

Item No	Classification: Open	Date: 17 March 2010
To	Executive Member Citizenship, Equalities and Communities	
Report title	Gateway 2 – Contract Award Approval Advice and Legal Services Programme	
Ward(s) or groups affected	All	
From	Strategic Director, Communities, Law & Governance	

RECOMMENDATION(S)

1. That the Executive member approves:

- The award of contracts for the delivery of Advice and Legal Services for the period 1 April 2010 to 31 March 2013 to the providers as set out in the final 2 columns of the table in paragraph 22 for the total sum of £3,568,400 for the three year period
- The allocation of resources to each of the service packages for the three year period 2010/13 as set out in paragraph 7

BACKGROUND INFORMATION

2. The Executive member approved the Gateway 1 procurement strategy approval report for the Advice and Legal Services Programme 2010/13 on the 18 September 2009. This report sets out the business case for contracting with advice and legal services providers, and the links with the Community Strategy 2016, the council's corporate objectives and the outcomes to be delivered by contracted agencies.
3. The report stated that final contract values for 2010-13 would be agreed within the context of tight financial constraints of the 2008/11 local government settlement, and through the council's annual policy and resources process. The key financial factors impacting on the existing budget for the provision of these services were, and still are, the recession and uncertainty about future funding for public services through the 2011 Comprehensive Spending Review. The GW1 Also advised that there was a review of the benefits advice services currently underway led by the council with both internal and external partners.
4. The contracts commissioned for the period 2010-13 do not contain provision for extension.
5. Contract prices are not index linked and are therefore not likely to increase year on year.

Timetable of procurement process followed

This is attached as Appendix 1.

Description of contract outcomes and scope of provision

6. These new contracts will allow the council to continue to provide resources through the Advice and Legal Services programme to organisations who provide advice and legal services in the following categories of law:
 - Debt
 - Housing
 - Welfare benefits
 - Employment
 - Immigration

- Goods and services.

These services are available to all Southwark residents and to those who work and study in the borough.

7. The services to be provided are set out in a service specification for 2010-13 comprising three service delivery packages as follows:

Package A

- **Provision of generalist advice services** in the core categories of law referred to in paragraph 6 with service delivery locations in the areas of greatest need (Index of Multiple Deprivation) and maximum service accessibility by prioritising the availability of open door and telephone access.

Package B

- **Provision of specialist legal casework and representation services** on a borough wide basis in specified categories of law.

Package C

- **Provision of language based advice services** and services to meet identified needs of BME/Migrant communities.

8. The service specification makes provision for the maximum relative allocation of resources to each of the packages. The percentage of total resources allocated to each of the service packages is as follows:

Service package	Resource Allocation as % of total	
	Hours	Funding
Generalist advice services (A)	65%	61%
Specialist legal services (B)	21%	26%
Language/BME advice services (C)	14%	14%
	100%	100%

The difference between the resources allocated by hours and by funding is explained by the higher unit costs of the specialist legal services which require higher levels of professional expertise, training and qualifications. One of the contract outcomes has been to find efficiency savings within the specialist legal services package by awarding additional contract hours to one contractor, and by making a reduction in the number of hours awarded to the higher cost contractor. This has been possible due to one contractor submitting a bid for increased hours at a lower unit cost

9. There are high levels of need for advice services at a basic level for migrant and BME communities with language needs. The 3 organisations within Package C provide services to specific migrant communities to support integration and cohesion and enable these communities to access much needed support to overcome barriers such as language and access to services. As the proportion of resources allocated to this package is relatively low by comparison with the other two packages, it has not been possible to find significant efficiency savings from these providers. The contract recommendations reflect this although one provider has tendered to provide additional hours of service at the same contract cost which provides an efficiency saving.
10. A further contract outcome has been to achieve a significant level of efficiency savings over the course of the three year contract period for 2010/13. An overall reduction of 6% has been achieved in comparison with the total contract commitment for the period 2007/10, but a higher

level of 8.2% achieved in comparison with the contract commitment contained in the current and final year of the existing contracts 2009/10.

