TELFORD & WREKIN COUNCIL

ADVISORY BODY - 21 NOVEMBER 2018

THE APPOINTMENT OF THE COMMISSIONING BODY

REPORT OF THE DEPUTY MONITORING OFFICER

SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 For the Advisory Body to confirm the appointment of the Commissioning Body.
- 1.2 For the Advisory Body to note the evaluation process undertaken for the appointment of the Commissioning Body.
- 1.3 For the Advisory Body to note the next steps in the process.

2. <u>RECOMMENDATIONS</u>

2.1 It is recommended that the successful bidder be awarded the Commissioning Body contract, subject to the regulatory 10 day standstill period (which will commence on the 22nd November 2018)

3. <u>SUMMARY IMPACT ASSESSMENT</u>

COMMUNITY IMPACT	Do these proposals contribute to specific Co-operative Counce Priority Plan objective(s)?			
	YES	Putting our Children and Young People first Protecting and supporting our vulnerable adults and children Ensuring that neighbourhoods are clean, safe and well-maintained		
	Will the pro	pposals impact on specific groups of people?		
	YES	Eliminating child sexual exploitation is important for the entire community but particularly supports our children and survivors who have been impacted by this crime		
TARGET COMPLETION /DELIVERY DATE	On-going			
FINANCIAL/ VALUE FOR MONEY IMPACT	ti C	The Council has agreed an initial allocation of £0.35M to meet the costs of the inquiry, including the costs of commissioning the independent Person to lead it. The endered submission includes an hourly rate and initial		

LEGAL ISSUES		estimates are that the overall cost of the work anticipated for this stage of the process will be within the funding envelope of £0.35m. The successful bidder has committed to provide monthly invoices and details of the work undertaken including the costs of that work. Outside the ambit of the Inquiries Act 2005, the Council has the power to commission an inquiry into activities in their area.			
		The procurement was undertaken under Schedule 3 of the Public Contract Regulations 2015 - the Light Touch Regime (LTR). The LTR essentially requires procurers to:			
		 Post in the OJEU a contract notice - or a Prior Information Notice - making known their intention to award a contract for any Schedule 3 service above the LTR threshold – thereby, by definition, inviting expressions of interest. Thereafter, by definition, hold some sort of (competitive) award process following this. Ensure that their award procedures are at least sufficient to ensure compliance with the principles of equal treatment and transparency. Run the process in conformity with the information in the call for competition (but may depart from it in certain circumstances which would not result in breach equal treatment and transparency). Allow reasonable and proportionate time and time-limits for the whole process. Publish a contract award notice 			
OTHER IMPACTS, RISKS & OPPORTUNITIES	YES	As detailed in the report			
IMPACT ON SPECIFIC WARDS	YES	Borough wide impact			

ADDITIONAL INFORMATION

4. INFORMATION

Background

- 4.1. On the 2nd July 2018 the Council issued an Invitation to tender for a Commissioning Body to be responsible for the planning and organisation of an independent inquiry into child sexual exploitation in Telford & Wrekin.
- 4.2. The Tender was published on the Official Journal of the European Union (OJEU) on the 2nd July 2018. This meant that the tenderer was available to all of European to download and submit a response.
- 4.3. This report presents the evaluation process for selecting the Commissioning Body by way of a competitive procurement process.

Evaluation process

- 4.4. The closing date for tender submission was the 31st October 2018, and the evaluation took place on the 9th November 2018.
- 4.5. The evaluation was undertaken by the Evaluation Panel which consists of:
 - Jonathan Eatough Assistant Director: Governance, Procurement & Commissioning
 - Suzanne Dodd Governance & Legal : Service Delivery Manager
 - Sarah Bass Commissioning, procurement & Brokerage Service Delivery Manager
 - Henry Birmingham Council's external Solicitor Partner at Wightmans Solicitors
 - Maggie Atkinson Independent Consultant Maggie Atkinson Consulting Ltd
 - Robert Montgomery Data Protection and Information Governance Team Leader – assisted on the two method statements which concerned Data Protection and Information Management
- 4.6 In the interest of transparency, openness and fairness, the evaluation process was observed by 2 representatives of the Survivors Committee and one Survivor. The representatives were given copies of the tender submission and were allowed to note questions (which the Panel later answered). They did not play any part in the marking and moderation process.
- 4.7 None of the members on the evaluation panel or the observers had a commercial or personal interest in the contract or the suppliers and have declared this accordingly.
- 4.8 Maggie Atkinson (Independent Consultant) report is appended to the report (see Appendix 1). The report sets out the evaluation process in detail and

confirms that the evaluation process was transparent, clear, impartial and appropriate.

