

Item No.:	Classification: Open	Date: July 29 2009	Meeting Name: Executive
Report title	Gateway 1 - Procurement Strategy Approval Leaseholders and Ancillary Properties – Buildings Insurance		
Ward(s) or groups affected	All		
From	Strategic Director of Environment and Housing		

RECOMMENDATIONS

1. That the Executive approve the procurement strategy outlined in this report for the leaseholder and ancillary properties building insurance contract.
2. That the Executive delegate award of the contract to the Strategic Director of Environment and Housing, subject to consultation with the Executive Member for Housing Management as appropriate in order to meet the tight time constraints.
3. That the Executive delegate any decision on exercising the option to extend the contract to the Strategic Director of Environment and Housing.

BACKGROUND INFORMATION

4. At today's prices the cost of the contract is £2.75m per annum. The contract is for a period of three years, making a total contract value of £8.25m. If the option to extend is taken the potential contract value would be a value of £13.75m.

Reason for this procurement

5. The leaseholders and ancillary properties buildings insurance relates to flats and maisonettes sold by the Council under lease terms. It also includes a requirement to insure some under-leased properties on a comprehensive basis. Also attached to the policy is a much smaller contract relating to mortgaged housing properties - currently less than ten premises - where the Council is still providing a mortgage.
6. The lease requires the Council as the freeholder to insure its leasehold properties and the building. The most advantageous way to do this is by placing the contract with a single insurer.
7. The contracts were last awarded in 2005 when Zurich Insurance Ltd were awarded the contract with a commencement date of 1st April 2006. The contract was for an initial period of three years with the option to extend the contract for two years following annual reviews.
8. Leasehold representatives have been involved in the decision to extend the contract for an additional year and to re-let it so as to have a new contract in place from 1st April 2010. Approval was given for the extension by the Finance Director on 16 April 2009, thus the current end date of this contract is 31 March 2010.

Market Considerations

9. The insurance market is currently volatile due to the present worldwide financial crisis. The present contractor Zurich was apprehensive about offering renewal from 1 April 2009 under the current terms and it has been decided not to extend this contract beyond April 2010. The Council cannot allow the situation to arise where there is no insurance cover for its leasehold portfolio. It is therefore prudent to secure a new contract for the next financial year for a longer fixed term period.

Summary of the business case/justification for the procurement

10. Under the terms of the lease, the Council has to insure its leasehold properties. The easiest and most advantageous way to do this is by insuring the portfolio with a single insurer. This ensures a standard approach can be followed for both the leaseholders and the Council.
11. The Council's leasehold portfolio is one of the largest for local authorities in the country. Although there is a limited market for these contracts, the size of the portfolio will attract international insurers and leaseholders should benefit from economies of scale in the premiums payable.
12. The current contract has been in effect from 1 April 2006 and expires on 31 March 2010. During this period, the Council has compiled three years detailed data of the claims experienced and amounts paid out. Now that this data is available it will form the basis of the tender document and the prime factor in determining new premiums.
13. Although the contract sum is large it is not possible to join in with other authorities in letting a new contract as Southwark's lease does not allow this and other authorities will have different expiry dates for their contracts.
14. Leaseholder representatives were closely involved in procurement of the current contract and the decision to tender again for a contract to commence on 1 April 2010. Home Owner Council has agreed this course of action and has appointed two leaseholders to assist in the tender process.
15. Leasehold representatives requested ten items to be included in the policy that commenced from 1 April 2006. These were all incorporated in the 2006 contract and will be included in the 2010 contract as follows;
 - (a) Premium for each flat to be quoted by bedroom size or type.
 - (b) An agreed "£x per £1,000 reinstatement value".
 - (c) Agreement as to how to treat leaseholder improvements.
 - (d) Agreement over the rate of commission payable to the Council.
 - (e) Agreement over communal claims to be made by the Council.
 - (f) Agreement that leaseholders can make a claim for internal works only through the Home Ownership Unit.

