

**AGENDA ITEM: 6**                      Pages 19 – 24

Meeting	Cabinet Resources Committee
Date	28 July 2011
<b>Subject</b>	<b>Contract for systems based Internal Audit Services</b>
Report of	Cabinet Member for Resources and Performance
Summary	Following a joint tendering exercise with London Borough of Enfield as the lead council, a contract is to be awarded to Price Waterhouse Coopers for a period of three years starting 1 <sup>st</sup> August 2011.

Officer Contributors	Maryellen Salter, Assistant Director of Finance – Audit and Risk Management
Status (public or exempt)	Public with exempt part.
Wards affected	None
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

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## **1. RECOMMENDATION**

- 1.1 The Committee authorises the completion of the procurement process with London Borough of Enfield.**
- 1.2 The Committee approves the awarding of the contract to Price Waterhouse Coopers (PWC) for the period of three years starting 1<sup>st</sup> August 2011 using Management Consultancy and Accounting Services – Audit and Assurance Advice and Services - Framework RM662/L13, and with the option for 1 year extension. The contract includes the provision of internal audit, risk management and counter fraud services.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 On 11 January 2006, the Director of Resources in consultation with Cabinet Member approved the appointment of Deloitte & Touche Public Sector Internal Audit Ltd for a 3 year period from 1 April 2006 until 31 March 2009. The decision allowed the provision in the contract for the extension of the contract for a further 2 years (at paragraph 7.7).
- 2.2 On 31 December 2008, the Director of Corporate Governance approved a delegated powers report (DPR 703) for the extension of the Systems Based Internal Auditing contract with Deloitte & Touche Public Sector Internal Audit Ltd, for a period of up to two years.
- 2.3 On 28 March 2011, Cabinet Resources Committee approved a report for the extension of the Systems Based Internal Auditing with Deloitte & Touche Public Sector Internal Audit Ltd for a period of six months with an option for the Council to end the extended period after three months. This was to allow for the joint procurement exercise with London Borough of Enfield to progress.
- 2.4 On the 21<sup>st</sup> June 2011, the Deputy Chief Executive approved a delegated powers report to sign the agreement to enter joint mini procurement exercise with London Borough of Enfield for the purpose of calling off from the Buying Solutions framework contract for internal audit services.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 This work is in line with all corporate priorities.
- 3.2 The Council, under Part 2 (Para 3) of the Financial Regulations of the Council's procedure rules, requires provision of an adequate and effective system of internal audit.
- 3.3 Effective audit and risk assurance arrangements support continuous improvement in the delivery of Council's key priorities in particular Better Services with Less Money.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 The risks of failing to secure this resource are as follows:
  - a) Weaknesses in the effectiveness of internal control in key areas are not identified and addressed owing to an inability to complete the audit plan and the inability to achieve the required audit coverage across all Council Services areas.

- b) An inability, owing to the lack of adequate coverage, for Internal Audit to support assertions in the Annual Governance Statement or to express an opinion around the effectiveness of the Council's Governance framework, including the system of internal control which must be reported in the Annual Governance Statement under Regulation 4(2) of the Accounts and Audit Regulations 2003, as amended by the Accounts and Audit (Amendment) (England) Regulations 2006.
- c) Non compliance with the Accounts and Audit Regulation 2003 which states at Section 6 that "a relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper internal audit practices."

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The awarding of the contract is not expected to alter the Council's obligations in meeting its statutory equality duties. The provision of internal audit and risk management services affects all members of the community in a consistent way, including those with protected characteristics.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 The supplier who has been selected has been selected on the basis of price and quality, with price representing 30% of the award criteria. Quality was a key consideration of awarding this contract due to the high quality assurance that the Council requires from internal audit over the next three year period.
- 6.2 The supplier selected represents good value for money based on it meeting 87% of the requirements of the award criteria. The next closest supplier received 68%.
- 6.3 Based on the prices received in the tender the total cost of the three year contract is £286,180. The level of service required from the contract will fluctuate if staff either leave, are seconded, if the department has unusually high absences, or there is a Council requirement to increase its level of assurance on various specialist assurance areas.
- 6.4 The next closest supplier would cost £245,154, the difference is justifiable in the context that quality is seen as essential for final audit reports to have sound audit opinions. This situation is a risk to the Council if the audit reports do not reveal all internal control failures, the Council will then fail to improve its internal control arrangements.
- 6.5 As a result of the above considerations, the selected supplier is considered to meet value for money considerations and will enable the Council to address risk management issues noted in section 5.
- 6.6 The cost of this contract will be contained within the finance department budget.

## **7. LEGAL ISSUES**

- 7.1 Procurement processes must comply with the European procurement rules and the Treaty obligations of transparency, equality of treatment and non discrimination as well as the Council's Contract Procedure Rules.
- 7.2 A Framework is an agreement between a client and contractor or contractors or consultant or consultants (depending upon the nature of the framework), the purpose of

which is to establish the terms governing particular call-off contracts that may be awarded during the term of the framework, in particular with regard to price and quantity.

