

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 – 13th July 2022

Subject: Construction Consultancy Services Framework Commission - Update

Classification: Unrestricted

Previous Pathway of Paper: Not applicable

Future Pathway of Paper: For Cabinet Member decision

Electoral Division: Countywide

Summary: The Council's Consultancy Framework for appointment of specialist consultancy services, relating to construction works, expired in June 2020. Since then, the appointment of such services has been conducted on a project-by-project basis, tendered, with 3-quotes, or direct award procurements in-line with Spending the Council's Money Policy and Public Contract Regulations 2015 (where applicable).

This current method of procuring consultancy services is time consuming and resource intensive and requires a more efficient approach. In addition, we need a Consultancy Services Framework that aligns to the new Construction Partnership Framework and the proposed Minor Works Framework.

A new delivery model is required to allow future consultancy appointments to be procured expediently and efficiently, using pre-agreed (tendered) rates to support the Construction works appointed through the Construction Partnership Framework and the proposed Minor Works Framework.

Three options have been considered before outlining the recommended approach to the Construction Consultancy Framework model.

Anticipated spend will be over £1m and this proposal will require a Key Decision, currently planned for late 2022/early 2023.

Recommendation(s):

The Policy and Resources Cabinet Committee is asked to **Note** the proposal, the preferred option, and the procurement programme.

1. Introduction

1.1 Kent County Council (KCC) had been using consultancy services for the Capital Delivery programme for several years. The consultants would undertake a range of services including mechanical and electrical engineering, structural engineering, architectural services, construction

design and management (CDM) services and cost control. The provision of programme and project management is predominantly delivered in-house.

- 1.2 The Framework expired in June 2020 and procurement of such services since then have been conducted on a project-by-project basis, tendered, with 3-quotes or direct award in-line with Spending the Council's Money Policy, and Public Contract Regulations 2015.
- 1.3 Since the expiry of the previous Consultancy Framework, KCC have appointed in excess of 80 separate consultancy services (the majority being quantity surveying) via the following routes:
 - Contract novation from Gen2 Property Ltd
 - Competitive 3-quote process
 - Direct award via national frameworks.
- 1.4 In addition, since April 2021, there have been over 400 minor works schemes let through the Amey and Skanska Total Facilities Management (TFM) contracts. Each of these schemes required consultancy services that were undertaken via the TFM Contractor. Going forwards these works will be procured through the proposed Minor Works Framework and as such will require consultancy services to also be procured through the recommended Consultancy Services Framework.
- 1.5 The number of consultancy appointments is therefore expected to be significant over the term of the framework.
- 1.6 This report recommends that we undertake a procurement exercise to create a Construction Consultancy Services Framework, returning to the Policy and Resources Cabinet Committee for a Key Decision in late 2022/early 2023.

2. Delivery Options

- 2.1. Three options for the future provision of these services have been considered, as set out below.

2.1.1. *Option 1 - Insource of consultancy provision (not recommended option)*

The following would need to be considered:

Resources

- Defined organisational structures will need to be created to determine who the team would report to and the numbers and grades of people that would be required. This would take considerable time in getting a new structure planned and approved.
- A recruitment campaign would need to be undertaken to obtain a pool of technically qualified professionals who could not only manage the pipeline but also allow cover for other aspects such as, annual leave and sick leave.

- There is a current shortage of supply of skilled labour following the recovery from the COVID-19 pandemic due to the increase in workload and recruitment may not be successful.
- Demand and salaries have increased and KCC would face challenges to retain staff based on the salaries being offered. This could create high levels of staff turnover which adds pressures and resource to an ongoing recruitment challenge.
- Current average market rates within the South East region are included below. Should KCC look to appoint consultants the average salary would fall within the pay grades of KR10-15, the majority of which would be a KR13 and above (£55.5K - £80K).

Discipline	Salary minimum	Salary max	Average Salary
Architect	£47,500	£77,500	£62,500
Mechanical and Engineering Services	£32,500	£60,000	£46,250
Structural / Civil Engineering Services	£37,500	£57,500	£47,500
Building Surveyor	£47,500	£67,500	£57,500
Contract Administrator	£23,500	£52,500	£38,000
Construction Design Management Compliance Consultant	£47,500	£77,500	£62,500
Principal Designer	£42,500	£57,500	£50,000
Technical Advisor (competent in mechanical and engineering)	£32,500	£62,500	£47,500
Quantity Surveyor	£52,500	£77,500	£65,000
Supervisor	£32,125	£47,500	£39,813
Project Manager	£32,000	£75,000	£53,500

- The cost of recruitment would need to be considered and the resource and time taken with existing staff undertaking the selection process and interviews.

