

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Strategic Director of Finance in consultation with the Cabinet Member for Finance and Reform

Date: 07/03/2024

Subject: Insurance Contract Award 2024-2029 Property & Leasehold Buildings

Report of: Ray Chitty, Head of Insurance Service

Report author: Beverly Mills, Assistant Head of Insurance

Responsible Director: David Hughes, Director of Audit, Fraud, Risk and Insurance

SUMMARY

This report sets out the proposed contract awards for sovereign insurance contracts for Property and Residential Leasehold Buildings for contract commencement dates of 1st April 2024.

The tender strategy approved by Cabinet in July 2023 entailed a detailed joint procurement process of this Council with Westminster City Council and the Royal Borough of Kensington & Chelsea Council in conjunction with the Council's retained insurance advisors and with engagement with the procurement function. This ensured the Council's requirements were fully incorporated, ensuring that each of the three councils involved were priced according to their own risk profile but could benefit from bulk discounts sought from tenderers and efficiencies arising from sharing operational arrangements provided by the shared Insurance service.

The Insurance Tender Strategy included 10 Lots. We were able to award contracts for 8 of the Lots, however, only one bid each was received for Property & Leasehold Buildings and with a significant cost increase to the current premium together with subjectivities to provide extensive data for each property insured prior to 1 April 2024. Feedback received from insurers who declined to bid on those Lots explained they would require far more detailed construction and risk information than previously provided to meet their underwriting acceptance criteria to allow them to quote.

Additionally, insurers secure their annual re-insurance terms in January which removes some of the uncertainty of their rating structure for placement of risks. In view of this an exercise was undertaken to gather the required data and undertake a re-tender of these two Lots to ensure best value and discharge of our obligations to leaseholders

To ensure there is no gap in the insurance cover, contracts must be put in place before 1 April 2024, therefore a delegated authority to the Strategic Director of Finance in conjunction with the Cabinet Member for Finance and Reform to approve the Property and Leasehold Buildings lots was approved in the Cabinet contract award report for the eight insurance contracts on 12 February 2024.

The Council is committed to protecting the safety and wellbeing of its residents, in line with the Council's vision to ensure it obtains best value for residents by being ruthlessly financially efficient. The over-arching aim of these tenders was to put in place appropriate insurance cover for the Council and its residents, achieve financial efficiencies in the process of arranging the cover and to carry out appropriate section 20 consultation and liaison with the Council's leaseholders to ensure they are appropriately insured and recharged.

RECOMMENDATIONS

1. It is recommended that the Strategic Director of Finance in consultation with the Cabinet Member for Finance and Reform, approves the following contract awards pending completion of section 20 Stage 2 consultation with leaseholders and appropriate sign off of due regard of responses:

Contract	Insurer	Year 1 premium £'000	Estimated 5-year Premium £'000	Contract Period
Property	Protector Insurance	847	4,235	5 years
Residential Leasehold Buildings	Protector Insurance	2,648	13,240	5 years

2. To note that Appendices 2 and 3 are not for publication on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).

Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	By providing financial protection of the Council and leaseholders assets and liabilities
Creating a compassionate council	For residential leasehold buildings insurance, the lease arrangement requires the Council as Freeholder to cover the reinstatement value of the leaseholder's asset
Doing things with local residents, not to them	To secure a competitive quotation for all the Council's insurance contracts, with the broadest cover available to ensure the widest protection is in place
Being ruthlessly financially efficient	Procurement of insurance cover mitigates the risk of financial exposure

	to the Council in the event of an insured peril and also protects the provision of frontline services as well as the ability to recover the cost of residential leasehold building premiums
Taking pride in H&F	Insurance provides financial protection in the event of an insured peril causing damage to a property
Rising to the challenge of the climate and ecological emergency	Insurance provides protection of property for insured perils including weather related events of storm and flood

Financial Impact

The approval of the insurance contract awards will ensure that the Council has appropriately insured against potential risks and our lease obligation to insure relating to Residential Leaseholder Buildings and Corporate and Commercial Property

There are considerable financial pressures in the insurance industry, and this has seen significant increases in premiums. The property insurance was £0.413m in 2023/24 (compared to £0.847m in 2024/25) and the Residential Leasehold Buildings insurance has increased from £2.229m in 2023/24 to £2.648m in 2024/25.

Some of the property insurance costs will be chargeable to commercial tenants (estimated at £0.053m or 6%) and all the leasehold buildings insurance will be chargeable to leaseholders.

The additional costs relating to the property insurance will need to be funded in the Council's General Fund Budget 2024/25 (expected to be the Policy Contingency) and the details will be reported as part of the regular financial monitoring reports during 2024/25). In respect of the HRA, all the additional costs are recoverable from leaseholder charges.

