

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

OFFICER REPORT to CABINET

Date 20 January 2016

1. **HEADING** Procurement of the Council's Long Term Agreement (Insurance)
- Submitted by:** Executive Management Team
- Portfolio:** Finance IT & Customer
- Ward(s) affected:** All

Purpose of the Report

- a) To inform Cabinet of the approach adopted to re-procure the Council's Long Term Agreement for Insurance;
- b) To seek approval to formally award a contract to the successful provider based following completion of the procurement an award based on the 'Most Economically Advantageous Tender'.

Recommendations (to be in bold)

- a) That Cabinet acknowledge the procurement approach adopted by officers;**
- b) To seek approval to formally award a contract to the successful provider following completion of the procurement on the basis of the 'Most Economically Advantageous Tender.'**

Reasons

The long term agreements (LTA's) of all the Council policies within its insurance portfolio, expire on 28th February 2016 and are therefore subject to a tender process. As the aggregated value over the life of the contract (5 years) will exceed the current EU Procurement Thresholds it will be necessary to advertise the contract in the Official Journal of the European Union (OJEU).

1. **Background**

1.1 The long term agreements (LTA's) of all the Council's policies within its insurance portfolio were last tendered in 2008 with a single award being made to RMP (Risk Management Partnership). The contract period at the time was for 5 years with a possible extension of 2 years on successful delivery of the initial contract period. The procurement process at the time was supported by the Council insurance broker Marsh Limited. The broker service has been subsequently re-tendered and the Council's incumbent service provider was re-awarded a contract on the basis of being the most economically advantageous tenderer and as such will continue to support officers in the re-procurement of the Council's LTA.

2. **Issues**

2.1 Issues impacting on the LTA include:

2.1.1 An increase in the IPT (insurance premium tax) during 2016/17 from 6 to 9.5%;

2.1.2 A year on year increase and erosion of the initial savings made at the time of the procurement process due to an increase in claims by the Council in certain areas of its insurance policies (e.g. motor);

2.1.3 Year on year hardening of the insurance market which increased insurance premium costings;

2.1.4 A changing market place where some larger insurers have exited the public sector market to be replaced with smaller insurance organisations entering the public sector market;

2.1.5 An increase in the asset value of the Council property portfolio based on a change (uplift) to the standard rates used in evaluating these assets.

2.2 Officers in acknowledging the need to identify savings have worked with internal services to scope their needs and ensure that the requirements contained in the specification reflect the needs of the Council e.g.:

2.2.1 Property portfolio, where possible to ensure that this data is up to date, contains no duplication and reflects the increase in asset valuations;

2.2.2 Fleet portfolio reflects the current position and that services previously provided are excluded from future needs (e.g. supply and use of mini buses);

2.2.3 Council lease cars; a review being undertaken of the current fleet and an overview of the timings linked to the phased reduction of this portfolio;

2.2.4 ICT portfolio is up dated and reflects the current needs inclusive of cyber risks;

2.2.5 Plant and equipment needs reflect the council's current requirements and includes the outcomes of recent testing regimes (e.g. fixed wire testing exercise, and a computer survey including fire assessment);

2.3 Officers have worked with Marsh to deliver a 'Risk Finance Optimisation (RFO) proposal in two areas of the council's portfolio; Employers' Liability (EL) and Public Liability (PL). The intention being to create a risk finance structure that is efficient and creates the right balance between risk transfer and risk retention. Calculations have been made on the potential volatility for each insurance class. Marsh and officers of the borough council then reviewed the indicative market pricing to identify the solution that delivers a sustainable lower cost risk with least volatility. This proposal could ultimately support the procurement process in identifying the potential for savings for the council and give prospective insurers the confidence that the council is a low risk option for their investment.

2.4 As the Council intends to vacate the current Civic Offices and as there are further potential office closures, this has been built into the specification (as part of additional information) to advise prospective future insurance providers. The same situation will apply to the changes in the waste and recycling service (i.e. internalising this service).

3. **Procurement Options Considered** (if any)

Options considered prior to the commencement of the procurement process included:

3.1 Option 1 – Open Market Tender: the preferred solution is to undertake a procurement by way of a negotiated procedure advertising in the OJEU. Whilst this route may incur an increased risk of challenge due it being an open market two staged procurement process it is anticipated that it will offer better value/savings in the longer term by engaging potentially with a greater range of providers improving the level of competition and exploring opportunities to deliver improved service.

3.2 **Option 2 – Utilisation of Framework:** officers had considered the use of the Crown Commercial Services (CCS) Insurance Service Framework (RM958). From market intelligence gathered there has been a mixed response to the use of the framework with a number of authorities believing that the supplier base was restrictive when comparing with the number of new entrants and the potential for competitive pricing. CCS also make a charge for use of the framework which is 0.5% p.a. of the agreed contract price at the time of award, whilst this is levied against the successful service provider, this cost implication is likely to impact on the final price to the client.

3.3 **Option 3 – Self-Insurance:** rejection of the preferred proposal would result in officers having to self-insure its insurance needs. Out of the three options available, this is the least preferred as it presents the authority with an increased number of risks, including increased resourcing needs and an increase on current costs based on the need to fund all insurance claims made, deal with all claims handling and employ solicitors to represent the council at court should the need arise.

