

<b>Item No.</b> 14.	<b>Classification:</b> Open	<b>Date:</b> 25 January 2011	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 2 – Contract Award Approval Home Care Services in Southwark	
<b>Ward(s) or groups affected:</b>		Vulnerable people receiving a home care package following a Community Care assessment in Southwark	
<b>Cabinet Member:</b>		Councillor Dora Dixon-Fyle, Health and Adult Social Care	

## **FOREWORD - COUNCILLOR DORA DIXON-FYLE, CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE**

1. The Home Care contract re-tendering process, originally started in April 2008, recognises the importance that service users, many of whom are vulnerable, place on this valuable service. The report also recognises the current economic climate following the Government's emergency budget in June 2010, the subsequent Comprehensive Spending Review announced in October 2010, and the change that the personalisation agenda will have.
2. Bringing together a number of smaller contracts (18) into larger ones (3) will make for better value for money, develop stronger and closer working relations with providers and ensure robust monitoring and reviewing of services provided thus leading to a greater focus on meeting the needs of our clients.
3. A dedicated team within Health and Social Care will be established to provide reassurance, a reliable and consistent point of contact to service users and their families to ensure a smooth handover of contracts. In addition a specialist monitoring team within the department will be developed to ensure effective monitoring of overall quality, the safeguarding of vulnerable users and the councils equality agenda.

## **RECOMMENDATION**

### **Recommendations for the Cabinet**

4. That Cabinet approve the award of Home Care Service contracts to the following suppliers for a period of 3 years from 6 April 2011 with an estimated cost between £10,813,500 and £30,680,688. (Contract costs are based on calculations explained in paragraphs 8 - 12 of this report).

<b>Contract</b>	<b>Supplier Name</b>
Universal Contract 1	London Care
Universal Contract 2	Enara Community Care
Specialist Contract 5 – Continuing Drinkers and Acquired Brain Injury	Enara Community Care

5. That Cabinet agrees there will be no contract award for the third universal contract as based on current trends, the Council does not consider there will be sufficient demand for council-arranged care to meet the guaranteed minimum hours for three contracts.

6. That Cabinet agrees that there will be no contract award for the Older Adult Support in Southwark (OASIS) service and the Intermediate Care and Neurological-rehabilitation (Neuro-rehab) service as the bids for these services are not affordable. (Alternative service options have been discussed in this report).

### **Recommendation for the Leader of the Council**

7. That the Leader of the council delegates authority to the cabinet member for Health and Adult Social Care to approve up to 2 single year (1 + 1) extension options that can be operated at the end of the initial term of the contract subject to satisfaction with each supplier's performance and demand for services.

### **CONTRACT COST CALCULATIONS**

8. Universal services have minimum guaranteed hours for years 1, 2 and 3, of 200,000, 150,000 and 100,000 hours respectively. The hours for years 4 and 5 have been calculated at a minimum of 100,000 hours as any extension would be granted on the terms applicable in year 3.
9. The total minimum contract value over 5 years is based on one year at 200,000 hours, one year at 150,000 hours, and three years at 100,000 hours.
10. The maximum contract value has been calculated on estimated hours per annum of 846,363 (which is consistent with scenario planning figures from the Personalisation projects). This has been used across all 5 years of the contract.
11. For the universal services the annual sum is the composite average over the first 3 years based on the minimum and maximum calculations set out above.
12. The cost of the contracts for the first three years ranges from £10.8M to £30.7M. If the extensions are agreed, this will be at an estimated cost of £2.5M to £10.55M per one year extension.

### **BACKGROUND INFORMATION**

13. This is a re-tendering of Home Care cost and volume contracts in Southwark and seeks award of contracts for two Universal Contracts and one Specialist Contract for Continuing Drinkers and Acquired Brain Injury for an initial three-year period.
14. These contracts have a specific extension duration period of two single years (1 + 1) built into the contract (a maximum total extension of two years). Contract extensions will be reviewed annually and be subject to performance and demand for the services.
15. The Gateway 1 report was agreed in April 2008. The following changes have occurred since this report was agreed:
  - a. The Decision Maker has been adjusted to the full Cabinet in recognition of the importance of home care provision to vulnerable service users.
  - b. To ensure affordability of the contracts, the tender approach was revised following completion of the ITT stage in 2010. The following changes were made:
    - i. The quality threshold was adjusted from 60% to 54%.

