

MINUTES OF A MEETING OF THE CABINET PROCUREMENT AND INSOURCING COMMITTEE

MONDAY 13 FEBRUARY 2023

Chair	Councillor Robert Chapman in the Chair
Councillors Present:	Councillors Deputy Mayor Anntoinette Bramble, Cllr Christopher Kennedy and Cllr Caroline Woodley
Officers in Attendance:	Rotimi Ajilore (Head of Procurement) Merle Ferguson (Procurement Strategy and Systems Lead) Carol Gayle (Operations Manager) Leila Gillespie (Procurement Category Lead Commissioning Manager) Peter Gray (Governance Officer) Jade Mercieca (Procurement and Commercial Manager) Tessa Mitchell (Governance Team Leader), Ian Jones (Legislation, Strategy and Projects Officer) Patrick Rodger (Senior Lawyer) Timothy Lee (Public Health Commissioning Manager) Divine Ihekwoaba (Category Lead – Construction and Environment) Charlotte Smith (Senior Commissioning Officer) Joe Wilson (Head of SEND) Natalie Williams (Senior Governance Officer)

1 APOLOGIES FOR ABSENCE

1.1 There were no apologies for absence

2 URGENT BUSINESS

2.1 There was no urgent business.

3 DECLARATIONS OF INTEREST - MEMBERS TO DECLARE AS APPROPRIATE

3.1 There were no declarations of interest.

4 NOTICE OF INTENTION TO CONDUCT BUSINESS IN PRIVATE, ANY REPRESENTATION RECEIVED AND THE RESPONSE TO ANY SUCH REPRESENTATIONS

4.1 There was no notice of intention to conduct business in private or any representation received.

5 DEPUTUATIONS/PETITIONS/QUESTIONS

5.1 There were no deputations, petitions or questions.

6 UNRESTRICTED MINUTES OF THE PREVIOUS MEETING OF CABINET PROCUREMENT COMMITTEE

RESOLVED:

To agree the minutes of the previous meeting held on 13 February 2023 as a correct record.

7 FCR S143 PROCUREMENT OF CORE INSURANCE PROVISION

7.1 The Head of Insurance introduced the report, highlighting the following:

- The results from a tendering exercise in the autumn of 2022 over 6 lots, effectively covering the primary parts of the Insurance Programme and liabilities of 3rd parties to the council.
- The 6 lots were spread between property, liability, motor fleet, engineering and inspection, insurance risk, personal accident/ business and terrorism;
- The contract was to be awarded on a 3+2 basis with a period of 2 years being optional at the discretion of the Council;
- The procurement process had been challenging with the market changing its attitude to risk, in particular with reference to property risk;
- At the outset of the tender exercise there was some concern that the council may not be able to consolidate the competitive premium rates achieved at the time of the 2018 tender;
- The terms provided for all bids under Lot 1 - Property represented a clear hardening of the market and the overall result of the market exercise, compared to premium spend in 2022/23, was likely to lead to a significant premium increase;
- In relation to Lot 1 there was a request for delegated authority to the Group Director of Finance and Corporate Resources in consultation with the Chair to award the contract. A progress report would be submitted to the March meeting of the Committee on this matter; Lots 2-6 had received a good response from the market with 8 bidders with a potential small saving to the Council.

7.2 Councillor Kennedy asked for clarification on the following:

- Why the heritage insurance had been withdrawn;
- The premium increase in relation to Lot 1 was estimated to be up to 55% and was there a cause for concern. It was not clear how much extra that was likely to be over the lifetime of the contract.

7.3 The Head of Insurance responded that:

- The fine art premium was within the procurement regulations that allowed the Council to negotiate renewal terms each year. The premium was generally around 3-4K with a certain risk. Therefore, the decision had been taken to work through the contracting broker to negotiate the terms rather than undertake a full procurement process;
- In relation to Lot 1 it was necessary to consider the entire risk, not just the premiums and a further evaluation was required. There were a range of figures before the 55% premium increase level. It was considered that there was the capacity to meet these demands with an emphasis on the certainty of risk transferred to the winning supplier.

