

Extraordinary Cabinet

2 August 2012

Present: Mrs L Arkley (Elected Mayor) (in the Chair),
Councillors E Hodson, L Miller, P Mason and Mrs JA Wallace

CAB42/08/12 Apologies

Apologies were received from Councillors D Lilly and GC Westwater.

CAB43/08/12 Declarations of Interest

There were no declarations of interest made.

CAB44/08/12 Exclusion Resolution

RESOLVED that under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 2 of Schedule 12A of the Act, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 and 4 of Part 1 of Schedule 12A to the Act.

CAB45/08/12 Change, Efficiency and Improvement Programme – Business and Technical Packages Procurement – Selection of Preferred Bidders (All Wards)

Cabinet considered a report which detailed the procurement process undertaken for the Business and Technical packages, the 'Final Solutions' received in the procurement of partner organisations and the outcome of the evaluation, which indicated whether the Final Solutions received met the contract award criteria specified by the Council.

Cabinet had agreed on 13 February 2012 to move forward with a Shared Service arrangement for Internal Audit and Risk Management with Northumberland County Council, which had been piloted during 2011/12. Whilst this would achieve the required level of savings for this service area, the other services being looked at for sharing (eg Finance, Revenue and Benefit Services) were found to not lever the significant levels of savings that the Council required through its CEI Programme. In addition, the Council had examined the implications of an in-house solution which had been shared with all Members in December 2011. This was felt to be an unsustainable option in terms of service delivery. The decision had therefore been taken to move to a Partnership procurement exercise to test the market.

At its meeting on 14 November 2011 (Minute No.CAB98/11/11 Cabinet had approved and granted delegated authority to the Strategic Director of Finance and Resources, in consultation with the Elected Mayor, the Chief Executive, the Head of Legal, Governance and Commercial Services, the Head of Regeneration, Development and Regulatory Services, and the Senior Strategic Human Resources Manager to undertake a procurement exercise covering both the Business and Technical Packages (the "Project"). An officer project team (the "Project Team") had been set up to undertake the procurement of partner organisations to deliver the services included in the Business and Technical Packages.

The project had the following objectives:

- Investment in the services affected by the Project;

- Job protection for the existing workforce;
- Growth opportunities for the services in a wider marketplace leading to the creation of additional jobs within the Borough;
- Financial efficiencies of at least £4.9 million within the first three years of the partnerships (£2.2 million from the Business Package and £2.7 million from the Technical Package) and ongoing efficiencies thereafter subject to future financial pressures;
- Efficiencies in relation to the Council's use of office accommodation by the co-location of a partner provider within the Borough; and,
- Improved performance of the services.

The report had also requested Cabinet's consideration of the following Council Motion, agreed on 26 July 2012 (Minute No.C50/07/12):

'This motion calls on the Cabinet to delay the outsourcing process. The reason to request the delay is that the decision will affect service delivery for the next 10 -15 years and as such the Mayor should allow the full council to consider and debate a detailed analysis of the whole risks of outsourcing. It will allow more time to research the potential Bidders and identify any risks, but it also allows the Cabinet the opportunity to assess any potential in-house options which will allow the savings to be made.'

Cabinet considered the following decision options:

Option 1(a) – Appoint Bidder 2 for the Business Package and Bidder 2 for the Technical Package being appointed as the Council's "Preferred Bidder" and final adjustments in relation to the contract documentation being undertaken leading to financial close and contract mobilisation. This would include resolution of all outstanding points as identified in the Preferred Bidder Letter of Appointment, entering into of formal contractual relationships including a long term Partnering Agreement.

This would also mean the remaining Bidders would be advised they had not been appointed as Preferred Bidder and no further contract development would be undertaken with them unless commercial and financial close with the Preferred Bidder could not be achieved in accordance with the Council's requirements. The remaining Bidders would be appointed as "Reserve Bidders" and further contract development would be undertaken with them should commercial and financial close not be achieved with the Preferred Bidder in accordance with the Council's requirements.

