

EAST AYRSHIRE COUNCIL

CABINET REPORT – 4 MARCH 2009

NEGOTIATED PROCUREMENT FOR THE PROVISION OF BUSINESS CONTINUITY EXPERTISE

Report by Executive Director of Neighbourhood Services

1. PURPOSE OF REPORT

- 1.1 To seek Cabinet approval for the negotiated procurement of Business Continuity expertise.

2. BACKGROUND

- 2.1 All local authorities are identified by the Civil Contingencies Act 2004 (CCA) and associated Regulations as Category One Responders and therefore have a statutory responsibility to develop and produce a Business Continuity Plan.
- 2.2 Following a tender process in 2006, the firm of Glen Abbott was employed to provide business continuity training to selected East Ayrshire Council personnel who would then produce Section Recovery Plans. Charlie Maclean-Bristol was the main provider of the training.
- 2.3 The training was provided in 3 sessions and was completed in late September 2006.
- 2.4 In 2007, Maclean-Bristol, who had by this time left Glen Abbott, was retained by the Council to assist with the preparation and exercising of a Corporate Business Continuity Plan. The initial exercise, involving the Chief Executive, Executive Directors and Heads of Service, was held in February 2008 with a re-run in September 2008 for those Heads of Service unable to attend the earlier exercise.
- 2.5 Maclean-Bristol, trading as PlanB Consulting, has also been involved in developing a generic Section Recovery Exercise which was piloted with the assistance of Planning and Economic Development on 13 August 2008. Following slight amendment, the generic exercise will now be rolled out ensuring the Council meets its obligation under the CCA to exercise all Section Recovery Plans. It is understood that Audit Scotland will commence an audit in early 2009 of all Category One Responders preparedness.

3. IMPLICATIONS OF THE CIVIL CONTINGENCIES ACT 2004

- 3.1 As stated previously, the Act requires all local authorities to prepare Business Continuity Plans and to ensure their appropriateness through exercising.
- 3.2 It is likely that Audit Scotland, during an audit, will require sight of a number of section recovery plans as well as the Corporate Business Continuity Plan. Similarly, it is anticipated auditors will require evidence as to the exercising of plans. While the Act and its associated guidance are both silent on the frequency of exercises, it is thought that those section recovery plans with identified mission critical processes should be exercised annually and those plans with non mission critical processes should be exercised biennially.

4. PROPOSED PROCUREMENT OF BUSINESS CONTINUITY EXPERTISE

- 4.1 Maclean-Bristol has submitted a proposal whereby he would provide:
- Bi-annual exercise involving the Chief Executive's Team and The Council Co-ordination Team. The exercise would take no longer than 3 hours
 - A programme of Section Recovery Team Exercises, based on the frequency discussed at paragraph 3.2
 - Quarterly meetings with section Business Continuity Co-ordinators to provide any updates in best practice; to take account of any changes to co-ordinators and to ensure Business Continuity Plans are up to date
 - Ongoing expert advice in relation to any changes in legislation or to advice published by the Scottish Government

5. PROCUREMENT IMPLICATIONS

- 5.1 The Council's Standing Orders relating to contracts (paragraph 20(1)), states that 'Where the appropriate Executive Director/Executive Head of Service/Head of Service considers that a tender should be negotiated with one person, he/she shall, before entering into negotiations, obtain the support of Cabinet, both in respect of the negotiation and of the person with whom the tender is to be negotiated, stating the reasons for the proposed negotiated procurement route'.
- 5.2 As outlined above, the Council, as a Category One responder, has to maintain and exercise its Business Continuity Plans, both at a strategic/tactical level and at an operational level. Maclean-Bristol has been involved in the development of the Council's plans since the first day

of training, being the sole provider to all training sessions. He has a first class knowledge of both the Council and of business continuity, being a member of the Business Continuity Institute and having worked in the industry for some 13 years with Scottish Power, Anglian Water and Glen Abbott before setting up his own business.

6. FINANCIAL IMPLICATIONS

- 6.1 Maclean-Bristol's proposal as outlined at paragraph 4.1 would cost £1,700 per calendar month or £20,400 per annum.
- 6.2 It is recommended that the length of the contract should be 2 years, with a starting date to be negotiated with Maclean-Bristol.
- 6.3 At the end of this period an evaluation will be carried out. While the eventual aim would be to bring the exercising in house, account will be taken of any comments from Audit Scotland particularly in respect of any issues surrounding independence of comments on section recovery plan exercises carried out.
- 6.4 The proposal at 4.1 and 6.1 can be accommodated within existing budgets.

7. LEGAL AUTHORITY

- 7.1 The Civil Contingencies Act 2004 Section 2 places a duty on Category One Responders to "maintain plans for the purpose of ensuring, so far as is reasonably practicable, that if an emergency occurs the person or body is able to continue to perform its functions".

8. RISK MANAGEMENT

- 8.1 Failure to maintain and exercise plans could result in the Council being brought before the Court of Session to provide appropriate explanations - Section 10(1) of the Act.

9. COMMUNITY PLANNING IMPLICATIONS

- 9.1 Business Continuity is central to supporting the 6 aims of the Community Plan, with each of the 3 principal departments having identified mission critical services.

10. RECOMMENDATIONS

10.1 It is recommended that the Cabinet:

- (i) Approves the negotiation of a contract for the purchase of business continuity services from Charlie Maclean-Bristol trading as PlanB Consulting in accordance with paragraph 20(1) of the Council's Standing Orders relating to contracts, and,
- (ii) Otherwise note the contents of the report.

William Stafford
Executive Director of Neighbourhood Services

11 February 2009

LIST OF BACKGROUND PAPERS

Nil

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