




Executive Decision Report

Decision maker(s) at each authority and date of Cabinet meeting, Cabinet Member meeting or (in the case of individual Cabinet Member decisions) the earliest date the decision will be taken	Full Cabinet – 10 October 2016	 hammersmith & fulham
	CAB – 23 August 2016	 THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
	CAB – 23 August 2016	 City of Westminster
Report title (decision subject)	INSURANCE TENDER 2017 FOR PROPERTY, TERRORISM, LIABILITIES AND SUNDRY COVERS	
Reporting officer	Ray Chitty – Head of Insurance Service	
Key decision	No	
Access to information classification	Public	

1. EXECUTIVE SUMMARY

- 1.1. This report sets out the proposed strategy upon which insurance contracts for property, terrorism, liability, personal accident and fidelity guarantee / crime insurance will be procured for a contract commencement date of the 1st April 2017.

2. RECOMMENDATIONS

- 2.1. For LB Hammersmith and Fulham to approve the proposed strategy, commencement of the formal tender process, intended compliance with the Public Contract Regulations 2015 and the need to seek suitable authority on a sovereign Council basis to award the contract after evaluation.
- 2.2. For City of Westminster to approve the proposed strategy, commencement of the formal tender process, intended compliance with the Public Contract Regulations 2015 and the need to seek suitable authority on a sovereign Council basis to award the contract after evaluation.

- 2.3. For RB Kensington and Chelsea to approve the proposed strategy, commencement of the formal tender process, intended compliance with the Public Contract Regulations 2015 and the need to seek suitable authority on a sovereign Council basis to award the contract after evaluation.

3. REASONS FOR DECISION

- 3.1. The contracts of Insurance in respect of property, terrorism, liabilities, personal accident and fidelity guarantee / crime insurances expire after a five-year term on the 31st March 2017 for all three Councils and a re-tendering of these contracts open to all qualifying bidders is required under the Public Contract Regulations 2015, WCC's Procurement Code, LBHF's Contract Standing Orders and RBKC's Contract Regulations.

4. BACKGROUND

- 4.1 All three Council's insurance operations are discharged via a shared Insurance Service hosted by RB Kensington and Chelsea. The service delivery is fully integrated with employees delivering service response to all three councils based on specialisation.
- 4.2 In view of the potential for catastrophic financial loss to Council budgets arising from damage to assets or the need to meet compensation awards for injury to the public or employees 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.
- 4.3 The current providers of the insurances under consideration are: -
Zurich Municipal – property, liabilities and fidelity guarantee / crime

JLT Global via Lloyds and scheme arrangements – terrorism and personal accident.
- 4.4 Expenditure on relevant insurance premiums in 2016 / 2017 including insurance premium tax of 9.5% of the premium is: -

City of Westminster: - £1M

LB Hammersmith and Fulham: - £770K

RB Kensington and Chelsea: - £680K
- 4.5 The level of insurance premiums is driven by a number of factors the most prominent being the sums insured and claims experience of the individual councils; levels of self-retained risk; global re-insurance rates and individual supplier experience and risk appetite or capacity.
- 4.6 The insurances are currently procured with large self-insured deductibles (excesses) with both a one off cap per incident and an annual aggregate cap to limit in year financial exposure: -

City of Westminster - £100K per claim subject to annual aggregates of £1M and £2M in respect of property and liability respectively

LB Hammersmith and Fulham - £100K per claim subject to annual aggregates of £500K and £1.5M in respect of property and liability respectively

RB Kensington and Chelsea - £250K per claims subject to annual aggregates of £750K and £1M in respect of property and liability respectively

This strategy is to reduce uneconomic pound swapping with insurers for known loss levels and to mitigate the amount of insurance premium tax. Current levels of deductible were set prior to service integration on claims analysis and sovereign risk appetite assessed at the time.

- 4.7 The available market for placement of local authority insurances is traditionally limited; past tender exercises only receiving quotations from three suppliers. There are however three new entrants to the market and the expectation is to receive five or more valid quotations to this tender.
- 4.8 Beyond not purchasing insurance at all, which would result in unacceptable and uncapped financial exposures to the Councils, the only alternative to the current procurement strategy would be for the Councils to collectively, perhaps individually, set up or join their own captive insurance company, retaining significant financial exposure in-house, and to approach the re-insurance market direct rather than the current provider market. This strategy has been tested in the past by other Councils with limited success.

