

| | | | |
|------------------------------------|--------------------------------|---|---|
| Item No. | Classification: Open | Date: 29 September 2020 | Meeting Name: Strategic Director of Finance and Governance |
| Report title: | | Gateway 3 Property and related insurances | |
| Ward(s) or groups affected: | | All | |
| From: | | Corporate Risk and Insurance Manager | |

RECOMMENDATIONS

1. That the Strategic Director of Finance and Governance approves the extension of the property and related insurances contract with Zurich Insurance plc, trading as Zurich Municipal (ZM), for a period of up to five years with effect from 1 October 2020 with an estimated annual value of £1,500,000 up to a total estimated maximum extension value of £7,500,000.
2. That the Strategic Director of Finance and Governance considers and approves as appropriate any changes to the insurance coverage that may be offered.
3. That the Strategic Director of Finance and Governance also notes that the contract will be extended by way of deed of variation to the original contract.

BACKGROUND INFORMATION

4. The council's main insurances are currently placed with different contractors as follows:
 1. Property Insurances (Housing, Education, General, Commercial, Motor and Crime) – ZM
 2. Liability Insurances – QBE via intermediaries Risk Management Partners (RMP) and Arthur J Gallagher (AJG)
 3. Liability claims handling with Gallagher Bassett also via RMP and AJG
5. This report relates only to item 4.1 above, property insurances, which include property for schools, general council buildings (e.g. offices), council housing and commercial properties. It also includes other asset insurances: money; works of art and valuable items; crime; and motor insurance.
6. Although there is no legal requirement to insure property the council does in fact insure against a comprehensive range of insurance risks to protect public assets against potential catastrophic losses. The only exceptions are fidelity guarantee insurance (which is an element of crime insurance) and motor third party insurance that the council is required to purchase.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

7. Discussions with ZM indicate that they are happy to offer a five year extension, with a break after year 3, and more formal discussions on terms will take place during the renewal process between August and October 2020. The extension has been

offered on the same rates as the current contract but with a 10% reduction to the premium applied each year.

8. The current contract commenced on 1 October 2015 for two years with the option to extend for one further period of 12 months. The value of the original contract for the period 1 October 2015 to 30 September 2017 was £2,554,766. The value of the one year extension from 1 October 2017 was £1,500,000.
9. The contract was then extended by a further two years at a total value of £3,000,000 for reasons set out in the associated gateway report signed off in June 2018.
10. This report is seeking approval for an additional five year extension, with a break after year 3, at an estimated total contract value of £1,500,000 per annum.
11. There are no new insurance coverage requirements being sought. However, any improvements in policy wording and level of cover will form part of the discussions.

Reasons for Variation

12. The main and most pressing reason for seeking an extension, although other factors are at play, is due to the restrictions in place on new OJEU tenders related to the COVID-19 pandemic. Plans were being made to commence a tender at the beginning of the year but then guidance was circulated by the Director of Law and Democracy advising that no new tenders were to be commenced before end June 2020 due to the Covid 19 situation unless it was absolutely necessary to conduct a procurement exercise. This guidance was relaxed in July 2020 so that projects are considered on a case-by-case basis.
13. There are strong indications that the insurance market is now entering a challenging period known as a 'hard' phase. A number of insurers are reviewing their accounts and large rate increases are being seen across the market, along with restrictions in cover and the policy limits being offered. As the council's insurer was happy to offer cover on the same basis and rates including a percentage discount to the premium, a slightly longer extension (a new long term agreement) was sought to secure best value for the council.
14. Another factor for seeking a longer extension relates to the major fire tragedy affecting a social housing block, Grenfell Tower, which may yet impact on how insurers quote for local authorities with social housing stock in any future tenders. Until further detail is known following the public inquiry (for which the timescales for the outcome have been delayed, including most recently by the pandemic), it is still hard to predict how the insurance industry will respond.
15. As referenced in the last gateway report in June 2018, the mutual insurance vehicle, the Local Government Mutual, made up of local authorities and the Local Government Association was incorporated in late 2018 but only opened for business in April 2019. As it is still a relatively new venture with mainly smaller authorities that have joined, the council is still considering how it is operating and performing for its current members.

Future Proposals for this Service

16. The council is currently considering options for a procurement exercise in the near future. The Department for Education has recently extended the Risk Protection

Arrangement (RPA), an alternative to commercial insurance, and now allow local authority maintained schools to join where previously it was just for academies. If Southwark schools did decide to join this scheme rather than still purchase their insurance via the council, this would impact on the insurance programme and tendering design.

