

For General Release

REPORT TO:	Cabinet Member for Finance and Resources
SUBJECT:	Award of contract for Insurance London Consortium (ILC) Legal Panel Contract
LEAD OFFICER:	Richard Simpson, Executive Director of Resources & S151 Officer Malcolm Davies, Head of Risk & Corporate Programme Office
CABINET MEMBER:	Councillor Simon Hall Cabinet Member for Finance and Treasury
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: Through the combined and focused purchasing power of the Insurance London Consortium, of which Croydon is the Accountable Body, the outcome of the procurement exercise and the recommended award of the contracts, subject of this report, continues to meet the objectives of improving value for money and in turn supports all of the Priorities of the Council.	
FINANCIAL IMPACT: Whilst the project has no specific budget attached to it, costs are covered under the self-insurance fund, (legal support), with contract management and procurement costs shared equally amongst the Consortium members. The Consortium members will continue to work together on risk management initiatives and share risk management information leading to better controls thus reducing the potential for future claims, and improving efficiencies.	
KEY DECISION REFERENCE NO.: This is not a Key Decision	

The Leader of the Council has delegated to the nominated Cabinet Member the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet Member for Finance and Treasury is recommended to:

- 1.1 in consultation with the Leader, approve the award of contracts for the ILC Legal Panel Contract to the providers and upon the terms detailed in the associated Part B report for a term of 5 years with a contract value of £850,000 for Croydon Council.
- 1.2 to note that the names of the successful providers will be published upon conclusion of the standstill period required under regulation 87 of the Public Contract Regulations 2015.

2. EXECUTIVE SUMMARY

- 2.1 In 2009 a group of 8 London boroughs, including the London Borough of Croydon, set up the Insurance London Consortium (ILC) in order to manage their joint insurance arrangements. The Insurance London Consortium has now expanded to 9 Boroughs with the inclusion of the London Borough of Sutton. The ILC is a formal body set up under an S101 Agreement with Croydon as the Accountable Body. One of this Council's responsibilities is to undertake tenders on behalf of the ILC members.
- 2.2 It is the aim of the Consortium that all tenders related to insurance and associated services are managed within the ILC, (albeit the members are not formally contracted to do so under the S101 agreement). Seven years ago, Croydon Council successfully tendered for a Legal Panel on behalf of the ILC, and the contract is now up for renewal.
- 2.3 7 out of the 9 ILC members took part in this procurement exercise to establish a panel of experts for the management of litigated insurance claims. The ILC members that took part are London Boroughs of Croydon, Harrow, Tower Hamlets, Islington, Sutton, Haringey and Royal Borough of Kingston upon Thames.
- 2.4 The following claim types fall within the scope of the contract:
- Tree Root Encroachment
 - Highways Liability
 - Professional Indemnity/Officials Indemnity
 - Housing Liability
 - Schools Public Liability
 - Industrial Disease
 - General Employer Liability
 - Motor including 3rd Party Liability
 - Child Abuse
 - Adult Abuse
 - Libel & Slander (Officers/Members)
 - Employer Liability Bullying & Stress
 - Loss Subrogation & Recovery including Technical Investigation
 - Human Rights
 - Unlawful Detention
- 2.5 The 5 highest scoring tenderers are recommended become panel members. The estimated value of the contract over the 5 year term is £850k for Croydon Council (£170k per annum) and £7.5 million in total for all ILC Members including Croydon Council, (£1.5m per annum). Hourly rates with each panel member provider will be fixed for the contract period.

