



**SCRUTINY COMMITTEE**

**4.45pm – 8pm**

**24 February 2011**

Present: Councillors Stephenson (Chair), Blower, Fairbairn, Gee, Grahame, Jeraj, Little, Storie, Wiltshire and Altman (sub for Grahame)

Apologies: Councillors Driver, Gihawi, Grahame, Thomas and Wiltshire

**1. MINUTES**

**RESOLVED** to approve the accuracy of the minutes of the meeting held on 10 February 2011.

**2. SCRUTINY COMMITTEE WORK PROGRAMME**

Steve Goddard, scrutiny officer, updated members on the scrutiny committee work programme. He said that members had previously suggested that abolition of the retirement age should be included and that he would be meeting with Norfolk County Council to discuss the best way forward. The committee had previously delegated discussion of the Threescore development procurement process to a task and finish group to explore and provide recommendations directly to cabinet in March 2011. Members asked for the cabinet resolution to be reported back to the next scrutiny committee.

A member suggested two further topics for inclusion on the work programme. These were to look at the IT review and benchmarking against other authorities; and to review the asset management review as the process progresses. Bridget Buttinger, deputy chief executive said that these could be considered for inclusion during the development of the work programme in the new civic year 2011-12.

**RESOLVED** to –

- (1) ask that the cabinet resolution on 16 March 2011, regarding the Threescore development, would be reported back to the next scrutiny committee; and
- (2) consider including the IT review and asset management review process in the scrutiny committee work programme in the new civic year 2011-12.

### **3. LETTING OF THE HOUSING REPAIRS AND MAINTENANCE, AND ENVIRONMENTAL CONTRACTS – DUE DILIGENCE**

A member commented on the lateness of the papers provided for consideration and said that to complete a thorough review of due diligence, any discussion should be left to a later meeting to enable members to also consider the pre-qualification questionnaire (PQQ) and tender evaluation process relating specifically to Connaught Partnerships Ltd; and all documents relating to the re-examination of the low bid. Anton Bull, head of procurement and service improvement confirmed that members could be provided with the documentation.

The scrutiny officer reminded members that the purpose of the item was to look at due diligence in general and to see whether any lessons could be learnt to strengthen procedures in the future. The chair said that if members felt that the purpose had not been met by the end of the meeting, consideration could go towards adding the due diligence item to the scrutiny committee work programme in the new civic year 2011-12.

Members then asked supplementary questions to the questions and answers provided in advance of the meeting.

#### **Supplementary questions to question a)**

In response to member's questions, Barry Marshall the head of finance said that PricewaterhouseCoopers were highly reputable auditors of accounts and that the audited accounts of 2009 were a true and accurate reflection of the accounts at that time. He informed members that the council could only work with the financial information that was available at the time. A national enquiry was taking place to decipher when a breakdown in the management accountancy systems occurred. The head of procurement and service improvement explained that the public contracts regulations (PCR) 2006 prescribed the information that the council would be allowed to review, which included the statement of accounts. If the council were to go outside of the PCR 2006, the tender process would be open to challenge. He clarified that amendments to the PCR 2006 in 2010 would not have enabled the request of further financial information.

#### **Supplementary questions to question e)**

In response to members' questions, the head of procurement and service improvement explained that officers had produced a tender worth an estimated £25million in April 2009. The exact requirements were put into the bid (17 different areas of work in total) and each bidder could bid against each requirement. Connaught Partnership Ltd had priced up against the bid and totalled £17.4million. Some areas were more expensive than other bids however they were substantially lower in areas such as kitchen and bathroom replacements. The proposed methods of service delivery identified various savings in administration and IT costs. He confirmed that the injunction granted in February 2010 had a large impact on the implementation timescales and caused major disruption to the business. The injunction was lifted in March 2010. The council worked closely with Connaught Partnership Ltd and service delivery had started to improve.

He said that the first year would always be the hardest financially, due to the significant costs of staff transfer and preparation. The head of finance said that the auditors had confirmed that Connaught Partnerships Ltd accountancy policy of spreading the cost over five years was sound and satisfactory.

The head of procurement and service improvement explained that the role of Tribal Helm was to make sure the council followed a rigorous evaluation process, conducting an evaluation of the total scores and the consistency of scoring amongst bids. They did not carry out the tender evaluation themselves. They had identified that further checks needed to be carried out, which were subsequently completed by November 2009, after which no further concerns were raised. He said that the price and quality evaluation was separated and officers completing the quality evaluation were unable to view the price documents until the quality evaluation was completed.

### **Supplementary questions to question f)**

In response to members' questions, the head of finance explained that the stock market should not affect the delivery of services. The head of procurement and service improvement said that whether or not a company was listed on the FTSE was not a relevant consideration under the public contracts regulations. The contract should be considered based on the value of the contract in relation to the value of the company.

He confirmed that it would be likely that a larger company would have a larger team to prepare the bid documentation, however they would use their own due diligence process to ensure that it was correct.

He said that the future delivery options of major contracts would be considered by the contracts working party, tenants and leaseholders, and would consider the option to split the contract into various lots in the tender process.

