

CABINET

21 October 2014

Title: Re-tender of Translating and Interpreting Services	
Report of the Leader of the Council	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Divisional Director: Glynis Rogers, Divisional Director of Commissioning and Partnerships	
Accountable Director: Anne Bristow, Corporate Director of Adult and Community Services	
Summary: <p>The Council currently has a shared services agreement through East London Solutions with Newham Language Shop for translating and interpreting services that is due to expire in March 2015. It delivers translation and interpretation services for approximately 50 languages and British Sign Language (BSL) interpreters to departments throughout the Council costing approximately £100,000 per year. The range of services provided includes: telephone interpreting, face-to-face, translation, interpreting, large print, Braille and proofing and editing translated documents.</p> <p>The shared services agreement, held as part of East London Solutions, was extended for one year to ensure that the Council has an appropriate service in place to meet our statutory duties whilst a review of services was undertaken. The Council is currently working with key stakeholders to scope the new contract requirements in order to ensure that it will deliver both a quality and cost effective service. The service is used predominantly to support vulnerable residents to get information and to access services. It is planned that the new contract will allow all council services to access high quality cost effective services over the next five years.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree that the Council proceeds with procurement of a three year contract, with an option to extend for up to two years, for translating and interpreting services in accordance with the strategy set out in the report; and(ii) Indicate whether Cabinet wishes to be further informed or consulted on the progress of the procurement and /or the award of the contract, or is content for the Corporate Director for Adult and Community Services and the Head of Strategy	

and Communications, in consultation with the Leader, the Chief Finance Officer and the Head of Legal Services, to conduct the procurement and award the contract to the successful bidder in accordance with the strategy.

Reasons

To support the Council's aim to provide value for money services.

1. Introduction and Background

- 1.1 The provision of an effective translation and interpreting service for the London Borough of Barking and Dagenham is essential in a borough where the demographics are changing so rapidly. The Council provides support for people who do not have English as their first language as well as people who are deaf, hard of hearing, blind or partially sighted in accessing services within the Council.
- 1.2 Barking and Dagenham is currently part of the East London Solutions (ELS) partnership for translation and interpreting services delivered through a shared services partnership arrangement with The Language Shop, part of London Borough of Newham. The service provides translation and interpretation services for over 100 languages and BSL interpreters to departments through the Council. The range of services provided includes: telephone interpreting, face to face interpreting, translation, British Sign Language interpreting, large print, Braille and proofing and editing translated documents.
- 1.3 Annually the London Borough of Barking and Dagenham require in excess of 2,000 translators and interpreters at a cost of £85,930 in 2012/13 and £121,592 in 2013/14. For the last financial year 2013/14, this is predominately made up of requirements from Children's Services 93%, Adult Services 4%, Housing and Environment 2% the remaining 1% comprising of the Chief Executive's department and Elevate East London.
- 1.4 Over 50 languages including BSL (British Sign Language) have been procured between April 2013 and March 2014. The top ten languages being, Lithuanian (29%), Portuguese (13%), Romanian (13%), Bengali/Sylheti (7%), Albanian (5%), Twi (4%), BSL (4%), Urdu (3%), Somali (2%), Lingala (2%).
- 1.5 The Language Shop currently delivers services to each department based on demand. The group manager establishes a Purchase order (PO) for the year and services are drawn down against that PO. Staff are provided with details of how to request the service and officers are authorised by the relevant group managers to manage the process and spend.
- 1.6 The original shared services agreement with the Language Shop for borough-wide translation and interpreting services ran for three years until 31 March 2014. It was extended for one year to ensure that the Council has an appropriate service in place to meet our statutory duties whilst a review of translating and interpreting services took place. The remaining boroughs have remained in the shared partnership arrangement.
- 1.7 The review consisted of:

- A detailed analysis of translations and interpreting services used by the Council during 2012 and 2013 is shown in Appendix 1.
- Consultation with key stakeholders to get their views on translating and interpreting services. A summary of the findings is presented in section 4 of this report and a detailed analysis of the findings presented in Appendix 2.