- ii. Bidders who met the revised quality threshold were invited to review their bid (Council was seeking better prices).
    - iii. The quality to price ratio in the final evaluation was adjusted from 50/50 to 70/30 in favour of price.
  - c. That only two universal contracts will be recommended for award rather than three in recognition of the impact of personalisation on council arranged care.
16. In the wider context, significant changes in the budget were signalled in the June 2010 emergency budget announcements and confirmed in the October 2010 Comprehensive Spending Review. These changes equate to a reduction of approximately 28% in funding for the Council and these contracts will contribute to delivering the required savings.
  17. Contract prices are not index linked, however, tenderers were requested to provide a price for each of the three years of the contract from which a composite pricing has been obtained. Pricing bids from tenderers increase over the three years, reflecting tenderers modelling of business over this time. The remaining two years of the contracts (the extension periods) have been calculated based on the rates and terms applicable at Year 3.
  18. Contracts will all be borough wide. There will be two universal contracts (awarded to separate providers) and one specialist contract. The universal contracts are for Home Care services that provide practical help and support with essential daily tasks to people at home, which they are unable to manage safely for themselves. The specialist contract is for a Home Care service that will provide enhanced help and support.
  19. The universal contracts have guaranteed minimum hours per contract of 200,000 hours in Year 1, 150,000 hours in Year 2 and 100,000 hours in Year 3. This is consistent with expected changes to demand resulting from personalisation and a greater focus on reablement. There are no hour guarantees in the specialist contract but the provider is expected to support a minimum of 40 people.
  20. There is a risk that if a number of service users elect to take up a Personal Budget, the amount of ordering through these contracts may be even less than anticipated. For this reason, only two contracts will be let and usage will be closely monitored and an ordering protocol followed to ensure minimum guaranteed hours are met.
  21. The procurement process initially commenced in April 2008 but experienced some difficulties. The process was suspended and a review carried out. The results confirmed that part of the process was not in line with best practice and increased the risk of challenge to the Council. It was decided that the tender stage of the process be conducted again.
  22. After revising the methodology and documentation surrounding the process the tender process recommenced in November 2009. At the conclusion of this process contracts were found to be unaffordable and following legal advice a further step was introduced which enabled the Council to request a better price from tenderers.
  23. All the existing cost and volume contracts expire on 5 April 2011 and have been re-tendered in accordance with good practice and the requirements of Contract Standing Orders.
  24. In order to comply with good practice for consultation on Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and to facilitate a smooth transition to the new contracts, it has been agreed that further extensions to current contracts, up to a maximum of 4 months will be given to allow a phased service transfer.

## Timetable of procurement process followed – Procurement project plan (Key Decision)

Table 1 – Procurement Plan

<b>Activity</b>	<b>Completed by:</b>
Approval of Gateway 1: Procurement Strategy Report	<b>08/04/2008</b>
Pre Qualification Questionnaire (PQQ) issued to 29 bidders	<b>25/04/2008</b>
PQQ stage complete – 18 bidders selected	<b>01/06/2008</b>
First Invitation to tender (ITT) and Evaluation process complete	<b>02/12/2008</b>
Assessment of tender process – concluded re-run tender is necessary	<b>13/02/2009</b>
New ITT documentation and evaluation methodology produced	<b>25/11/2009</b>
Invitation to tenders	<b>04/12/2009</b>
Closing date for return of tenders	<b>22/01/2010</b>
Completion of verification process (interviews, reference checks etc)	<b>25/03/2010</b>
Completion of evaluation of tenders	<b>07/06/2010</b>
Tender approach revised due to affordability, all bidders advised	<b>20/08/2010</b>
Closing date for representations on revised approach	<b>03/09/2010</b>
Qualifying bidders invited to re-submit, non-qualifying bidders stood down	<b>10/09/2010</b>
Closing date for return of new bids	<b>13/10/2010</b>
Tenders re-scored and re-evaluated	<b>20/10/2010</b>
DCRB/CCRB/ Review Gateway 2: Contract award report	<b>23/12/2010</b>
Approval of Gateway 2: Contract Award Report	<b>25/01/2011</b>
Scrutiny Call-in period and notification of implementation	<b>04/02/2011</b>
Stand still period	<b>18/02/2011</b>
Contract award	<b>18/02/2011</b>
End of TUPE consultation period	<b>13/05/2011</b>
Contracts start	<b>16/05/2011</b>
Publication of OJEU Contracts Award Notice	<b>Within 48 days of contract award</b>