Quality Evaluation

4.9 Quality represents 70% of the total marks (see Appendix 2 for Award Criteria). Tenderers were required to provide a method statement setting on how they will meet each criteria. The table below sets out a summary of the successful bidders response:

Method Statement (questions)	Successful Bidder's Response – Key strengths
Experience of leading sensitive and high profile matters with high levels of public interest in a credible/ reputable manner. Strong stakeholder engagement - proposals for meaningful and appropriate engagement at all stages of the Inquiry with survivors/ victims and their representatives / families and friends. Also stakeholders including public services and the voluntary sector groups. 30%	 The Successful Bidder has a dedicated inquiries investigation team (an award winning team). They have been involved in many high profile inquiries and investigations including: The Independent Jersey Care Inquiry The Mid Staffordshire NHS Foundation Trust Public Inquiry Children's Commissioner for Wales Trojan Horse Investigation Bloody Sunday Inquiry Shipman Inquiry Rosemary Nelson Inquiry Child abuse within the context of professional discipline cases As well as acting for on behalf of inquiries themselves, they have appeared for Core Participants in many high profile inquires including but not limited to, Grenfell Tower Inquiry and the Leveson Inquiry. Their response provided a high standard of evidence demonstrating the ability to: Interview witnesses without any bias Liaising with families and survivors in sensitive situations Have regular and effective communication with all stakeholders Effectively leading inquiries in a very politically sensitive manner e.g. the Jersey Inquiry Deal with the key issues in relation to CSE Effectively managing sensitive information.
Good understanding of child sexual exploitation and communities. 20%	The Successful Bidder response provided very strong evidence in relation to their experience of dealing with CSE inquiries, including detail case studies of the North Wales Child Abuse Inquiry, the

	Independent Jersey Care Inquiry, Child abuse within the context of the professional discipline and many more examples. These cases studies demonstrated that the Successful Bidder has a vast amount of experience of CSE and an in-depth understanding of the key issues in CSE SCORE – 4 out of 5	
Experience in managing and delivering within an agreed timescale, including delivering effective progress reports. 10%	The Successful Bidder response demonstrated that they have a wealth of experience running similar inquires and investigations to prescribed and ambitious timescales. They gave detailed case studies to illustrate this including the Trojan Horse Investigation which was completed in a very tight timescale of two months, within the team had to review over tens of thousands pages of evidence, interview in excess of 70 witnesses etc.	
	The Successful Bidder has members of the team who are Prince 2 qualified so are able to assist with the project management of large inquiries. They also provided value add services such as free secretarial support, secure office accommodation in Birmingham (note they believe there should also be a local office). SCORE – 4 out of 5	
Experience in recruiting to high profile positions and effectively managing relationships. 10%	The Successful Bidder provided 4 glowing statements from Chairs of high profile inquiries that they have worked on, which praised the work the Successful Bidder's team. This provided evidence of being able to effectively manage relationships with Chairs. The Successful Bidder provided one very good example (case study) of recruiting a chair in a high profile inquiry. SCORE – 3 out of 5	
Experience in considering detailed reports and commenting on effectiveness of report against terms of reference. 10%		
Data Protection Legislation compliance. 5%	 The Successful Bidder's response demonstrated they are: Registered under the Data Protection Act 2018 They hold key accreditation such as ISO2001:2013 and Cyber Essentials and Cyber Essentially Plus Understand data protection issues in the context of a large inquiry Included a detailed and robust Data Protection Policy within their submission. SCORE – 4 out of 5 	
Health and Safety / Witness protection. 5%	The Successful Bidder's response demonstrated that the health and safety of the Commissioning Body, Chair, witnesses, survivors/victims and all who participate in the work of the inquiry is	

	of vital importance. Their response looked at each in turn, and set out their proposal in respect of the health and safety of the various groups. SCORE – 4 out of 5
Information and Management Systems. 5%	The Successful Bidder provided a detailed and strong response to this question demonstrating that the nature of the information they will receive during the inquiry will be of the highest sensitivity, and that clear processes will be required for the management of the documentation, and to ensure that confidential data and the anonymity of witnesses (where appropriate) is maintained.
	The response clearly set out their proposals to have clear protocols in place to ensure the protection of all witnesses and survivors/victims e.g. which clearly set out how evidence will be collated etc.
	The Successful Bidders also wish to develop an inquiry specific information management system and not use the council's IT systems.
	SCORE – 4 out of 5