- (g) Agreement that the contractor will be the nominated insurer for houses sold on leases.
 - (h) No excess apart from claims made for subsidence, when a maximum excess per block would apply.
 - (i) A separate schedule and rates for where the whole block has to be insured.
 - (j) Participation in compiling a leaseholder's insurance handbook.
16. The present contract has met with the approval of elected leaseholders on the Home Owners Council. With the involvement of the Home Ownership Unit in the administration procedure, the number of complaints and members' enquiries has reduced considerably from the previous contract, which had been administered by the contractor's own helpline.

Identified risks and how they will be managed

17. Risks identified with the tendering process include;

Risks identified	How they will be managed
Failure to consult with leaseholders under Section 151 of the Commonhold and Leasehold Reform Act 2002.	Meet dates set out in the procurement project plan
Failure to meet the European procurement regulations.	Meet dates set out in the procurement project plan Ensure that the procedures are transparent and comply with legislative requirements.
Failure to have all the information available at the required times.	Keep leaseholder representatives informed and liaise with relevant Council officers.
Changes to internal procedures and processes should a new contractor be appointed.	Frequent communications with the contractor at a senior level. Ensure there is a smooth transition from one contractor to another Communications to tenants and 'old' supplier, if relevant', to ensure client team have processes in place to cover situation where both old and new claims are being processed by different suppliers during transition period.

KEY ISSUES FOR CONSIDERATION

18. It is unlikely that many contractors will be interested in tendering as there is a limited market for this type of local authority scheme. Due to the size of the contract, the legislation requires the Council to consult with all leaseholders. A Notice of Intention must be served advising leaseholders of the nature of the contract. Leaseholders have a period of 30 days to make comments. As this contract will be subject to an OJEU notice, leaseholders are not entitled to nominate contractors. However, the Council will give leaseholders the opportunity to nominate contractors to whom the Council will confirm that the OJEU notice is to be published. This first stage of the consultation process has to be undertaken before the contract can be advertised.
19. Following the award of the contract, Notices of Proposal have to be sent to all leaseholders advising them of the successful tenderer with details of the premiums they will pay from the commencement of the contract.

Development of the tender documentation

20. The tender will be based on the previous tender documentation, but amended as necessary following comments by leaseholders. The Insurance Manager (FMS), Departmental Procurement Manager and Legal Services will be involved in finalising the tender documentation to ensure compliance with best practice.

Advertising the contract

21. The contract will be advertised in OJEU and relevant insurance journals recommended by the Insurance Manager (FMS). Where individual leaseholders nominate insurers, they will be directed to the OJEU notice.

Evaluations

22. The contract will be awarded on the basis of MEAT (Most Economically Advantageous Tender) based on a price/quality ration of 70/30, using the EU Open procedure
23. A higher weighting has been given to the price due to the highly specialised nature of the contract and limited market for bidders to be in a position to submit a tender. The leasehold representatives will be fully involved in the assessment process;
24. Consultation will take place between the Insurance Manager, Departmental and Corporate Finance, Departmental Procurement and Communities, Law and Governance Department to finalise the evaluation methodology and this information will be detailed in the tender documentation accordingly. Leaseholder representatives will also be fully involved in the assessment process.

Community Impact Statement

25. The buildings insurance contract applies to all leaseholders and a small number of freeholders in the borough that still have a Council mortgage. The Council has no data on the make up of the leaseholders and freeholders in relation to equality issues. However, there is less likelihood that leaseholders and freeholders, as home owners, are from disadvantaged groups.

Sustainability Considerations

26. There are no sustainability issues.

Other Implications or Issues

27. There are no other implications or issues.

Resource Implications

28. There are no additional resource issues as the Home Ownership Unit already has an Insurance Officer who is responsible for the administration of the contract.

29. All revenue costs incurred by LBS on behalf of leaseholders are recharged to the leaseholders as a part of their service charges. The work required managing the contract and its procurement will not require extra resources as the Home Ownership Unit has a responsible officer who will absorb the work. The contract price includes a commission payable to the Council to cover the cost of the managing the contract in the Home Ownership Unit. There are therefore no budgetary consequences as a result of this contract procurement.

