

**SURREY COUNTY COUNCIL**

**CABINET**

**DATE: 24 SEPTEMBER 2013**

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

**LEAD OFFICER: MR JASON RUSSELL, ASSISTANT DIRECTOR HIGHWAYS  
MS LAURA LANGSTAFF, HEAD OF PROCUREMENT AND COMMISSIONING**

**SUBJECT: PROVISION OF ADVERTISING SERVICES FOR STATUTORY NOTICES**



#### **SUMMARY OF ISSUE:**

To award the Contract to the recommended tenderer for the provision of Advertising Services for Statutory Notices to commence on 1 November 2013 for a period of 3 years, with an option to extend for a further period of 1 year. The Report provides details of the procurement process, including the results of the evaluation process, and in conjunction with the Part 2 Annex (item 20), demonstrates why the recommended Contract award delivers best value for money.

Due to the commercial sensitivity involved in the contract award process, the names and financial details of the potential suppliers have been circulated as a Part 2 Annex (item 20).

#### **RECOMMENDATIONS:**

It is recommended that:

1. the background information set out in this Report be noted, and
2. the award of Contract be agreed following consideration of the procurement process set out in item 20, Part 2 Annex.

#### **REASON FOR RECOMMENDATIONS:**

The existing contract will expire on 31 October 2013. A tender process has been completed, and the recommendations arising out of the above process provide best value for money for the Council following a thorough evaluation process. The procurement activity is expected to deliver savings of 10% per annum through the use of composite notices, closer working relationships, targeted distribution and alternative designs requiring less advertising space. Also, the contract ensures the Managed Service Provider passes on all discounted rates that the Newspapers offer.

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The new contract rates are in line with the current rates but the difference is they are fixed for the contract duration; therefore the projected spend is £540,000 per annum, compared to the current spend of £600,000 per annum, without incurring any inflationary costs.

#### **DETAILS:**

#### **Background and options considered**

1. Surrey County Council (SCC) currently uses a Managed Service Provider (MSP) to supply advertising services as a legal requirement for statutory notices. This contract will replace the current framework agreement which terminates on 31 October 2013.
2. The placement of statutory notices requires the MSP to comply strictly with the government legislation (see Legal Implications section of this report) to ensure the Council fulfils its obligation to make the public aware of all statutory notices.
3. A full tender process, compliant with all regulations, has been conducted. This included advertising the contract opportunity in the Official Journal of the European Union (OJEU) on 3 May 2013.
4. This recommendation is to appoint a single MSP for the provision of advertising services for statutory notices. The MSP will be responsible for the co-ordination of advert placement for statutory notices and general advertising requirements. This will include (but not be limited to) formatting, proof reading and booking of media space. The MSP will act as a single point of contact for all statutory notice advertising requirements. It will cover services across the SCC including Highways, Rights of Way, Planning Permits and Minerals and Waste. However, due to tight deadlines and legal requirements, it may be necessary for services to go directly to the publications as and when necessary.
5. The proposed contract will provide sufficient flexibility should there be any future changes in legislation which alter the requirement for advertising in newspapers. This flexibility will also allow SCC to explore the potential of using free publications in future. Hampshire County Council have adopted such an approach since October 2012, placing statutory public notice adverts in their own free publication called the Hampshire Independent.
6. An exercise to assess the benefits, costs and risk of using a free publication for SCC's advertisements (alongside our website and other digital media) is underway. This will need to take into account the set up costs and timescales of implementing a reliable and robust system for publication and distribution. The risk of such an approach on SCC's ability to fulfil its legal obligations will also be considered.

#### **Procurement Strategy**

7. Several options were considered when completing the Strategic Procurement Plan (SPP) prior to commencing the procurement activity. These options included using an existing Local Authority framework agreement, tendering

the requirement, joining an existing consortium or providing the service in house.

8. After a full and detailed options analysis it was decided to invite tenders as this demonstrated best value for money for Surrey.
9. An in house arrangement was rejected as agencies have the ability to group notices together to improve economies of scale, long established relationships with newspapers and the ability to provide typesetting and proof reading services. The Council does not have these options in place.
10. Comparison of benchmarking data clearly showed that Surrey would pay more per advert and incur management fees and additional service charges that could accumulate to 10% of the contract value if the Council joined a consortium or utilised an existing framework agreement (which would outweigh the costs of the procurement activity).
11. A joint project team was set up including representatives from Procurement, the Highways Service, Environment Service and SCC Legal to determine roles and responsibilities for the tender project.

#### **Use of e-Tendering and market management activities**

12. Since the council last went out to tender in 2009 there has been further consolidation within the advertising market. A number of mergers have taken place and the number of advertising suppliers available nationally has been further reduced. Last time expressions of interest were sought for this requirement a total of 9 suppliers responded.
13. A request for information was sent out to the market to generate early interest for the new tender.
14. A total of 9 suppliers expressed interest. This compares favorably to the previous tender exercise given the national reduction in the number of suppliers.
15. The tender was conducted using an electronic tender system.

