

PART 1 - PUBLIC

Decision Maker: Resources Portfolio Holder

Date: For pre-decision scrutiny by Executive and Resources PDS Committee on 16th March 2016

Decision Type: Non-Urgent Executive Non-Key

Title: **INSURANCE RENEWALS 2016/17 - UPDATE ON AWARD OF CONTRACTS**

Contact Officer: Martin Reeves, Principal Accountant
Tel: 020 8313 4291 E-mail: martin.reeves@bromley.gov.uk

Chief Officer: Director of Finance

Ward: All

1. Reason for report

Following the approval of the Resources Portfolio Holder in October 2015 to tender action for all Council insurance policies with the exception of casualty/liability insurance (i.e. property, motor, fidelity guarantee, personal accident, school journey, minibuses, shops blanket and engineering inspections) through the Crown Commercial Services Framework, this report updates Members on recent developments that have resulted in the tender process being discontinued. It recommends that existing insurance contracts be extended for 3 months and that the tender process be re-run using the new Crown Commercial Services (CCS) Framework.

2. RECOMMENDATION(S)

Following consideration by the PDS Committee, the Resources Portfolio Holder is recommended to note the update report and agree that:

- The insurance tender process for property, motor, fidelity guarantee, personal accident, school journey, minibuses, shops blanket and engineering inspections be re-run;
- Existing insurance contracts, currently due to expire on 30th April 2016, be extended for three months to 31st July 2016.

Corporate Policy

1. Policy Status: Existing policy. To maintain appropriate levels of insurance cover to ensure adequate cover for Council properties, assets and services.
 2. BBB Priority: Excellent Council.
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Financial

1. Cost of proposal: Estimated cost Not known until tender process is completed
 2. Ongoing costs: Recurring cost. Current annual premium for services to be tendered £290,000 (including increase in Insurance Premium Tax (IPT) from 1st November 2015)
 3. Budget head/performance centre: Insurance Fund
 4. Total current budget for this head: £290,000 (including increase in Insurance Premium Tax (IPT) from 1st November 2015)
 5. Source of funding: Insurance Fund
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: Insurance claims are handled under a shared services arrangement with the Royal Borough of Greenwich
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Legal

1. Legal Requirement: No statutory requirement or Government guidance.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Between 400 and 450 claims are received each year across all insurance covers.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Council's casualty insurance (comprising public liability, employers' liability, officials' indemnity and professional indemnity) was tendered in 2014 and a contract was awarded to Zurich Municipal (ZM) from 17th June 2014 on a three year long-term agreement (LTA) with an option to extend for a further two years (which was agreed by the Resources Portfolio Holder on 8th October 2015). All other Council insurance policies (property, motor, fidelity guarantee, personal accident, school journey, minibuses, engineering, leasehold/commercial property and mortgaged properties) are due to expire on 30th April 2016 and, following scrutiny by this Committee on 8th October 2015, these were all tendered through the Crown Commercial Services Framework with a start date of 1st May 2016. This report updates Members on last-minute events (after the tender process had been run) that have invalidated the whole process, as a result of which it is recommended that existing contracts be extended for a period of three months to enable the process to be re-run.
- 3.2 An external broker, JLT Specialty Ltd, is engaged to assist in the management of the tender exercise, which comprised six individual lots for the various types of insurance cover: property (including leasehold/commercial), fidelity guarantee, motor fleet (including minibuses), engineering inspections, personal accident/school journey and terrorism. The Invitation to Tender went out to the market on 7th January 2016 and bidders were requested to respond by 1st February. There followed a period of clarifications (both by the bidders and by JLT) and evaluation by JLT, after which JLT presented their final evaluation report to the Council on 25th February. On the same day, the Council was notified that the CCS Framework used for the tender process (reference RM958) was expiring, as a result of which any awards under that framework had to be made by the end of that day. Given the requirement for Member consideration and Portfolio Holder approval and the fact that a standstill period of 10 days would have to elapse before formal decision letters could be issued, that was clearly not an option so we reverted to JLT for an explanation as to why/how this had happened at the last minute and, going forward, an options appraisal and a risk assessment as to the best way to proceed.
- 3.3 JLT advise that, whilst it was known in the market that the CCS Framework had a limited life span and that a new framework would become operational sometime during 2016, the decision of CCS to "expire" call-offs under the old framework came as a complete surprise. They would have expected CCS to allow the completion of tenders underway when the old framework ceased to exist, but this was not the case, as CCS said that any tender started before 25th February had to be fully completed and awarded by that date. Had we and JLT known that, we would not have gone down that route. We are not the only authority to be caught by this, as JLT advise there are at least two other public bodies in a similar position.
- 3.4 The original framework was awarded/completed under the 2006 Procurement Regulations while the new framework has been concluded under the 2015 Regulations. The new regulations tighten up the arrangements around the operation and call-off from contracts and the responsibilities of the contracting parties and framework owners.
- 3.5 Going forward, potential options included:
- Continue under the current timetable and award the contract under the old Framework RM958 – while it is possible that CCS would never know that we had made an award after the framework expired, awards made under the old framework could still be deemed unlawful. Although all of the providers that submitted bids have confirmed that they would not use this as a basis for challenge, we could still be exposed to challenge by potential bidders that are on the new framework but that weren't on the old one;
 - Abandon the current tender process and re-tender under the new framework (RM3731), using the existing tender list with a quick turnaround on tender submissions, when it is up

and running (on 1st March) using an accelerated procedure with the aim of completing the whole process in line with the original timetable (i.e. tender award report to this meeting and inception date of 1st May 2016) – this option would result in a significantly greater risk of challenge from potential new bidders because they could argue they were disadvantaged by the extremely short timescale to submit bids;

- Abandon the current tender process, secure an extension from existing insurers and re-tender using the new framework – this is the safest option and is perhaps the only way we can proceed to award contracts without the possibility of a challenge.