1.8 A notice of withdrawal from the shared service agreement was issued in June 2014 (giving the required nine months notice), for the agreement to expire on 31 March 2015 to allow an open and transparent procurement process to take place.

2. Proposal and Issues

2.1 The proposal is to undertake a single stage tender process for the service on the open market to ensure the best quality and cost provision, and to enable providers in the market to tender to provide for the contract delivering the complete range of services set out in 2.3, with the new provision in place for April 1 2015 for a maximum five-year period (three year contract with an option to extend for up to two years subject to satisfactory performance). It will follow OJEU regulations, adhere to the necessary legislation and regulation including the Social Value Act 2012, as well as any applicable Council Policies.

2.2 In order to ensure the most attractive commercial outcome for the Council, it is proposed to ask capable suppliers to submit proposals for delivery of the requirement based on quality and cost. As part of the response, suppliers will be tasked to propose how to best meet the minimum requirements of the statutory obligations whilst adding value.

2.3 The successful tender will need to consider how it will deliver the following:

- a range of telephone based, video, and face-to-face interpreting services in a wide range of languages including the top ten most common in Barking and Dagenham
- written translation services in the above languages
- British Sign Language interpreting
- large print
- Braille
- proofing and editing translated documents

2.4 The successful tender will need to:

- specify payment models i.e. by event, languages, response times, specialisms
- demonstrate how the organisation will quality assure the services being delivered and that translators and interpreters are technically able to support statutory pieces of work
- include a commitment to using local interpreters for face to face interpreting services which must be adhered to except in exceptional circumstances
- demonstrate accordance with the Social Value Act
- adhere to the requirements of any regulatory or legislative bodies
- ensure all employees are DBS checked and approved before any contact

2.5 The quality of the services provided is crucial. Research amongst Primary Care Trusts¹ by the Race Equality Foundation (2011)² highlighted the following issues for consideration when developing a translating and interpreting service:

- **Timescales for finding interpreters** e.g. the need for interpreters who can be booked in half an hour for telephone services, 24 hours for face-to-face services and shorter in emergency situations.
- The **need for sensitive and appropriate services** in order to be effective. It was found that it was particularly important for providers to be trained specialists in relation to translating and interpreting services for mental health clients.
- Concern about **continued reliance on family and friends** to provide interpreting services. The research showed that one southeast PCT found that using *“informal interpreting can lead to misdiagnosis and abuse being missed.”*
- Concern over **restricting the translating and interpreting service to one off provision** – *“an excellent service was cut to allow for a one-off teleconference via an interpreter...which is inadequate for our needs in Oncology.”* This concern should be noted when considering services to support statutory duties such as child protection conferences.

2.6 This contract will ensure that we do not ask community groups, family members or staff to translate or interpret in sensitive or safeguarding cases.

2.7 These factors together with the results of the consultation will inform the tender specification, alongside some soft market testing will be used to inform the service specification and define targets that facilitate the delivery of a high quality service that is reflective of local needs.

3. Options Appraisal

3.1 The following options for delivering translation and interpreting services were considered.

- a) Option 1 - Do nothing allowing the current contract to cease on 31 March 2015. This would mean that there would be no local provision for translating and interpreting services which could lead to a challenge against our equality duty and duty of care. The Council would also breach statutory obligations to provide services. *Not Recommended.*
- b) Option 2 - Provide translating and interpreting services in house which would require the recruitment and establishment of a bank of translators and interpreters capable of dealing with all the required languages. Within this option there is no guarantee that there would be enough demand to justify a full time position and there may be times when demand exceeds capacity, hence requiring third party services to be purchased. This option would not be cost effective due to the quality control issues and demand management. Initial calculations of costs indicate that approximately 5-6 FTE's may be required for the provision of the service, which, at London Living Wage of £8.80/ph would equate to approximately £84,656, as well as approximately 30% for sickness

¹ Primary care Trusts are now known as Clinical Commissioning Groups (CCGs).