11. The overall objective of the Advice and Legal Services programme is to reduce the effects of social and financial exclusion in Southwark. The key objectives contained in the Community Strategy that this programme contributes to achieving are:

Achieve economic well-being

- Improve access to employment for disadvantaged communities by removing barriers to employment
- Promote opportunities for people to manage their finances wisely and reduce the impact of unavoidable debt
- Maximise take-up of benefits and grants for those who may be permanently or temporarily dependent on state benefits

Citizens value diversity and are active

- Have a menu of volunteering opportunities that appeals to different age groups and interests
- Strengthen the capacity of voluntary sector organisations to deliver citizen-led services and solutions
- Improve public sector engagement and feedback mechanisms across diverse communities
- Improve how public services inform users about services

Localities of mixed communities

- Tackle deprivation within each locality with a focus on the most deprived neighbourhoods and communities

Services are customer focused

- Involve local people in the design and scrutiny of public services
- Utilise the skills and community focus of social enterprises and voluntary sector service providers

A further outcome of the services to be delivered is the objective of reducing longer-term costs to statutory service providers through active early intervention, the prevention of escalation of legal problems and the avoidance of court action. The benefits to be achieved include a reduction in housing need associated with evictions and mortgage defaults and a reduction in legal and bailiff costs.

KEY ISSUES FOR CONSIDERATION

Policy implications

12. There are a number of developments that potentially impact on the Advice and Legal Services programme. The first is the council wide review of Benefits Advice Services. A second is the procurement policy of the Legal Services Commission (LSC) in categories of Social Welfare Law (SWL).
13. The overall aim of the review of benefits advice services has been to examine the range of services provided in Southwark both internally and by other providers, and to determine their effectiveness and value for money. The Senior Development Officer as part of the Project Board and working group has been working to ensure that these new contracts are compatible with, and support the change proposals emerging from this work stream. One of the outcomes

of the review will be changes in the provision of specialist benefits advice services provided internally. These contracts will meet these needs, and have sufficient flexibility built in to enable further changes to be made to support service rationalisation and re-design. Contractors have been asked to demonstrate a commitment to reconfiguration arising from further changes. The area of advice provision which has fallen within the scope of the review to date is Package A.

14. Package A requires providers to offer benefits advice, providing general advice across the priority categories of law: debt, benefits and housing and to maximise value and improve outcomes. Package A providers currently have specialist contracts with the Legal Services Commission for welfare benefits advice. Added value is provided through the specialist welfare benefits advice funded by the LSC. This added value depends on the providers continuing to offer benefits advice at a general level funded through these contracts. By offering general advice in benefits they are able to assess eligibility for, and refer service users to the specialist level service, to meet the targets of this additional funding which complements the council's resource investment. The LSC does not provide funding for representation for welfare benefits. These contracts meet this need and in doing so further support the review outcome aims.
15. The LSC as a significant funder of advice services is inviting bids for contracts in SWL (mainly debt, housing and welfare benefits) which will run from October 2010. Organisations will be bidding in Southwark and contract awards will be notified in the summer. As stated above the LSC contracts complement and add value to these contracts. Two organisations have submitted separate bids for Immigration and Asylum contracts. Four organisations also receive funding from London Councils to provide legal advice services. These add value to the council's investment in these services.

Tender process

Stage One Shortlisting

16. Following approval of the GW1 procurement strategy by the Executive member on 18th September 2009 the programme was advertised on the 9th September 2009 in the South London Press and through Advice UK London.
17. Seven expressions of interest were received and seven Pre-Qualification Questionnaires (PQQs) were returned. These were from the existing providers of services under the current contracts. The two stage process was selected in order to test whether any additional suppliers may have been interested in delivering services. None came forward.
18. In order to proceed to Stage 2 the Invitation to Tender, organisations were required to pass an assessment of Finance; References; Health & Safety, Equalities & Diversity; Quality management systems; & Technical systems. Finance, Health & safety and Equalities & Diversity were assessed by an external contractor and the Contract Compliance Unit. The remaining assessments were carried out internally.
19. Each of the organisations failed the initial Health & Safety assessment. Three subsequently passed following a first clarification, and the remaining 4 passing following a second clarification. One organisation failed the initial Finance assessment but passed following clarification. Each of the organisations passed the Equalities, Quality management and Technical criteria at the first stage. Following completion of the PQQ process evaluations, all seven organisations were invited to tender.