Options Considered

17. A number of procurement options were considered:

| No | Option | Advantages | Disadvantages |
|----|---|--|---|
| 1 | Let the contract lapse and not extend | There would be a cost saving as no premium spend would be incurred | No insurance protection for council assets Not an option as the council policy is to place insurance with an external provider |
| 2 | Undertake competitive tender | Would allow the market to be tested | As per the reasons outlined in paragraphs 12-16 it is not the right time to tender |
| 3 | Utilise an insurance framework | Would allow market to be tested with no need for an OJEU procurement | Council guidance during the pandemic did not allow for any new tender/quote process which would have included a framework and at this point there is insufficient time to use a framework to put arrangements in place for October 2020. Use of a framework would also incur a commission charge of a percentage of premium spend and there is no guarantee the council would receive any bids |
| 4 | Undertake a competitive tender for an alternative insurance financing solution (e.g. catastrophic insurance cover only) | Potential for some premium saving | As per the reasons outlined in paragraphs 12-16 it would not be the right time to do soft market testing to explore this option further In addition, there is not enough time to set up all the systems and processes and funding arrangements required to move to catastrophic only cover. There would be a significant increase in the self-insured risk exposure at probably the wrong time with cuts to local government budgets and significant financial pressures due to the pandemic. |
| 5 | Extend the current | Would ensure | There is a potential risk of |

| | | | |
|--|----------|---|---|
| | contract | insurance cover is in place and unlikely that costs will increase significantly Current provider has already confirmed they would be happy to offer an extension | challenge as noted in paragraph 18.2 below. |
|--|----------|---|---|

Identified risks for the Variation

18. Identified risks are as follows:

| No | Risk | Risk Level with mitigation | Mitigating Action |
|----|--|----------------------------|--|
| 1 | A significant insured loss occurs before contract is finalised resulting in RMP QBE not willing to negotiate or increasing the premium | Medium | 1. Seeking approval as soon as possible 2. Confirming that ZM will hold their rates and complete the renewal process as soon as possible |
| 2 | Risk of procurement challenge due to contract not being fully tendered | Low | There is a potential risk of challenge. However, given the difficulties with undertaking a competitive tender process (as highlighted in paragraphs 12-16), and the ability of the council to agree a modification of this contract, then this is considered a low risk. |
| 3 | Insurance market being adversely by the Covid-19 pandemic | Medium | By extending the current contract as set out in this report, the council should have some surety over premium costs and rates for the next five years. |
| 4 | Risk of Brexit affecting the insurance market | Low | Securing an extension to the current contract which ends after the end of the UK transition period will mitigate any potential immediate negative effects of Brexit |

Policy implications

19. There are no direct policy implications.

Contract management and monitoring

20. As there are no issues with the day to day performance of the contract, the current contract management and monitoring arrangements will remain in place. The contracts are currently managed by the corporate risk and insurance team. Performance is monitored using a variety of techniques including quarterly review meetings, a defined service level agreement and key performance indicators. Annual performance reports are produced and considered by the department's contract review board.
21. ZM's performance of each contract element has broadly remained unchanged over the past year. Examples of good contractor performance include:
- a. excellent support and involvement in the quarterly performance review meetings
 - b. willingness of contractor to engage with other relevant council functions to improve the insurance claims handling process, such as the council's fleet services team
 - c. involvement of contractor in certain pro-active initiatives such as schools' fire protection and other property protection advice
 - d. willingness of contractor to settle claims and provide free insurance training

Community Impact Statement

22. The decision has been judged to have no or a very small impact on local people and communities.

Social Value considerations

23. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Economic considerations

24. There are no local economic benefits as the contractor is an international organisation with no local offices.

Social considerations

25. As this insurance provider is an international organisation, social considerations from a local workplace perspective do not arise. Staff employed by this provider already receive in excess of the London Living Wage.

Environmental/Sustainability considerations

26. The service seeks to limit unnecessary travel and meetings, and as far as possible utilise online systems to minimise paper waste.

Financial Implications

27. The financial implications are as detailed in the main body of the report. The proposed extension up to a maximum of five years at an estimated maximum contract value of £7,500,000 represents 106% of the original contract value.

28. The costs associated with the extension of this contract will be met from cost centre group CD190 (Insurance Funds).
29. Any extension or variation of the contract beyond the scope of this report will require confirmation of funding and formal approval in line with corporate procurement protocols.

Legal Implications

30. Please refer to the comments of the director of law and democracy.

Consultation

31. No additional consultation has been undertaken.

Other implications or issues

32. There are no other implications or issues.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (F&G20/012)

33. The report recommends that the corporate property and related insurances contract with Zurich Insurance plc, trading as Zurich Municipal (ZM) be extended by way of deed of variation to the original contract.
34. The strategic director of finance and governance notes the current volatility of the insurance market as described in paragraphs 12 to 16 and that the extension will enable the council to ensure best value for future insurance tenders.
35. The strategic director of finance and governance notes the financial implications within the body of the report.