This option would allow the Project to progress in line with the current timetable and resource commitments.

Option 1b – Appoint Bidder 2 for the Business Package and Bidder 2 for the Technical Package being appointed as the Councils "Preferred Bidder" and final adjustments in relation to the contract documentation being undertaken leading to financial close and contract mobilisation. This would include resolution of all outstanding points as identified in the Preferred Bidder Letter of Appointment, entering into of formal contractual relationships including a long term Partnering Agreement.

This would also mean the remaining Bidders would be advised they had not been appointed as Preferred Bidder and no further contract development would be undertaken with them. The remaining Bidders would not be appointed as "Reserve Bidders".

This option would allow the Project to progress in line with the current timetable and resource commitments; however it was not the recommended option.

Option 2 – Defer the decision and specify any additional actions Cabinet required the Project Team to undertake prior to Cabinet’s approval of the selection of Preferred Bidder.

This option was likely to extend the Project procurement timetable, delaying the intended Contract start date, provisionally set for October 2012, incurring additional project costs and not achieving the in year project savings. This option would be in line with the request from Council on the 26 July 2012. However any lengthy delay may result in bidders withdrawing from the process and/or legally challenging on the basis that they had a legitimate expectation that contracts would be awarded within the timescales set by the Council.

Option 3 – Instruct the Project Team to abort the current OJEU procedure and to search for other or new potential providers by issuing a new/revised OJEU notice and requesting new expressions of interest.

This option had similar implications as option 2 above with greater risk of claims by bidders for abortive costs.

Option 4 – Abort the Business and Technical Packages in their entirety.

All costs incurred so far would be written off and negotiations over settlement fees with the strategic advisers would be needed. There would be significant risks of abortive costs claims by the bidders above. Aborting the process may result in bidders legally challenging this decision on the basis that they had a legitimate expectation that contracts would be awarded within the timescales set by the Council.

Under this option, alternative in-house improvements would need to be made to the services in order to meet the current budget. This would require significant investment from the Council, in particular in ICT, to drive out service efficiencies.

Option 1(a) was the recommended option.

Cabinet noted that the report would be considered by the Overview and Scrutiny Committee on 6 August 2012 and would be further considered for a final decision by Cabinet on 13 August 2012.

Resolved that Cabinet be minded to agree the recommendations set out in section 1.2 of the report, as follows:

(1) the progress of the Business and Technical Packages procurement to date as set out in the report, be noted and the progression of the Business and Technical Packages procurement to preferred bidder stage, this being the final phase of the Competitive Dialogue process, be approved on the following basis:

- (a) approval be given to the Project Team’s recommendation to appoint Bidder 2, whose Final Solutions were identified as representing the most economically advantageous tender in the tender evaluation process as being the Council’s “Preferred Bidder” and to progress the Business Package to the preferred bidder stage with Bidder 1 being the reserve bidder;
- (b) approval be given to the Project Team’s recommendation to appoint Bidder 2, whose Final Solutions were identified as representing the most economically advantageous tender in the tender evaluation process as being the Council’s “Preferred Bidder” and to progress the Technical Package to the preferred bidder stage with Bidder 1 being the reserve bidder; and