Stage Two – Tender Evaluation

20. The seven organisations were advised in the Tender Information and Conditions of Tendering that the council anticipated awarding between 5 and 7 contracts, and that a 50/50 quality/price weighted model would be used to evaluate tenders. Some amendments were made to the

original tender timetable contained in the GW1 and these are listed in Appendix 1. The council met with all organisations that had submitted PQQs on the 10th December 2009 to advise of the budgetary pressures arising from the tight financial constraints (referred to above). Potential service providers were asked to submit tenders taking this context into account. Seven tenders were returned in advance of the deadline of the 22^d January 2010. The tenders were opened and tender sums recorded on the 25 January 2010.

21. Each tender was assessed by a panel consisting of the Head of Community Engagement, Commissioning & Voluntary Sector Support Manager and the Senior Development Officer (Legal Advice Partnerships). No additional suppliers had come forward at the first stage in the procurement process. These indicate that the highest level scores were achieved by organisations tendering to delivering services within Packages A and B. The Tender Information and Conditions of Tendering stated that the council would be seeking a reduced range of unit costs for each service package.
22. Further clarification of the tender amount was sought from one contractor as it came to light that incorrect budget information had been provided. As a result of this clarification the contractor submitted further information based on the correct budgetary figures. This has not had any impact on the contract award recommendations and has not disadvantaged any other provider. Legal advice has confirmed this.

Plans for transition from 2007/10 contracts to 2010/13 contracting arrangements

23. The current contract arrangements are listed below in the first 2 columns. The contract awards for 2010/13 are set out in the last 2 shaded columns.

Advice & Legal Services Contracts				
Organisation	2007/2010 Total		2010/2013 Total	
	Contract hours	Contract value	Contract hours	Contract value
Contractor A	3000	£155,483	3300	£159,060
Contractor B	21,000	£1,133,687	21,000	£1,020,435
Contractor C	6366	£363,551	6900	£363,000
Contractor D	3030	£163,573	3030	£167,520
Contractor E	21,000	£1,133,687	21,000	£1,050,000
Contractor F	10,800	£718,097	9300	£ 644,545
Contractor G	3300	£163,582	3300	£163,840
Totals	68,496	£3,831,660	67,830	£3,568,400

Plans for monitoring and management of the contract

24. The Advice and Legal Services programme falls within the remit of the Commissioning and Voluntary Sector Support Unit within Community Engagement. The Senior Development Officer (Legal Advice Partnerships) is responsible for monitoring the delivery of the services. Service standards are monitored through quarterly monitoring reports covering key performance areas including service delivery outputs and outcomes, and management and governance systems. All the requirements will be contained in individual contracts, with service providers under an obligation to provide the reports and comply with the monitoring framework. If an agency fails to deliver the services as specified in the contract there is provision for variation or suspension of funding. The Commissioning and Voluntary Sector Support Unit in partnership with the Southwark Legal Advice Network oversees the quality and delivery of legal advice services in Southwark.

Community Impact Statement

25. The service specification for the Advice and Legal Services programme 2010/13 has been developed in consultation with a range of internal and external partners to ensure openness and transparency. It seeks to ensure that the communities of Southwark have access to appropriate independent advice and legal services. These cover the needs of those experiencing social and financial exclusion due to:

- Income poverty
- Educational disadvantage
- Family breakdown
- Discrimination
- Illness and disability
- The recession

26. The provision of services commissioned under these contracts will support the needs of residents drawn from communities affected by deprivation and social exclusion. These include:

- Residents of wards with highest Indicators of Multiple Deprivation
- Residents in social housing
- Migrants and refugee communities
- People with disabilities
- People experiencing difficulty in accessing mainstream services

The contracts to the specialist legal services providers ensure that people facing discrimination on the grounds of race and ethnicity, gender, age, sexual orientation, disability or faith, have access to legal advice and representation covering discrimination and human rights. These services directly support the objectives of the council's Equalities and Human Rights Scheme 2008/11.