² <http://www.raceequalityfoundation.org.uk/publications/downloads/interim-review-interpreting-and-translating-services-health-and-social-care>

cover and facilities, administration costs and support, would be £110,052.80 per annum, however there is also no guarantee of coverage of required languages and translation types or smoothing of workload. *Not Recommended.*

- c) Option 3 - Purchase translating and interpreting services in an ad hoc way; this option would require a centralisation of all service budgets to fund the additional administration. Provision in an ad hoc fashion is likely to lead to uncontrolled random spend and there is no guarantee of sufficient quality control which may expose the Council to risk due to mistranslation and / or subsequent consequences. *Not Recommended.*
- d) Option 4 - Access to an existing Government Framework, namely RM987, established by Crown Commercial Services. This Framework has two suppliers and expires on 31 December 2015. Whilst it is capable of providing the level of service required to a minimum standard, there are a limited number of suppliers and no decision has yet been made on the relet of any such framework once the current agreement expires. The commercial agreements and specification will be, at the time of joining, over four years old and this option is not recommended due to the aged nature of service provision. *Not Recommended.*
- e) Option 5 - Re-join East London Solutions procuring translating and interpreting services from Newham Language Shop. There is a chance that the NLS, the current provider, may win the contract, however as the borough has decided to serve notice and thus we would not be able to rejoin the agreement. However NLS have an option to win the work through a retender exercise which is the recommended option. *Not recommended.*
- f) Option 6 - Re-tender the contract for Translating and Interpreting services as described in section 2: Single stage procurement in compliance with LBBB Contract Rules for requirements, using a tender exercise that will balance quality and cost. An E-Auction is proposed, whereby all suppliers who meet the Council's quality standards are invited to bid for the services. This will provide transparent and market competitive pricing as well as being fully auditable. *Recommended.*
- g) The following options for re-tender were also considered:
- Allow organisations to offer some of the services in the tender specification – whilst this may allow some local providers to tender for the contract it is commercially more advantageous, and operationally safer and more efficient to award to one provider who can provide all likely services. *Not Recommended.*
 - Offer the contract for a shorter than a five-year period – this was rejected because of the need to ensure continuity of service and to offer training and employment opportunities for local people, as well as making the contract attractive to potential providers to offer a value for money solution. A shorter contract period would be less attractive to bidders and reduce investment, as well as have potential cost implications. *Not Recommended.*
 - Offer a development grant alongside the tender to build capacity within the community to enable people to improve spoken and written English skills,

helping to reduce the longer term need for interpreting and translation services. This option was rejected due to the lack of budget available. However, community aspiration to support people to learn English will be explored as part of the consultation to help inform future opportunities through using external funding. This would also have risk and quality implications. *Not Recommended.*

4. Consultation

4.1 A four week consultation ran from 1- 26 September with:

- Key voluntary and community sector organisations locally
- Council managers who have used translating and interpreting services during 2013/14

4.2 A summary of the consultation findings and implications is presented below with full details in Appendix 2.

Consultation findings and implications

1. There was widespread acknowledgment of the need for translating and interpreting services to enable some residents to access council services.
2. There were a range of views expressed about the current translating and interpreting service with council managers broadly finding it effective, and mixed views amongst voluntary and community groups and service users.
3. Looking ahead there was broad agreement between the voluntary and community groups' and council managers' surveys about:
 - The languages likely to be requested
 - The services most need likely to be needed - translation, face to face, and telephone interpreting services (N.B. this could include video and Skype calls)
4. In addition to providing *a high quality cost effective translation and interpreting service*, **the tender specification should include:**
 - Producing publicity for frontline staff about clients' needs and how they can to **access translating and interpreting services including by telephone**
 - **Avoiding using family members and children** as translators/interpreters wherever possible
 - Obtaining **regular service user feedback**
 - Encouraging **employment of local people**
5. Other feedback suggests that **the Council should consider the following:**
 - Recording clients' translating and interpreting needs on their council records so that they only have to 'tell it once '

- Using new technology to support people with sensory impairment needs (as per suggestions in section 4.1)
- The role of English as a second language classes

5. Financial Implications

Implications completed by: Roger Hampson, Group Manager Finance (Adults and Community Services).

