

**From:** Peter Oakford, Deputy Leader and Cabinet Member for Finance,  
Corporate and Traded Services

Rebecca Spore – Director of Infrastructure

**To:** Policy and Resources Cabinet Committee – 14 January 2021

**Subject:** Construction Partnership Commission

**Classification:** Unrestricted

**Future Pathway of Paper:** For Cabinet Member decision

**Electoral Division:** Countywide

**Summary:** The Council's Principal Contractors Framework for construction projects expires on 30 September 2021. A new delivery model is required to allow future schemes to be procured expediently and efficiently in line with modern best practice. A key factor in considerations is the sizeable reduction in the number and value of projects in the pipeline compared to previous years. This will necessarily reduce the number of contractors awarded construction projects by the Council.

Four options have been considered with detail outlining the recommended approach to explore the Construction Partnership model before seeking a formal decision in the second half of 2021.

**Recommendation:**

The Policy and Resources Cabinet Committee is asked to note the preferred option and procurement timetable.

## 1. Introduction

- 1.1 The Principal Contractors Framework started in October 2015 with the appointment of 17 contractors across two lots (split by value). This was used to procure property projects including school improvements, and to date £99m has been spent. However due its limitations, the Council has had to utilise other frameworks let by other authorities, and together with a reduced future works pipeline, the current arrangement cannot continue. The pipeline from 2021/22 to year 2023 and beyond will be significantly less than the previous year's spend (Appendix A refers).
- 1.2 Over the past three years, seven contractors have been used to deliver projects, with the majority delivered by Kier Southern Ltd, WW Martin Ltd and Baxall Construction Ltd who all have a local office in Kent (Appendix B refers).

- 1.3 The pipeline reduction is also attributable to the large proportion of educational projects funded by Department for Education (DfE), who stipulate the use of their own central frameworks for these works (over £10m) and local projects managed by the schools themselves.
- 1.4 While the Principal Contractors Framework has been open to third parties (other authorities such as Districts and the NHS), the uptake has been minimal as there are alternative competing frameworks and contracting arrangements which offer quicker and more agile routes to market (e.g. Procurement Hub and SCAPE). These routes to market charge for access (typically 0.5% of the project cost), which is something the Council does not want to pay and should be at the forefront of procuring its own strategic contracts for use by others in the County.
- 1.5 The current arrangement is due to expire on 31 September 2021 and there is no scope to extend the agreement. Should any project be required after this date, there is no other option but to utilise another framework or commence a competitive procurement process.
- 1.6 This paper recommends exploring the construction partnership approach and conducting market engagement before returning to the Policy and Resources Cabinet Committee with the findings.

## 2. Delivery models

- 2.1 To date four options for the future provision of these works have been considered, as set out below.
  - Option 1 – **Extend the framework**  
*Discounted* as maximum extensions already taken
  - Option 2 – **Re-procure framework on a like-for-like basis**  
*Discounted* as pipeline cannot sustain number of contractors going forward and does not address key operational and commercial issues with respect to current framework
  - Option 3 – **Use alternative frameworks**  
*Discounted* as unlikely to access Kent based contractors and pay a margin for the use of other frameworks
  - Option 4 – **Explore Construction Partnership Approach**  
*Carried Forward*
- 2.2 This paper will detail Option 4 and review the benefits and challenges facing the Council and its partners should it implement this strategy.

### **3. Construction Partnership**

- 3.1 It is proposed to develop a construction partnership with fewer contractors to deliver the pipeline of work. If adopted, this will lead to significant change in the way that the Council delivers its construction projects.
- 3.2 Up to three contractors will be appointed to the new partnership framework and those active will be awarded work on rotation. This will minimise the need to undergo a competitive process (current position), which can take time and can cost up to £50k per procurement excluding the Council's own resources.
- 3.3 Overheads, profit margin and key rates will be agreed prior to the implementation of the framework, with individual project costs being reviewed on an open-book and collaborative basis. This will reduce resource duplication across all parties and streamline the route to market compared to the current position. There will be an opportunity to work directly with the reduced supply chain in a partnership approach.
- 3.5 There is no workload guarantee in the framework agreement so it will be worth zero value. All schemes awarded to contractors will incorporate their own contract and such projects will need to be taken through the appropriate governance process. This agreement will provide an efficient route to market for approved decisions.