## **Description of procurement outcomes**

25. Through this procurement the Council will achieve several outcomes to address unmet need in current service provision. These are:
  - a. To link costs more robustly with quality.
  - b. To obtain better value for money for the Council by seeking lower unit costs for basic domestic support to vulnerable people, such as shopping and laundry, than that paid for more complex personal care and administration of medication.
  - c. To introduce a flatter pricing structure based on standard hourly rates, hours supplied, antisocial hours enhancements, etc.
  - d. To increase levels of expertise and integrated working to meet needs of service users requiring specialist care (people with acquired brain injury and continuing drinkers).
  - e. To provide borough wide services enabling effective matching of service users and suitable care staff.
  - f. To reduce the number of care providers contracting with the council to help guarantee better price and quality.
  - g. To ensure contracted providers use modern monitoring technology, by which the actual time that care workers spend at service user's homes will be electronically recorded.
  - h. To reduce the number of guaranteed hours enabling Home Care provision to respond to policy developments and reshape services in line with the Personalisation Agenda.
  - i. To manage contracts in partnership with providers and maintain service quality and a focus on meeting service user's outcomes.

## **KEY ISSUES FOR CONSIDERATION**

26. The Council will need to work in partnership with contract providers to ensure the most efficient use is made of these contracts and ordering will be closely managed.
27. The reduction to two universal and one specialist contracts (from the current eighteen) and the updating of contracts to reflect a greater focus on outcomes will require a different approach to management. Key elements of this include:
  - a. Developing a bespoke monitoring framework to maximise quality, address performance issues and enable continuous improvement.
  - b. Developing strong working relationships with individual providers which follow a partnership approach to contract management.
  - c. Developing an ordering protocol to ensure that minimums are met, and that hours above the guaranteed minimums are arranged in the most cost effective way, taking into account service user choice and availability.
  - d. Providing regular reports and carrying out reviews of contract performance through the contracts governance arrangements and the Senior Management Team.

## **Policy implications**

28. The demand for Home Care provision is expected to reduce over the life cycle of these contracts as Personalisation takes effect. It is expected that people who receive support, whether provided by statutory services or funded privately, will explore a variety of options to meet their needs. Service users will still be able to obtain home care services through these contracts if they choose to do so. However, the annual reduction in minimum guaranteed hours provides flexibility and enables the Council to promote service user choice and control while reducing financial risk to the Council.

## **Tender overview**

29. Home Care is a 'Part B' service so the Council was not required to follow the full European Union Regulations in respect of publishing a notice in the Official Journal of the European Union (OJEU). However, in line with best practice, the principles of openness, transparency and non-discrimination were adhered to.
30. A Project Board has been set up to oversee the tender and changeover to new contracts.
31. The quality of tender submissions was measured against the following criteria:
  - a. Resources and ability to deliver the contract specification.
  - b. Quality control and ability to provide consistent high standard of service delivery.
  - c. Partnering and collaborative working and ability to deliver Council objectives.
  - d. Service user satisfaction and ability to achieve and maintain service user satisfaction.
32. The pricing evaluation was based on a model that was developed to test the whole-life cost of the contract based on previous spending patterns and modelling of future demand. A schedule of rates was provided by bidders, for each of the three years of the contract. This enabled an average hourly rate to be calculated based on this model and scored in accordance with the pricing methodology.
33. The evaluation process allowed for an assessment of quality and pricing based on a weighted model.
34. The Contract Award criteria stipulated that bidders with the highest combined score based on cost and quality would be accepted to be the 'most economically advantageous tender' (MEAT) and recommended for award.
35. A full description of the process and results are outlined in a background document so the following sections provide a summarised version of the tender process and evaluation.

## **Tender process**

36. A restricted tender process was followed and 41 providers known to Southwark Council were invited to complete Pre-Qualification Questionnaires (PQQs). Following the PQQ stage 18 providers were short-listed.
37. All the providers were regulated and approved for use by the Care Quality Commission (CQC), and the procurement process robustly assessed their organisational viability.

38. An Invitation to Tender (ITT) was issued on 4<sup>th</sup> December 2009 to the 17 providers still in compliance with the PQQ and during the tender submission period, a clarification process was put in place to deal with questions received from bidders.
39. Fifteen of the 17 providers submitted bids by the deadline of 22<sup>nd</sup> January 2010. Two providers declined the Invitation to Tender.
40. Bids were opened in the presence of officers from the Communities Law & Governance Department to ensure compliance. Submissions were received for the following contracts.

