

	<p style="text-align: center;">Executive 9th September 2008</p> <p style="text-align: center;">Report from the Director of Finance and Corporate Resources</p>
For Action	Wards Affected: All
<p>Authority to award contract for insurance for Public Liability and Property Insurance.</p>	

Forward Plan Ref: F&CR-08/09-12

Appendices 1 and 2 to this report are not for publication

1.0 Summary

- 1.1 This report requests authority to award a contract for the provision of insurance for Public Liability and Property Insurance from 1st October 2008 as required by Contract Standing Orders 88 and 89. The report summarises the process undertaken in tendering the contract and, following the evaluation of the tenders, recommends to whom the contract should be awarded.

2.0 Recommendations

- 2.1 That the Executive awards a one year contract, with options to extend up to a further 2 years on an annual basis to Zurich Insurance Company (trading as Zurich Municipal Insurance) for the provision of liability insurance and property insurance at a total cost of £305,874 to commence on 1st October 2008.

3.0 Detail

Background

- 3.1 Following the Judgment made by High Court in relation to Risk Management Partners v London Borough of Brent, the Executive

agreed on 16th June 2008 that new insurance arrangements for public liability and property (including terrorism cover) needed to be procured from 1st October 2008.

- 3.2 These insurances have been temporarily placed with Zurich Insurance Company (“Zurich”) at a cost of £222k for a six month period from 1st April – 30th September 2008. This was placed after a contract award decision of the Chief Executive under emergency powers (*under Part 4 of the London Borough of Brent Constitution, paragraph 2.3*).

The Tender Process and Council’s Contract Standing Orders

- 3.3 The new insurance arrangements have been procured using the accelerated restricted (two-stage) tendering procedure in accordance with the European public procurement legislation. The accelerated procedure was used because of the need to complete a tender process before the expiry of the emergency arrangements referred to in paragraph 3.2.

Stage One - Pre – Qualifying Stage

- 3.4 The process commenced on 20th June 2008 when a contract notice was placed in OJEU (*Official Journal of European Union*). The notice specified that the Council’s requirements were split into two lots, Lot 1 for liability insurance and Lot 2 for property (including terrorism) insurance. Interested organisations could then express interest for one or both lots.
- 3.5 Four organisations expressed interest. They were issued with a pre-qualifying questionnaire (PQQ) to complete by 4th July 2008. Two PQQ’s were returned, each expressing interest in both lots.
- 3.6 The PQQ’s were evaluated on the ability to meet the following criteria:
- Appropriate financial and liquidity capacity through Standard and Poor’s rating (or equivalent) and evaluation of last set of audited accounts.
 - Technical capacity of evidence of last 3 years in underwriting the classes of insurance in the contract notice.
- 3.7 The two respondents to the PQQ meet the above criteria and were invited to tender on 1st August. Details of the Tenderers are set out in Appendix 1 (not for publication).

Stage Two – Invitation to Tender

- 3.8 An Invitation to Tender Pack (ITT) was issued to the two organisations to formally tender. The tendering instructions stated that the contract would be awarded on the basis of the most economically advantageous offer to the Council and that in evaluating the tenders the Council would have regard to the following factors (*relative weighting in brackets*).

- Price (50%)
 - Quality (50% consisting of)
 - Ability to meet the specification (10%)
 - Customer Care (10%)
 - Breadth of Cover (20%)
 - Service Levels (10%)
- 3.9 During the tender process both bidders raised several questions which were responded to immediately by emailing both parties by blind copy.
- 3.10 All tenders had to be returned by 28th July. They were both returned on time.

Evaluation Process

- 3.11 The tender evaluation was carried out by a panel of officers from the Council's Insurance and Procurement Sections.
- 3.12 The tender specification for Lot 2, Property Insurance, included terrorism cover but on opening tenders it was noted that neither of the tenders received included terrorism cover in their submissions. The reason for this was that the premiums for this type of cover are now determined by Pool Re-insurance Vehicle set up by HM government to provide capacity for this cover in the insurance market. Officers therefore proceeded with the evaluation of tenders without this element.
- 3.13 During the evaluation it was noted that Tenderer 2 had also included claims handling in their tender submission. The Instructions to Tenderers indicated that claims handling was not required by the Council. Officers therefore contacted Tenderer 2 to clarify their tender and were informed that claims handling was an intrinsic part of their tender and whilst they were able to give a price for the element of the tender that related to claims handling, their tender was inclusive of claims handling and this element could not be subtracted from their tender cost.
- 3.14 The Council indicated in the Instruction to Tenderers that it required tenders to be priced on the basis of a one year contract, with an option to extend the contract up to a further 2 years on an annual basis. As part of its tender, Tenderer 2 indicated that its tender was on the basis that it would contract with the Council not just for one year with an option to extend for up to a further 2 years but on the basis that the contract would last for 3 years. It did however provide prices for years 1, 2 and 3.
- 3.15 Despite the above, Council officers proceeded to evaluate both tenders for both Lots against the award criteria of price and quality. With regard to price, it was clear however that the year 1 prices tendered by Tenderer 1 for both Lots 1 and 2 were significantly lower than those