5. COST EVALUATION

5.1 The cost evaluation represents 30% of the total marks (see Appendix 2 for Award Criteria). Tenderers were required to provide indicative prices in relation to the role as Commissioning Body. The prices were then marked using the formula below:

Submitted figures/lowest bid figure received x section weighted

5.2 The Successful Bidder's indicative price was competitive and affordable. Due to the nature of this contract, the Successful Bidder recognised the difficulty of giving an accurate assessment of costs, and therefore committed to provide a set hourly rate. They also committed to providing detailed monthly invoice containing a full breakdown of costs and work undertaken, and for the invoices to be published on the Council's website.

6. <u>NEXT STEPS</u>

6.1 Next steps, officers will meet with the Successful Bidder to finalise the contract and to agree final details such as accommodation, IT systems, hand of relevant information, reporting etc. The Council will then 'step away' to let the Successful Bidder progress the inquiry.

7. <u>PREVIOUS MINUTES</u>

7.1 As referred to in this report.

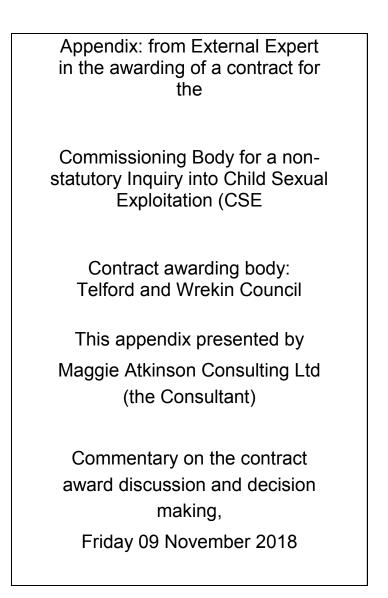
Report prepared by Suzanne Dodd, Service Delivery Manager: Governance & Legal (01952 380014) (<u>suzanne.dodd@telford.gov.uk</u>)

Appendix 1 – Report from External Expert – Maggie Atkinson Appendix 2 – Award Criteria Appendix 3 - Scoring Matrix Appendix 4– Cost Evaluation

Appendix 1 – Report from External Expert – Maggie Atkinson



Maggie Atkinson Consulting Ltd



Contract-closing commentary on the process for the award of a contract to an independent Commissioner who as part the borough's responses to historical CSE issues.

Through presenting this appendix to a report to Elected Members of Telford and Wrekin Council, I am pleased to confirm the probity of the contract awarding process undertaken on Friday 09 November 2018, and to thank the awarding body for permitting me as an external independent expert to contribute to the work described in the report concerned.

For Maggie Atkinson Consulting Limited, ('the consultant,') the role of external independent contributor to the award making decision was filled by me. I am Maggie Atkinson, founder and CEO of the company that bears my name. The key contacts for this work in Telford and Wrekin were Jonathan Eatough and Suzanne Dodd, between them holding procurement and legal expertise and the delegated authority to run the processes concerned, which had themselves been agreed by Elected Members.

By building in "Double Independence" to the creation of a Commissioning Body to work with all stakeholders to appoint a Chair and set the Terms of Reference for a non-statutory but high-stakes Inquiry into Child Sexual Exploitation (CSE) it is my view that there is great merit in taking this adopted approach, against which bidder(s) could bid for the work. Whilst the Council will fund that work and as a result will be ultimately accountable as the Primary Contractor, in creating this clear and transparent arms-length means of holding all parties to account and working with survivors and victims is following a model of good practice.

Context: What the client contracted the consultant to deliver

Telford and Wrekin Council and its stakeholders and partners are working painstakingly together to continue to address the issues raised by disclosure, investigation, and some ongoing legal cases concerning both historical, and any present or continuing, Child Sexual Exploitation and Abuse in the borough. The Council commissioned the Consultant to provide support to the appointment of an independent and external Commissioning Body, choosing to create this mechanism so as to enable all partners and stakeholders to be confident of such an Inquiry's impartiality. This work will therefore contribute to the progress and improvements to the borough's work in this vital and sensitive field. The consultant's support was provided over 3 days. It included desk-based analysis of documentation and the necessary related preparation, and one full day in the borough as tender(s) were assessed and a decision was made regarding awarding the work to a Commissioning Body.