- 2.6 The majority of ILC members taking part in this contract (including Croydon) handle all claims in house. So the function of the ILC legal panel is to handle cases only once they become litigated or where very specialised advice is required or where insurers have an interest thereby minimising costs spent on external providers.
- 2.7 The strategy report for the ILC Legal Panel was approved by the Contracts and Commissioning Board on 09/06/17 CCB1237/17-18. Approval was given to procure a 4-year framework and for the use of Regulation 21 to depart from the Council's standard evaluation weighting split of 60/40 price/quality to 100% quality.
- 2.8 However, following further discussions between ILC members and Croydon's legal services, it was agreed that a contract based on a term of 5 years and a tender evaluation weighting of 20/80 price/quality would secure even better value for money and this is how the Tender was advertised.
- 2.9 The content of this Award Report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
24/05/2018	CCB1360/18-19

3. DETAIL

Procurement process

- 3.1 Acting in its capacity as the Accountable Body, (and Contracting Authority), Croydon Council undertook a procurement exercise on behalf of 7 Insurance London Consortium (ILC) members. The tender sought insurance litigation (legal) services for a term of 5 years.
- 3.2 All procurement activities were undertaken in compliance with the Public Contracts Regulations 2015, and the Council's Tenders and Contracts Regulations. In accordance with the approved procurement strategy a restricted procurement procedure was undertaken.
- 3.3 A contract notice was published in the Official Journal of the European Union (OJEU) on 13 January 2018 (2018/S 009-016053) with a closing date for receipt of Selection Questionnaires on 12 February 2018.
- 3.4 10 Selection Questionnaires (SQ) from potential providers were received via the Council's e-tendering portal by the closing date. The submissions were evaluated against the following declared methodology;
- Mandatory & Discretionary Exclusions – Pass/Fail
 - Economic and Financial Standing – Pass/Fail
 - Relevant Experience & Contract Examples – Pass/Fail
 - Mandatory Competency Threshold – Pass/Fail

- Organisational Structure & Approach to Supervision – 10%
- Resourcing Levels – 10%
- Team Structure & Experience – 10%
- Expertise – 10%
- Representation at & working in London Courts – 10%
- Investigations & Taking of Witness Statements – 10%
- Onsite Training/Meetings/Case Conferences - 10%
- Innovation and Continuous Improvements – 10%
- Expertise in Controlling Spend 3rd Party Legal Costs & Claims Payment – 10%
- Management Information – 10%

3.5 All 10 SQ submissions received from potential providers passed the mandatory/discretionary exclusions as well as the mandatory competency threshold.

3.6 Outcome notifications of the selection process were issued to all potential providers on 23 February 2018 and the 8 highest scoring were invited to submit a Tender. The table's below show the results of the SQ evaluation process. Table1 (potential supplier's A – E) and Table 2 (potential supplier's F – J).

Table 1

Evaluation Criteria	Weighting	Potential Supplier A	Potential Supplier B	Potential Supplier C	Potential Supplier D	Potential Supplier E
Organisational Structure & Approach to Supervision	10%	8.00%	4.00%	10.00%	8.00%	8.00%
Resourcing Levels	10%	10.00%	4.00%	10.00%	6.00%	6.00%
Team Structure & Experience	10%	10.00%	6.00%	10.00%	6.00%	8.00%
Expertise	10%	10.00%	4.00%	8.00%	10.00%	10.00%
Representation at & working in London Courts	10%	8.00%	6.00%	10.00%	6.00%	10.00%
Investigations & Taking of Witness Statements	10%	8.00%	6.00%	8.00%	6.00%	10.00%
Onsite Training/Meetings/Case Conferences	10%	8.00%	6.00%	10.00%	6.00%	8.00%
Innovation and Continuous Improvements	10%	10.00%	6.00%	8.00%	8.00%	8.00%
Expertise in Controlling Spend 3rd Party Legal Costs & Claims Payment	10%	10.00%	8.00%	8.00%	6.00%	8.00%

Management Information	10%	10.00%	10.00%	10.00%	4.00%	10.00%
Total	100%	92.00%	60.00%	92.00%	66.00%	86.00%