James Newman Assistant Director of Finance – 26 February 2024

Legal Implications

This report recommends awarding 2 Lots for insurance contracts (Property and Residential Leasehold Buildings Insurance) which are the remainder of a group of Lots already awarded. These have been tendered by the Royal Borough of Kensington & Chelsea, lead authority for the shared service for Insurance, Audit and Risk.

It is understood from the description in the report that a compliant tender process, in line with the Public Contract Regulations 2015, was used, specifically in the form of a competitive procedure with negotiation and using published award criteria.

The appropriate decision maker is the Strategic Director of Finance (acting under delegated authority) in consultation with the Cabinet Member. The decision-maker

needs to be satisfied that the recommended decision will see the award of contracts being made to the companies submitting the most economically advantageous tenders on the basis of the published award criteria.

The Strategy report also approved a waiver of the standard requirement in CSOs for contracts of this value to have a formal written contract put in place by Legal Services and executed by deed. This will enable contracts to be brought into existence by the insurer issuing the policy documents, which is the standard mechanism for insurance contracts.

The decision is a Key Decision (see Article 12 of the Constitution) and the report must be submitted to Committee Services for publication on the Council's website.

Implications completed by: Angela Hogan, Chief Solicitor (Contracts and Procurement) 22nd February 2024

Background Papers Used in Preparing This Report

Insurance Tender Strategy Report for 2024- 2029 – *PUBLISHED*

DETAILED ANALYSIS

Proposals and Analysis of Options

Reasons for Decision

1. The contract for Property insurance expires after a five-year term on 31 March 2024. A re-tendering of these contracts has taken place and was open to all qualifying bidders as is required under the Public Contract Regulations 2015.
2. Residential leasehold buildings insurance was last procured in 2019 on a five-year contract award basis. However, the insurer Avid, withdrew from the market in early 2023. The market for leasehold buildings had already reduced significantly due to the exit of Ocaso and Zurich in 2022, leaving Protector Insurance as the only provider offering a quotation to LBHF. Insurance was therefore placed with Protector effective from 1 April 2023 for a period of 12 months. Leaseholders were notified of this change in advance of invoices for 2023/24 being issued and were told that the Council would be undertaking a competitive procurement for this cover from 1 April 2024.
3. In view of the potential for catastrophic financial loss to Council budgets arising from damage to assets it is prudent to cap the financial exposure from any one event or occurrence by transferring some of this financial risk through the purchase of insurance from suitably regulated and qualifying providers.
4. The Council's insurance operations are discharged via a shared Insurance Service hosted by Royal Borough of Kensington and Chelsea which also includes the City of Westminster. The service delivery is fully integrated with employees delivering service response to all three councils based on specialisation.

- It is a requirement of the Public Contract Regulations 2015 that these insurance contracts are subject to competitive procurement and as established above, the non-purchase of insurance coverage would result in uncapped financial exposures for the Council and for which the potential value of losses could exceed reserves. Prudence would therefore dictate purchase of insurance and for some covers is a statutory requirement.

Market Analysis

- The market is traditionally limited for public sector risks in each category of risk with just two or three providers.
- The set up of a captive insurance company rather than placement via the current provider market was also explored to consider if this could provide an alternative solution for certain lots. The initial feasibility report did not recommend this as a suitable option for the Property & Leasehold Buildings contracts and it is considered too expensive to pursue for the Liability risk.

Tender process

- As the host borough, the process has been subject to RBKC procurement methods and oversight although this will include discharge of responsibilities under 2012 Public Services (Social Value) Act, as required under the Council's CSOs.
- The Quality Award Criteria is based on the technical specification, the technical specification for both policy coverage and claims handling requirements. The evaluation criteria are as below. Tenders were invited on the basis that insurance contracts would be awarded to the tenderers submitting the most economically advantageous tender using the criteria above. The tender was run through the CapitalESourcing portal. The open tender procedure was used. After close of tenders, officers from the Insurance Service, with technical advice where needed from the Council's insurance advisers, evaluated the tenders received.

Lot type	Price	Policy Coverage	Claims provision / service	Added Value	Social Value
Leasehold	60%	10%	10%	10%	10%
Property	50%	20%	15%	5%	10%

Results of tender process

Lot 1- Property Insurance

- Property Insurance provides coverage for the Council's properties and assets including corporate buildings and structures, Commercial properties, Housing, and Schools. It covers the cost of repairing, rebuilding or replacing the property following damage by fire, flood, escape of water, impact, theft, lightning,

earthquake, malicious damage and accidental damage. Without insurance such repairs/replacement costs would need to be funded by the Council.

