

NHS Greater Glasgow and Clyde – Award of Contract

Recommendation

The NHS Board is asked to note the award of a contract for taxi services within the Greater Glasgow area to Spring Radio Cars Ltd (trading as Network Private Hire Ltd).

1 BACKGROUND

- 1.1 A report (Board Paper No 09/44) was presented to a meeting of the NHS Board on 18 August 2009. This recommended the award of a contract for taxi services within the Greater Glasgow area of NHS Greater Glasgow and Clyde to Spring Radio Cars Ltd (trading as Network Private Hire Ltd) (NPH) on completion of a competitive tendering process. Following discussion, the NHS Board decided to approve the award of a contract for the provision taxi services for the Greater Glasgow area to Network Private Hire Ltd, however did this on a conditional basis, subject to the satisfactory resolution of matters contained within new information which had been provided to Board officers by Strathclyde Police immediately prior to the commencement of the Board meeting.
- 1.2 The Board is grateful to Strathclyde Police for bringing this information to its attention, to assist it in reaching a decision regarding the award of a contract for taxi services, and in particular for the information provided in relation to Police concerns about alleged links between NPH and persons allegedly involved in serious organised crime. This has provided the Board with additional background information which has been greatly appreciated, and has received in depth consideration by Board members.
- 1.3 Notwithstanding this, the responsibilities of the NHS Board are related to its position as a public body engaged in the procurement of services, and so of necessity focus on ensuring the propriety and regularity of the process followed, in compliance with extant procurement legislation, to reach a decision regarding whether to proceed to contract award.
- 1.4 In conducting this tender process, the Board has fully complied with the relevant legislation which governs the procurement of services. It should be noted that an earlier tender process, aimed at the award of a contract for taxi services, had been aborted owing to deficiencies in the procedures which had been followed by the Board.

2 REVIEW OF NEW INFORMATION PROVIDED BY STRATHCLYDE POLICE

- 2.1 The new information provided by Strathclyde Police on 18th August 2009, together with further information provided by Strathclyde Police on 28 October 2009, was reviewed by the Central Legal Office and by Senior and Junior Counsel, to assess its significance in terms of reaching a decision on whether to award a contract for the provision of taxi services to NPH.
- 2.2 The matters raised by Strathclyde Police led to the Board writing to NPH to seek additional responses which might be relevant in reaching a decision to proceed to contract award. NPH have subsequently responded, providing answers to each of the additional information requests made by the NHS Board. This information, together with NPH's response, was forwarded to Counsel for legal opinion.
- 2.3 Having conducted a thorough assessment of the additional information provided by Strathclyde Police, Counsel have concluded that the information provided by Strathclyde Police, and the responses provided by NPH to the information requests submitted by the NHS Board, did not provide the NHS Board with any grounds under the Public Contracts (Scotland) Regulations 2006, not to award a contract to NPH. Counsel also concluded that NPH had answered all of the questions which had been raised by the NHS Board.
- 2.4 Taking account of the legal opinions received, and in accordance with the conditional decision which had been made by the NHS Board on 18 August 2009, Board officers concluded that the matter should be referred to a meeting of the Performance Review Group (PRG) to consider how to proceed. A report was presented to the PRG on 3 November 2009 (Paper No 09/46) requesting it to consider the further information which had been received and Counsel advice received following the meeting of the NHS Board on 18 August 2009.
- 2.5 There was a full discussion of the additional information provided by Strathclyde Police and NPH, and Counsel opinion. In the course of the meeting, deep reservations were expressed at the award of a contract to NPH in the light of the information which had been provided by Strathclyde Police, and Board members expressed their support for the aims of Strathclyde Police in seeking to tackle the issue of serious and organised crime. However, it was also recognised that, based on the legal framework within which the Board is required to operate in terms of the procurement of services, and the statutory duty of the Board and its Chief Executive as Accountable Officer to operate within that legal framework, the only course of action which Board Officers could recommend to the Board was to award a contract to NPH for the provision of taxi services. PRG decided that a further paper should be provided to the full NHS Board, setting out this conclusion.

3 MONITORING OF CONTRACT

- 3.1 On the assumption that a contract is awarded to NPH, a number of measures will be used to monitor the performance of the contractor – these are (1) response to complaints within seven days deadline, (2) late arrivals, (3) vehicles not meeting requirements, (4) incidence of verbal abuse.

EMBARGOED UNTIL MEETING

- 3.2 In addition, if the mechanism for addressing poor or non-performance on behalf of the contractor did not result in the required improvement, the NHS Board would be entitled to terminate the contract.
- 3.3 Should information come to light which provided evidence that the contractor was guilty of grave misconduct or of material misrepresentation (as defined by the relevant regulations), again, the NHS Board would be entitled to terminate the contract.
- 3.4 The contract contains a 30-day unilateral no fault termination clause which allows the NHS Board to terminate the contract at any point on giving 30 days notice – the NHS Board would be required by law to act reasonably in this eventuality recognising that compensation could be due as a result of applying this condition.
- 3.5 The Scottish Crime and Drug Enforcement Agency has established a Serious Organised Crime Procurement Group to consider ways of countering attempts by serious and organised crime groups to infiltrate legitimate business areas, including the public sector. The NHS Board is represented on this national Group.
- 3.6 It should be noted that NPH currently provide taxi services to NHSGG&C, under an existing contract arrangement, and have done so for a number of years. These services are provided predominantly with the Stobhill area.

4 CONCLUSION/RECOMMENDATION

- 4.1 The NHS Board is asked to note the award of a contract for the provision of taxi services to NPH, having concluded the process of reviewing the new information provided by Strathclyde Police.