

Finance and Resources Committee

10am, Thursday, 15th August 2019

Award of Contract – Edinburgh Tram York Place to Newhaven Owner Controlled Insurance Programme

Routine
Wards
Council Commitments

1. Recommendations

- 1.1. That the Finance and Resources Committee:
 - 1.1.1 Approves the award of contract for Lot 1 (Construction “All Risks”, Existing Structures and Advanced Business Interruption (including Terrorism)) of the Edinburgh Tram York Place to Newhaven Owner Controlled Insurance Programme to QBE Insurance (Europe) Ltd for the contract value of £605,937;
 - 1.1.2 Approves the award of contract for Lot 2 (Third Party Liability Insurance) of the Edinburgh Tram York Place to Newhaven Owner Controlled Insurance Programme to QBE Insurance (Europe) Ltd for the contract value of £644,000; and
 - 1.1.3 Approves the award of the contract for the additional excess layer of the Third Party Liability Insurance to Chubb for the contract value of £84,000.

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Executive Director of Resources

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Finance and Resources Committee

Award of Contract – Edinburgh Tram York Place to Newhaven Owner Controlled Insurance Programme

2. Executive Summary

- 2.1. This report seeks approval to award the contract for Lots 1 and 2 of the Edinburgh Tram York Place to Newhaven Owner Controlled Insurance Programme to QBE Insurance (Europe) Ltd. The contract will be for the same time period of the Edinburgh Tram York Place to Newhaven Swept Path and Infrastructure and Systems Contracts.
- 2.2. This report also seeks approval to award the contract for the excess layer Third Party Liability policy to Chubb.

The total value of these contracts is £1,333,937.

3. Background

- 3.1. At its meeting on 21 December 2017 the Tram Board approved the adoption of an Owner Controlled Insurance Programme (OCIP) to enable Insurance Services and the Council's insurance advisers, Aon Risk Services to start the delivery process including preparation of a detailed market presentation and a full procurement exercise. It was approved that the OCIP would comprise the following covers:
 - Contractors All Risks, Plant and Materials for the value of the Swept Path and Infrastructure and Systems Contracts
 - Existing Structures for a sum insured of £25m
 - Delayed Start Up for a sum insured of £8m
 - Third Party Liability with a Limit of Indemnity of £50m
- 3.2. An OCIP is a project specific insurance programme placed by the Council on behalf of all contractual participants. It is designed to meet project/contract specific exposures of the Council, the main contractors and other parties involved in the project including sub-contractors, owners of the existing assets (trams and current control systems) and any others as necessary.

- 3.3. In addition to the sums insured and limit of indemnity set out in 3.1 the OCIP also details the various excesses under each cover. In the event of a claim the party responsible for the claim will meet the excess.
- 3.4. On 4 May 2018, Commercial and Procurement Services, in conjunction with the Council's Insurance Services and its advisors commenced market research for the Edinburgh Tram York Place to Newhaven Owner Controlled Insurance Programme by placing a Prior Information Notice (PIN) in the Official Journal of the European Union to gauge interest and inform the procurement exercise. The PIN included an option for interested insurers to respond to a questionnaire.
- 3.5. Five organisations returned questionnaires and their responses allowed the Council to finalise a procurement strategy which would have the potential for maximum interest from the market while ensuring the Council obtained best value.
- 3.6. A project team, comprising representatives from Insurance Services, Commercial and Procurement Services, Aon Risk Services, Turner and Townsend and the Tram extension project team, was established to review the market engagement and support the strategy going forward.
- 3.7. One of the questions in the questionnaire related to the limit of indemnity for the Third Party Liability cover and the responses that were received showed that none of the interested insurers would be prepared to provide the full £50m limit. However, all advised that they would be prepared to provide a primary layer of either £5m or £10m. The accepted market practice in this instance is to purchase excess layers at incremental levels.
- 3.8. Aon confirmed that there is a well-established excess layer market who would be able to provide additional layers and that this would be the most cost-effective way to arrange cover.

4. Main report

- 4.1. The Edinburgh Tram York Place to Newhaven Owner Controlled Insurance Programme (the OCIP) contains 2 lots:

Lot 1 – Construction “All Risks”, Existing Structures and Advanced Business Interruption (Delayed Start Up) including Terrorism.

This cover will indemnify the Council, all contractors and sub-contractors, professional consultants and others in respect of all risks of loss, destruction or damage to the permanent or temporary works, materials, goods, plant machinery and equipment used in connection with the design, construction, erection, commissioning and testing of the project. The cover will incept upon commencement of work and end at the completion of the defects liability period.