Consideration of such alternative methods of purchasing benefit from a stable platform of local government operation and the ability to commit to a longer term strategy. Considered exploration of this requires engagement of consultancy and complex feasibility studies to provide sufficient information to enable confident decision making in view of the financial exposures involved. If there is a political and strategic will to commit funding to the investigation of such alternative risk financing, then this would be an issue to explore over the period of the next contract period but is not a viable option for current consideration in view of timescales involved and pace of service change in local government and because of this is not recommended.

5. PROPOSAL AND ISSUES

The proposed procurement process

- 5.1. EU Public Procurement Directives and their domestic analogue, the Public Contract Regulations 2015 (PCR) will apply to the tender process in view of the likely award value of the final contract(s). The procurement will be undertaken in accordance with the Open Procedure which requires a Contract Notice to be published in the Official Journal of the European Union. A notice will also be published on Contracts Finder
- 5.2. The Open Procedure permits any economic operator (service provider) to tender provided they meet defined minimum standards (pass/fail tests) for economic

and financial standing, and technical and professional ability. In view of the relatively, limited number and nature of service providers likely to tender, it is not necessary to use the Restricted Procedure (which would permit the shortlisting of tenderers).

- 5.3. Regulation 53 PCR 2015 requires the procurement documents to be available for unrestricted and full direct access from the date the Contract Notice is published. The procurement will be executed through the boroughs' e-procurement portal, capitalEsourcing, which will ensure this requirement is met.

Proposals for the development of the contract documentation

- 5.4. The ITT technical specification will be drawn up by the Head of Insurance Service supported by the retained insurance advisors JLT Group.
- 5.5. Insurance is classified as a special contract in Law and therefore insurance policy documentation is the basis of contract combined with the ITT specification and bidder response.
- 5.6. The contract length will be five years.
- 5.7. Many of the likely bidders have registered offices or operations based in the financial services sector of the City of London but bidding will be open to any qualifying supplier authorised to underwrite insurance in the UK and of suitable financial standing.

Letting process

- 5.8. Please note Appendix B setting out the key milestones and the procurement timetable.
- 5.9. Please note Appendix C setting out the internal project management process as at 23rd May 2016.

Proposed tender evaluation and process

- 5.10. To ensure that they meet the minimum standards, bidders will be required to evidence they are authorised to underwrite insurance business in the UK and must be at least "A- "rated by Standard and Poors or equivalent agency and prepared to produce: -
 - A copy of their annual reports and accounts for the last 3 years
 - The name and address of their bankers
 - Details of last 3 years of underwriting experience for the classes of business under consideration
- 5.11. The Quality Award Criteria will be based on the technical specification, the technical specification will include both policy coverage and claims handling requirements. Evaluation of bidders' responses to the award criteria will be carried out in accordance with the published marking scheme.

5.12. The bidding will be subject to the following lot structure: -

Lot 1 – Property

Lot 2 – Liabilities

Option to offer multi-lot discount to secure lots 1 & 2 recognising this will be where the majority of the expenditure will be.

Lot 3 – Terrorism

Lot 4 – Fidelity Guarantee / Crime

Lot 5 – Personal Accident / Travel

Bidders will be required to submit the price per lot individually scheduled for each of the three boroughs to ensure correct premium allocation but price evaluation will be on the total price per lot to provide the cover for all three boroughs.

5.13. The contract will be awarded on the basis of the most economically advantageous tender in accordance with the evaluation basis specified in the ITT in detail but in summary will be out of a maximum attainable 1000 points as follows: -

- Price 500 points – 5-point deduction for each 1% variance from lowest bidder price
- Technical specification 350 points - evaluated and documented deductions for minor non-compliance with specified requirements and bid rejection for major non-compliance. Examples of major non-compliance being failure to supply the fire insurance peril or to agree to minimum requirement to allow self-handling of all claims up to 50% of the policy deductible
- Added value / Innovation 150 points – evaluated and documented additional points for exceeding specification minimums; offering additional services or covers or setting aggregate deductibles at a level likely to be of financial value to the Council. ITT documentation will provide guidance to bidders.

Staffing implications and Consultations

5.14. There are no staffing implications or employee / union consultations required.

Supplier relationship management and monitoring

5.15. The Head of the Insurance Service will retain overarching contract management responsibility with frequency of review meetings to be agreed prior to contract letting. If a new supplier is awarded the contract, frequency will be increased over 1st year and then revert to quarterly or six monthly as appropriate given the high degree of devolved financial authority to the Council and less reliance on contractor supplied service and resources other than financial.