Table 2 – Number of bids per category

Category	Description	Number of Bids
Universal Contracts 1-3	Generic Home Care	14
Specialist Contract 4	Older Adult Support in Southwark (OASIS)	9
Specialist Contract 5	Continuing Drinkers and Acquired Brain Injury	4
Specialist Contract 6	Intermediate Care and Neurological-rehabilitation (Neuro-rehab) Service	8

### Tender Evaluation

41. In February 2010, three Tender Evaluation Panels (TEP) were set up to assess the tender submissions received. The panels were:
  - a. A Universal TEP which conducted quality assessments for the universal services.
  - b. A Specialist TEP which conducted quality assessments for the specialist services:
    - i. Older Adult Support in Southwark (OASIS) service.
    - ii. Continuing Drinkers and Acquired Brain Injury service.
    - iii. Intermediate Care and Neurological-rehabilitation (Neuro-rehab) service.
  - c. A Pricing TEP which completed calculations to determine scores on pricing for all contracts.
42. The TEPs carried out their initial assessment of the submissions and clarification questions were sent out where there were ambiguities, uncertain commitments or conflicts with other information available (for example Care Quality Commission assessments, quality risk alerts or references).
43. On receipt of the clarifications, the TEPs read and evaluated the bidders written responses. This led to some minor adjustments of the quality assessment scores based on the information submitted.
44. In addition to pricing and quality clarifications, a challenge session was hosted by project board members in April 2010 to ensure the criteria had been followed consistently and that there was consensus on the scores.
45. The project board were satisfied with the process so the quality and pricing evaluations were combined and the final cost implications of the contracts was calculated.

## Extra Tender Step

46. In light of the Governments emergency budget that signalled significant reductions in funding, the overall cost of contracts was found to be unaffordable. It was agreed that if possible the tender should continue and following legal advice a further stage to the tender was introduced.
47. On 20 August 2010, the 15 remaining bidders were advised about the revised tender approach which made the following adjustments:
  - a. The price and quality weighting was adjusted from 50/50 to 70/30 in favour of price.
  - b. The quality threshold was reduced to 54% (from 60%). Although this was reduced, it was considered that the level was still sufficiently high to ensure quality services will be delivered.
48. On 9 September 2010, the 11 bidders who met the revised quality threshold (for 21 contracts) were invited to resubmit their bid. The remaining four bidders who did not meet the revised quality threshold were not invited to re-submit.
49. The 11 bidders who met the revised quality threshold had the option to:
  - a. resubmit their pricing schedules, and
  - b. resubmit any quality method statements that had been updated (where changes had a demonstrable link to a pricing reduction), or
  - c. confirm they were not updating either their pricing, quality or both.
50. Closing date was set at 13 October 2010 to give sufficient time for bidders to respond. Originally, the return date was two weeks earlier, but this was revised in response to requests from tenderers. This deadline enabled smaller organisations who have more limited resources (and therefore need more time) to be able to participate.
51. Answers to questions raised at individual meetings or provided in writing were circulated to all bidders participating in the extra tender step.
52. Of the 11 bidders, 9 updated their pricing schedules, one advised of a typographical error in their previous submission and one made no changes at all. No bidder made any changes to their quality method statements.

Table 3 – Number of updated bids received per category

Category	Description	Number of Updated Bids
Universal Contracts 1-3	Generic Home Care	8
Specialist Contract 4	Older Adult Support in Southwark (OASIS)	5
Specialist Contract 5	Continuing Drinkers and Acquired Brain Injury	2
Specialist Contract 6	Intermediate Care and Neurological-rehabilitation (Neuro-rehab) Service	4



53. The same pricing TEP scored the revised submissions. The typographical error in the first bid submission from one provider was amended in the scoring calculator, resulting in the bid being rescored. The bid that had not been updated had their original score carried over.
54. Bids were then re-evaluated according to the new weighting of 70% for price and 30% for quality.

### Review of guaranteed minimum hours

55. At the final stage of the tender process further information related to the uptake of individually managed personal budgets became available. This demonstrated a significant take-up of individually managed personal budgets during transition in other boroughs where there had been a re-procurement of home care services.
56. Based on this information the council does not consider the guarantees across three contracts are achievable. If guarantees could not be met, the council would be liable to pay for the hours even if the care was not required to be delivered.
57. The council therefore wrote to all bidders for the universal contracts and advised them of the proposal to let two contracts rather than three and time was provided to respond. Some views were received and have been responded to.