Lot 2 – Third Party Liability Primary Layer of £10m Limit of Indemnity

This cover will provide insurance, for all project parties, for claims for damage to property or for injury to third parties arising out of the project, for both negligent and non-negligent risks. The cover will incept upon commencement of work and end at the completion of the defects liability period.

- 4.2. A detailed specification was issued providing an overview of the York Place to Newhaven project, information was provided on both the Swept Path and Infrastructure and Systems contracts, projected fare revenue modelling and full details of the scope of cover required for both Lots along with the proposed policy wording.
- 4.3. The project team concluded that the most appropriate ratio for price/quality would be 70/30. This would encourage competition but not at the expense of maintaining confidence in a high quality of service delivery.
- 4.4. One tender was received for both Lots 1 and 2. The response was a compliant response and was scored as excellent quality in relation to our requirements.
- 4.5. The market for insurance is a small market in relation to the scope of Owner Controlled Insurance and therefore a low return was in line with expectations. Prospective bidders who submitted market research questionnaires declined to bid citing other commitments and the size of the construction project as being too small and outwith their core business, another organisation failed to meet the prescribed timeline.
- 4.6. The sole bidder has extensive experience in providing similar insurance services and provided an excellent quality submission against the set criteria. Their costs were in line with expectations and being suitably competitive meeting the initial cost plan assessment of the likely costs.
- 4.7. The compliant tender was evaluated in accordance with the quality criteria set out in the Invitation to Tender. The criteria are provided in Appendix 1.
- 4.8. The compliant tender for each lot was evaluated in accordance with the scoring criteria. The appropriate weightings were applied to each of the individual evaluation criteria to arrive at a final quality score out of 30%.
- 4.9. The pricing submissions for each lot were opened and checked for compliance and accuracy and allocated the maximum score of 70% for price.
- 4.10. The quality score was then combined with the score from the price evaluation to derive an overall score for the sole bidder out of a maximum of 100%.

4.11. The scores achieved by the sole bidder were:

Lot 1

Bidder	Quality Score	Price Score	Total Score
QBE	26.4	70.00	96.4

Lot 2

Bidder	Quality Score	Price Score	Total Score
QBE	26.4	70.00	96.4

4.12. Aon subsequently carried out a marketing exercise to obtain terms for the remaining £40m Limit of Indemnity under the Third Party Liability policy. The best terms were supplied by Chubb who have agreed to provide the full £40m excess layer with no amendments to the proposed policy wording.

5. Next Steps

- 5.1. A start date aligned to the commencement of the Swept Path contract will be agreed with QBE and contract award documentation issued.
- 5.2. In line with The Public Contracts (Scotland) Regulations 2015, the Council will issue an award notice on Public Contracts Scotland with onward notice to OJEU.
- 5.3. Cover for the Excess Layer Third Party Liability policy will be instructed.

6. Financial impact

- 6.1. Prior to commencing the procurement exercise Aon, the Council's insurance advisers, prepared a paper to provide indicative pricing for both lots. The total indicative cost was placed at £1,411,200 (+/- 20%). This is based on a total limit of indemnity for Lot 2 of the required £50m.
- 6.2. The total cost has now been established at £1,333,937 which is within the parameters in 6.1.
- 6.3. To avoid excessive additional premiums being charged by insurers in the event of the infrastructure contract overrunning or overall contract costs increasing and to provide a level of cost certainty, the project team took the decision to request that bidders include details of percentage increases for both Lots for the following:

Each and every 3 month extension due to factors other than an insured peril

The first 10% increase in contract costs due to factors other than an insured peril

Each and every further 10% increase in contract costs

- 6.4. The costs associated with the procurement of this contract are up to £10,000 which includes internal and external project resource.

7. Stakeholder/Community Impact

- 7.1. There are no direct stakeholder of community impacts as a result of this report.

8. Background reading/external references

- 8.1. N/A

9. Appendices

Appendix 1 – Summary of Tendering and Evaluation Processes

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Contract	Edinburgh Tram York Place to Newhaven Owner Controlled Insurance Programme	
Estimated contract value	£1,333,937	
Procurement Route chosen	Open	
Tenders returned	1	
Name of Recommended suppliers	QBE Insurance (Europe) Ltd Chubb	
Price / Quality ratio	70/30	
	Price	70%
	Quality	30%
	Scope of Cover	Pass/Fail
	Service Delivery	80%
	Added Value	20%
Evaluation Team	Assistant Insurance Manager Aon, Insurance Advisors	