RESOLVED:

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1. To note the various options considered in the procurement of the Council Insurance contracts.
2. To agree the award of contracts for the following insurance services:

LOT No	Policy Coverage	Successful Provider
1	Property Deferred	See Item 3.4
2	Casualty (Liability) & Fidelity Guarantee	Supplier G
3	Motor Fleet	Supplier F
4	Engineering Inspection & Insurance	Supplier B
5	Personal Accident/ Business Travel	Supplier H
6	Terrorism	Supplier A

3. To approve officers to proceed with the contracts to ensure that insurance cover is in place for 1st April 2023.
4. To delegate authority to the Group Director, Finance and Corporate Resources to award the contract for the [lot 1 - Property] contract under terms as shall be agreed, in consultation with the Chair of Cabinet Procurement and Insourcing Committee, by the Director of Legal, Democratic and Electoral Services, and authorise the Director of Legal, Democratic and Electoral Services to prepare, agree, settle and sign the necessary legal documentation to effect the proposals contained in this report.

Reason(s) For Decision / Options Appraisal

The Council will always be exposed to a range of risks, some of which are insurable and others are uninsurable. The purchase of an effective insurance portfolio manages the potential exposure of the Council to the insurable risks.

The portfolio includes a significant degree of self-insurance, thereby avoiding what can best be described as “pound swapping” i.e. the additional premiums paid for low or no excess on insurance policies effectively cost £1 for £1 on meeting claims payments plus associated costs, and ensuring that the Council benefits from the reduction in claims.

This report covers the insurance policies and arrangements which are due for renewal on 1st April 2023 and excludes the residential leasehold buildings insurance contracts, which are still within contract and which have historically been served by a separate procurement exercise.

As mentioned in the Cabinet Member’s introduction, there was some concern that insurance premiums the Council could have faced prior to the procurement exercise would have resulted in increased costs to the Council. There was further concern that in the marketplace some insurers maintained caution about the risk profile of the public sector. Consequently the Council’s Insurance Services Team has worked hard to mitigate claim exposures and to demonstrate to leading Insurers that the Council has implemented effective control measures and is willing to work hard in partnership with them to transfer or mitigate the risks it is exposed to.

Recommendations to award the contracts to the list of suppliers set out in the main section of this report for Lots 2-6 are the most economically advantageous. This reflects high quality scores for those selected. The price/quality evaluation varied between the types of insurance and a full breakdown of what this covered is included within Appendix B - Costs & Service Comparison Summary (Exempt)

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In total the estimated savings in respect of Lots 2 - 6 for the 2023/24 premium over the current contracts are expected to be c.£90k, with the largest saving arising from the Casualty cover. If these premium levels were held throughout the 3 year contract, total savings would amount to c.£270k or c.£450k if the contracts remained in place for the full 3 + 2 year extension. Please note that the premiums quoted within the report are subject to normal increases in line with index linking, higher rates of Insurance Premium Tax, increased rebuilding costs, changes to assets and our claims performance.

As in previous years the cost of claims falling within the policy excess and for which the Council is responsible are met from the internal insurance fund and provision. These funds are reviewed annually (externally biennially) and the appropriate adjustments made within the normal finance activities.

Recommendation(s) relating to the award of Lot 1 - Property is deferred pending further detailed assessment of the proposed terms in the context of certainty of cover, coverage, conditions applied and compliance with the Council's risk appetite.

Evaluation and assessment of Lot 1 - Property continues with the support of Marsh and appropriate stakeholders within the Council. In order to facilitate the detailed impact analysis and financial implications beyond the accepted risk appetite and to ensure there is sufficient time to mobilise the contract in time for the expiry of the existing contract on 31 March 2023.

Alternative Options (Considered and Rejected)

Insourcing: Due to the nature of insurance as a risk transfer mechanism and the significant financial and resource risks associated with the activities of the Council it is not feasible to insure these contracts. In any event that Council retains an appropriate level of risk through the application of policy deductibles and self-insured retained limits.

Alternative Deductibles: Within the procurement exercise and specifically in relation to Lot 2 - Casualty & Fidelity Guarantee prospective suppliers were asked to provide quotations on a range of different deductibles. However, the terms offered in relation to higher risk retention by the Council, and the associated cost of risk, was not considered to provide sufficient benefit to outweigh the uncertainty of small cost savings.