The client asked that I advise it on the basis of my personal and professional, technical and subject experience in the children and young people's services sector. As former Children's Commissioner for England I was recommended by the Local Government Association because during my term of office my team and I undertook a ground-breaking statutory Inquiry on Child Sexual Exploitation in Gangs and by Groups in communities (CSEGG.) As I left office my successor picked up subsequent work on the issues we had encountered relating to Child Sexual Abuse in the Family Environment (CSAFE) on which she has subsequently published reports.

My work on this assignment now ends as that contract has now been awarded. I can close this assignment by confirming, and those present at the one-day Awarding Meeting will certify if asked, that I have delivered clear and impartial advice to the awarding process. I can further confirm that I have never before visited or worked with the Council or its partners.

Details of the Consultant's Brief:

To advise on the contract which was duly and formally awarded subject to post-award meeting clarification discussions with the successful bidder, on Friday 09/11/2018

 Preparatory time, desk-based at the consultant's home office base and overnight on the 8th to 9th November 2018. This stage entailed reading, annotating and reflecting on the bid(s) received from potential Commissioning Body organisations, and comparing submissions against the specifications and requirements presented by the Council to allow such bidding. Face to face presence at, and full and detailed contributions to, the bidder-assessment day on Friday 09/11/2018, giving both verbal and formal written advice and reflections to those awarding the contract from the standpoint of an entirely independent and objective expert with no previous connection to Telford and Wrekin.

The consultant's responsibilities did not, and in future will not, extend to any responsibility for the work to be undertaken by the Council or its partners in the delivery of services. Nor will the consultant be held responsible for the success or otherwise of the Client's or the appointed Commissioning Body's work. This is not a "payment by eventual results" assignment. It is limited to the functions outlined under numbered items 1 and 2 above.

The consultant's input to the panel's awarding of a contract, including the creation and submission of this Appendix, all travel and other commitments, has entailed a maximum of 3 days in total.

The contract-awarding day: 09 November 2018, at Addenbrooke House

Present at the day, and fulfilling the roles described below, were the following people:

- 3 senior staff from the Council's procurement and legal teams, who played a full part in the awarding discussions and moderation process, ensuring that each Method Statement the bidder had responded to was duly scored after moderation by the panel; that a formal decision to award the contract was made and duly recorded, and that post-award subjects for discussion with the successful bidder were listed for completion during the necessary contract-finalising stage.
- One administrator from the same teams, who took detailed notes of all contributions to the discussion of the single bid received for the contract, filled in the scoring grids on the panel's behalf, and at the end of the process informed the panel of the scoring given across the panel, including the weightings given in each case.
- Weightman's LLP's legal adviser to the process, who advised throughout the discussion of the bid and the moderation process.
- 3 representatives of Telford and Wrekin's survivors' and victims' organisations and the community of residents they represent. These representatives were asked to read the Methods Statements and the single bid received, and to note any questions. They observed but did not play any part in the awarding and moderation process throughout the day. After the panel had formally agreed on its awarding decision and had reviewed the scoring and weighting of the bid, the representatives were then asked for their feedback and questions. These closely matched the issues raised by the panel during the day's discussions. The representatives were formally assured that their commentary would inform post-contract finalising discussions
- Me: Maggie Atkinson, external independent adviser to the process. I played a full part in the discussions and moderation. My scoring was part of the process in discussion of each Method Statement response by the single bidder for this award. I was fully part of the discussions both with the Council's staff, and the survivors' and victims' representatives who contributed to the closing discussion after a decision had been made, but who were present throughout the day as observers of the awarding process.

