

WIRRAL COUNCIL

CABINET

14 APRIL 2011

SUBJECT:	CONTRACTS REVIEW
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR JEFF GREEN
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report seeks Cabinet approval to engage PriceWaterhouseCoopers (PWC) to undertake a review of major contracts to support the delivery of savings targets agreed by the Council in the 2011-12 Budget. The Council has accrued credits to the value of £157,119 with PWC as a result of the work undertaken in 2009-10 on Value Added Tax (VAT) recovery. It is proposed to use these credits to pay for this additional work in accordance with the Contract Procedure Rules paragraph 5.1.1 'Exceptions to Procurement procedure'.

2.0 RECOMMENDATION

- 2.1 That Cabinet agree the engagement of PWC to undertake a review of major contracts.

3.0 REASONS FOR RECOMMENDATION

- 3.1 The Procurement Team commenced a review of the 50 largest contracts in November 2010 and at the time of writing this work is at an advanced stage of negotiations with a number of suppliers. Confidence is high that the £0.5m savings target agreed in the 2011-12 Budget will be achieved. However there is insufficient capacity to review all of the contracts at the same time as there is an increasing requirement to support other major procurement exercises across the Council. These are geared to deliver the procurement efficiency target of £2m as well as supporting the delivery of other savings within Departments and ensuring compliance with the Council procurement governance.

- 3.2 There is therefore an urgent need to add temporary capacity to progress the work reviewing the 50 largest contracts in order to secure the savings as early as possible in 2011-12 and extend the scope to other major contracts across the Council.
- 3.3 The Contract Procedure Rules paragraph 5.1.1 'Exceptions to Procurement Procedure' states that where there is no genuine competition such action can be taken and reported to Cabinet. Members are advised that PWC are in a unique position because of the credits held by the Council. These credits are time limited and will expire on 30 June 2011 if they are not used or committed on another project with PWC. Cabinet are also advised that under the Public Contract Regulations 2006 (as amended in 2009 to incorporate the European Union Remedies Directive No 2992), which became law in the UK in December 2009, that contracts which exceed the value of £156,442 must be exposed to competition. This engagement therefore must be limited to this European Union threshold.
- 3.4 Another important aspect of this engagement relates to workforce development and the ongoing impact of lessons learnt from specialist advisers.

4.0 BACKGROUND AND KEY ISSUES

- 4.1 On 19 March 2009 Cabinet agreed that work be undertaken with PWC in respect of backdated VAT claims. Cabinet received reports on 5 November 2009, 14 January 2010 and 24 June 2010 detailing the reimbursement received by the Council and payments made to PWC. This engagement proved successful with the Council recovering £3,392,373 in VAT. The fees due to PWC were based on 20% of the benefit on a no win no fee basis and as part of the final settlement the Council has accrued 'credits' with PWC amounting to £157,119. In order to comply with the Public Contract Regulations 2006 Cabinet are asked to authorise the Director of Finance to enter into a new agreement with PWC on the basis outlined in this report.
- 4.2 It is proposed to engage PWC to support the delivery of savings agreed in the 2011-12 Budget. These relate to the review of the 50 largest contracts with a target saving of £0.5m in 2011-12, and the procurement savings target of £2m per year. Both will feature in reports to the Strategic Change Board.
- 4.3 PWC has offered to undertake this work for 15% of the savings achieved on a no win no fee basis. The benefits realisation will be closely monitored to ensure the total fees due to PWC do not exceed the value of the credits and the European Union threshold.

5.0 RELEVANT RISKS

- 5.1 As the arrangement will be on a no win no fee basis and the Council proposes to use its credits with PWC to meet the 15% of the savings delivered, there is minimal financial risk to the organisation.
- 5.2 If however the total savings identified by PWC exceed £1.04m the reimbursement to PWC may exceed the European Union threshold and alternative arrangements will need to be explored.

6.0 OTHER OPTIONS CONSIDERED

- 6.1 No other option is available for consideration

7.0 CONSULTATION

- 7.1 No consultation has taken place regarding this proposal.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 8.1 There are none directly.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 9.1 The engagement of PWC will have a positive impact on the workload of the Procurement Team and will support the delivery of £0.5m savings in 2011-12 and £2m per year for the next three years.

10 LEGAL IMPLICATIONS

- 10.1 Cabinet are advised the reimbursement to PWC should not exceed the value of £156,442.
- 10.2 PWC will be required to agree a confidentiality agreement as they may be involved in auditing commercially sensitive contracts. Where more detailed investigation is required, and where such access is not explicit in the contract, the agreement of the contracted party may need to be obtained.
- 10.3 As opportunities arise to review all Council contracts attempts will continue to be made include a new standard clause that promotes shared services with other local authorities and other strategic partners.

11 EQUALITIES IMPLICATIONS

11.1 Equality Impact Assessment (EIA)

(a) Is an EIA required? No

(b) If 'yes', has one been completed?

12 CARBON REDUCTION IMPLICATIONS

12.1 All contracted services that are reviewed will be mindful of the Carbon implications. Wherever possible revised contracts will set targets for carbon reductions.

13 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 There are no specific planning implications.

FNCE/79/11

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APPENDICES

None

REFERENCE MATERIAL

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	19 March 2009 5 November 2009 14 January 2010 24 June 2010