11. The tender produced two bids and having completed the tender evaluation process, the proposal is to award the Property contract to Bidder A. The quote is £847,931 per annum, including 12% Insurance Premium Tax. The total figure is £433,961 higher than 2023/24 premium, representing an annual increase of 104.82% and a potential increase of circa £2,169,805 over the next five years.
12. Index-linking of 6.5% was applied to the 2023 reinstatement values to ensure the Council's assets are adequately insured.
13. The premium includes the Commercial Tenanted properties £53,164 including Insurance Premium Tax (IPT) at 12% per annum which is also recharged to the commercial tenants.
14. The most economically advantageous basis of award is increasing the deductible from £100,000 to £1,000,000 and below is a table demonstrating the average net saving due to the additional self-retention of financial risk. In summary the table shows the external premium saving of £310,359 per annum will be on average eroded by the need to increase annual self-funding by £200,000 realising a net £100,000 benefit. The claims data is included in Appendix 3.

Savings	£1mil deductible
2016	£652,076.16
2017	£46,385.84
2018	£310,359.84
2019	£295,359.84
2020	£310,359.84
2021	£310,359.84
2022	£149,306.84
Total savings over 7 years	£770,055.88
Average Saving	£110,007.98

The table above has been provided to show the net saving between the increased expenditure from self-insurance reserves to meet payments on claims up to the proposed reserves against the premium savings from accepting the increased deductible. The table shows the calculations for net savings for a deductible of £1,000,000.

Lot 1- Property evaluated result

Bidder	Price	Policy Coverage	Claims Handling	Added Value	Social Value	Total
A	50.00%	16.07%	15.00%	1.38%	4.00%	86.45%
B	34.60%	14.54%	15.00%	1.42%	5.00%	70.58%

Lot 2 – Residential Leasehold Buildings Insurance

15. Residential Leasehold insurance provides buildings cover for the leasehold properties. The policy covers the cost of repairing, rebuilding or replacing the building following damage by fire, flood, escape of water, impact, theft, lightning, earthquake, subsidence, malicious damage, accidental damage and alternative accommodation. Under the terms of the lease arrangement the Council, as freeholder is required to arrange cover for the reinstatement value of the leaseholder's asset.
16. Only one bid was received for this lot and the proposal is to award the Leasehold Buildings insurance contract to Bidder A. The bidder provided quotations on a ground up basis only, with no option for a large self-insured contribution. Bids were provided with an option of a £100 and £250 excess. We recommend the £250 excess which produces a saving of £503,545 per annum against the £100 excess option.
17. The 2023 reinstatement values were increased by 6.5% for inflation to ensure the properties are adequately insured.
18. The quote is £2,648,388 per annum, including 12% Insurance Premium Tax. This total figure is £419,587.84 higher than the 2023/24 premium, representing an annual increase of 18.8% and a potential increase of circa £2,097,939 over the next five years.
19. The policy includes a Premium Adjustment clause which sets out how Protector agree to calculate the premium for each annual policy period on the previous policy rates applying as below

Net Earned Loss Ratio	Rate Change on following period.
0%-9.99%	Up to -15%
10%-19.99%	Up to -10%
20%-69.99%	0%
70%-84.99%	Up to +15%
85%-99.99%	Up to +20%
100% and above	Negotiable

'Net earned loss ratio' will be calculated as total incurred claims (paid and reserved) at the cut-off date, as a percentage of net earned premium (excluding IPT and commission / ISB) at the cut-off date. Furthermore, 'net earned loss ratio' will be calculated for the current policy year.

The relevant cut-off dates will be:
 01/12/2024, reviewed at 01/01/2025
 01/12/2025, reviewed at 01/01/2026
 01/12/2026, reviewed at 01/01/2027

Lot 2- Residential Leasehold Buildings evaluated result

Bidder	Price	Policy Coverage	Claims Handling	Added Value	Social Value	Total
A	60.00%	7.24%	10.00%	8.00%	4.00%	89.24%

20. The Property tender excluding the re-charged commercial tenant premium, delivers an increase of £425,085 against the 2023 external premium spend and the need to fund the increased self-retention for an additional £200,000 per annum. The net impact of this is an increase of £625,085, this is mitigated by the net savings from the other 8 lots of £100,000 (the subject of another report). If building sum insured inflation of 6.5% is factored in and applied to 2023 external premium spend the increase would be more than £600,000.
21. The cost of the Leasehold Buildings insurance premiums is recharged to Leaseholders in full as part of the annual service charges. There is no financial impact on the Housing Revenue Account.