### Universal Contracts

58. The two top ranking providers for the universal contracts are London Care and Enara Community Care.
59. They are recommended for contract award based on having the best combination scores for quality and price, having passed the minimum quality threshold.
60. The scores in the table below are the weighted scores at 30% for quality and 70% for price.

Table 4 – Universal Contracts

Rank	Provider	Weighted Quality Score (maximum score of 30%)	Contract 1	Contract 2	Contract 3	Combined Score		
			('Lot 1' in tender documents) Score	('Lot 2' in tender documents) Score	('Lot 3' in tender documents) Score	Lot 1	Lot 2	Lot 3
1.	London Care	20.28	53.2	53.2	53.2	73.48	73.48	73.48
2.	Enara Community Care	17.22	51.8	51.8	51.8	69.02	69.02	69.02

### Specialist Contracts for Older Adult Support in Southwark (OASIS), and Intermediate Care and Neurological-rehabilitation Service

61. The evaluation criteria outlined that pricing for the specialist contracts would be scored out of 50, with £11.00 being equal to 50 points and £15.00 or more being equal to zero points. The price range was considered reasonable based on benchmarking carried out prior to the tender commencing. No bids for these contracts were within this price range.
62. The recommendations for Contract 4, Older Adult Support in Southwark (OASIS) and Contract 6, Intermediate Care and Neurological-rehabilitation (Neuro-rehab) Service are that no contracts are awarded on the basis that these are not affordable.

63. Given the size of these two contracts, it was hoped that a more competitive price would be obtained through the introduction of the extra tender step but results were still outside this range.
64. Alternative provision has been identified for the Intermediate Care and Neurological-rehabilitation Service. This is a short-term service (6 weeks) that primarily offers a re-ablement service. The current pilot re-ablement service can take on new referrals and commissioning proposals will examine additional requirements to ensure the needs of these groups are met. Alternative service delivery models for the OASIS service will also be examined as part of the commissioning proposals for re-ablement services.

### **Specialist Contract 5 – Continuing Drinkers and Acquired Brain Injury Service**

65. Enara Community Care, having met the minimum quality threshold, offers the best combination score based on quality and price for the Continuing Drinkers and Acquired Brain Injury Service.
66. The evaluation criteria outlined that pricing for the specialist contracts would be scored out of 50, with £11.00 being equal to 50 points and £15.00 or more being equal to zero points. While the best bid for this service is above the identified range, the service is considered affordable based on consideration of the overall contract price set against reduced uptake of more expensive or longer-term services, such as higher long-term packages and increased risk of hospital admissions.
67. A recent cost benefit analysis confirmed this service delivers considerable savings in comparison to the cost of delivery. Given the size of the service and the overall value for money it is recommended for contract award.

Table 5 - Continuing Drinkers & Acquired Brain Injury Service

<b>Rank</b>	<b>Organisation</b>	<b>Weighted Quality Score</b>	<b>Pricing Score</b>	<b>Combined Score</b>
1.	Enara Community Care	19.86	0	19.86

### **Plans for the transition from the old to the new contract**

68. A transition plan has been developed to provide a phased transfer to the new contracts. Once Contract Award has been agreed, a series of meetings with all current providers and the new contract providers will be carried out. These meetings will be used to agree the timetable for transition and discuss key issues such as TUPE, communications and contract management as applicable.
69. Work is already underway to prepare for the transition, including activity to develop a bespoke monitoring system, identification of high risk service users, implementation of a full communications plan, and consideration of an electronic monitoring system interface.
70. The communications strategy is being implemented with support from Corporate Communications to ensure the effective handling of all communications. Service users will be advised about the tender and the Council will continue to ensure they are fully informed and have an opportunity to discuss any concerns they may have.

71. The Council is committed to personalisation and will ensure that service users are advised about Personal Budgets so they can exercise control and choice over their care arrangements.
72. A dedicated team within Health and Social Care will be established to provide a consistent and accessible point of contact for service users, and their families or people who support them.
73. The communications strategy will ensure clear and reassuring messages are relayed to service users and their families. After contract award, this will include notification about any change of provider, a handover date, and how the Council will ensure a smooth transition of homecare provision. As all tenderers have current contracts, some service users will not be affected by the changes.
74. The strategy includes advice to incumbent and new providers to ensure they are fully compliant regarding appropriate communications to service users and that security of information is upheld.
75. The transition will be phased so that each provider can manage staff and service user transfer effectively. Approval has been obtained to extend contracts as required for up to a further 4 months after 5 April 2011 to manage the transition.
76. The Home Care Project Board will oversee the planning and implementation of the transition.