27. The LSC funding complements the council's investment in legal advice services provision in the borough.

28. The services provided seek to enable people to develop a greater understanding of their rights and responsibilities. The contract funding therefore supports a broader community engagement and empowerment agenda.

Sustainability considerations

29. The proposed contracts provide three year funding at a time of uncertainty about public finances. This adds value by promoting sustainability and enables contracted providers to lever in additional funding to provide additional and complementary services. There may be increased demand for services if the recession continues, and the broader funding environment is also likely to prove challenging. Contracted agencies will be working ever more closely to maximise resources, improve efficiency and minimise system failure through further development of the Southwark Legal Advice Network (SLAN) and the joint bid for an LSC contract. Improved use of technology, possible back office efficiencies and moves to share premises will be supported by the council.

30. The council recognises the importance of having specific organisations that support and enable new and longer term migrant/asylum seeking/refugee and linguistic communities to access advice and legal services. The three proposed service contracts within Package C meet the specific needs of these communities. The allocation of resources to these organisations remains a relatively low proportion of the overall resources available (see paragraph 7.) Within the context of an overall reduced budget for the provision of services, it is proposed that the contract awards to the Package C providers are maintained at the existing level to support their continued existence at a time when the availability of other funding will be reduced. This objective is further supported by the lower unit costs of agencies within this package.

Market considerations

31. The successful tenderers are not for profit organisations.

- The successful tenderers have fewer than 50 employees.
- The successful tenderers mainly have a local area of activity. A number of them also have a regional area of activity.

Resource implications

32. The base budget for the Advice and Legal Services Programme for 2010/11 is £1,240,924. The annual budget commitment for the contracts as listed in paragraph 20 is set out below.

	2010/11	2011/12	2012/13
Advice & Legal Services Contracts	£1,240,924	£1,171,238	£1,156,238

The total contract commitment £3,568,400.

Staffing implications

33. Contracted agencies will be provided with sufficient notice to enable them to comply with statutory obligations should it be necessary to make changes to staffing as a result of the contracts. The proposed contracts do not give rise to TUPE implications.

Financial implications

34. There is a budget within the overall Community Engagement budget within cost centre CE460 to meet the contract commitment. It should be noted that the new contracts will contain a clause stating that on the first Monday that follows April 1st of each calendar year during the Contract Period (i.e., the first Monday of the Council's financial year), the Council may agree to vary the Fee in line with any variation in the Council's overall budget (the amount of any such variation is to be determined by the Council).

Legal implications

35. Please see legal comments in paragraph 39.

Consultation

36. VCS organisations and current providers were invited to contribute to the consultation on the service specification. Within the council Community Housing Services, Income Management, Tenancy Sustainment, Trading Standards and the Economic Development Team were sent a copy of the service specification and invited to contribute. A copy of the report will be sent to Community Action Southwark (CAS) and to each of the providers.

Other implications or issues

37. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

38. The Strategic Director of Communities, Law & Governance (“SDCLG”, acting through the Contracts Section) has advised the report author during the procurement of the contracts which are proposed for award and notes the content of this report. Contracts for legal and advisory services are “Part B” services for the purposes of the EU Procurement Regulations, meaning that it is not necessary for expressions of interest to be sought through the publication of a contract notice in the Official Journal of the European Union (although a contract award notice must be published following contract award).
39. The procurement is also subject to the application of the Council’s Contract Standing Orders (“CSOs”) which, in the context of this procurement exercise state that reasonable steps must be taken to obtain at least five tenders. Paragraphs 16 to 22 confirm the process which has been carried out and the SDCLG confirms that the prescribed European and domestic requirements have been satisfied.
40. The recommendation for award contracts has been made having regard to the principles contained within CSO 2.3, namely that each contract is awarded to the most economically advantageous tender so as to ensure that value for money and quality considerations are taken into account.
41. In view of the aggregate estimated value of the contracts, the decision to approve the recommendations set out in paragraph 1 is one which falls to be taken by the Executive member (as the relevant individual decision maker), after taking advice from the Corporate Contract Review Board.
42. The decision to approve the proposed award of the contracts is a key decision as defined in the Council Constitution and the report indicates that this matter has been noted on the Forward Plan. If made, the implementation of the decision will be subject to call-in.