22. Property & Leasehold Buildings premium comparison

Contract	Premium 2023/24	Premium 2024/25	% Comparison	Annual difference from 2023/24
Lot 1 Property	£413,969	£847,931	104.83%	£433,962
Lot 2- Residential leasehold	£2,228,800	£2,648,388	18.83%	£419,588
Total	£2,642,769	£3,496,319	32.30%	£853,550

23. Contract award for Property & Leasehold Buildings on the following basis

Contract	Insurer	Year 1 Premium	Estimated five years premium	Contract Period
Lot 1 Property	Protector Insurance	£847,903.72	£4,239,653.60	5 years
Lot 2 Leasehold Buildings	Protector Insurance	£2,648,387.84	£13,241,939.20	5 Years

Equality Implications

24. No negative impact. Having insurance in place will provide a positive impact for all residents, staff and leaseholders including leaseholders with protected characteristics as the policy provides financial protection of their assets in the event of an insured claim including fire, storm damages and escape of water. In compliance with Section 149 of the Equalities Act 2010, the Council has given due regard to the requirements of the Public Sector Equality Duty. It is not anticipated that the re-procurement of these insurance contracts will have any negative impacts on any groups with protected characteristics, under the terms of the Equalities Act 2010.

The completed Equality Impact Assessment is attached Appendix 1.

Risk Management Implications

25. Insurance is a method of transferring risk from one party to another. This could be the risk of damage to an asset (e.g., property insurance) or the risk to others arising from an activity (e.g. liability insurance). External insurance is necessary to provide a higher degree of financial certainty for the Council, which enables it to operate in an environment where risk is always present. Ground up insurance cover, where there is no excess, is not however a financially efficient transaction and the Council has chosen not to follow this route. The terms of risk transfer for the Council are set by a contractual arrangement commonly called the insurance policy. This requires the insurer, in return of a payment from the insured (the premium), to agree to reimburse the insured for losses arising from the consequences of an insured event.
26. The Council's risk environment internally and externally has changed materially in recent years. It continues to change at an escalating pace with new and emerging Cyber threats, Terrorism and specifically, more demanding regulations, for example the introduction of the General Data Protection Regulations. There is no single solution for protecting the public purse, the Community, Management, and the Council from the liabilities it faces. The best approach is a combination of strong corporate governance and broad corporate indemnification through insurances and risk control.

Jules Binney, Risk and Assurance Manager, 14/2/2024

Procurement implications

27. The results of the evaluation process are reported by RBKC who have led the procurement and hold the e-tendering system audit trail for the tender. The lead borough procuring will issue any required notices. Once awarded the record of contract will need to be added to the contract register alongside the named contract manager/s.
28. RBKC confirmed that the Evaluation Matrix aligns with the proposal to award outlined in this report.

*Joanna McCormick, Assistant Director Procurement and Commercial
14/12/2023*

Social Value

29. It is a requirement that all contracts let by the council with a value above £100,000 provide social value commitments that are additional to the core services required under the contract.
30. Insurance is a shared service with RBKC & WCC. RBKC are the host, and the tender will therefore follow the RBKC procurement rules on this process.
31. The tender evaluation is subject to a 10% social value consideration and the 10% weighting is compliant with RBKC procedure.
32. The project lead will work closely with the council's Social Value Officer and the service provider to agree on social value measures and their delivery plan.

Oliur Rahman, Head of Employment and Skills, 14/2/2024

Digital Services and Information Management

1. No IT implications are considered to arise from this report. Should this not be the case, for example, by requiring new systems to be procured or existing systems to be modified, IT Services should be consulted.
2. IM implications: The Insurers will be expected to have a Data Protection policy in place and staff will be expected to have received Data Protection training. The service will also need to complete a Data Privacy Impact Assessment.
3. Any contracts with the insurers will need to include H&F's data protection and processing schedule. This is compliant with the UK Data Protection law.

Implications completed by: Cinar Altun, Digital Strategy Lead, 14.02.24

Consultation

33. Stage 1 consultation and engagement with leaseholders took place during July and August 2023. All leaseholder observations received have been given due regard and have been responded to within the statutory timeframe.
34. Stage 2 consultation will take place during February and March 2024, in accordance with section 20 of the Landlord & Tenant Act 1985. All leaseholder observations received will be given due regard and responded to within the statutory timeframe.

LIST OF APPENDICES

Appendix

Appendix 1 Equality Impact Assessment

Part B exempt Appendix

Appendix 2 Consolidated Evaluation matrix

Appendix 3 Property Claims Data