



City of Westminster Cabinet Member Report

Decision Maker:	Cabinet Member for Finance, Property and Regeneration
Date:	8 March 2019
Classification:	Part A – Public Report Part B – Is exempt from disclosure by virtue of the following paragraphs of Schedule 12A to the Local Government Act 1972: “Information relating to the financial or business affairs of any person (including the authority holding that information).” is exempt from publication.
Title:	Insurance Contracts Award 2019-24
Wards Affected:	All
City for All Summary	4.37% insurance saving delivered to leaseholders against premium that would have been due without tender process
Key Decision:	Yes – significant expenditure
Financial Summary:	Award of insurance contracts totalling £3.343m per annum which, over 5 years, equate to £16.715m.
Report of:	Martin Hinckley – Assistant City Treasurer Contact Details: mhinckley@westminster.gov.uk
Report Author:	Neil Walker – Assistant Head of Insurance Contact Details: neil.walker@rbkc.gov.uk

Part A – Public Report

1 EXECUTIVE SUMMARY

- 1.1 This report sets out the proposed contract awards for sovereign insurance contracts for Leaseholder, Property, Combined Liability and Directors' & Officers' Liability for contract commencement dates of 1st April 2019.
- 1.2 The tender strategy entailed a detailed joint procurement process in conjunction with the Council's retained insurance advisors and with close engagement with the procurement function to ensure the Council's requirements were fully incorporated, ensuring that each of the three councils involved were priced according to their own risk profile but

could benefit from bulk discounts sought from tenderers and efficiencies arising from sharing operational arrangements provided by the shared Insurance service.

- 1.3 The over-arching aim of these tenders was to put in place appropriate insurance cover for the Council and its residents, achieve financial efficiencies in the process of arranging the cover and to carry out appropriate section 20 consultation and liaison with the Council's leaseholders to ensure they are appropriately insured and recharged.

2 RECOMMENDATIONS

- 2.1 That Part B be exempt from disclosure by virtue of the Local Government Act 1972 Schedule 12A, Part 1, paragraph 3 (as amended), in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)

- 2.2 The Cabinet Member is recommended to approve contract awards for the following insurance services for a period of 5 years. The annual value from the award of these contracts will be £3.343m which, over 5 years, equate to £16.715m. The contracts are subject to annual review of Council's insurance needs, based on changes in assets, indexation of sums insured, salary spend and alterations to Council services. Therefore, the actual premium cost each financial year will vary although changes in underlying premium rates will constitute a contract break by the insurers. Please note the Council's Procurement Assurance Board has been consulted and supports the recommendation to the Cabinet Member for award of the following:

- Leaseholder buildings insurance – Avid Insurance Services Limited - £2.497m per annum
- Property insurance – Protector Insurance - £0.459m per annum
- Combined Liability insurance – Protector Insurance - £0.387m per annum
- Directors' & Officer's Liability insurance – No Award

3 REASONS FOR DECISION

- 3.1 In respect of the award of leasehold buildings insurance the Council needs to award a contract of insurance to comply with the Council's legal obligations under the leasehold agreement entered into at the time of sale of the lease to the leaseholders the covenant to insure their asset and ensure the relevant portion of the Council's freehold is insured.
- 3.2 In respect of the award of Property insurance this is to provide funds to reinstate Council assets following damage by insured perils, in the absence of which the financial costs of re-instatement would place considerable or impossible financial demands upon the Council.
- 3.3 In respect of the award of Combined Liability Insurance this is to indemnify the Council against legal costs and damages arising from legal claims against the Council in Negligence, Nuisance, Libel and Slander. The absence of which would place considerable or impossible financial demands upon the Council.

- 3.4 In the absence of suitable bids via the OJEU process for Directors and Officers insurance cover will continue on an annual basis via the Lloyds Insurance Market accessed by JLT Speciality Ltd, the Councils insurance brokers and advisors.
- 3.5.1 The recommendation for contract award follows a robust procurement process, carried out in accordance with the Council's Contract Regulations and Public Contract Regulations 2015 in an OJEU compliant process and on the most economically advantageous tender bid.