### **4. Benefits and Challenges of Construction Partnership**

- 4.1 This approach will increase procurement speed and offer greater flexibility in the event of future pipeline changes. Working directly with a few contractors (expected to be Kent based) will reduce their bidding costs which, in the current service model are passed on to the Council. It will also provide greater certainty of work to enable long term investment in skills and innovation. This could support the social value agenda by boosting the local economy with jobs, apprenticeships and community projects.
- 4.2 Risk is a complex matter, for which contractors' price at tender stage. Working in an open and collaborative approach allows shared risk pots to ensure that risk is only paid for if it is realised. This will benefit both parties in their ability to manage risk in an appropriate manner.
- 4.3 There are a number of frameworks operating in the South East, mainly contracting with large national and multinational organisations. Having a local construction partnership will entice other public sector parties to utilise it. Implementing a 0.5% contribution for third party work will help recoup the money spent on the procurement.

- 4.4 In 1994, the Latham report (commissioned by UK government) urged reform and advocated partnering and collaboration between construction companies and their clients. This is further supported by standardisation of contract terms (e.g. NEC/JCT) which promote mutual trust and cooperation. This changes from the current, more traditional way of contracting, where there is a perceived mentality of achieving the lowest price through this way of working. This has been reaffirmed by the Construction Playbook which become national policy during 2021.
- 4.5 Reducing the number of contractors the Council commissions for this work is expected to be contentious, but with a limited pipeline there is not enough work to give a commercially attractive offer to more than three contractors. This is an opportunity for the Council to seek the right partners and, if competition is high, achieve better value.
- 4.6 The contractors that worked under the current arrangements will have to further develop an open relationship and provide greater cost transparency. Securing a pipeline of work and not having to bear bidding costs once in the partnership is a much sought-after upside for them. With the ability to directly award projects, there will be an increase in contract and performance management to ensure those contractors who deliver to time, quality and cost are rewarded future work.

## **5. What will this approach achieve?**

- 5.1 This approach will help create sustainable relationships which will keep bid costs down and lower project build costs. Furthermore, there will be increased flexibility and agility when commissioning new projects.
- 5.2 Working with strategic partners and standardising contract terms will help facilitate early engagement to plan for future projects. Commissioning an appropriate number of projects for fewer contractors will lead to greater investment in the local area, which will assist small and medium sized enterprises (SMEs) and contribute to greater social value, apprenticeships etc.
- 5.3 The Construction Playbook has been issued by Central Government, which points to a more collaborative way of working with the construction sector. This Construction Partnership approach adopts best practice from this publication and ensures KCC moves towards a better relationship with its contractors and supply chain. [Link to Construction Playbook](#)

## 6. Next Steps

The current framework expires on 30 September 2021. To ensure the timely delivery of the new framework, the following milestones must be met:

### January – February 2021

Undertake market engagement and review the pipeline requirements. Finalise and seek approval of the final procurement strategy to deliver the preferred service delivery model. This will include the value of works and how many contractors will be appointed to each lot.

### March – April 2021

Prepare for the procurement process and develop the documentation.

### Policy and Resources Cabinet Committee

Return to the Policy and Resources Cabinet Committee with updated information and seek endorsement of the chosen strategy. This could take place on 3 March or June/July 2021.

### April – August 2021

Conduct a two-stage procurement process, including a Selection Questionnaire. Following an initial tender period, there will be scope to negotiate with tenderers to clarify the requirements and finalise price submissions.

### September 2021

Complete the evaluation report and seek governance approval to award the framework. Commence the mobilisation period to ensure contractors are ready to begin work from 1 October 2021.

## 7. Recommendation(s)

### **Recommendation(s):**

The Policy and Resources Cabinet Committee is asked to note the preferred option and procurement timetable.