3.6 Having agreed that the third option (abandon the current process, extend existing contracts and re-tender under the new framework) was the safest and preferred route, the existing insurers were approached and all have confirmed that they are happy to agree an extension under existing terms. Officers have agreed a revised timetable with JLT and this is attached at Appendix 1. In summary, this works back from a revised inception date of 1st August 2016 (following a three-month extension to current insurance contracts) and a revised reporting date of 8th June (the current draft meeting date for this PDS Committee). This allows sufficient time for a full tender process under the new framework.

3.7 JLT have written to bidders in the initial tender process informing them that the tender process has been discontinued and have reissued the Invitation to Tenders under the new CCS framework. They have also confirmed in writing that there will be no additional costs as a result of the tender being re-run.

4. POLICY IMPLICATIONS

4.1 To maintain appropriate levels of insurance cover to ensure adequate cover for Council properties, assets and services.

5. FINANCIAL IMPLICATIONS

5.1 The current budget for the insurances to be tendered is £290,000 (including an increase of 3.5% in IPT from 1st November 2015) and a three month extension has been agreed from 1st May 2016 to 31st July 2016 with the current insurers on existing terms at a cost of £72,500. At current prices, the total cost of contracts for two years plus one would be around £870,000. JLT have advised that any costs arising from a re-run of the tender process will be contained within their original fee quote (£2,500). Recommendations on contract awards will be brought to this scrutiny committee in June and, (if over £1m in total value over the life of the contracts), to the Executive.

6. PERSONNEL IMPLICATIONS

6.1 None. An insurance claims handling service is provided by staff from the Royal Borough of Greenwich under a shared services arrangement.

7. PROCUREMENT IMPLICATIONS

7.1 The contracting strategy has been agreed with the authority's Head of Procurement and with its external insurance broker. The Council will use the Crown Commercial Services Framework for Insurance and the process will be handled by the Council's external insurance broker, JLT Specialty Ltd. The framework will enable us to reach an acceptable spread of suppliers whilst still giving us the flexibility to determine our own specification. The processes to be used are designed to ensure the completion of the tender process in a fair and transparent manner and to provide protection from potential claims which might arise from any unsuccessful bidders around the completion of the contracting process.

8. LEGAL IMPLICATIONS

8.1 Clause 72 (5) of the Public Contracts Regulations 2015 permits modifications to contracts during their term provided the value of the modification (in this case a three month extension worth £72,500) is below 10% of the total contract value (current premium charge £290,000 per annum; total “whole life” value of contracts to be tendered £1,081,000, including previous extensions), provided that the modifications do not alter the nature of those contracts in any way.

9. MARKET CONSIDERATIONS

9.1 The local authority insurance market is very limited and there are currently only three key “players” in the field: ZM (who currently provide most of the Council’s insurance covers), Travelers and Risk Management Partners. The framework will, however, enable other interested parties to submit tenders if they wish.

10. OUTLINE CONTRACTING PROPOSALS & PROCUREMENT STRATEGY

10.1 The tender process will be handled by the Council’s external broker, JLT Specialty Ltd, under the Crown Commercial Services Framework for Insurance, which will give us access to all the main players in the local authority insurance field, whilst still giving us the ability to write our own specification. This was produced by Council officers in collaboration with officers from the Royal Borough of Greenwich and does not need to be changed for the re-run of the tender process. Greenwich are locked into long-term agreements for their main insurances until 2019 and the possibility of a joint tender with Greenwich will be fully explored then.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	Current policies with various existing insurers (held by Martin Reeves, S209). Renewal of Casualty and Motor insurance cover - Resources Portfolio meeting 31 st March 2009. Renewal of Property insurance cover – E&R PDS Committee 25 th January 2012. Renewal of Casualty insurance cover – E&R PDS Committee 5 th June 2014. Extensions to Property and Motor insurance cover – Resources Portfolio holder decision 28 th April 2014. Formal consultation on outline service proposals and procurement strategy – insurance renewals 2016/17 – E&R PDS Committee 8 th October 2015.

**LONDON BOROUGH OF BROMLEY – TENDER TIMETABLE
CCS FRAMEWORK – INCEPTION DATE 1ST AUGUST 2016**

	Date	Who	Status
Confirm cover extensions with existing insurers	1 st March 2016	JLT	COMPLETED
Request updated claims experience from insurers	7 th March 2016	JLT	
Complete review of fact find, original ITT and clarifications with Authority	By 15 th March 2016	ALL	
Review tender objectives and evaluation criteria with client	By 15 th March 2016	ALL	
Submit Tender to Council for review and final approval	23 rd March 2016	JLT	
Tender to market – in the market for 30 days	25 th March 2016	JLT	
Last date for bidders questions	15 th April 2016	INSURERS	
Tenders back	25 th April 2016	INSURERS	
Evaluate Tenders	25 th April to 16 th May 2016	JLT	
Meeting to discuss any points of clarification	27 th April 2016	ALL	
Evaluation Report presented to Council	16 th May 2016	JLT	
LB of Bromley Commissioning Board meeting	23 rd May 2016	LBB	
LB of Bromley Scrutiny meeting agenda deadline	31 st May 2016	LBB	
LB of Bromley Scrutiny Committee meeting	8 th June 2016	LBB	
Final Decision received from Council	23 rd June 2016	LBB	
Award decision letters issued (10 day standstill period)	24 th June 2016	JLT	
Award Contract	5 th July 2016	JLT	
Post award details on Contracts Finder	5 th July 2016	LBB	
Protocol Meeting with New Insurers	11 th July 2016 onwards	ALL	
Cover Incepted	1 st August 2016		