

From: Rebecca Spore – Director of Infrastructure

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

Subject: Construction Partnership Framework Commission

Classification: Unrestricted with exception of Appendix B which is not for publication. By virtue of paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act

Previous Pathway of Paper: Policy and Resources Cabinet Committee, 14 January 2021 and 13 July 2021.

Future Pathway of Paper: Cabinet Member decision

Electoral Division: Countywide

Summary:

The Council's Principal Contractors Framework for construction projects expired in October 2021. Further to the reports presented on 14 January and 13 July 2021 to the Policy and Resources Cabinet Committee, the procurement process has commenced. This report updates on the progress on the procurement process and the proposed decision to establish the Construction Partnership Framework, setting out the procurement process and the timetable to award four contractors to the Framework.

Recommendation:

The Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services is asked to consider and endorse or make recommendations on the proposed decision to establish the Kent Construction Partnership Framework to replace the Kent Contractors framework and to authorise the Director of Infrastructure to enter into the necessary legal documents to establish the framework.

1. Introduction

- 1.1 On 14 January 2021 and 13 July 2021, reports presented at the Policy and Resources Cabinet Committee set out the expiry of the current framework to deliver capital projects across the Council and the need to establish a replacement framework to deliver new construction schemes. Options were considered and a new delivery model was endorsed to allow future schemes to be procured expediently and efficiently in line with modern best practice. The Committee supported the further exploration and market engagement to scope further the Construction Partnership approach.
- 1.2 The proposed construction partnership is an approach whereby, a framework is established with a small number of contractors to deliver the pipeline of work based predominately based on a rotation approach rather than individual mini competitions, although mini competitions can be used if required. The new approach will lead to significant change in the way that the Council delivers its construction projects.

- 1.3 Overheads, profit margin and key rates are agreed prior to the implementation of the framework. 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 to support the delivery of the Council's outcomes.
- 1.4 There is no workload guarantee in the framework agreement. All schemes awarded to contractors will incorporate their own contract and projects will need to be taken through the appropriate governance process as they are now, where appropriate.

2. Construction Partnership Framework Delivery Model

- 2.1 Following consideration at the Policy and Resources Cabinet Committee, a procurement was commenced for a Construction Partnership Framework.
- 2.2 Given the projected pipeline, up to four contractors will be appointed to the new partnership framework with work initially be awarded on rotation. As the framework develops, the Council will work in a collaborative approach with the contractors and identify who is best placed to deliver individual schemes, based on, but not limited to the following categories:
 - Key Performance Indicator (KPI) scores
 - Size, complexity and value of the scheme
 - Scheme location
 - Contractor capacity.
- 2.3 Should a contractor propose a scheme cost that is not within the 'market' rate, the Council reserves the right not to award the contract and can open dialogue with the next contractor.
- 2.4 Whilst the primary method of work allocation will be based on rotation, a mini-competition process can be run, should it be required. This could be utilised on complex and high value schemes where all those contractors that reside on the framework would be invited to bid.
- 2.5 Overheads, profit margin and key rates are agreed prior to the implementation of the framework. 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.
- 2.6 The value of schemes procured through the framework will not be limited in value but will be for schemes over £1m.
- 2.7 The framework will be in place for a minimum of four years, with scope for a potential two-year extension. Due to current procurement procedures not allowing new contractors to be appointed during the framework period, procuring four contractors increases the contingency should any of the organisations enter liquidation during its duration.

3. Alternatives Considered

3.1 As presented at the 14 January 2021 Policy and Resources Committee, three alternative models were considered:

- **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 the Council pays a margin for the use of other frameworks.

3.2 Option 4 (Construction Partnership) was agreed as the appropriate way forward to deliver the future pipeline of work.

4. Procurement Progress and Timetable

4.1 The Contract Notice went live in September 2021 to the open market on the Find a Tender portal.

4.2 The Selection Questionnaire (SQ) closed on the 20 October 2021. 225 organisations submitted an expression of interest. Of the 225 organisations, 39 submitted the SQ. All detailed SQ's were evaluated between October and December 2021.

4.3 The organisations that passed the mandatory requirements of the SQ were Invited to Tender (ITT). Following a rigorous evaluation process, 13 organisations passed the selection criteria and qualified to be invited to tender. Full details of the SQ report are included within the exempt Appendix B.

4.4 The ITT was published on the 28 February 2022 with a deadline of four weeks. Tenderers will be assessed on the following quality criteria:

- Framework Management
- Collaborative Working
- Pre-Construction Services
- Construction Phase
- Social Value
- Environmental Responsibility.

4.5 The price assessment will include construction preliminaries that will apply to all future schemes (subject to annual inflation) which include direct fee (overheads and profit), labour and equipment resources. The framework pricing structure of schemes will be open book, which will allow the Council's Commercial Team to review the building scheme costs and evaluate whether they are in accordance with market conditions.

4.6 Following an evaluation of the ITT submissions, the four most economical advantageous tenderers will be appointed to the framework. This will be based on both cost and quality as detailed in 4.4 and 4.5. There is scope for a negotiation phase to finalise tender submissions before an award is made.

4.7 The Framework is expected to commence from May/June 2022.

5. Financial Implications

5.1 There is no workload guarantee in the framework agreement. All schemes awarded to contractors will incorporate their own contract (NEC 4 suite) and such projects will need to be taken through the appropriate governance routes.

5.2 At the outset of the framework, schemes will be awarded on a rotational basis. Should any proposal not be within a suitable tolerance of market prices, the Council can move to the next contractor. This will encourage price competitiveness and ensure the Council is aware of current market forces. An example of this is the current material shortage (timber, steel, cement, etc.) affecting the UK market and further afield. Should Kent Country Council (KCC) not consider that the new framework to represent Value for Money, it is able to utilise alternative procurement options.

6. Legal implications

6.1 The award of any contracts will be in full compliance with all relevant procurement and governance regulations. Legal advice in consultation with the Office of General Counsel has been commissioned to review the framework procedures and the terms and conditions that will govern future schemes.

7. Equalities and Data Protection Implications

7.1 An Equalities Impact Assessment has been carried out and no implications have been identified at this early stage.

7.2 The initial screening identified that a Data Projection Impact Assessment will not be necessary as no personal data is collected for this commission.

8. Policy Framework

8.1 Individual projects will be required to enter a separate governance process.

8.2 In accordance with the Council's Environmental Policy with the target to reach net zero emissions from its own estate by 2030, the commission of this framework will support this. This will be achieved through appointing locally based supply chain (reducing mileage) and incorporating environmentally sustainable materials by working in a collaborative partnership.

9. Recommendation(s)

Recommendation(s):

The Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services is asked to consider and endorse or make recommendations on the proposed decision to establish the Kent Construction Partnership Framework to replace the Kent Contractors framework and to authorise the Director of Infrastructure to enter into the necessary legal documents to establish the framework.

10. Background Documents

- 14 January 2021
Policy and Resources Cabinet Committee – ‘Construction Partnership Commission’ Report
- 13 July 2021
Policy and Resources Cabinet Committee – ‘Construction Partnership Framework Commission’ Report

11. Appendices

- Appendix A – Proposed Record of Decision
- EXEMPT Appendix B – Selection Questionnaire Report (which is not for publication. By virtue of paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act)

12. Contact details

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