivered to the local council and other clients.

Pre-Qualification Questionnaire

Through the PQQ phase we required that participants demonstrate their skills and capability to deliver to our requirements. This required them to provide evidence of previous successful delivery in the sector and of their capacity and expertise in the areas of interest to us.

In addition we also looked for evidence that they conformed to Council's requirements for Health & Safety, Equalities & Diversity and Environmental policies, and were in good financial standing.

Reference Site Visits

A number of reference site visits were undertaken by LBBB staff through the process, with meetings held with colleagues from other councils - including Chief Executive, Finance Director, Resources Director and IT Director - and with Partnership representatives. The visits included Sheffield, Birmingham, Swindon, Southampton, Hammersmith & Fulham, Rochdale and Cumbria. These covered a range of services including ICT, Finance, Procurement and Revs & Bens and other topics such as Partnering, HR & Change and Fostering Opportunities.

1.3 Getting this right – making sure we have a good contract

In order to ensure that the contract we have negotiated is absolutely water tight, that it is manageable, to support the in house team and to transfer knowledge and skills, we have retained financial and legal external advisors throughout the process.

PA Consulting, who helped create the original business case for change, advised on the OJEU notice and PQQ, provided document templates to the team and Quality Assured the process.

PwC provided assurance on the extensive VAT issues.

KPMG are validating the Commercial/Financial models and the accounting treatments proposed.

Trowers & Hamblins – our Legal advisors - provided templates, and inputted on the evaluation process, and were closely involved in the dialogue, drafted the contract

documents, and advised the Council on legal issues throughout the process.

The Office of Government Commerce guidance and leading practice from Local Partnerships (formerly 4Ps) were followed.

The final phase of Due Diligence will take place through the Preferred Bidder stage, before a contract is signed.

1.4 The benefits expected from the Joint Venture

Over the last 14 months we have focussed on building a solution that will enable the Council to modernise its services for Barking & Dagenham residents, support staff to deliver excellent customer service, create local opportunity for residents and help achieve the efficiency savings Council requires.

We now have:

- proposals for a Joint Venture where the Council maintains some control over staff and delivery, a new and innovative solution, NOT an outsourcing contract,
- a definite plan for making the Council savings required over the next 3 years,
- defined Service Improvement plans,
- guaranteed net job opportunities to the Borough through creating a shared services centre,
- an opportunity to be at the forefront of the move to Shared Services in the Local Government sector, and
- innovative thinking and transformational support to help deliver changes in retained services and to modernise the council.

The partnership offered through the procurement will cover a seven year period with the opportunity to be extended by a further three years. Additionally, there will be annual review points where we have the opportunity to terminate the partnership if we believe that this is the right course of action.

The key elements of the partnership are:

- A Joint Venture based in Barking & Dagenham
- Savings of £67m over the 7 year term
- Staff are transferred and their employment terms and conditions will be protected by TUPE and their pension entitlements protected by Admitted Body Status in the Local Government Pension Scheme.
- All major unions are recognised
- Contractual commitment to job creation
- Flexibility will be built into the contract terms so as to ease any national or local transitions
- The Council's transformational activity will be managed holistically so as to maximise the amount of transformation that occurs at any one time within the level of resources available to the Council and with the delivery of intended benefits.
- Services delivered by the partnership will improve.

Because of the work LBBB has done in the last 18 months on the Strategic Partner and Joint Venture we are better placed than most of our peers to deal with the

challenges we face. Other Boroughs are only just beginning to examine their options – including service cuts, redundancies and outsourcing. As a result, we have had expressions of interest in our approach from a number of London Boroughs.

The Business Case shows the Joint Venture will make significant savings faster and more effectively than we would ourselves and offers a flexible solution that will deliver a range of positive outcomes to Council and potential future partners.

1.5 Preferred Bidder Recommendation

The recommendation for Preferred Bidder is included in Part 2 of this report

This recommendation is made by the Main Evaluation Panel following a detailed seven week evaluation involving fourteen sub-panels, over seventy council staff and external advice.

