

WANDSWORTH BOROUGH COUNCIL

POLICY AND RESOURCES COMMITTEE – 24TH NOVEMBER 1999

Report by the Borough Solicitor and Head of Professional Services on the shortlisting of firms interested in tendering for the provision of Routine and Non-Routine Litigation and Social Services Legal Work.

1. The background to this report is set out in Paper No. 99/808.
2. The following are recommended for shortlisting for the contracts indicated:-

<u>Firm</u>	<u>Routine Litigation Contract</u>	<u>Non-Routine Litigation Contract</u>	<u>Social Services Contract</u>
Barlow Lyde & Gilbert		Y	
Creighton & Partners (* see below)			Y
Donne Mileham & Haddock	Y	Y	
Duthie Hart & Duthie			Y
Routine Litigation DSO	Y		
Sharpe Pritchard	Y	Y	
Social Services DSO			Y
Steele & Co	Y	Y	
Stonehams	Y	Y	
Wragge & Co		Y	

*Creighton & Partners:

This firm was formed following a “Management Buy Out” of the legal service previously provided by the Social Services DSO of Westminster City Council. In view of the fact that this firm only commenced trading on 1st April 1999 and has only one client (Westminster City Council) there are obvious potential risks relating to this firm. The Council’s continuing policy is to carry out a risk analysis before requiring a performance bond (based on former Department of the Environment guidance issued on 24th July 1996 and continued by Department of the Environment, Transport and the Regions Circular 16/97). Accordingly the following factors have been considered:-

- (a) Financial standing – the Director of Finance has been unable to carry out an appraisal because of the absence of a balance sheet. On the basis of information supplied the Director of Finance estimates that the value of the proposed contract relative to the firm’s current turnover is approximately 80%. The Director of Finance advises that this exceeds the usual limit of 50% and increases the potential risk.
- (b) Extra cost – in the event of insolvency/performance failure the extra cost to the Council would depend upon timing and the rates charged by a new contractor (see below).
- (c) Length of contract – the contract period is 5 years; clearly if default occurred early in the life of the contract and the re-tendered rates were higher the Council would be at significant risk.
- (d) Technical difficulty – there is no exceptional technical difficulty as such, but the poor market response indicates the difficulty the Council would be likely to face if it sought to re-tender this work.
- (e) Experience of other contracts – although there is no history of legal firms failing, there is equally no history of management buy-outs by Legal Services DSO’s.

In view of the above risk analysis, therefore, the Director of Finance confirms that this firm ought to be required to provide a performance bond in order to protect the Council’s financial interests and he advises an initial sum of £250,000. This amount could taper off over the life of the contract, as the effects of failure diminish, i.e. initial sum at commencement of contract £250,000; at end of Year 1: £200,000; end of year 2: £150,000; end of year 3 £100,000; end of year 4: £50,000. This reflects the potential costs that may arise if the contract has to be terminated. If this were to happen during the first year, the re-tendered price may increase by say 20% which would give rise to additional costs of £50,000 p.a. for four years, plus management and other costs of re-tendering of say a further £50,000.

Finally, also as a condition of tendering it is considered necessary to require that this firm put in place a satisfactory time-recording and case management system; it is vital that the Council has access to reliable time-recording data as a reliable basis for the setting of notional hours upon the re-tendering of this contract.

The Director of Social Services has been consulted and concurs and regards it as important to include this firm on the shortlist on the basis proposed because, subject to the matters identified, the firm has demonstrated relevant experience and expertise in the areas of legal work concerned.

3. The following firms expressed an interest in various contracts but are not recommended for shortlisting:-

<u>Firm</u>	<u>Routine Litigation Contract</u>	<u>Non-Routine Litigation Contract</u>	<u>Social Services Contract</u>
Batchelors	N	N	
Boothroyds			N
Duthie Hart & Duthie	N	N	
Edwin Coe		N	
Connolly Lowndes & Pearson	N		
Harris & Cartwright	N	N	
Judge & Priestley	N	N	
Kingsford Stacey Blackwell	N	N	
Kent County Council	N	N	
Lewisham LBC			N
Ormerod Heap & Marshall	N	N	N

4. The unsuccessful firms were not selected for a variety of reasons – the most common being that they did not completely satisfy the officer panel of their ability to deliver the services in accordance with the detailed specifications or did not have sufficient relevant experience. Although Judge & Priestley are the current contractors for non-routine litigation, in the light of performance and in comparison with those firms recommended for shortlisting, this firm is not recommended for shortlisting.

5. This report is for information.

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17th November 1999