8 AHI S171 ADVOCACY SERVICES CONTRACT AWARD

8.1 The Strategic Commissioner introduced the report, highlighting the following:

- The report asked the Committee to approve the award of contract for the Advocacy Service and to extend the current contract to enable the mobilisation period for the award;
- The Advocacy Service assisted underserved groups to give them a voice;
- The new contract would be 3 +1+1 years at a maximum cost for £2,645m
- The contract award followed a comprehensive review of advocacy;
- A business case for the service was taken to the Hackney Procurement Board in September 2022;
- An improved specification had been developed following lessons learned from the commissioning review;
- There had been co-production throughout the various processes;
- There would need to be a review of the sustainability of the service;
- There had been an 80/20 split on quantity and price;
- Funding for the non-statutory elements would be tapered down over the life of the contract;
- All non-statutory aspects would be allocated to local, small and medium sized enterprises;

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- 4 good bids had been received by the Council with the successful bidder committed to paying the London Living Wage, ensuring the most vulnerable voices were heard, developing capacity, including expanding the existing network, paying for training and supporting through advocacy leadership. Further, new forms of advocacy would be developed to empower Hackney citizens. The bid was in line with sustainable procurement and social value requirements. The provider showed a good understanding of inequalities locally;
- Monitoring of the service would be carried out quarterly.

8.2 Councillor Woodley asked for clarification on the Group Director's comments in relation to the anticipated expenditure each year and the possibility of increased cost pressures.

8.3 The Strategic Commissioner responded that the Budget had reduced from £535K to £529K. In order to meet the large demand in statutory advocacy efforts were being made to reduce the non-statutory elements of the service. There would be a need for dialogue with the provider as the Liberty Protection Safeguards come in. If demand increases for the service it may be necessary to negotiate with the provider on the contract.

RESOLVED:

1. To award the contract for the delivery of the Advocacy Service to Provider C for a period of up to 5 years commencing in June 2023 at a maximum cost of £2,645m (an average of £529k per annum). The contract is for 3 years with the option to extend for up to 2 years (1+1);
2. To award an extension to the current providers of the Advocacy Service, for a period of 2 months (April - May 23) at maximum value of £104,707.00 (£97k & £7.7k) . This is to enable the newly appointed bidder to mobilise effectively, without disruption to service delivery.

Reason(s) For Decision / Options Appraisal

This report asks CPIC to approve the award of contract for an Advocacy service under a lead provider aimed at supporting vulnerable cohorts who are in need of advocacy services to support their well-being, enable them to have their voices heard and to live their lives in dignity and in accordance with their wishes

This provision will enable the Council to meet its statutory obligations with regard to providing independent advocacy services as required under the relevant Acts referred to in section 2.2.

The contract will deliver advocacy support to meet local need through a range of community providers under the leadership and direction of a lead provider.

The current Advocacy services in the London Borough of Hackney are designed to provide issue-based advocacy and can be categorised as statutory and non-statutory advocacy services.

Alternative Options (Considered and Rejected)

The following 5 options were appraised for the future of the Advocacy provision in the borough:

- Alternative Option 1: Insource
- Alternative Option 2: Remain As Is
- Alternative Option 3: Activity Based Contract
- Alternative Option 4: Separate Contracts/Multiple Providers
- Alternative Option 5a: No Non Statutory Advocacy Delivery:
- Alternative Option 5b: Reduced Non Statutory Delivery
- Alternative Option 5c Seek Separate Funding

Hackney Procurement Board approved the business case for the preferred procurement option in September 2022

9 **FCR S117 MODERN TOOLS FOR HOUSING PROGRAMME TRANSITION SUPPORT**

9.1 The Strategic Director, Customers and Workplace introduced the report, highlighting the following:

- A supplementary paper on this matter had been circulated to members of the Committee;
- The contract variation was to replace the previous outdated software with a transition to in-house support and to enable further delivery for products that had been developed in the context of the strategic review;

9.2 Councillor Kennedy referred to the fact that the funding for the extension was in the housing capital budget and asked for clarification in relation to the length of the previous contract.