### **Supplementary questions to question h)**

In response to members' questions, the head of procurement and service improvement said that the review of accounts during the evaluation process would not include a focus on forecast budgets. The head of finance said that some accounts provide some prognosis of the future. The statement of accounts had included terms such as 'well positioned,' 'naturally consolidated,' and 'good shape to deliver consistent growth over many years to come.' The contract with Norwich City Council was just 3.8% of the annual turnover in the social housing field. Councillor Waters, portfolio holder for resources, performance and shared services informed members that had the contract completed, Connaught Partnerships Ltd would have made a £10million profit on the activities related to housing. He said that the company may not have anticipated the outcome of the spending review of the new government.

The head of procurement and service improvement explained that under the PCR 2006, the council could request details of the turnover of the company for the past three years. The council could also ask for other information outside of the regulations, however it would need to be useable and any decision to reject a bid could be challengeable if rejected on that basis.

### **Supplementary questions to question i)**

In response to members' questions, the head of procurement and service improvement said that unions or staff representatives were not usually part of the evaluation team because it could be difficult for them to play an impartial role. This could be reviewed in the future. Unions did however have an opportunity to review the PQQ before it was published; took part in the consultation; and were involved in the mobilisation process.

### **Supplementary questions to question k)**

In response to members' questions, the deputy chief executive informed members of the project board set-up. She had chaired the project board as project sponsor overseeing the proper functioning and governance of the contracting process. The project manager role was carried out by Tribal Helm.

### **Supplementary questions to question l)**

In response to members' questions regarding Connaught Partnerships Ltd low bid compared to the other bids, Jerry Massey, director of regeneration and development, said that many of the companies bidding for the work were very experienced. The council had been clear in the tender documentation that it anticipated a spend of £25million on its housing stock and created a basket of goods estimated at that cost. Connaught Partnerships Ltd bid for £17.4million, which alone could have resulted in a potential loss but Connaught Partnerships Ltd would have assumed that the council would have invested the total value of the money (£25 million) available in further works. This would have been a calculated risk that Connaught Partnerships Ltd took as part of their bidding strategy. Chris Rayner, housing property services manager, said that the pricing exercise enabled the council to compare bids on a like for like basis and against value for money.

The deputy chief executive said that the proposed business model would deliver efficiency savings. Evidence showed that the methods could increase the productivity of the workforce, and achieve savings in the supply chain. The portfolio holder for resources, performance and shared services said that the business model showed that more work could potentially be completed for the funding available. There were no reasons to assume that the viability of the business model would be undeliverable, and on this basis, under the PCR 2006, there would be no grounds to reject the bid. The head of procurement and service improvement stated that if a bid were to be rejected as an abnormally lower bid, reasons would need to be provided and an opportunity given for the company to explain the bid and the rationale that sat behind it. A report would then need to be created and submitted to the office of government commerce, outlining the reason for refusal. Discussions were held with Connaught Partnerships Ltd, to consider costings and risks, concluding that it was not an abnormally low bid. He confirmed that the council had not been informed of any underbidding on other contracts. There was no evidence to show that these were loss making contracts and the financial assessment carried out led to the recommendation to award the contract.

In response to a member's question regarding Just in Time supply methods, the head of procurement and service improvement explained that risk would be associated with any length of supply chain and mitigation would need to be put in

place. Other organisations offered efficiencies in years two, three and four of the contract however they wanted the council to take on the risks at the beginning of the contract. The Connaught Partnerships Ltd bid took the view of offering savings upfront and to bear the risk of whether they made those efficiencies. Any redundancy calculations occurring due to improved efficiency would have been included as their own risk costs.

### **Supplementary questions to question o)**

In response to members' questions, the head of procurement and service improvement said that the terms and conditions of the contract would enable either party to terminate the contract if there was a breach of contract. Any concern regarding performance would have been subject to arbitration first. The obvious benefit of the contract was that it set out clear requirements and responsibilities of each party.

Members considered possible improvements to the due diligence process including creating a set of due diligence principles and investigating whether future financial information could be used. The head of procurement and service improvement said that officers continued to learn from the process, reviewing any opportunities to do things differently.

A member suggested that an independent review of the contract re-let could be carried out. The head of procurement and service improvement informed members that he was the council's qualified professional on procurement matters and had been providing advice to the committee on that basis. A member said that several sets of consultants had been used throughout the process, and staff representatives had participated on various panels.

In response to a question from the Chair regarding whether it would be possible to avoid awarding large contracts on the run-up to an election, the head of procurement and service improvement said that a procurement strategy would be developed for the letting of every contract, but that the potential consequences of an election outcome could be considered.

### **RESOLVED to –**

- (1) ask the head of procurement and service improvement to make available to all scrutiny members:
  - a) the pre-qualification questionnaire (PQQ) and tender evaluation documents relating specifically to Connaught Partnerships Ltd; and
  - b) all documents relating to the re-examination, as a result of the low bid;
- (2) as a consequence of the above, consider adding the due diligence item to the scrutiny committee work programme in the new civic year 2011-12;
- (3) investigate whether other council's have involved unions in the tender evaluation process;

- (4) develop a set of due diligence principles, to be reviewed by the scrutiny committee. These should also include:
  - a) the role of different consultants;
  - b) the role of union representatives (subject to the third resolution above); and
  - c) the different level of assessments required depending on the contract and the level of testing quality used (for example if it should be a comprehensive or audit approach);
- (5) recommend that the pricing evaluation criteria include a request to provide a full bid price cost justification, including start-up costs; and
- (6) gather information to investigate whether future financial information can be used during the evaluation process.

CHAIR