

SURREY COUNTY COUNCIL

CABINET

DATE: 22 JULY 2014



REPORT OF: MS DENISE LE GAL, CABINET MEMBER FOR BUSINESS SERVICES

LEAD OFFICER: ANN CHARLTON, DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

JULIE FISHER, STRATEGIC DIRECTOR FOR BUSINESS SERVICES

SUBJECT: LEGAL SERVICES FRAMEWORK

SUMMARY OF ISSUE:

This report seeks Cabinet approval to award contracts which will provide additional legal support to local authorities in the county, through a Framework agreement. These contracts are intended to give all local authorities in Surrey, together with some neighbouring councils, access to specialised advice, which cannot be provided cost-effectively in-house.

It provides details of the procurement process, including the results of the evaluation process, and in conjunction with the Part 2 report, demonstrates why the recommended contracts offer best value for money.

Due to the commercial sensitivity involved in the contracts award process, the names and financial details of the potential suppliers have been circulated as a Part 2 report for Members.

RECOMMENDATIONS:

It is recommended that contracts are awarded to the preferred supplier(s) as agreed on the basis set out in the Part 2 report (item 22).

REASON FOR RECOMMENDATIONS:

To ensure that local authorities have access to best value for money external legal advice and support from solicitors and barristers selected by a full tender process, in compliance with the requirement of EU Procurement Legislation and Procurement Standing Orders.

DETAILS:

Background and Procurement Strategy

1. The procurement objective was to renew the Framework Agreement for the External Provision of Legal Services set up collaboratively in 2009 by Surrey County Council and the Boroughs and Districts in Surrey. The framework covers both solicitors and barristers.

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2. Expanding on the previous partnership work this has been a collaborative tender with the Surrey Boroughs and Districts, and local authorities within East Sussex and Berkshire, maximising our spend levels to the market and making the tender more commercially attractive. Local authorities outside Surrey will be invited to sign formally, once Cabinet has approved the list in Part 2 of this report.
 3. A joint Procurement and Project team was set up including representatives from Surrey Legal Services, Spelthorne Borough Council, Guildford Borough Council, Waverley Borough Council and Surrey Procurement and Commissioning. The contracts were to be let following a competitive tendering exercise, using the OJEU Restricted Procedure.
 4. The group wished to attract Surrey based firms to the framework and to assist with this there have been engagement meetings with the Surrey Law Society, an event at Guildford Borough Council for potential suppliers which was well attended by local firms and an article was also written for the local trade press.
 5. Engagement has also taken place with existing suppliers to understand their experiences with the current framework. Generally there was good feedback; a number of suppliers had good amounts of work under the framework. In some instances a few suppliers had little work from it, but the reasons for this were identified, and changes were made to the design of the subsequent project to try and eradicate this possibility from this procurement.
 6. Two procurement options were considered: (1) tender using the Government Procurement Service Framework, but that did not allow us to target Surrey based providers, nor did it provide sufficient cover for sensitive areas like child care barristers, (2) tender for our own framework and ensure engagement with Surrey based suppliers. The preferred option was to tender for our own framework to address the areas above.
 7. Fifty five suppliers expressed an interest in the advertised tender opportunity. These suppliers were evaluated to ensure they had the legal, financial and technical capacity and appropriate policies in place to undertake the contract. An invitation to tender was sent to 35 short listed suppliers. The resulting tenders were then evaluated against the criteria and weightings in the part 2 report.

Key Implications

8. The Framework is for the period from 1 September 2014 to 31 August 2018. By awarding a contract to the supplier(s) recommended in the Part 2 report the Council will be ensuring value for money from its external lawyers.
9. Performance will be monitored throughout. Lessons learned from monitoring the previous framework should lead to improved participation by all the councils to collect appropriate data for contract monitoring.
10. Surrey County Council will co-ordinate the contract management data records through its own systems and staff in Legal Services, using already established systems to monitor external spend data.

11. Management responsibility for the Contract lies with Surrey Legal Services and will be managed by them in line with the Contract Management Strategy and Plan as laid out in the contract documentation.