Formal assurance of the probity, transparency and suitability of the process, and the eventual award of the contract concerned

I hereby formally confirm the following:

1. The documentation provided was thorough, detailed and appropriate for the contract being awarded.

- 2. Though 3 bidders attended the Bidders' Day on 28/09/2018, only one bid was in the event received. The panel was clear throughout that had this bid not met the tender document's specifications, the choice not to award the contract remained open as a clear and valid option.
- 3. The panel, and the victims' and survivors' representatives, all completed conflict of interest and connection declarations and the Council has these on file.
- 4. The papers detailing the commissioning process, and all those provided for discussion, deliberation and decision making were all handled, by all concerned, in duly confidential and formal fashion, including the fact that all papers, and all hand written or other notes made by all parties, were taken back into the possession of Legal Services senior staff at the end of the meeting on 09/11/2018.
- 5. All discussions and deliberations took place in one space, in the full hearing of all concerned, apart from some time spent in quiet deliberation on the matters at hand by the three representatives of victims and survivors. They did not at any point leave the main meeting room to undertake these discussions, all of which were centred on the papers to hand for the awarding process.
- 6. Each Method Statement was considered by the following process, which commenced at 09:30 and given there was only a single bid was competed by 14:00 on the award making day.
 - a. Panel members and group representatives were asked to read the papers over again, one Method Statement at a time, individually and in silence. Panel members were asked in their reading to consider, against the scoring matrix already provided and exemplified as part of the pack of papers, what their scoring for that section alone would be. Groups' representatives were asked to note any comments or questions, which were kept for the end of the meeting. They were not part of the panel's discussion or awarding decision.
 - b. Discussion by the panel only followed this re-reading and annotation session, on each occasion focusing only on the Method Statement the panel had just re-read. Scores were given member by member in open discussion round the table. A panelmoderating discussion followed, to arrive at a single agreed grade per Method Statement.
 - c. Where consideration of a Method Statement required expert advice for example on the bidder's text on the security and handling of information, GDPR and data protection, a suitably qualified and experienced Officer was present for the discussion of that Method Statement only, and provided professional and technical advice as part of the moderation process, not as a means of influencing grading.
 - d. Full and frank discussions informed the agreed final gradings given to each Method Statement. It was clear from the outset that the single bid submitted was adequate or better in each section, and that an award could and should be made as a result of the day's discussions.
 - e. After all the Method Statements had been considered and graded, a closing discussion took place that agreed to award the contract to the single bidder concerned. The panel made detailed notes of the need for post-award discussions with the successful bidder in the concluding discussions required to conclude and sign and exchange the contract concerned. None of the matters raised were sufficient to create doubts about awarding the contract as agreed. Rather they were matters of detail in some areas. This is normal in the award of a contract of this magnitude and importance.
 - f. The meeting was concluded, after the contract award had been agreed and the scoring documents and other materials had been closed, by an appropriate discussion with the

survivors' and victims' group representatives, who added their questions to the awarding panel's considerations. There was a close match between what the panel had recorded as necessary post-award for discussion with the successful bidder, ahead of the contract being signed and exchanged.

The matters raised that will need to be discussed and clarified with the successful bidder

The panel, and the victims' and survivors' representatives, will wish to see clarification rather than alteration of the following matters, all of which relate to enhancing clarity rather than being reasons not to award the contract.

- Confirmation that though the awarded body has some legal representative roles with the IICSA statutory Inquiry chaired by Alexis Jay, there will be clear separation between what Telford and Wrekin is now commissioning and any and all business of that national inquiry. It was acknowledged that the Truth Project has already engaged with Telford and Wrekin as part of this discussion.
- 2. Clarity on the details and exemplification regarding how information and data will be handled, stored, retained, returned or disposed of. It was acknowledged that there will be a good deal of sensitive hard copy as well as electronic material involved. The survivors' and victims' representatives in particular sought reassurance. They received it the bid was already strong but the panel acknowledged that post-award discussions would seek detail and that once commenced the work should seek to engage at a very early stage with those groups. The representatives also raised the possibilities of being able to keep any Inquiry evidence gathering locations clear of, and all witnesses safe from, intimidation, repercussions, social media and other trailing, or attempts to prevent or close down discussions during the Inquiry.
- 3. There will be a need to explore how far the Commissioning Body's remit will now extend, given parts of the bid, the panel accepted this being prompted by discussions that took place on site during the Bidders' Day, moves into how the Inquiry might run, as opposed to simply setting the Terms of Reference and appointing a Chair.
- 4. There will be a need to ensure that the appointed organisation is clear that the Chair should be drawn from as wide a field of expertise as possible, though the panel was also clear that as an independent body, the Commissioning Body will do as it sees fit in that regard. The possibility of a lawyers-only field of candidates was registered as a matter to be discussed, given there are other fields of expertise from which a Chair might be drawn. This will be discussed in full acceptance that the now-awarded body will make the final decision and appointment.