4 BACKGROUND

- 4.1 At last renewal the Leaseholder insurers, Ocaso, increased the premium by 49.10% (including Insurance Premium Tax) for 2018/19 due to the poor claims experience. This broke the terms of the Long-Term Agreement (LTA) in place for the current contract, which runs from 1st April 2016 to 31st March 2021, which meant that the Council could only choose to either continue with the current arrangement with the prospect of further increases over the term of the contract or to re-tender the contract. This premium is funded by the Housing Revenue Account (HRA) and then passed on in full to the Council's leaseholders. The Council needed to re-tender the policy: by continuing with this policy arrangement into 2019/20, while the LTA is broken, there is a risk that further increases in premiums will be imposed by the current provider which would then have to be passed on to leaseholders and the potential challenge as to why we have not retested the market to ensure best value.
- 4.2 At last renewal the Property and Combined Liability insurers, Protector, applied a 25% rate increase to the Liability policy for 2018/19 due to the reduction to the Ministry of Justice Discount Rate from 2.5% to -0.75% (which applies to catastrophic injury claims). This broke the terms of the LTA in place for the current contract, which runs from 1st April 2017 to 31st March 2022, which meant that the Council could only choose to either continue with the current arrangement with the prospect of further increases over the term of the contract or to re-tender the contract. The Council recently took the decision to restructure the Liability cover and now buys Liability excess layers with other insurers from £25m-£200m. The Council has also increased its housing "sums insured" figures, further increasing the premium. Both of these decisions were made in light of the Grenfell Tower fire and in agreement with the City Treasurer, to safeguard the Council against a catastrophic loss. These premiums are funded by the General Fund and internally recharged. Bearing in mind these premium increases, the Council had the opportunity to re-tender these policies to mitigate the risk of further premium increases and to potentially restructure its cover to ensure best value.
- 4.3 The Directors' & Officers' Liability premium has increased from £0.011m to £0.035m due to new entities having been added to the policy and the external Directors' & Officers' market having hardened due to changing market conditions, with the Grenfell Tower fire one of the particular factors. Tendering this policy will ensure best value is being obtained.
- 4.4 The tender project timetable is as follows:

Procurement Assurance Board Gate 1	July 2018
1 st Leaseholder Consultation (30 days)	July - August 2018
Initial ITT issued to market for Liability/Property/D&O	August 2018

Final Invitation To Tender documents released to the market (inc. Leasehold)	October 2018
Initial bid deadlines	November 2018
Negotiation meetings with bidders for Liability/Property/D&O	November 2018
Tender evaluation	December 2018
2 nd Leaseholder Consultation (30 days)	January - February 2019
Procurement Assurance Board Gate 2	February 2019
Report to Cabinet Member for Finance, Property & Regeneration	February 2019
Award Contract	March 2019
Protocol Meeting with New Insurers	March 2019
Cover Incepted / Contract Start	1 st April 2019

5 PROCUREMENT PROCESS AND OUTCOMES

5.1 The council followed the procurement strategy, namely:

- Open procedure (under an OJEU-complaint process) for:
Leaseholder Building Insurance
- Competitive negotiated procedure (under an OJEU-compliant process) for:
Lot 1 Property
Lot 2 Combined Liability
Lot 3 Directors' & Officers' Liability

The tender evaluation panel were satisfied that there were an adequate number of bidders for each of the insurance requirements.