Finance Director

43. The base budget for this programme area has been confirmed at £1,240,924 for 2010/11, this includes, where applicable, retained rental payments due from organisations.
44. The current medium term resources strategy (MTRS) 2010/11 to 2012/13 sets in place the requirement to provide prioritised savings options of 5% of net budgets and to deliver annual savings of at least 3%. The profiling of the contract payments achieves this objective for 2011/12, however the 2012/13 programme will deliver a 1.3% saving on budgeted expenditure. Service management have acknowledged the consequences on other expenditure budgets within community engagement of pursuing this programme.

Head of Procurement

45. This report is seeking approval to award a range of contracts for the delivery of advice and legal services.
46. Paragraphs 16 – 21 describe the process that was followed which is in line with the gateway 1 report. This service is classified as an EU Part B service and as such is not subject to the full EU procurement process requirements. It did however fulfil the requirements of the councils Contract Standing Orders and followed best practice as set out in the procurement guidelines.
47. From details provided in this report it appears that the evaluation of submitted tenders has been carried out in a fair and consistent manner taking account of both quality and price in the assessment of the tenders.

48. Paragraph 24 describes the management and monitoring arrangements for these contracts going forward, which will include working in partnership with the Southwark Legal Advice Network in overseeing the quality and delivery of legal advice services provided in Southwark.

KEY POINT SUMMARY

This procurement followed a general protocol

These contracts are for services and are replacing existing provisions

The procurement followed a non-EU procurement route

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Gateway 1 – Advice & Legal Services Commissioning Programme 2010-13	Community Engagement, Tooley St	Andrew Matheson 020 7525 7648
Pre-qualification Questionnaire	“	“
Service Specification for Advice & Legal Services	“	“

APPENDICES

Appendix number	Title of appendix
1	Procurement project plan timetable

AUDIT TRAIL

Lead Officer	Stephen Douglass, Head of Community Engagement		
Report Author	Andrew Matheson, Senior Development Officer 020 7525 7648		
Version	Final		
Dated	17 March 2010		
Key Decision?	Yes	If yes, date appeared on forward plan	October 2009
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Communities, Law & Governance	Yes	Yes	
Finance Director	Yes	Yes	
Head of Procurement	Yes	Yes	
Contract Review Boards			
Departmental Contract Review Board	N/A	N/A	
Corporate Contract Review Board	Yes	Yes	
Executive Member	Yes		
Date final report sent to Constitutional Officer			17 March 2010

Appendix 1

Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
Forward Plan (if Strategic Procurement)	October 2009
Approval of Gateway 1: Procurement Strategy Report	18/9/2009
Invitation to tenders	18/12/2009
Closing date for return of tenders	22/1/2010
Completion of evaluation of tenders	12/2/2010
DCRB/CCRB/CMT Review Gateway 2: Contract award report <i>Note: CMT review corporate and cross cutting decisions only</i>	4/3/2010
Notification of forthcoming decision – Five clear working days	
Approval of Gateway 2: Contract Award Report	
Scrutiny Call-in period and notification of implementation of Gateway 2 decision <i>Note: You should allow a minimum of 8 clear working days. This is subject to the decision not being called-in. If the decision is called-in the timetable will need to be adjusted accordingly</i>	
Contract award	
Add to Contract Register	
Contract start	1 March 2010
Place award notice in Official Journal of European (OJEU) (if applicable) A maximum of 48 days after award	Not applicable
Contract completion date	31 March 2013