- 5.1 This report sets out proposals for the retendering of translation and interpreting services for three years from 1 April 2015 with extension options up to a maximum of two years. The estimated annual cost of this contract is approximately £100,000 - £120,000, the bulk of which is charged to Children's Services as set out in Appendix 1.
- 5.2 Other options for the service have been considered, as set out in the report, but are not recommended for the reasons stated.

6. Legal Implications

Implications completed by: Daniel Toohey, Principal Corporate and Commercial Lawyer

- 6.1 This report is seeking approval for the procurement of a contract for translation and interpretation Services, for an initial period of three years, with an extension option of up to two years. The Public Contracts Regulations allows local authorities to enter into contracts with a service provider, following the completion of a competitive tendering process.
- 6.2 The services to be procured are Part B services which are not subject to the strict rules of the EU public procurement regulations, however, in conducting this procurement the Council, has a legal obligation to comply with the relevant provisions of the Council's Contract Rules and with the EU Treaty principles of equal treatment of bidders, non-discrimination and transparency in procuring the contracts.
- 6.3 In keeping with the EU Treaty principles noted above it is appropriate that the contract be advertised sufficiently enough to allow potential providers to identify the opportunity and bid for the contracts should they wish to do so.
- 6.4 Cabinet is able to delegate authority to the commissioning Corporate Director to approve the award of contracts upon conclusion of a duly conducted procurement exercise.
- 6.5 Legal Services is available to provide advice to the client department on this procurement and to subsequently execute the contract following award.

7. Other Implications

7.1 **Risk Management** – The main risks linked to this proposal are shown below.

Challenges and Risks	Opportunities and Mitigating Factors
Unsustainable bids by providers	The tender evaluation process will be designed to emphasise the quality of service being offered rather than rewarding less experienced organisations attracting lower fees
Challenge from unsuccessful bidder	Procurement will follow well established and compliant Framework tendering procedures to mitigate risk

7.2 Contractual Issues

7.2.1 The average annual spend of the contract will be approx. £100,000-£120,000 per annum. The proposed contract length is five years, including 2 x 12 month extension options: therefore the total contract value will be £500,000-£600,000 dependent upon demand.

7.2.2 The contract is subject to the (EU) Public Contracts Regulations 2006 Part B, and will be advertised sufficiently in relevant trade journals, local area, and Council website and by direct communication to likely providers, and competed fairly in lines with the principles of fairness, transparency and openness as required by the regulations.

7.2.3 In order to ensure equality of opportunity in the tendering of this contract a workshop will be run in conjunction with Barking and Dagenham Council for Voluntary Services. If an E-Auction route is taken this will be fully explained at this event and interested parties given the opportunity to understand the process.

7.2.4 A single stage procurement in compliance with LBBB Contract Rules for requirements is recommended. This will enable ease of access to identified parties.

7.2.5 The contract performance will be monitored through meetings, reports, performance improvement and escalation where necessary. The standard Council terms and conditions are proposed.

7.2.6 Delivery of the expected and required services with maximum utilization of the resources, ensuring that at all times suitable and qualified translation and interpretation services appropriate for the requirement are delivered, with savings derived from a more efficient delivery from a single provider, a reduction in missed and unsuccessful appointments and reduced costs due to market competition and economies of scale.

7.2.7 The contract award criteria are:

- i) the costs of providing the service and the cost model weighted at 50% of the total award criteria
- ii) the quality of the proposal that will detail how the service will be delivered in terms of, but not limited to outputs, quality controls,

reporting, coverage of languages and translation types, customer care, and other elements. Weighted at 50% of the total award criteria.