As option 1 appeared on paper to offer a greater opportunity for potential market engagement and subsequent savings an open market tender was undertaken utilising the following indicative timetable:

Issue of Call for Competition	15/09/2015
Receipt of completed PQQ	15/10/2015
Issue of Invitations to tender	29/10/2015
Deadline for clarification questions from Economic Operators	13/11/2015
Deadline for receipt of Tender submissions	23/11/2015
Completion of evaluation of tenders	01/12/2015
Award of Contract (optional)	15/12/2015
Invitation to Negotiation if no award made	07/12/2015
Invitation for Best and Final Offers	16/12/2015
Submission of Best & Final Offers	23/12/2015
Evaluation of BAFO submission	08/01/2016
Start of 10 day Standstill	11/02/2016
Target date for provisional / final award of Contract	21/02/2016
Cover to incept	28/02/2016

3.4 In drafting the Council's specification of requirements and to further enhance the possibilities of greater competition and wider potential savings the Council's insurance portfolio was split into 8 separate lots (excluding claims handling). Further additional options on selected lots (e.g. Lot 2 Combined Liability) were also introduced to examine the potential for further savings linked to increased excesses over and above the Council's current established (£5,000) excess and reduced limits of indemnity (reductions of £30,000,000 to £20,000,000); prospective service providers having the opportunity to bid for a range of (or all) identified lots and options.

3.5 Four submissions were received at the Pre-Qualification Questionnaire stage, each providing evidence of sufficient capacity to deliver a solution in line with the Council's specification of requirements; all four providers being subsequently invited to submit a tender.

3.6 At the tender deadline, 1 provider declined to submit prior to the closing date due to internal resource issues.

3.7 Whilst two of the three tenderers only bid for selective lots, one of these providers who offered extremely competitive rates indicated that they would not underwrite certain lots in isolation, one such lot being the one which offered the greatest saving.

3.8 At the time of writing this report submissions were being scored independently by the Council's insurance broker (Marsh Limited). A copy of the broker's evaluation report and scoring matrix is available on request.

5. **Reasons for Preferred Contract Award Solution**

Early indications are that the preferred contract award solution would offer:

5.1 continued sustainability with minimal disruption to the authority as the award would be made to the Council's current incumbent service provider 'Risk Management Partners' (RMP);

5.2 following evaluation and consideration to both the risk and potential budgetary implications the level of excess will be £25,000 (an increase of £20,000 on the Council's current excess amount) and the Limit of Indemnity (LoI) will remain at £30,000,000 based on the information obtained as part of the 'Risk Finance Optimisation' (RFO) proposal solution undertaken prior to the commencement of the procurement process.

5.3 a balanced approach when considering the Council's claims history, public sector market intelligence and historic information on the Council's performance linked to its LoI.

5.4 an opportunity to deliver a saving of £201,000 including IPT at 9.5% when compared to the Council's 2015/16 budgeted/anticipated spend.

6. **Outcomes Linked to Corporate Priorities**

The successful delivery of this procurement will have impacts on a wide range of the outcomes related to each of the Council's four corporate priorities:

6.1 Creating a clean, safe and sustainable borough;

6.2 A borough of Opportunity;

6.3 Creating a healthy and active community;

6.4 Becoming a co-operative Council, delivering high-value, community-driven services.

7. **Legal and Statutory Implications**

Most employers are required by law under the "Employers' Liability (Compulsory Insurance) Act 1969" to insure against liability for injury or disease to their employees arising out of their employment. Public liability insurance is different. It allows cover for claims made against the organisation by members of the public or other businesses, but not for claims by employees. While public liability insurance is generally voluntary, employers' liability insurance is compulsory. The organisation is liable to legal action resulting in fines where employers' liability insurance is not maintained.

8. **Equality Impact Assessment**

There are no differential equalities impacts that have been identified linked to the delivery of this procurement.

9. **Financial and Resource Implications**

The current annual budget (2015/16) set by the council is £508,900 including IPT.

In respect of the £201K savings referred to in paragraph 5.4, £150,000 has been included in the savings schedule as part of the budget report elsewhere on your agenda. It is proposed to increase the contribution to the Insurance Provision by the remaining £51K.

10. **Major Risks**

Risks identified are:

- 10.1 Rejection of officer proposals would lead to insurance renewal timescales not being met, resulting in work having to be undertaken to extend the current insurance provision if incumbent insurers wished to do so and could lead to increased costs of insurance in the short term;
- 10.2 The council may have to self-insure – this would put extra strain on current resources – the council would have to deal with all claims in house; employ solicitors to deal with any litigated claims;

Controls established:

- 10.3 These risks however have controls in place that help to mitigate the likelihood, including market testing; project optimisation report; officer engagement; support from Executive Directors; custom and practice; statutory and legal requirements

11. **Key Decision Information**

This is a key decision based on the aggregated value of the contract over the contract term plus extensions if utilised.

12. **Earlier Cabinet/Committee Resolutions**

- 12.1 None

13. **Recommendations**

- 13.1 That Cabinet acknowledge the procurement approach adopted by officers and ratified by EMT;
- 13.2 That Cabinet agree to officers contracting on behalf of the Council following delivery of the procurement process an award being based on the Most Economically Advantageous Tender.;

14. **List of Appendices**

- 14.1 Risk Assessment (Appendix A);

15. **Background Papers**

- 15.1 None