5.2 The Leaseholder building insurance tender evaluation criteria was as follows:

- Price 600 points
- Cover 250 points
- Claims Service 100 points
- Added Value 50 points

5.3 The Leaseholder tender evaluation summary is as follows:

Tenderer	Technical Score	Price Score	Total
AVID INSURANCE	300	600	900
BID B	350	423	773
BID C	310	446	756
BID D	250	392	642

5.4 Having completed the tender evaluation process (please see Appendix 2 in Part B for full details), the proposal is to award the Leaseholder building insurance contract to Avid Insurance Services Limited. The Avid quote is £2.497m per annum, including 12% Insurance Premium Tax. This is £0.035m lower than the 2018/19 premium, representing a 1.37% saving for the Council's leaseholders against the previous premium although

when you consider sums insured were increased by 3% indexation the saving in real terms would be 4.37% against the premium that would have applied in the absence of the tender process (to whom this premium is recharged in its entirety).

The responses received were as follows:

Option 1 (£100 excess) – responses were received from Avid Insurance Services Ltd, and three other bidders. The lowest quote received was from Avid. Their total premium figure is after a 2% discount for Avid winning two of the three lots available (for the City of Westminster, London Borough of Hammersmith & Fulham and Royal Borough of Kensington & Chelsea), which is the expected tender outcome. This option has been evaluated as the best value and therefore most preferable option for leaseholders.

Option 2 (Block-by-block premiums) – Only one of the four bidders provided different premium rates by block, rather than one premium rate applicable to the total sum insured. The total quote for this option was £2.886m, excluding 12% Insurance Premium Tax, making it a significantly more expensive option than Option 1.

Option 3 (£100,000 excess) – Two bidders responded on this basis. The lowest quote received was £0.420m excluding Insurance Premium Tax. However, this option would entail the Council self-funding claims below the excess and recharging the cost to leaseholders and it is estimated a minimum £2.071m claims cost figure plus the additional £0.040m for terrorism cover that would need to be charged. The total cost will be £2.531m which would make this option more expensive than Option 1.

5.5 The Property, Combined Liability and Directors' & Officers' tender evaluation criteria was as follows:

- Price 500 points
- Cover & Claims Handling 350 points
- Added Value 150 points

5.6 The Property, Combined Liability and Directors' & Officers' tender evaluation summary is as follows:

Tenderer	Technical Score	Price Score	Total
LOT 1 - PROPERTY			
PROTECTOR	420	500	920
Bidder B	260	492	752
Bidder C	370	307	677
LOT 2 - LIABILITY			
PROTECTOR	370	500	870
Bidder B	NO BID	NO BID	NO BID
Bidder C*	425*	284*	709*
* WILL NOT ACCEPT LOT IN ISOLATION			
LOT 3 - DIRECTORS' & OFFICERS'			
No valid bids	NO BID	NO BID	NO BID

- 5.7 Having completed the tender evaluation process (please see Appendix 3), the proposal is to award the Property insurance contract to Protector Insurance. The Protector quote is £0.459m per annum, including 12% Insurance Premium Tax. This total figure is £0.069m higher than the 2018/19 premium, representing an annual increase of 17.59%. The increase is mainly due to the total sum insured following tenanted housing stock revaluation. Of the total premium, £0.149m relates to the Council's Commercial Property portfolio and will be recharged to its tenants. The proposed option is to continue with a £100k policy excess (option 1). Consideration was given to the merits of increased levels of self-insurance retention but ultimately this is not recommended for this tender as it would significantly increase the Council's self-funding risk exposure for an insignificant premium saving.
- 5.8 Having completed the tender evaluation process (please see Appendix 3 in Part B), the proposal is to award the Combined Liability insurance contract to Protector Insurance. The Protector quote is £0.387m per annum, including 12% Insurance Premium Tax. This total figure is £0.096m higher than the 2018/19 premium, representing an annual increase of 32.99%. However, it is estimated that a minimum of £0.060m of the increase relates to taking over CityWest Homes' Liability insurance. The proposed option is to continue with a £100k policy excess (option 1). Consideration was given to the merits of increased levels of self-insurance retention but ultimately this is not recommended for this tender as it would significantly increase the Council's self-funding risk exposure for an insignificant premium saving.
- 5.9 It is proposed that no award is made in respect of Directors' & Officers' Liability. The reason for this is only two bids were received and both were conditional on the insurer also being successful for the Combined Liability lot, which was not the case for either. The Insurance service will instead ask the Council's retained insurance advisors to source the Lloyd's insurance market for best possible terms for a one-year placement commencing 1st April 2019. The estimated premium spend is £0.035m per annum.
- 5.10 The table below summarises the two tenders and a comparison in premium spend:

PREMIUM	2018/19	2019/20	% comparison
	£m	£m	
PROPERTY	0.283	0.310	9.44%
COMBINED LIABILITY	0.291	0.387	32.99%
TOTAL INTERNALLY RECHARGED PREMIUMS	0.574	0.697	21.43%
LEASEHOLDER	2.532	2.497	-1.37%
COMMERCIAL PROPERTY	0.107	0.149	39.13%
TOTAL EXTERNALLY RECHARGED PREMIUMS	2.639	2.646	0.28%
GRAND TOTAL	3.213	3.343	4.04%

6 FINANCIAL IMPLICATIONS

- 6.1 In the table above, the internally recharged premiums, Property and Combined Liability are charged to the Housing Revenue Account (HRA) and the General Fund (GF). The premiums are expected to be £0.123m higher in 2019/20 of which, HRA is £0.078m and GF is £0.045m. Please note, the breakdown is indicative and the actual breakdown between HRA and GF is established as part of the wider insurance recharge process

completed annually. Of the £0.123m increase in premiums, £0.060m is due to the Council taking over CityWest Homes' Liability insurance. However, this will be offset by not making payments to CityWest Homes as part of their annual management fee. The remaining balance, £0.063m, will be met from within 2019/20 budgets and no financial pressure is expected. Sufficient budgets will be available over the 5 years to meet the commitments from these awards.

- 6.2 The insurance premiums are subject to indexation over the 5-year term, however, this will be reflected in future budget plans. In the contract, indexation is based on the Retail Price Index (RPI). There are risks that premiums could materially increase if the insurers break the long-term agreement or significant asset purchases are made by the Council.
- 6.3 The Leaseholder insurance premium is recharged in its entirety to the Council's leaseholders and will be delivering a 1.37% saving to them, despite a 3% index-linked increase to their property sum insured.
- 6.4 The awards are not linked to any future Medium-Term Plan (MTP) initiatives. However, from the previous tender, a saving of £0.180m was realised which was part of the MTP commitments for 2018/19.

Implications reviewed by: Zohaib Nizami, SFM, Corporate Services

7 LEGAL IMPLICATIONS

- 7.1 The Council has power under section 1 of the Localism Act 2011 to enter into contracts for the provision of insurance cover to protect its assets, liabilities and risks.
- 7.2 The contract values and nature of insurance services required an EU compliant process in order to comply with Public Contracts Regulations 2015.
- 7.3 As the procurements are Tri-Borough, the decisions to make the award will have to be mirrored across RBKC and H&F before the Council can enter into the contracts and the Council must also ensure that it has followed the Shared Services Procurement Code for Joint Contracts.

Implications reviewed by: Angela Hogan, Senior Solicitor (Interim)

8 CONSULTATION

- 8.1 Stage 1 leaseholder consultation and engagement took place during July and August 2018 and Stage 2 leaseholder consultation and engagement took place in January and February 2019, in accordance with section 20 of the Landlord & Tenant Act 1985. All leaseholder observations received have been given due regard and have been responded to within the statutory timeframe.

Local Government Act 1972 (as amended) – Background papers used in the preparation of this report

Appendix 1 – WCC Insurance Tender Strategy for 2019-24



WCC Insurance
Tender Strategy for :

For completion by the **Cabinet Member for Finance, Property and Regeneration**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: _____

State nature of interest if any

.....

(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled

Insurance Contracts Award 2019-24 and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Finance, Property and Regeneration

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

.....

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Head of Legal & Democratic Services, Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.