30. The buildings insurance premiums charged to leaseholders are recovered in full through the annual service charges. There will be a nil effect on the Housing Revenue Account.

Consultation

31. There will be a full consultation with all leaseholders in accordance with legislative requirements. In addition, two leaseholder representatives have been appointed and will assist in drawing up the tender documentation and the tender evaluation process.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Communities, Law and Governance

32. The Director of Communities, Law and Governance, acting through the Contracts Section notes the content of this report. The nature and estimated value of the contract is such that it is necessary for the Council to invite expressions of interest through the publication of a contract notice in the Official Journal of the European Union ("OJEU") in line with current EU Procurement Regulations, and the report confirms that this requirement will be satisfied. The proposed procurement strategy will also comply with the relevant requirements of the Council's Contract Standing Orders ("CSOs").

33. The procurement of the proposed contract is treated as a "strategic" procurement within the definition contained in CSOs, and this means that the decision to approve the procurement strategy is one which falls to be taken by the Executive or executive committee, after taking advice from the Corporate Contract Review Board. As the contract will involve expenditure in excess of £500,000 in a single year, the decision to award the contract will be a key decision and subject to call-in, and the report indicates that the matter has been noted on the Forward Plan in line with the requirements of the Council Constitution.

Finance Director

34. The Finance Director notes the content of this report and is satisfied that all arising financial implications have been addressed under Resource Implications.

Corporate Procurement

35. With an advised total potential value of £13.75m, this procurement meets the criteria of an EU Part A strategic procurement requiring that all reasonable steps are taken to obtain at least five tenders following a publically advertised competitive tendering process. This report confirms the intention to comply with both CSOs and relevant legislation. It is noted that due to the limited market, there is a possibility that five tenders will not be received, however this is not expected to impact on the council's ability to achieve best value.
36. The report advises that award will be made on the basis of the most economically advantageous tender (MEAT), applying a price/quality ratio of 70/30 for the reason given.
37. The project plan indicates the expectation that the procurement process will be completed in time to ensure continuity of service. The report author has been advised to monitor this and seek advice for procurement and legal services accordingly should any issues arise.

BACKGROUND PAPERS

Background Papers	Held At	Contact
Statutory notices, leaseholder responses, claims experience details	Home Ownership Unit 160 Tooley Street London Bridge SE1 2TZ	Dave Coombs Tel 020 7525 1424

APPENDICES

Appendices number	Title of appendix
1	Procurement Project Plan

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing		
Report Author	Martin Green, Head of Home Ownership		
Version	Draft		
Dated	July 2009		
Key Decision?	Yes	If yes, date appeared on forward plan	May 2009
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Director of Communities, Law and Governance	Yes	Yes	
Finance Director	Yes	Yes	
Corporate Procurement	Yes	Yes	
Executive Member	Yes	Yes	
Date final report sent to Constitutional Support Services			

Ancillary Properties – Buildings Insurance

Appendix 1 Procurement Project Plan

Activity	Complete by:
Gateway 1 - Report to DCRB	30/04/09
Notice of Intention	15/05/09
Report to CCRB	28/05/09
Closing date for observations on NOI (30 days)	15/06/09
Closing date for response to observations (14 days)	29/06/09
Report to Executive	21/07/09
Call in Period	7/8/09
Advertise the contract (OJEU)	28/08/09
Completion of tender documentation	27/08/09
Closing date for return of tenders (52 days)	20/10/09
Completion of evaluation of tenders	30/10/09
Completion of any post-tender clarification meetings/interviews	6/11/09
Gateway 2 – Report to CCRB	26/11/09
End Call in period	16/12/09
Publication of decision under alcatel	17/12/09
Expiry of alcatel period	8/01/10
Contract award	11/01/10
Issue Notice of Proposal	12/01/10
Closing date for observations (30 days)	11/02/10
Closing date for response to observations (14 days)	25/02/10
Contract start	01/04/10