Table 2

Evaluation Criteria	Weighting	Potential Supplier F	Potential Supplier G	Potential Supplier H	Potential Supplier I	Potential Supplier J
Organisational Structure & Approach to Supervision	10%	2.00%	8.00%	8.00%	8.00%	8.00%
Resourcing Levels	10%	2.00%	10.00%	10.00%	10.00%	10.00%
Team Structure & Experience	10%	4.00%	8.00%	8.00%	10.00%	8.00%
Expertise	10%	4.00%	10.00%	10.00%	8.00%	10.00%
Representation at & working in London Courts	10%	2.00%	8.00%	8.00%	8.00%	8.00%
Investigations & Taking of Witness Statements	10%	2.00%	8.00%	8.00%	10.00%	8.00%
Onsite Training/Meetings/ Case Conferences	10%	2.00%	8.00%	10.00%	8.00%	8.00%
Innovation and Continuous Improvements	10%	4.00%	10.00%	10.00%	10.00%	10.00%
Expertise in Controlling Spend 3rd Party Legal Costs & Claims Payment	10%	4.00%	8.00%	10.00%	10.00%	10.00%
Management Information	10%	0.00%	10.00%	10.00%	10.00%	10.00%
Total	100%	26.00%	88.00%	92.00%	92.00%	90.00%

3.7 The 8 highest scoring potential providers at SQ stage (listed below) were invited to Tender.

Potential Supplier A 92.00%
 Potential Supplier C 92.00%
 Potential Supplier D 66.00%
 Potential Supplier E 86.00%
 Potential Supplier G 88.00%
 Potential Supplier H 92.00%
 Potential Supplier I 92.00%
 Potential Supplier J 90.00%

3.8 The tender process was designed to determine the most economically advantageous tenders in terms of Price, Quality and Value for Money.

3.9 The evaluation criteria is listed below:

Price (20%)

- Price

Quality (70%)

- Service Delivery Approach - Case Studies
- Cost Management
- Contract and Performance Management
- Transition and Mobilisation
- Social Value

Value for Money (10%)

- Continuous Improvement

Presentations – held on 19 & 20th April 2018

3.10 As part of their tender submission, Tenderers were required to prepare reports on 2 case studies which were scored. Tenderers were then asked to present their reports to the evaluation panel allowing both parties to clarify any ambiguities and confirm scoring. The presentations themselves were not scored.

3.11 The 5 Tenderer's recommended for contract award, and become part of the legal panel, are those with the highest combined Price, Quality and Value for Money score. Please see the table below.

Allocation of weightings and scores & results of the tender

Evaluation Criteria	Weighting	Tenderer A	Tenderer B	Tenderer C	Tenderer D	Tenderer E	Tenderer F	Tenderer G	Tenderer H
Quality (70%)									
Service Delivery Approach - Case Study 1	15%	15%	15%	6%	15%	15%	15%	12%	15%
Service Delivery Approach - Case Study 2	15%	15%	12%	15%	15%	15%	15%	15%	15%
Cost Management	10%	10%	8%	8%	8%	8%	10%	8%	8%
Contract and Performance Management	10%	10%	8%	8%	10%	8%	8%	10%	8%
Transition and Mobilisation	10%	8%	8%	8%	8%	10%	8%	10%	8%
Social Value	10%	6%	10%	8%	10%	8%	8%	8%	10%
Sub Total	70%	64%	61%	53%	66%	64%	64%	63%	64%
Value for Money (10%)									
Continuous Improvement	10%	10%	10%	10%	6%	10%	10%	10%	6%
Total	80%	74%	71%	63%	72%	74%	74%	73%	70%
Price (20%)									
Price	20%	20.00%	19.86%	18.30%	18.60%	19.98%	16.04%	19.00%	18.70%
Total	100%	94.00%	90.86%	81.30%	90.60%	93.98%	90.04%	92.00%	88.70%

3.12 The top five tenderers scores are:

Tenderer A	94.00%
Tenderer B	90.86%
Tenderer D	90.60%
Tenderer E	93.98%
Tenderer G	92.00%