#### **Key Implications**

16. By awarding the Contract to the supplier recommended in the Annex (item 21), the Council will be ensuring that they are able to fulfil its aims outlined in the Background section to this report above.
17. Performance will be monitored through a series of Key Performance Indicators as detailed in the Contract and reviewed at monthly operations meetings.
18. The management responsibility for the Contract lies with the Highways Service and will be managed in line with the Contract Management Strategy and plan as laid out in the Contract documentation which also provides for the review of performance and costs.

## Competitive Tendering Process

19. The Contract has been let through a competitive tendering exercise. It was decided that the Open Procedure was appropriate due to the number of the suppliers who registered their Interests.
20. An invitation to tender (ITT) was sent to 9 suppliers, who were given 45 days to complete and submit their response to the tender, of which 6 responded. These responses were then evaluated and one supplier is to be recommended. Details of the evaluation are included in Part 2 (item 20).

### **CONSULTATION:**

21. As this was a routine retendering of the long standing Contract, it has not been considered necessary to take this report to other committees, or consult externally.

### **RISK MANAGEMENT AND IMPLICATIONS:**

22. The Contract includes a provision for the Council to terminate the Contract by giving notice to the Supplier should any changes be made to relevant legislation.
23. All tenderers successfully completed satisfactory financial checks and 4 suppliers successfully completed checks on competency in delivery of similar Contracts as part of the tender evaluation process.
24. The following key risks associated with the Contracts and contract award have been identified, along with mitigation activities:

Category	Risk Description	Mitigation Activity
Financial	Anticipated Legislation change to publishing Notices in the local newspapers in 2015.	An early termination clause has been included in this contract to avoid any financial penalties resulting from legislation change.
	Supplier ceases business	Ongoing monitoring of supplier performance and continued market awareness. The selected supplier has passed comprehensive financial checks.
Reputational	Failing to fulfil our legal obligation to display public notices.	Work with supplier to ensure procedures are in place and continually improving.

### **Financial and Value for Money Implications**

25. Full details of the Contract value and financial implications are set out in Part 2 (item 20).
26. Contract rates are broadly similar to the existing contract. The procurement activity is expected to deliver savings of 10% per annum through the use of

composite notices being placed at the same time, requiring less advertising space. Also the contract ensures the Managed Service Provider passes on all discounted rates that the Newspapers offer.

27. As well as a decrease in the cost of the Advertising space there will be an improvement in the Key Performance Indicators (KPI) reporting requirements and the service levels being delivered under each Contract. Reports available will include order fulfilment statistics, average costs by type of space used and a range of spend reports.

The prices for the new contract will be fixed for the entire contract duration.

#### **Section 151 Officer Commentary**

28. The Section 151 Officer confirms that all material financial and business issues and risks have been considered in this report and in the part 2 Annex (item 20). Savings are anticipated through revised working practices resulting in grouping of notices.

#### **Legal Implications – Monitoring Officer**

29. All compliant tenderers supplied a written confirmation that if successful they will accept the Councils Contract Conditions, issued with the ITT.
30. Responsibility for the provision of the service is in line with the statutory requirements within the following Legislation:

The Road Traffic (Temporary Restrictions) Procedure Regulations 1992  
Road Traffic Regulation Act 1984  
Cycle Tracks Act 1984  
The Countryside Act 1981  
The Highways Act 1980  
The Wildlife and Countryside Act 1981  
The Town and Country Planning Act 1990  
The Countryside and Rights of Way Act 2000  
The Natural Environment and Rural Communities Act 2006

Under section 149 of the Equality Act 2010 Cabinet must comply with the public sector equality duty, which requires it to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant characteristic and a person who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

#### **Equalities and Diversity**

31. The Council has been mindful of its equalities duties in carrying out the Tender. A full Equality Impact Assessment has been undertaken by the Highways service. This is attached as an Annex. Resource provision is well placed to improve the service to equality groups with a number of reviews and projects being proposed. We will ensure that we work closely with other Highways service teams, County Council departments and our customers, or potential customers, to enable delivery of these improvements (see “Recommendations” of the EIA).

32. The Contract which the supplier will sign stipulates that the supplier will comply with all relevant equality and diversity legislation (including the Equality Act 2010) whilst providing the goods and services. All suppliers submitted their Equalities and Diversity policies as part of their bid submission.

33. The tender was also advertised on Surrey County Council's website to attract local interest.

**WHAT HAPPENS NEXT:**

34. The timetable for implementation is as follows:

Action	Date
Cabinet decision to award (including 'call in' period)	30 September 2013
'Alcatel' Standstill Period ends	10 October 2013
Contract Signature	21 October 2013
Contract Commencement Date	1 November 2013

35. 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.

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**Consulted:**

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Tony Orzieri – Finance Manager  
Naz Fox – Senior Lawyer  
David Curl – Parking Strategy and Implementation Team Manager  
Debbie Prismall – Senior Countryside Access Officer  
Laura Langstaff – Head of Procurement and Commissioning

**Annexes:**

Part 2 information – item 20  
Equality Impact Assessment Annex

**Sources/background papers:**

Tender Evaluation Summary

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