- (c) the remaining Bidders in both the Business and Technical Packages be held and formally appointed as the “Reserved Bidder” pending the outcome of the contract award to the Preferred Bidder at the end of the Preferred Bidder stage and be kept informed of the key developments in the Preferred Bidder stage.
- (2) the Council enter into long term partnering arrangements with the partnering organisations identified in the procurement of the Business and Technical packages and it be agreed that the partnering agreement to deliver the services within the Business and Technical Packages meets those objectives within the Council’s Sustainable Community Strategy for 2010 - 2013 as identified in section 1.5 of the report;
- (3) delegated authority be granted to the Strategic Director of Finance and Resources, in consultation with the Elected Mayor, the Chief Executive, the Head of Legal, Governance and Commercial Services, the Head of Regeneration, Development and Regulatory Services, and the Senior Strategic Human Resources Manager to:
- (i) reach financial close with the appointed Preferred Bidders in relation to all outstanding matters, none of which relate to price or risk, and to enter into the necessary long-term contractual relationships through the Partnering Agreement and all other ancillary documentation; including the taking of all necessary steps consistent with the principles of these recommendations and in accordance with the Council’s contract standing orders and financial regulations to give effect to the above arrangements; and
 - (ii) effect, in accordance with the Constitution of the Council, the Council entering into all such documentation and the signing of any of such documents requiring to be executed under hand, and/or where required, by the affixing of the seal to documents required to be executed as a deed and that in each case, by the act of so doing to agree and approve those such documents as the final form to be entered into on behalf of the Council and any amendments made to such documents subsequent to this delegated authority; and
- (4) the Council Motion of 26 July 2012 be noted and the requested delay be rejected to enable the Project to progress.

(Reason for Decision – Delivery of this Project in accordance with Option 1a above will enable the Council to deliver the services whilst securing job protection increase growth, financial investment and delivering financial efficiencies.

The procurement process and evaluation has identified that whilst both of the solutions received in each Package have satisfied the Council’s specification and objectives, one of the two Bidders in each of the Business and Technical Packages has demonstrated the solutions and commercial offers contained in its Final Solution best meet the Council’s requirements and contract award criteria as specified in the tender documentation. As a result the recommended Bidders should be appointed as Preferred Bidders to continue to the Preferred Bidder stage and to achieve eventual financial close and contract award by the Council. Having a reserve bidder will ensure that the Project will proceed in the anticipated timescales should financial close not be achieved with the Preferred Bidder.)

**CAB46/08/12 Change, Efficiency and Improvement Programme –
Business and Technical Packages Procurement – Client Functions (All Wards)**

Cabinet considered a report which sought approval for the proposals for the retained client functions pursuant to the Change, Efficiency and Improvement Programme and the implementation of the Business and Technical Packages and appropriate delegations in order to implement the necessary arrangements.

As Cabinet had approved the appointment of Preferred Bidders for the Business and Technical Packages, the retained client functions and arrangements to support this

service delivery model needed to change. The focus would be to ensure the development of strong and sustainable partnership arrangements, alongside ensuring service delivery performance from the Partner(s) was managed and that the six objectives set out by Cabinet at its meeting on 14 November 2011 were met (see Minute No.CAB44/08/12 above).

The report also detailed the proposed senior and other management arrangements that would be needed to effectively oversee the new ways of working, following a review undertaken by the Chief Executive, Strategic Director of Finance and Resources and the Head of Regeneration, Development and Regulatory Services.

The roles and responsibilities of the client teams were to ensure that the delivery of those services in the Business and Technical Packages were timely, within budget and compliant with the Key Performance Indicators set out in the contractual arrangement proposed. The client team would ensure that all work set out in accepted business cases was also compliant with both national and Council policies and embraced the same standards expected by all.

Working with Members remained a key responsibility at a Ward level and especially with the Elected Mayor, Cabinet Members and Chairs of Committees.

Cabinet considered the following decision options:

Option 1 – approve the recommendations set down in paragraph 1.2 of the report. (This would ensure a smooth transition and mobilisation of the partnership(s)).

Option 2 – defer the decision. (There was no reason for deferral.)

Option 3 – propose alternative arrangements for consideration by the Chief Executive, Strategic Director of Finance and Resources and the Head of Regeneration, Development and Regulatory Services.

Option 4 – leave the service arrangements as currently configured. (This would not be cost effective or efficient and would make managing delivery of the contract and partnership interface difficult to manage on a day to day basis.)

Option 1(a) was the recommended option.