#### **Plans for monitoring and management of the contract**

77. The contracts will be managed and monitored by teams in Adult Commissioning, Health and Social Care. Designated contract monitoring officers will establish close links with staff in the commissioning and brokerage teams to ensure that an effective strategy is in place to control ordering of services. This will include a robust system to control ordering once minimum guaranteed hours have been met that will enable the Council take advantage of the most competitive rates.
78. A bespoke monitoring system is being developed for these contracts. This will enable effective monitoring of:
  - a. Outcomes for service users.
  - b. Safeguarding.
  - c. Contract outputs.
  - d. Complaints.
  - e. Overall quality.
79. All contract providers must be registered with the Care Quality Commission (CQC) and meet the new outcomes-based standards of quality and safety.
80. A partnership approach, supported by the contract governance arrangements, will be taken to manage the contracts, with a focus on good communication, maintaining quality, meeting service user's outcomes and ensuring contracts are managed effectively.

81. Monitoring will ensure that contractual terms are adhered to, quality is maintained and the safeguarding of vulnerable users of the service is kept paramount. These assurances are carried out through the Department's safeguarding and "quality alert" procedures.
82. Once the minimum guaranteed hours for each contract are met, the Council will place new packages taking into account service user choice, the unit cost, and availability. This approach will balance the need to be financially prudent with promoting control and choice for service users.
83. Electronic Monitoring Systems (EMS) will be in place at the start of the contracts and this will provide accurate information about the delivery of homecare so that invoicing closely relates to actual care provided. This will also help guide care managers and social workers to ensure packages are appropriate to the service users needs.
84. As there will be fewer contracts to be monitored officers will be able to work more closely with providers, establishing relationships based on partnership working and pro-active management.

#### **Performance bond/Parent company guarantee**

85. A performance bond was not needed for these contracts because the Council's solicitors have assessed the financial risk for the lifecycle of the home care contracts as low. A Parent Company Guarantee has been provided by bidders where it applies.

#### **Community impact statement**

86. The services being procured will be provided to people affected by all six strands of the Council's equality agenda as care is provided to members of the community according to need and the rich diversity of Southwark residents will be reflected in those requiring care.
87. Under CQC registration all Home Care providers included in this procurement are required to proactively demonstrate their commitment to equal opportunities, and have been assessed to ensure that they have a satisfactory record in relation to diversity.
88. The universal services and the specialist service will be able to meet a wide range of needs sensitivity.
89. Agencies at the PQQ stage were asked to provide evidence of their Equal Opportunities policy as well as a practical statement as to how this is implemented in relation to service delivery and work force development.

#### **Sustainability considerations (Including Economic, Social and Environmental considerations)**

90. Environmental – home care workers from each of the providers will be expected to use public transport services wherever practical to travel to service user homes in the borough. Staff roster arrangements should be structured to reduce travel between visits. This mitigates negative implications for the local environment in terms of CO2 emissions.
91. In addition, the use of an electronic monitoring system will reduce reliance on paper records and embed the current 'one invoice' approach.
92. Social – the opportunity to tender was extended to any provider registered in the Borough. There was a high proportion of voluntary, BME and disability specialist groups amongst those invited.

93. Economic – providers recruitment policies target local people, contributing to the economy of the borough.

### **Market considerations**

94. The successful tenderers:
- a. are either private or not for profit organisations and are registered with the Care Quality Commission (CQC)
  - b. One has fewer than 50 employees
  - c. One has between 50 and 250 employees
  - d. Both have a regional area of activity
95. The Gateway 1 Report noted the market was flooded. It was therefore agreed to proceed with a restricted tender and forty-one providers were invited to participate in this procurement.
96. The opportunity to tender was extended to any home care agency registered as based in Southwark and to all existing contracted home care providers. A benchmarking exercise with a number of London boroughs conducted by Health and Community Services (H&SC) Commissioners found:
- a. Southwark had a greater number of directly contracted providers than comparative boroughs.
  - b. There was no additional expertise elsewhere not already represented in Southwark.
97. Prior to PQQ stage, all current providers indicated they were interested in tendering for larger contracts with the Council. They stated that larger guarantees of work would enable them to provide better value for money to the Council.

