

Written response from Trade Unions

The management response is listed in bold.

Dear Colin,

I write further to previous correspondence from staff (both individual and group representations), and the meeting of the Local Joint Consultative Committee where the Amey contract was briefly discussed (draft mins available Item 25 at <http://cds.bromley.gov.uk/documents/g5487/Printed%20minutes%20Thursday%2025-Feb-2016%2018.30%20Local%20Joint%20Consultative%20Committee.pdf?T=1>).

Q1. In addition to all previous matters raised I would like to flag the following from last week's Union / Commissioning Team meeting.

- a. Despite assurances to the contrary members have not, and indeed cannot, have made a decision on a like for like basis. This is due to the output nature of the "specifications" and the fact that so much remains outstanding, subject to due diligence. The numbers of staff may change and the "output specifications" leave the door wide open for Amey to profit at the expense of service through the quality of decisions / advice to the Council not in its best long term interests.

Service Heads, Managers and staff have been involved in the drawing up of the specifications. The Heads of each service have signed off their specifications as being correct and representative of the work performed currently.

- b. Concerns about the failure to acknowledge and appreciate the objective decision making nature of many of the activities being proposed for outsourcing.

A contractor would be contractually obliged to provide useful and impartial information. It is expected of a professional organisation with experience and knowledge to properly inform the council of its duties in an objective manner.

- c. Concern about the inclusion of Cushman & Wakefield into the Framework as part of the domestic supply chain, with inadequate tendering. Are Bromley the first / only authority who will be using C&W through the framework? The Commissioning Team advised the unions that they had been brought in as a sub contract / "domestic supply chain" and that the commissioning team had "checked their prices against the market". This appears at odds with Q&A qu 44 [of Appendix 4 of the Committee Report Executive 23/03]? There is concern about the rigor of this checking which has not been reported or assessed– if on the basis of the current commissioning of pieces of work this is not a robust approach. Tenders are usually priced by the job rather than the hour and where hourly rates are supplied they are indicative of the experience of the individual that the company puts on

that job. Different companies have different specialisms and therefore different skills and rates, therefore, LBB currently uses different companies for different pieces of work.

The Tri-Borough Framework went live on the 1st October 2013 following an extensive OJEU procurement process lasting eighteen months. It was estimated to have cost the Tri-Boroughs £1.1m. Expressions of interests were received from 143 organisations of which eleven submitted responses to the Pre-Qualification Questionnaire. From this, five shortlisted bidders were invited to participate in a two stage Competitive Dialogue process. Three of the Bidders were shortlisted and in May 2013 the Tri-Borough cabinets approved the award of the contract to Amey Community Limited for a ten year contract for the provision of hard and soft facilities management services across their estates.

This process tested value for money principles including the provision of investment in people and systems. The saving on the tendering costs, the ongoing revenue savings and the proposals on future income all show consideration of value for money factors.

C&W have been properly included by the Framework Owners (the Tri-Boroughs) and therefore are available to LBB to use in compliance with regulatory requirements. There are service synergies in having a formal relationship between the FM provider and the Estates Management provider.

- d. The Commissioning Team confirmed that there were “marginal savings” but that there were “financial incentives” for Amey to make greater savings (the 80/20 split). Amey are incentivised to make savings during their contract. Since Land and / or property decisions related to maintenance or disposal will have long term implications. Amey are not incentivised to give the Council impartial advice about the long term implications (financial or other) if that advice would undermine the potential for Amey to realise a profit by encouraging the Council to take short term savings.

We disagree, we will have a Client to oversee this and give advice.

- e. The question of quality is of great importance to members who have recently introduced a “mystery shopper” approach to some planning services. There will be no scope to manage such matters of quality through an output specification. Particularly if, as has been the case in recent contracts, the contractor has a responsibility to self-assess much of the contract.

This contract will be self-monitoring and the contractor will be contractually obliged to inform LBB of any issues. In addition, the contract will be overseen by the Client and the contractor will have to attend Member scrutiny meetings where they will be held to account, as is the case with other current contracts.

- f. In discussion about a specific post which is being outsourced from Environmental protection you advised that the “lions share” of the work in that post was predominantly with operational property. This

comment illustrates the problem with the commissioning of individual services, as the Council loses skills which operate / overlap across several services. Having been encouraged for years not to work in silos and to act as “One Bromley” the commissioning process is now pulling apart the linkages and the beneficial synergies and replacing them with contract imposed hurdles (ref problems around working with TLG). This, in addition to the cuts to services, meant that the Council is, like the game “Kerplunk”, removing the individual sticks which enable it to function effectively and efficiently. These risks destabilising the Council’s ability to operate or further increasing reliance on contractors who, at additional cost but without guaranteed quality, will cover the very gaps brought about by commissioning.

The Council has a proven record in outsourcing services efficiently and effectively for the last 25+ years. The detailed review of the Amey/C&W proposal demonstrates there will be increased effectiveness and efficiency in the new working arrangements.

Q2. Re Q&A - concerns that the responses are very limited and in some instances appear misleading:

- a) Heavy reliance throughout on the “due diligence” process to give any clarity regarding the shape of the service going forward.

The purpose of the due diligence process is to ensure that any remaining issues are addressed, that there is a mutual understanding between LBB and the contractor and it allows the contractor to understand LBB requirements and current processes in better detail. It is good practice, and the Council’s normal process, to carry out due diligence to ensure the handover arrangements are smooth.

- b) Assurances that “no staff are at risk of redundancy” (Q&A qus 10 & 11 [of Appendix 4 of the Committee Report]). However, when meeting with the unions the advice was that 51 staff had been identified as going forward through the contract and that due diligence may lead to “measures”, which might include reductions in staff.

In the event that Amey are awarded the contract they will need to consult with staff and trade unions on any measures that they envisage they need to undertake in relation to staff that are deemed to be in scope for a TUPE transfer. If it were proposed that they needed to restructure, for an economic, technical or organisational reason, then they would be required to provide details. This would be part of the due diligence process and the Council is not at that stage of the process at this time.

- c) Whilst accepting in the meetings with staff and unions that the “measures” that Amey might propose would become apparent through the due diligence.

As above.

- d) References to TUPE regulations to reassure staff in response to concerns about future employment, when, as was highlighted at the staff meetings, the protections afforded are limited beyond the date of

transfer. Also a lack of clarity in response to the question about admitted status pensions.

In the event that Members agree to the Amey/C&W proposal, this would be addressed during TUPE consultation.

- e) Reliance on the supposed “sign off by the Heads of Service” in response to many concerns relating to the quality of service and potential conflict of interests. This response despite the continued concerns expressed that the output specifications are not in fact specifications merely schedules of activities which will not be able to guarantee quality.

The Heads of each service have signed off their specifications as being correct and representative of the work perform currently. Ultimately, the only people that can sign off the specifications are the people that do the job.

- f) The matters raised throughout the consultation, verbally and in writing, should be fully set out and given proper consideration in the report to enable members to balance the risks of this outsourcing proposal for such marginal immediate savings, and the hope of longer term savings which, if realistic, would be more cost effectively achieved in house by appropriately resourced services.

Noted.