Cabinet noted that the report would be considered by the Overview and Scrutiny Committee on 6 August 2012 and would be further considered for a final decision by Cabinet on 13 August 2012.

Resolved that Cabinet be minded to agree the recommendations set out in section 1.2 of the report, as follows:

- (1) the proposals in relation to the retained client functions for both the Business and Technical Packages, to be effective from 1 September 2012, be approved;
- (2) the deletion of the Head of Finance post from the Senior Leadership Team structure with effect from the contract start date, to reflect the proposals in relation to the Business Package and noting that the retained Strategic Finance functions will report directly to the Strategic Director of Finance and Resources, be approved;
- (3) the deletion of the Head of Regeneration, Development and Regulatory Services post from the Senior Leadership Team with effect from 31 December 2012, to reflect the proposals in relation to the Technical Package and allow time for transition and handover, and to agree the creation of the Head of Business and Economic Development, be approved; and,
- (4) a recruitment process is commenced with a view to making a permanent appointment to the proposed new post of the Head of Business and Economic

Development and delegate authority to the Chief Executive to take all steps necessary in accordance with the requirements of the Local Authority's (Standing Orders) (England) Regulations 2001 and the Council's Constitution for the Recruitment and Selection process to proceed.

(Reason for Decision – To enable the smooth transition, mobilisation and subsequent management of the contract(s) and partnership(s) for the Council and support the delivery of the overall Change, Efficiency and Improvement Programme and governance arrangements to be put in place in relation to the Business and Technical Packages.)

**CAB47/08/12 Change, Efficiency and Improvement Programme –
Business and Technical Packages Procurement – The Corporate Core (All Wards)**

Cabinet considered a report which detailed the proposals that had been consulted on and developed as to how the Corporate Core of the organisation would operate after October 2012.

The Corporate Core was a three year project within the Change, Efficiency and Improvement Programme. It was focused on how the strategic functions the Council would need in the future could be delivered within a new operating framework and with reduced resources.

The key proposed changes were:

- to introduce two new types of working arrangements within the Corporate Core :
 - Core Democratic and Governance functions
 - Strategic 'centres of excellence'
- to move the Scrutiny function back into Legal, Governance and Commercial Services
- to align the Performance function with the Policy and Research function
- to align Communications and Engagement functions to create a customer focused centre of excellence
- Strategic Projects to be realigned to the Finance and Resources Directorate and form the client function for the future delivery of the Technical and Business Packages.

Consultation on the proposals had been undertaken with staff and trades unions. Further details of the proposals were set out in Appendix A to the report. Following the consultation

- the revised structures had been accepted including the realignment of the management of Strategic Projects Team
- a plan was in place to deliver £338,000 savings in line with the target for 2012/13
- in terms of impact on staff, the reductions in resource levels should be able to be achieved in line with individual preferences with a selection exercise required for the five Grade 9 posts of Scrutiny Advisor and Performance Advisor.

Preparation for implementing the arrangements would commence imminently to secure full implementation in line with the delivery of the new Technical and Business packages.

Cabinet considered the following decision option: to note the outcome of the consultation on the proposals for the Corporate Core and the proposed Corporate Core structure after October 2012

Resolved that the outcome of the consultation on the proposals for the Corporate Core after October 2012 and the proposed structure for the Corporate Core after October 2012, be noted.

(Reason for Decision – To enable the Corporate Core project to proceed and savings to be delivered in line with the CEI target for 2012/13.)

CAB48/08/12 Date and Time of Next Meeting

6.00 pm on Monday 13 August 2012 (Ordinary Meeting)

Minutes published on Tuesday 7 August 2012.

The effective date for implementation of decisions contained within Minute CAB47/08/12 (unless called in by 3 Non-Executive Members for consideration by the Overview and Scrutiny Committee) is 15 August 2012.

Final decisions in relation to items CAB45/08/12 and CAB46/08/12 are due to be taken by Cabinet at its meeting on 13 August 2012.