### **Resource implications**

98. The provision of Home Care is linked to the Department of Health's "Fair access to care" and remains a legal duty for the Council to provide. Therefore both Health and Social Care and Children's Services retain core budgets for the purchase of these statutory services. The expenditure has been included in approved revenue estimates in the Health and Social Care Budget.
99. The universal contracts deliver year on year savings against current expenditure. Savings against current expenditure range from an estimated £1,325,250 in Year 1, and £954,750 in Year 2, to an estimated £589,000 in Year 3.
100. The service is demand-led but increased take up of Personal Budgets and a greater focus on re-ablement is likely to reduce demand for contracted home care over the longer term. This may generate savings over the lifecycle of these contracts, but these costs would then be shifted to Personal Budgets.
101. The lower hourly rate achieved through these contracts provides savings when compared with the average hourly rate across the current group of contracts. This saving has been incorporated in budget planning for 2011/12 but as the average unit cost of contracts increases, this will need to be revisited.

102. Benchmarking with other London Boroughs indicates that Southwark's existing supplier market compares relatively well on cost. This procurement will ensure Southwark continues to benefit from a competitive price for services.

### **Staffing implications**

103. This procurement has significant TUPE implications as part of contract award. However these TUPE implications do not directly affect the Council as an employer. The procurement plan has therefore scheduled time to work with incumbent and successful providers, and ensured there is sufficient time for discussion and agreement prior to contract start.
104. All bidders were provided with TUPE information at the ITT stage to factor into their bid submissions. The implications included:
- a. TUPE information provided highlighted potential arrangements under which staff would be transferred to each contract. This information indicated that for providers currently commissioned to provide home care services in Southwark:
    - i. Approximately 1,151 staff are employed either part time or full time.
    - ii. 861 actual home care staff are employed on zero hours contracts, by which they only establish pro rata employment rights depending upon the hours that they work.
    - iii. 194 actual home care staff are employed on fixed contracts focusing either all or a proportion of their work on Southwark service users.
    - iv. The majority of permanent staff on fixed contracts are employed by the voluntary sector.
  - b. Bidders were advised that the Best Value Code in relation to Pensions and the Code of Practice on Workforce Matters in Local Authority Service Contracts was applicable to this tender.

### **Financial Implications**

105. Pressure exists across adults social care revenue budgets for the provision of care services. In 2009/10 £600,000 was identified as a saving target from this retendering exercise. The recommendations will deliver that savings target as well as contribute to the 2011/12 savings plan.
106. Financial implications are covered in the body of this report. It should be noted that savings in year one are higher than subsequent years. Any growth would need to be built into the budget from 2012/13 onwards if volumes commissioned and contract pricing indicate an increase in cost.
107. To ensure savings are delivered, finance officers will continue to work closely with the operational teams and contract management officers to regularly monitor spend activity against budget provision to ensure that:
- a. excess commissioned hours are deployed to the cheapest provider;
  - b. effective cost management techniques are used to control spend throughout the lifecycle of these contracts.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

108. The Strategic Director of Communities, Law & Governance notes the contents of this report which seeks the approval of the Cabinet to the award of 2 universal contracts and 1 specialist contract for Home Care Services in Southwark to the suppliers named in paragraph 4 of this Report.
109. This service is a Part B service under the Public Contracts Regulations 2006 so there is no requirement to tender these contracts in accordance with the full application of those regulations. It is however necessary for the council to tender the contract in accordance with its own Contract Standing Orders (CSOs), and to comply with the general EU principles regarding transparency and non-discrimination. On the basis of the information contained in this Report Cabinet is advised that the tender process has been conducted in accordance with the council's CSOs and those general EU principles.
110. The council's criteria for the award of these contracts is on the basis of the most economically advantageous tender, details of which are noted in paragraph 31-34 and generally in the report. Paragraphs 58- 66 of this report note the outcome of the evaluation process, and the evaluation panel's view that the tenders recommended for award are the most economically advantageous.
111. No award is recommended for the Older Adult Support in Southwark (OASIS) service and Intermediate Care and Neurological-rehabilitation (Neuro-rehab) service contracts. The cabinet are advised that as part of the tender process, the council reserved the right not to award all or any parts of the contract. The reasons for not awarding these contracts are noted in paragraphs 62-64 of this report.
112. In making these decisions, the Cabinet should satisfy itself that the award of these contracts offers best value.
113. The nature and value of the contracts to be awarded (noted in paragraph 4 of this Report) are such that they are Strategic Procurements under Contract Standing Orders. Approval of the award is therefore required from the Cabinet after taking advice from CCRB. The report was considered by CCRB on 23 December 2010.
114. CSO 4.5.3 requires any possible options to extend the contract to be included as part of the proposed recommendations within the Gateway 2 report and paragraph 5 of this report confirms those options. In accordance with CSO 4.5.3 the Leader is also asked to delegate the decision to exercise those options at a future date, to the Cabinet Member for Health and Adult Social Care. Section 14 of the Local Government Act 2000 (as amended) permits the Leader to delegate this function to a member of the Cabinet.
115. CSO 2.3 provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the Council. Paragraphs 95 to 99 of this Report confirm how the proposed contract will be funded.
116. Advice should be sought from Legal Services in relation to the documentation that is to be used to put in place the contract, the TUPE transfer of staff and the OJEU Contract Award Notice.