The advantage of establishing framework agreements is that as long as the original framework agreement has been advertised and let in accordance with the EU procurement rules, there is no requirement to advertise any subsequent call-off contracts let under the framework agreement even where those call-off contracts exceed the stipulated financial threshold for works and for services.

- 7.3 Framework agreements are referenced under paragraph 6.9.1.1 through to 6.9.1.5 of the Contract Procedure Rules, as set out at paragraph 8.2 below. And On the basis of the information contained in the report the relevant provisions of the Council's Contract Procedure Rules have been met.
- 7.4 In accordance with the Council's Contract Procedure Rules, there will be a need to enter into formal contracts with the successful tenderer.

## **8. CONSTITUTIONAL POWERS**

- 8.1 Constitution Part 3 "Responsibility for Functions" para 3.6 sets out functions of the Cabinet Resources Committee and Contract Procedure Rules (CPR) Section 5 "Authorisation & Acceptance Procedures". Under Table 5-1 of the CPR, (i) authorisation by Cabinet Member is required for contract value of between £156,422 to £499,999; and (ii) Cabinet Member is authorised to accept tender with contract value of between £156,442 to £499,999, where tender represents value for money and is the best available option for the Council.
- 8.2 Framework agreements are referenced under paragraph 6.9.1.1 through to 6.9.1.5 of the Contract Procedure Rules, as set out below.

"Before procuring or entering into a framework agreement, the Commercial Director shall be satisfied that:

- 6.9.1.1 the term of the arrangement shall be or is for a period of no longer than four years duration;
- 6.9.1.2 the terms and conditions of the arrangement do not compromise the Council's contractual requirements;
- 6.9.1.3 the parties to the arrangement are recognised public bodies or providers from the private sector;
- 6.9.1.4 full, open and proper competition in respect of the creation of the framework agreement has taken or will take place in accordance with the Relevant EU Rules and/or Relevant Contract Procedure Rules
- 6.9.1.5 Preference should be given to use of any Government Procurement schemes e.g. OGC".

## **9. BACKGROUND INFORMATION**

- 9.1 The current contract for Internal Audit Systems Based Auditing was extended previously by the Cabinet Resources Committee for a period of six months, with a three month review clause, to cover the period in which we were undertaking a joint procurement with the London Borough of Enfield. London Borough of Enfield was the Lead Council for this procurement process and in doing so conducted a mini competition via the framework agreement. As part of this agreement London Borough of Enfield was asked to comply fully

with the provisions of the Public Contracts Regulations 2006 when leading the mini competition.

- 9.2 The framework that was used to undertake the mini-competition was Buying Solution's Management Consultancy and Accounting Services – Audit and Assurance Advice and Services, framework Code RM662/L13. The current buying solutions framework is valid from 27<sup>th</sup> January 2010 to 26<sup>th</sup> January 2013. The OJEU was issued on 27<sup>th</sup> March 2010, and a contract award notice was published on the 13<sup>th</sup> March 2010 which names the successful tender as one of the awarded organisations. Assessing the financial standing of the organisations was one of the selection criteria for the framework as let by Buying Solutions.
- 9.3 The framework was let under the EU Procurement Regulations and the mini-competition is compliant with the award criteria for undertaking a mini competition on the framework. The invitation to tender (ITT) was issued to consultants on the framework on 20<sup>th</sup> April 2011 and the deadline for responses was midday 16<sup>th</sup> May 2011.
- 9.4 On the 16<sup>th</sup> May 2011, four tenders were received. The tender cumulative scores are summarised below for price and quality:

<b>Company</b>	<b>Quality Score 70%</b>	<b>Price Score 30%</b>	<b>Total % score</b>
PWC	62	25	87
Firm A	40	28	68
Firm B	30	30	60
Firm C	12.7	27	39.7

- 9.5 Based on the evaluation criteria the successful tender was Price Waterhouse Coopers.
- 9.6 In accordance with the Contract Procedure Rules the Commercial Director was consulted in regards to being satisfied that such an approach represents the most economically advantageous solution for a service work, supply or utility provision and complies with the relevant EU Rules.
- 9.7 The Commercial Director is satisfied that Contract Procedure Rules 6.9.1.1 through to 6.9.1.5 have been met in regards to this framework agreement.
- 9.8 Following the successful award of the contract the Council will issue separate order forms (contained in Part 1 of schedule 4 of the framework agreement) to the service provider who will then in turn provide internal audit services for the Borough based on the requirements as set out in the tender documentation and in accordance with the call off terms of the framework agreement.
- 9.9 The value of this contract may fluctuate according to assurance needs and level of expertise required. It also includes aspects of internal audit, risk management and counter fraud services to compliment the delivery of the Internal Audit, Risk Management and CAFT Annual Plan.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 None.

Legal – PJ

Finance – JH/MGC