This appendix is presented by the consultant as the closing act in the assignment given, in assurance that the processes involved have been transparent, clear, impartial and appropriate.

Maggie Atkinson Independent Consultant and external contributor to the panel's discussions and decision making

Saturday 10 November 2018

Appendix 2 – Award Criteria

1.1 The Tenders will be assessed against the following Tier 1 Criteria:

Tier 1 Criteria

Criteria Description	Weighting
(A) Quality of Service	70%
(B) Economic (cost)	30%
Total	100%

Appendix 3 - Scoring Matrix

Score	Rating	Description		
0	Unacceptable/Unsuitable	The Tenderer's proposals are absent or incomplete or the Tenderer has provided proposals that are not relevant.		
1	Very Weak	Quality: Tenderer's response is wholly insufficient or unsatisfactory lacking evidence of skill/experience sought; lack of understanding of requirement or evidence of ability to deliver; high risk that relevant skills or requirement will not be available.		
2	Weak	Quality: The Tenderer's proposals include some evidence of skill/experience sought; however they lack some understanding of requirement shown or there is limited evidence of ability to deliver; medium risk that relevant skills or requirement will not be available. The Council has some major concerns		
3	Acceptable	Quality: The Tenderer's response demonstrates a satisfactory understanding of the requirement and evidence of ability to meet it and proposals are acceptable with no major concerns.		
4	Good	Quality: Tenderer's response demonstrates a good understanding of the requirement with full and robust responses and evidence of ability to meet the requirements. The response gives the Council confidence and will bring added value or benefit to the Council.		

4.8 Evaluation Criteria and Weightings (Quality)

Score	Rating	Description
5	Excellent	Quality: Tenderer's response meets the Council's requirements, showing deep understanding of the requirements. The proposals are outstanding and will bring significant added value/benefit to the Council. The response shows innovation and the Council has full confidence in the responses.

The Council reserved the right to exclude any Tenderer who scores 0 (Unacceptable/Unsuitable) or 1 (Very Weak) for any of the criteria or sub-criteria. The Council is of the view that any Tenderer scoring 0 or 1 is unable to meet the Council's requirements for the Contract as a whole and therefore will be rejected.

Appendix 4 - COST EVALUATION

Tier 1 Criteria Descrip tion	Tier 1 Weig hting	Tier 2 Criteria	Tier 2 Weigh ting	Tier 3 Criteria	Tier 3 Weigh ting
Commi ssionin g Body Price	30%	Hourly rates (one blended hourly rate to be provided for all staff)	30%	N/A	N/A
		Indicativ e Price	70%	Stage 1 - The Commissioning Body, independent of the Council, will design the parameters for the Independent Inquiry. This will include setting the draft terms of reference of the inquiry The Survivors' Committee shall provide the Commissioning Body with its own proposals for what should be included in the terms of reference. The Commissioning Body shall use this proposal as a starting point, and shall undertake further consultation on the terms of reference with other interested parties, stakeholders and survivors, survivors' representatives and survivors' family members and friends. The Commissioning Body will produce "the Final Commission" which will form the basis of the engagement of an Independent Chair. The Survivors Committee shall receive a copy of the Final Commission. The Final Commission will be reported to Cabinet and the Survivors' Committee.	Stage 1: 50%
				Independent Chair will work to finalise the Terms of Reference,	

Commis the inqu	vill be finalised by the sioning Body, and lead iry and produce a Draft and a Final Report.	Stage 2(a): 15%
	2(b) – Monitoring the s and performance of the	
Body wi and revie Reference elements Reference a Final Cabinet, Survivor endorse recomm time Ca formal re on beh	3 - The Commissioning Il receive a Draft Report ew it against the Terms of ce Subject to it meeting all s of the Terms of ce, receive, in due course, Report. Reporting this to Council and the s Committee along with ment/ additional endations. At the same abinet will report their esponse (and Action Plan) alf of the Cabinet for I by Full Council.	Stage 2(b): 20% Stage 3: 15%

Costs Scoring

Hourly rate, Stage 1, Stage 2a, Stage 2b, Stage 3 will be assessed in the utilising the following model:

Submitted figure received / lowest bid figure received x section weighting