

Item No: 4.	Classification: OPEN	Date: 22 December 2004	Meeting Name: Overview & Scrutiny Committee
Report Title:		Overview and Scrutiny Committee Call-In: Executive Decision [30 th November] in respect of Gateway 2 – Contract Award Approval – Home to School Transport Contract Award.	
Ward(s) or Group affected:		All Wards	
From:		Overview and Scrutiny Committee	

RECOMMENDATION

1. That the decision of the Executive of 30th November in respect of Gateway 2 – Contract Award Approval – Home to School Transport Contract Award is held in abeyance.
2. In addition the Overview and Scrutiny Committee recommends to the Executive that:
 - i. That all information provided to the Committee is communicated to the District Auditor as a matter of urgency;
 - ii. That the Chief Executive and the Borough Solicitor ask internal audit to report back to the Executive on the issues raised concerning this contract.

BACKGROUND INFORMATION

3. On 30 November 2004 the Executive approved the acceptance Gateway 2 – Contract Award Approval – Home To School Transport Contract Award.
4. On 8 December 2004 the Chair of Overview & Scrutiny Committee - Councillor Kim Humphreys - and three members of the Committee (Councillors Fiona Colley, Barrie Hargrove and Andy Simmons) requested call-in of this decision [Appendix B]. The reasons given for the call-in request were as follows:

“Concerns about:

(1) uncertainty surrounding TUPE implications

(2) uncertainty around financial implications of decisions

(3) use of telephone interviews

(4) equality implications

Any alternative course of action will arise from the meeting. It is not clear if the decision is outside the policy or budget framework.”

5. On 14th December, the OSC received a letter from Southwark Joint Union Staff Side [Appendix 1]
6. On 20th December 2004, OSC met and considered the Call –in, receiving a deputation from Ruskin Private Hire [Appendix 2]. Ruskin Private Hire raised concerns with OSC that in their view Southwark had not demonstrated fairness to all tenderers, that key financial information had not been fully considered and that information on personal relationships, which may represent a conflict of interest, had not been divulged.
7. Also at the Call – in, OSC received a deputation from Kym Hamilton Joint Union Staff Side Secretary who explained that they were concerned with Southwark awarding the contract to Olympic South. Their concerns were that Olympic South do not have adequate financial resources to run the service efficiently.
8. At the conclusion of the 20th December meeting, OSC produced the recommendations at outlined in paragraphs 1-2.

LEGAL ADVICE:

9. The award of this contract is governed by the Public Services (Contract) Regulations 1993. This gives an unsuccessful tenderer the right to apply to the High Court to set aside the award of a contract if the tenderer considers that the regulations have been broken or if he has been treated unfairly. This is in addition to other methods of challenge open to a tenderer including the District Auditor.
10. In deciding the most appropriate course of action, the Executive will wish to consider the following:
 - Whether each tenderer has been treated equally and fairly;
 - Whether the evaluation process has been conducted in a fair and transparent manner so as to ensure that the most economically advantageous tender to the Council has been accepted.
11. The Executive also needs to consider how the Council will continue to provide this service if there is any concern about the procurement procedures followed by the Council in this case.

REASON FOR URGENCY

12. A delay in award of the contract will have a negative impact on delivery of the service. The lead time for acquisition of a new vehicle fleet by the incoming contractor is at least twelve weeks (Contract start date is 1/04/2005). Access to the current site offices and vehicles garaging facilities cannot be guaranteed beyond March of 2005. Existing arrangements with sub- contractors expire at the end of December and interim arrangements have been put in place. Budgets will be adversely affected if any significant delays occur.

REASON FOR LATENESS

13. OSC met on 20th December 2004 and a special Executive meeting was convened for 22nd December 2004.

BACKGROUND DOCUMENTS

Background Papers	Held at	Contact
Executive Agenda, Reports and Minutes	Constitutional Team Town Hall, Peckham Road, London SE5 8UB	Everton Roberts Tel: 0207 525 7221
Record of key decisions taken under delegated authority	Constitutional Team Town Hall, Peckham Road, London SE5 8UB	Ian Millichap Tel: 0207 525 7225

APPENDICES

Appendix 1:	Letter from Kym Hamilton – Joint Union Staff Side Secretary [14 th December] to OSC
Appendix 2:	Power point presentation from Ruskin Private Hire r
Appendix 3:	Circulated on CLOSED agenda - Executive Papers November 30 th 2004

AUDIT TRAIL

Lead Officer	Shelley Burke, Head of Overview & Scrutiny	
Report Author	Stephanie Dunstan, Scrutiny Project Officer	
Version	Final	
Dated	22 nd December 2004	
Key Decision ?	Yes	
CONSULTATION WITH OTHER OFFICERS/DIRECTORATES/EXECUTIVE MEMBERS		
Officer Title	Comments Sought	Comments Included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	No	No
Executive Member	Yes	No