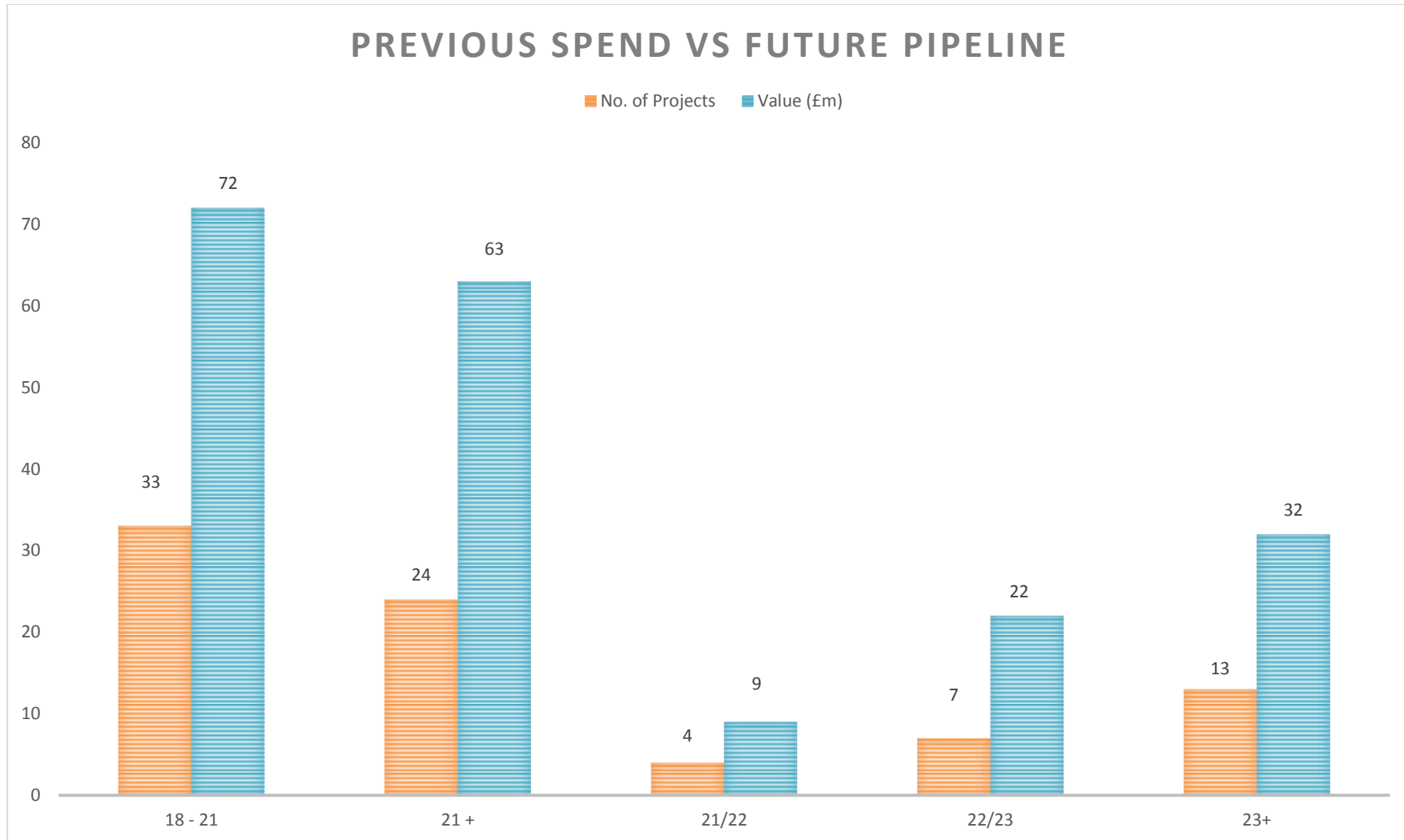
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## Appendix A

Scheme previous vs future spend



## Appendix B

Delivered projects split by contractors