Head of Procurement

36. This report seeks the approval of the Strategic Director of Finance and Governance to an extension of the property and related insurances contract with Zurich Insurance plc, trading as Zurich Municipal (ZM), for a period of up to five years. This takes effect from 1 October 2020 and has an estimated annual value of £1,500,000, making a total estimated maximum extension value of £7,500,000.
37. The report also seeks that the Strategic Director of Finance and Governance considers and approves as appropriate any changes to the insurance coverage that may be offered and notes that the contract will be extended by way of deed of variation to the original contract.
38. The report also seeks that the Strategic Director of Finance and Governance considers and approves as appropriate any changes to the insurance coverage that may be offered and notes that the contract will be extended by way of deed of variation to the original contract.
39. The report also seeks that the Strategic Director of Finance and Governance considers and approves as appropriate any changes to the insurance coverage

that may be offered and notes that the contract will be extended by way of deed of variation to the original contract.

40. The financial implications for the report are set out in paragraphs 27-29.

Director of Law and Democracy

41. This report seeks the approval of the strategic director of finance and governance to a variation of the existing property and related insurance contract with Zurich Insurance Plc (trading as Zurich Municipal). Paragraphs 7 to 14 of this report sets out the extent of the required variation and the reasons why the variation is necessary.

42. The original appointment in 1 October 2015 was subject to, and awarded in accordance with the EU procurement regulations, and it is therefore necessary to ensure that any variation of that contract is permitted within those regulations. Regulation 72 of the Public Contract Regulations 2015 permits modifications to be made to contracts during their term, in certain circumstances. This includes at regulation 72(1)(e), where the modification, irrespective of their value, is not substantial within the meaning of regulation 72(8). The proposed modification of the property and related insurance contract is not considered substantial with the meaning of regulation 72(8), because the modification would not:-

- render the contract materially different in character from the one initially concluded;
- extend the scope of the contract considerably;
- have allowed other potential suppliers to participate or be selected or another tender to be accepted.

43. The strategic director of finance and governance is advised that when relying on any grounds for exemption from the requirements of the Public Contract Regulation 2015, there is a potential risk of challenge on the basis that the council does not have sufficient grounds to justify negotiation in this circumstance. However, given that the modification is not substantial coupled with the Covid 19 pandemic and the market situation described in paragraphs 12 to 14 of this report, it is considered that the risk of challenge is low.

44. The council's Contracts Standing Order 2.3 requires that no steps are taken to vary a contract unless the expenditure involved has been included in approved revenue or capital estimates, or is otherwise approved by the council. Paragraph 28 of this report confirms how the proposed additional expenditure will be resourced.

45. The resultant deed of variation will be in a form approved by the director of law and democracy.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.



29/09/20

Signature
Strategic Director of Finance and Governance

Date.....

Designation

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

| |
|--|
| 1. DECISION(S) |
| As set out in the recommendations of the report. |

| |
|--------------------------------|
| 2. REASONS FOR DECISION |
| As set out in the report. |

| |
|---|
| 3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION |
| As set out in the report. |

| |
|--|
| 4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION |
| None |

| |
|--|
| 5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST |
| <i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i> |
| N/A |

| |
|--|
| 6. DECLARATION ON CONFLICTS OF INTERESTS |
| I declare that I was informed of no conflicts of interests.* |
| or |
| I declare that I was informed of the conflicts of interests set out in Part B4.* |
| (* - Please delete as appropriate) |

BACKGROUND PAPERS

| Background Papers | Held At | Contact |
|---|--|------------------------------|
| Gateway 3 Variation Decision: Property and related insurances | Corporate Risk and Insurance, Finance and Governance | Laura Sandy 020 7525 7398 |

APPENDICES

| No | Title |
|-----|-------|
| N/A | None |

AUDIT TRAIL

| | | |
|---|---|--------------------------|
| Lead Officer | Laura Sandy, Corporate Risk and Insurance Manager | |
| Report Author | Laura Sandy, Corporate Risk and Insurance Manager | |
| Version | V6 | |
| Dated | 29 September 2020 | |
| Key Decision? | Yes | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Strategic Director of Finance and Governance | Yes | Yes |
| Head of Procurement | Yes | Yes |
| Director of Law and Democracy | Yes | Yes |
| Director of Exchequer (for housing contracts only) | No | No |
| Cabinet Member | No | No |
| Contract Review Boards | | |
| Departmental Contract Review Board | Yes | Yes |
| Corporate Contract Review Board | No | No |
| Cabinet Member | No | No |
| Date final report sent to Constitutional Team | | 29 September 2020 |