- 7.2.8 Both areas will have a minimum acceptable threshold, meaning an acceptable price and minimum quality standard to ensure a good balance is achieved between quality and price. Whilst price is weighted at 50% of the award, a quality threshold will be set so bidders cannot underdeliver on quality and submit a poor quality, low-cost response.
- 7.2.9 The Qualitative Element will include Method Statements, Interviews, and, if appropriate, Site Visits. Evaluation will be weighted towards successful, timely, local delivery of the programme, quality of performance, flexibility of provision, acceptable working practices, and proximity to the area of delivery.
- 7.2.10 The price weighting indicates the importance of cost to the Council and the contract will be modelled to keenly minimise the cost of delivery whilst maintaining service and flexibility. An E-Auction may be used.
- 7.2.11 The contract will be awarded on the basis of the 'Most Economically Advantageous Tender'.
- 7.2.12 The Council's Social Value policies, and the Social Value Act 2012 are broadly aligned, and thus, this contract will address and implement the aims by:
- improving the economic wellbeing of the area by using local suppliers due to the geographically limited nature of provision of the service
 - improving the life quality of residents
- 7.2.13 In addition, the provision of the service will improve the economic social and environmental well being of the council's areas, by reducing mistranslation and subsequent poor or inaccurate decision making and actions by the recipients of the translation.
- 7.3 **Staffing Issues** – The report's author has sought specialist employment advice from Legal Services in relation to possible TUPE implications from the retendering of this service and based on the information provided regarding the way the service is currently provided, the initial advice is that TUPE is unlikely to apply. This position may change when detailed information is provided by the current provider. The risks to the Council are limited, in that even if TUPE does apply, the Council will never be the employer of the transferred staff, so the liability would sit elsewhere. A presumption of TUPE applying may impact on the competitiveness of the tenders received however, if tenderers build employment costs into their tenders.
- 7.4 **Corporate Policy and Customer Impact** – As part of the procurement process, potential suppliers will be assessed for adherence to the necessary legislation and regulations, as well as the Council's policies in relation to race, gender, disability, sexuality, faith, age, community impact and cohesion, the Council's legal obligations, objectives, and any other factors including DBS checking, as well as mitigating steps taken where appropriate.
- 7.5 An Equality Impact Assessment has been undertaken (see Appendix 3 of this report). It shows that the re-tendered service is likely to have a positive impact in

terms of equalities. Providers will be asked to provide the Council with robust equality information about those who use their services as well as information to allow us to monitor the quality of service provided and any issues that residents raise.

- 7.6 At award stage responsibility for this contract will be managed by the Strategy and Communications Team to ensure that this contract remains fit for purpose in line with corporate equalities expectations.
- 7.7 **Safeguarding Children** – This service is widely used by Children’s Social Care and is crucial to the safeguarding of children in cases such as child protection. It is imperative that a fully equipped service is in place to ensure that parents and carers are well informed of the processes and impact of decisions made.
- 7.8 **Health Issues** – This proposal may have a positive impact upon health issues - for example, by making it easier for residents to understand the information and services available to them. It is in line with the Care Act 2014 that requires councils to ‘empower people to be involved in decisions about their care by providing information and advice, and access to independent advice to support their choices’.
- 7.9 **Crime and Disorder Issues** – This proposal may reduce the risks of crime and disorder by promoting cohesion and hence reducing the likelihood of crime and disorder locally and contribute to delivering the new priority to: ‘Promote a welcoming, safe and resilient community’. In addition the service promotes inclusion and communication and with residents and this reduces the risk of crime and anti- social behaviour.

Public Background Papers Used in the Preparation of the Report:

- Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/enacted>

List of appendices:

- Appendix 1: Translation and Interpretation Service Data Analysis
- Appendix 2: Consultation findings
- Appendix 3: Equalities Impact Assessment