1.6 Next Steps

Clarification and contract (October)

Following the Cabinet decision there is a cooling-off period of 10 working days required by law. Additionally the decision may be subject to call-in by Members. Following Cabinet, work will begin on finalising the contract documentation with the Preferred Bidder.

Sign the interim Agreement (October)

Once the cooling-off period has ended and the call-in period has passed the interim (transitional) agreement will be signed. This will commit the Council and the Preferred Bidder to signing the Joint Venture and Partnership Agreement and the Services Contract and allow any early works to begin prior to signing.

Sign Partnership and Joint Venture Agreement and Services Contract (November)

After this period of contractual clarification the Contract will be signed and the Joint Venture established.

Engage with staff (October, November)

Communicate with the staff in the transferring services and with staff across the Council. Work with the Preferred Bidder to engage staff in the transferring services.

Transfer initial services

Following a period of engagement with staff, the initial services will transfer to the Joint Venture.

2. Financial Issues

2.1 These are detailed elsewhere in the report.

3. Legal Issues

3.1 These are detailed elsewhere in the report.

4. Other Implications

- 4.1 **Risk Management** - The procurement of a strategic partner is part of our strategy to mitigate the risk posed by our need to reduce resources, improve services and increase customer satisfaction.
The risks of managing the contract (given the Council's poor track record) are recognised however much effort has been placed into ensuring the right resources are in place to manage this contract effectively. As a result Members are asked to approve that the Corporate Director of Finance set up a new Commercial Services Unit to manage Council contracts more effectively.
- 4.2 **Contractual Issues** - This report is requesting a decision on acceptance of the recommendation for Preferred Bidder from the procurement Main Evaluation Panel. If this recommendation is accepted it further requests a decision to enter into a legally binding Joint Venture and Partnership Agreement and Services Contract with the Preferred Bidder and associated legal documentation.
- 4.3 **Staffing Issues** - The Joint Venture and Partnership Agreement and the Services Contract involve the transfer of around 375 staff from LBB to the Joint Venture in the first phase and these staff will be employed directly by the Joint Venture. These staff will transfer with their employment rights protected by TUPE and their pension entitlements guaranteed by the Joint Venture gaining Admitted Body Status in the Local Government Pension Scheme. A transition plan for transferring staff will be developed and agreed with staff and unions. The major unions are all recognised by the Joint Venture.
- 4.4 **Customer Impact** - This JV mostly involves back office services however some of these impact directly on customers accessing our services. The Joint Venture and Partnership Agreement and the Services Contract will improve services in the areas transferred, providing more efficient and effective services to customers
- 4.5 **Property / Asset Issues** - As part of the negotiations, the Preferred Bidder has requested that the Council provides the Joint Venture with accommodation on properties at 90 Stour Road and a floor at Maritime House and access to such other Council premises as may be necessary for the Preferred Bidder to participate in the Joint Venture. This does not involve the transfer of buildings assets to the Joint Venture. The council will enter into a lease or licence arrangement with the Joint Venture as appropriate for its occupation of the properties.
ICT assets are being transferred at book value so as upon return to the Council there would be a nil effect on the Council's asset position (as write down would be at the same rate).

5. Options appraisal

- 5.1 The options appraisal has been detailed in the Business Case attached to this report at Appendix 1.

6. Background Papers Used in the Preparation of the Report:

- Cabinet Report, 7 July 2009, Strategic Partner for Support Services – ICT Market Testing (Minute 21)

- Cabinet Report, 8 June 2010, Strategic Partner Programme Phase 1 – Scope of Services (Minute 3)
- A Business Case for Change – PA Consulting

7. List of appendices:

Appendix 1 – A Business Case for a Joint Venture

Appendix 2 – Preferred Bidder Evaluation (this document is private and confidential and has been circulated to Members and Chief Officers only)