tendered by Tenderer 2 (even when subtracting the claims handling element of Tenderer 2's tender costs). The financial scores achieved by each tenderer are shown in the table below. The actual premium levels to be charged by each tenderer are in Appendix 2 (not for publication) although those for Tenderer 1 are also summarised in the Financial Implications section below. Please note that the Fidelity Guarantee itemised in Appendix 2 is included in Lot 1 as it is a sub section of liability cover which is underwritten as a separate entity.

- 3.16 A breakdown of the evaluation of the “quality” criterion is shown in Appendix 3. For “Ability to meet the Specification” officers were assessing whether the tenderers were able to provide insurance cover that met the Council’s Specification. For “Customer Care”, officers evaluated the tenderers’ complaints procedures and the availability of risk management advice. Under “Breadth of cover”, officers assessed the additional areas of cover that went over and above the Council’s minimum requirements. For “Service Levels”, officers evaluated back office support that would assist in responding to the Council’s queries.
- 3.17 In the qualitative assessment, both tenderers were similar in relation to the Customer Care and Service Levels that they would provide. Both had an adequate complaints procedure and provided risk management advice. Both had well-qualified staff providing back office support. In relation to “Ability to meet the Specification”, both tenderers met the Council’s minimum requirements. Tenderer 2 did also include claims management services within their tender, which the Council did not require as it has its own separate arrangements for this. However as detailed in paragraph 3.13 Tenderer 2 provided a separate price for this and indicated they would not be prepared to offer cover without the claims handling aspect. Tenderer 1 offered a Capital Additions clause within their overall tender cost. Under “Breadth of Cover”, Tenderer 1 scored slightly more however otherwise the policies were similar in relation to breadth of cover.
- 3.18 A summary of the evaluation scoring for price and quality is detailed below.

Summary Tender Evaluation Table

(Please refer to Appendix 2 for the full evaluation score of Price and Appendix 3 for Quality).

		Price Score	Non Price Score	Total Score
Tenderer 1	Liability	30	42	72
Tenderer 2	Liability	21	41	62
Tenderer 1	Property	41	42	83
Tenderer 2	Property	9	40	49

- 3.19 Therefore it is recommended that Tenderer 1 (Zurich) be awarded contracts to provide both liability insurance and property insurance.

4.0 Financial Implications

- 4.1 Acceptance of Tender 1 would result in a new cost for Liability Insurance (which includes Fidelity Guarantee) of £172,022.44 and for Property Insurance of £133,851.67 in the first full year of the contract (starting October 2008). These figures exclude Insurance Premium Tax.
- 4.2 The total cost would therefore be £305,874.11 (£321,167.82 including Insurance Premium Tax) in the first full year. Costs can be contained within existing budgets.

5.0 Legal Implications

- 5.1 The value of these contracts over their lifetime is higher than the EU threshold for Services. Insurance contracts are also classified as Part A services and so the award of the contracts is governed by the Public Procurement regime as set out in the Public Contracts Regulations 2006. The award is also subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.2 The Council's power to purchase insurance is mainly under section 111 of the Local Government Act 1972 as being ancillary or incidental to its main functions although there are some specific express powers to insure. Employers liability insurance is compulsory. As identified in previous reports, the Council would be in a position of unacceptable risk if it did not have adequate insurance.
- 5.3 In considering the recommendation of this report, Members need to satisfy themselves that an award of contract to the recommended tenderer will ensure best value for the Council.
- 5.4 Assuming that Members agree to the recommendation, the Council must observe the 2006 Regulations relating to the observation of a mandatory minimum 10 calendar day standstill period **before** the contract can be awarded. Therefore once the Executive has determined which tenderer should be awarded the contract, all tenderers will be issued with written notification of the contract award decision. A minimum 10 calendar day standstill period will then be observed before the contract is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers if requested. As soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the contract can commence.

6.0 Staffing Implications

- 6.1 None specific

7.0 Diversity Implications

7.1 Officers have screened the proposals in this report, and believe that there are no diversity implications

8.0 Background Information

Report to Executive 16th June 2008 – Tender for Award of Insurance Contract

Invitation to Tender Documentation

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