How the panel will work

- 3.13 Litigation cases will be allocated to the providers on the panel on a strict rotation basis i.e. the 'taxi rank' principle. If a borough has to skip to one particular provider, for example to a provider who is handling a related or similar case, then the borough will skip back to the provider who was next in line for the next case to ensure a fair distribution of work and to ensure that no providers are commercially disadvantaged.
- 3.14 The Head of Risk & Insurance and the Insurance Manager for Croydon Council will be responsible for contract management with quarterly contract review meetings held with each panel member. A straight 5 year term sought to reflect previous experience which has been stability of providers and rates over an extended period of time with keen pricing to reflect the longer term commitment by all parties to the arrangement.

4. CONSULTATION

- 4.1 Consultation was undertaken with all participating members of the Insurance London Consortium to ensure that each boroughs requirements were met as a result of the procurement process.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 There are no adverse financial considerations arising from this report. The funding for insurance litigation (legal) sits within the insurance fund, (a reserve that is agreed annually and used to pay for insurance claims against the Council up to the level of deductible / excess that the Council has with their external insurers, as well as all other insurance related expenditure – the fund is reviewed annually and adjusted up or down accordingly), and hence there is no budget as such for these contracts.
- 5.2 Whilst there is a cost element involved in the ILC projects and the tender exercise, all costs are spread equally amongst all of the participating authorities and is therefore minimal for the participants. The contracts also have fixed hourly rates going forward in order to reduce the risk of year on year increases, with a five year contract also reducing future procurement costs.
- 5.3 The rates will be fixed across all panel members and there is a very modest increase on rates set 6 years ago as per the table in Part B report. The 2018

rates have been determined based on the average of the successful tenderers price responses for each band of fee earner.

1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2017/18	2018/19	2019/20	2020/21
	£'000	£'000	£'000	£'000
Revenue Budget available				
Expenditure	165	170	170	170
Income				
Effect of decision from report				
Expenditure		170	170	170
Income				
Remaining budget		0	0	0
Capital Budget available				
Expenditure				
Effect of decision from report				
Expenditure				
Remaining budget				

2 The effect of the decision: The contract value is £170k per year, for 5 years.

3 Risks Risks of procurement challenge have been minimised through the OJEU compliant tender process and provider's financial status and standing being ascertained.

4 Options. No other options are being considered.

5 Future savings/efficiencies: Savings will be generated by gradually diminishing the use of the panel through increased internal claims handling. The fee scales and hourly rates to be paid to all firms on the panel reflect current rates paid to London based and provincial law firms.

There are no further financial considerations arising from this report.

Approved by: Ian Geary, Head of Finance, Resources & Accountancy

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

6.1 The Council Solicitor comments that the procurement process as detailed in this

report meets the requirements of the Council's tenders and contracts regulations, EU procurement requirements and the Council's duty to secure best value under the Local Government Act 1999.

Approved by: Sean Murphy, Lawyer on behalf of the Council Solicitor & Director of Democratic & Legal Services

7. HUMAN RESOURCES IMPACT

7.1 There are no immediate human resource impacts arising from this report.

Approved by: Gillian Beven on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

8.1 There are no equalities issues arising from this report. An EAI has been undertaken showing no further action required.

9. ENVIRONMENTAL IMPACT

9.1 There are no environmental impacts arising from this report.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There will be no direct impact on crime and disorder

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 Following the evaluation of tenders, the award recommendation's being made is for the 5 Tenderer's that offered the most economically advantageous tender's to join a panel of providers for all participating ILC Members.

12. OPTIONS CONSIDERED AND REJECTED

12.1 Croydon Council's in-house legal team and their external legal partner were considered but deemed to not to be suitable due to the specialist nature of the insurance litigation work to be undertaken and the need to access advice from a wider panel of insurer approved providers. In addition, other ILC members would not be able to use either Croydon's in-house legal team or have access to use Croydon's external legal partner.

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BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

None