CONSULTATION:

12. Stakeholders consulted at all stages of the commissioning and procurement process include Spelthorne Borough Council, Guildford Borough Council, Waverley Borough Council, Surrey Procurement and Commissioning, East Sussex County Council, the Berkshire unitary authorities, and the Surrey Law Society. Externally the Project Group consulted the 22 current suppliers to the existing Framework Agreement.

RISK MANAGEMENT AND IMPLICATIONS:

13. The contract has been prepared jointly by SCC Legal Services, Spelthorne Borough Council, Guildford Borough Council, Waverley Borough Council and Surrey procurement and Commissioning.
14. The following key risks associated with the contract and contract award have been identified, along with mitigation activities:

Category	Risk Description	Mitigation Activity
Financial	Not knowing how much work is being put through the framework leading to increased costs.	Central collation of spend data as outlined in paragraph 10. Scheduled 6 monthly meetings with suppliers to identify issues.
Financial	Not knowing how much work is being spent outside of the arrangement.	Central collation of spend data as outlined in paragraph 10. Review of spend data in monthly meetings of the Surrey Administrators and Solicitors Group.
Reputational	Successful supplier does not have necessary skills, experience and technical knowledge to satisfactorily complete the elements of the contract(s)	Tender process to include 60% quality element towards overall contract(s) award, including clarification meetings if any officer concerns remain post tender process. Post contract remedies available under the contract.
Reputational	Issuing a framework which is not fit for purpose for internal customers or external suppliers.	The replacement of a new Legal framework through quality, specialist suppliers, following a thorough contract procurement exercise. Regular contract performance meetings to ensure adherence to works programmes and agree recovery actions if required.

Financial and Value for Money Implications

15. Full details of the contract value and financial implications are set out in the Part 2 report. The estimated costs have been based on previous costs, and market knowledge.
16. The procurement activity has delivered a solution with expected savings of approximately 13% when compared with the current rates in the existing framework.
17. Despite more robust reporting requirements and service levels in the new contract, the recommended bids achieve a decrease in the cost of the contracts.
18. Benchmarking information will be shared with East Sussex County Council.

Section 151 Officer Commentary

19. All material financial and business implications have been considered as part of this report. The expected costs and savings are set out within part two of the report.

Legal Implications – Monitoring Officer

20. Good legal support, including the ability to call upon external legal resources and technical expertise at short notice is essential to all local authorities and supports service delivery to residents.
21. To ensure compliance with legal requirements, Legal Services has undertaken a competitive procurement exercise in accordance with the Public Contracts Regulations and Procurement Standing Orders, to procure a sustainable 4 year Legal Framework.
22. The framework offers the Council access to good quality external legal services conforming in all respects with the specification supplied by the Council to the providers. The providers are required to comply with all applicable regulations and legal requirements.

Equalities and Diversity

23. There is no requirement for an Equality Impact Assessment (EIA) as there are no implications for any public sector equalities duty due to the nature of the services being procured. However all suppliers are required to comply with the Equalities Act 2010 and any relevant codes issued by the Equality and Humans Commission. In addition, all suppliers were assessed on the ability they had to address the requirements of the Equalities Act and to deliver services which would help the councils meet their statutory duties. Excellent responses were received from many suppliers.

<u>WHAT HAPPENS NEXT</u>

24. The timetable for implementation is as follows:

Action	Date
Cabinet decision to award	22 July 2014
'Alcatel' Standstill Period	28 July to 7 August 2014
Contract Signature	10 August 2014
Contract Commencement Date	1 September 2014

25. The Council has an obligation to allow unsuccessful suppliers the opportunity to challenge the proposed contract award. This period is referred to as the 'Alcatel' standstill period.

Contact Officer:

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Consulted:

Spelthorne Borough Council
Guildford Borough Council
Waverley Borough Council
Surrey Procurement and Commissioning
Surrey Legal Services
Surrey Law Society
Unitary authorities in Berkshire
East Sussex County Council

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