9.3 Councillor Woodley asked for confirmation that the work was now aligned with the strategic review and that there would be no other requests for extensions to the contract.

9.4 The Strategic Director, Customers and Workplace confirmed that work had been carried out with the Housing Department on this matter with provision made within the Capital Housing budget for the contract extension. Further, there was provision in the current contract for an extension to that contract with a report to the Committee because of the transfer to the in-house team. He confirmed that there would be no further extensions to the contract.

RESOLVED:

To approve a contract variation, to extend by a maximum period of six (6) months, the current contract for Modern Tools for Housing software development services.

REASONS FOR DECISION & OPTIONS APPRAISAL

The proposed contract variation is essential to enable continued delivery of essential software tools for housing services and ensuring an effective transition to in-house delivery and support.

The cyber-attack of October 2020 has impacted significantly on the Modern Tools for Housing programme because that meant that the previous housing system (Universal Housing) became unavailable and it was therefore no longer possible to deliver a phased migration from the old system to new software. As a result, teams in housing services have been required to use interim solutions to deliver services while new software is delivered.

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Following the decision to commission a strategic review of the housing service's technology needs it was necessary to identify the best value approach for continued delivery of current work in progress while the review takes place and ongoing direction is agreed. Variation of the current contract is recommended on the grounds that:

- The work required covers critical functionality required by the housing service;
- The variation includes transition to the in-house ICT team for support and further development of essential functionality pending the completion of the strategic review. No further variation of this contract will be required;
- Variation of the current contract removes the requirement for transition / handover, so the pace of delivery is uninterrupted while the strategic review is in progress.

Variation of this contract is permitted under Regulation 72 which states:

72(1)(b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor—

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and

(ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority,

provided that any increase in price does not exceed 50% of the value of the original contract

The proposed variation is 50% of the original contract value. Changing contractor is not considered viable for the reasons set out in 5.3 (above). Specifically, a change of contractor would:

- Delay the delivery of essential functionality required by Housing services, whose legacy system was rendered unavailable by the criminal cyberattack of October 2020;
- Incur additional costs and significant inconvenience through requiring transition to a new contractor and delaying the transition to the in-house support and development model;
- Incur duplication of costs through otherwise unnecessary handover prior to the transition to in-house support and development;
- No further variation will be required once the transition to the in-house model is complete.

The Director of Climate Homes and Economy Finance has confirmed that this additional expenditure can be funded from within their existing budgets and no other additional funding will be required.

ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)

In October 2022, when the original contract was approaching its end, the option of conducting a new procurement exercise was considered. This was rejected on the grounds that:

- The strategic review was in progress, so it was not possible to define a clear specification and requirements for a new procurement at that time.
- Transition to a new provider would have required on boarding and handover that would have delayed delivery of urgently needed requirements.

The option of making a transition to an exclusively in-house model was also considered. This was agreed as the longer term direction pending completion of the strategic review. There were, however, urgent requirements that need to be delivered which exceed the current in-

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house capacity and transition and handover is also required to ensure a sustainable change in approach.

The ICT team has worked with colleagues in Corporate Procurement and Legal Services to assess the options. As the strategic review was ongoing at that point, and the outcome of that review was expected within a short timescale, it was considered to be prudent to continue with the existing TPXImpact contract under a variation - as set out in this report.

10 ANY OTHER UNRESTRICTED BUSINESS THE CHAIR CONSIDERS TO BE URGENT

10.1 There was no other unrestricted business that the chair considered urgent.

11 DATE OF FUTURE MEETINGS

11.1 The next meeting of the Committee will be on 13 March 2023.

12 EXCLUSION OF THE PUBLIC AND PRESS

THAT the press and public be excluded from the proceedings of the Cabinet Procurement Committee during consideration of Exempt items 14-18 on the agenda on the grounds that it is likely, in the view of the nature of the business to be transacted, that were members of the public to be present, there would be disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Local Government Act 1972 as amended.

13 FCR S143 PROCUREMENT OF CORE INSURANCE PROVISION

14 AHI S171 ADVOCACY SERVICES CONTRACT AWARD

15 ANY OTHER EXEMPT BUSINESS THE CHAIR CONSIDERS TO BE URGENT

Duration of the meeting: 5-6pm

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