Reporting on claims handling expenditure by the Council will be set by the bidder and subject to their audit requirements but is likely to be monthly or quarterly.

6. OPTIONS AND ANALYSIS

- 6.1. Re-procurement of this contract is required as the current contract expires 31st March 2017. Notwithstanding the expiry of the current contract period, the addition of new potential bidders to the market suggests an increase in the numbers of bidders in comparison with previous tender processes is likely and this is therefore also a good time to approach the market place for quotation.

With reference to the caveats in 4.8 regarding the current viability or suitability at this time to consider alternative means of risk transfer and alternative basis of provision, the feasibility of exploring these approaches will be considered and reported upon over the next contract period.

- 6.2. Bidders will be requested to provide terms on the basis of the following policy deductibles: -

- Existing arrangements for each Council to enable direct comparison with expiring contracts – i.e. £100K for WCC & LBHF and £250K for RBKC
- A homogeneous deductible applying equally but individually to each Council to test if increased harmonisation of terms is advantageous – this is likely to be either £200K or £250K subject to completion and analysis of claims data sanitation phase of project plan.
- Bidder determined levels – this will enable the bidders to supply deductible terms at the point of maximum utility as determined by their individual risk and pricing models.

In view of the comprehensive claims data held by the Councils, evaluation of the merits between the above options will be viable and demonstrable in providing recommendations to decision-makers on the basis to award the contract.

7. CONSULTATION

- 7.1. As this report is a Gate 1 report prior to commencement of the tender process for a specialised support function and not a key decision, the draft has been submitted to the following Senior Managers for discussion or comment with the option for them to raise with Cabinet Member as appropriate at this pre stage: -

- LBHF – Hitesh Jolapara – Strategic Finance Director – No amendments required
- WCC - Steven Mair – City Treasurer – No amendments required
- RBKC – Nicholas Holgate – Chief Executive with pre-delegated authority in respect of Insurance Matters has confirmed no need to consult with Cabinet Member at this stage in process.

8. EQUALITY IMPLICATIONS - None

9. LEGAL IMPLICATIONS –

- 9.1 The proposed Open Procedure for award of these insurance contracts would be in compliance of the Councils' obligations under the Public Contracts Regulations 2015.

[Legal Implications by Babul Mukherjee, Senior Solicitor (Contracts), Shared Legal Services, Ph: 02073613410]

10. FINANCIAL AND RESOURCES IMPLICATIONS

- 10.1. Insurance premium tax, a percentage levy against the external premium has increased twice in the last 12 months rising from 6% to 10% at time of next contract award. The annual expenditure on this tax is therefore around £200K and is a factor to be considered when evaluating options to increase level of self-financed retention and reduced external risk transfer.
- 10.2. The respective levels of deductibles and aggregates supplied by bidders will require analysis and projected spend parameters between external premium and retained self-financed risk. This cannot be completed ahead of receiving the bidder responses but will be supplied upon evaluation for detailed scrutiny by finance offers.
- 10.3. Speculation ahead of the tender process of the likely financial outcome is not in the Council's commercial interest and as explained in the report, analysis to determine most economically advantageous terms will require assessment of claims data and trends not yet available.
- 10.4. Lyn Myers - The RBKC Group Finance Manager, Corporate Services has been consulted and concurs with the recommendation in this report.
- 10.5. Matthew Davis – The WCC Head of Corporate Finance has been consulted and concurs with the recommendation in this report.
- 10.6. Andrew Lord – The LBHF Head of Finance – Budget and Monitoring has been consulted and concurs with the recommendation in this report.

Moyra McGarvey
Director of Fraud, Audit, Insurance and Risk

Local Government Act 1972 (as amended) – Background papers used in the preparation of this report: None

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APPENDIX A

Other Implications

[The report author should consider, and include paragraphs on the following as appropriate within this separate appendix, unless these considerations are sufficiently important and relevant as to justify being included within the body of the report itself.]

1. Business Plan – No impact
2. Risk Management – Added value / innovation offers by bidders may provide additional risk management resource
3. Health and Wellbeing, including Health and Safety Implications – No impact
4. Crime and Disorder – No impact
5. Staffing – No impact
6. Human Rights – No impact
7. Impact on the Environment – No impact
8. Energy measure issues – No Impact
9. Sustainability – No impact
10. Communications – No impact

APPENDIX B

Key milestones and OJEU compliance timetable

APPENDIX C

Internal Project Management Process