## **Finance Director**

117. This report asks the cabinet to approve the award of Home Care Service contracts for three years from 6<sup>th</sup> April 2011.
118. The financial implications are fully covered within the main report, it is estimated that the new contract will achieve savings of up to £1,325,250 in Year 1, changes to volumes will reduce these savings to £954,750 in Year 2, and £589,000 in Year 3.
119. These savings will need to be reflected in the 2011/12 to 2013/14 budget setting process, and their achievement closely monitored as part of the budget monitoring process.

## **Head of Procurement**

120. This report is seeking to award three contracts that will provide a range of homecare services.
121. Paragraph 21 confirms that this procurement process was started in 2008, but experienced some difficulties. These difficulties were picked up before the process was completed and a revised process was shaped to secure the best solution for the council. The new contracts were designed to accommodate the personalisation agenda reflecting a predicted reduction in demand with limited guaranteed hours, whilst having the flexibility to accommodate any changes. The tender process captured prices for various volumes of demand to ensure the best rates possible could be secured.
122. Paragraph 46 confirms that following the Governments emergency budget announcement, the results of the procurement process were no longer deemed to be affordable. Based on legal advice, a further step in the process was designed and carefully implemented to ensure the integrity of the process was maintained and the Council's position protected. Paragraph 47 describes how the additional step shifted the focus on price whilst maintaining due regard for the quality standard required to deliver these services.
123. The final results of the procurement process are mixed with two universal and only one of the three specialist contracts being recommended for award. Paragraph 61 – 64 confirms that two of the specialist contracts are still deemed unaffordable and explains the alternative arrangements that will be in place to deliver these services.
124. Para 77 - 84 outlines the monitoring arrangements and describes the benefits of the new monitoring system. There will also be operational changes implemented to support the new contracts. This will include a revised ordering approach with an emphasis on performance and price. These changes will help ensure that the contractual arrangements continue to deliver best value throughout their duration.
125. This has been a complex procurement process securing a number of contracts to deliver a range of services. This has been against a backdrop of uncertainty regarding future demand and funding for these services. However with an effective project team set up, service managers worked with technical and legal experts to ensure the procurement process was robust and delivered an affordable solution without compromising on quality standards.



## BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Home Care Project Board: Terms of Reference and Minutes	Adult Commissioning - Southwark	Rochelle Jamieson 020 7525 4720
Home Care Risks & Issues Log	Adult Commissioning - Southwark	Rochelle Jamieson 020 7525 4720
Tender Evaluation - Initial Quality and Pricing Assessment	Adult Commissioning - Southwark	Rochelle Jamieson 020 7525 4720
Gateway 1 Report	Adult Commissioning - Southwark	Rochelle Jamieson 020 7525 4720
Gateway 3 Reports	Adult Commissioning - Southwark	Rochelle Jamieson 020 7525 4720
Tender Process and Evaluation	Adult Commissioning - Southwark	Rochelle Jamieson 020 7525 4720

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Dora Dixon-Fyle, Health and Adult Social Care		
<b>Lead Officer</b>	Susanna White, Strategic Director Health and Social Care		
<b>Report Author</b>	Rochelle Jamieson, Project Manager Home Care		
<b>Version</b>	Final version of the report		
<b>Dated</b>	14 January 2011		
<b>Key Decision?</b>	Yes	<b>If yes, date appeared on forward plan</b>	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>	
Strategic Director of Communities, Law & Governance	Yes	Yes	
Finance Director	Yes	Yes	
Head of Procurement	Yes	Yes	
<b>Contract Review Boards</b>			
Departmental Contract Review Board	Yes	Yes	
Corporate Contract Review Board	Yes	Yes	
<b>Cabinet Member</b>	Yes	Yes	
<b>Date final report sent to Constitutional Team</b>			14 January 2011