Design Risk and liability

- KCC would retain design liability for all projects (except design and build schemes) and in the event of a design failure, KCC would have to cover the costs via KCC's Public Liability Insurance.
- Currently our business activity does not include "designers" and we would therefore need to inform our insurance providers, who may not cover for this activity, as it is a significant move from our current "core business activity". KCC would also need to ensure designers were fully competent for any insurance to be valid.
- Many of the projects are complex in design and could include aspects such as energy schemes, structural requirements, mechanical and electrical installations, and architectural design. These are very specialist in nature, requiring highly skilled professionals.
- KCC currently do not have the required technical skills and capabilities across the team internally to undertake these consultancy services. To insource would require a significant recruitment campaign and the creation of an entire new division within Infrastructure.

2.1.2. Option 2 - Continuing with current arrangement of tendering/direct award for each requirement (not recommended option)

- Whilst this is a compliant route to procuring services, it is time consuming when fee bids are sought on a project-by-project basis, requiring more governance (depending on value).
- With the large number of projects to be delivered this also adds further pressures on resources.
- When new consultants are appointed for only one project, training time is needed to familiarise with KCC processes, templates and governance, this can cause delays to the project delivery, whilst also adding additional pressure to the KCC project team.
- When new Consultants are appointed for only one project, there is minimal opportunity for collaboration, innovation, and continuous improvement between the project team, particularly when trying to align with the new Construction Partnership Framework.

2.1.3. Option 3 – Establishing a new Construction Consultancy framework (recommended option)

- This would provide KCC with a range of consultants, appointed following a fair and open procurement process.
- This would demonstrate best value, give cost assurance, and create flexibility and efficiency when selecting consultants to support project delivery.
- In addition to this having a regular pool of consultants this approach will support effective delivery of the Construction Partnership Framework and the proposed Minor Works Framework through collaboration and combined knowledge sharing, pipeline reviews, best practice etc.

2.2. This report explores Option 3 further and reviews the benefits and challenges facing the Council and its partners should this option be progressed.

3. Construction Consultancy Services Framework

3.1 It is proposed to develop a Construction Consultancy Services Framework, to support the delivery of the pipeline of construction. If adopted, this will create an efficient way to appoint construction consultancy services.

3.2 The proposed Construction Consultancy Services Framework is an approach whereby, a framework is established with a number of technical professional consultants. If adopted, this will create a much slicker process for appointing Consultancy Services to support construction projects and will create a pool of available suppliers, who will be familiar with KCC processes, governance and templates and will work and collaborate in partnership with KCC and other Construction Partners.

3.3 Projects would be allocated on a rotational basis (subject to satisfactory performance on previous projects), rather than conducting individual mini competitions on a project-by-project basis. In addition to this, if a project is deemed specialist, for example net-zero projects, or of a significantly high

value, the Framework will allow KCC to undertake a mini competition across the consultants on the Framework.

- 3.4 It is recommended that the following consultancy services are procured on behalf of KCC to support the delivery of the Capital Delivery Programme.

Discipline	Typical services
Multi-discipline Building Surveyors (one stop shop)	To provide services where a project requires a full range of consultancy support, including but not limited to planner, architect, building surveyor, mechanical and engineering services, structural engineer services, civil engineering services.
Construction Design Management Compliance Consultant	Provide the client or principal designer with sound competent advice on health and safety in relation to the construction design processes, risk mitigation, best practice in complying with health and safety during construction and current legislation.
Principal Designer	Provide effective coordination of health and safety during the design/pre-construction phase, ensuring principles of prevention are actively promoted into the designs and have a focus on the identification and elimination of hazards.
Technical Advisor	Provide sound advice on contractor design submissions after assessing project deliverables have been met. Their areas of expertise will be in monitoring design submissions, assist with the design approval process in terms of buildability and design efficiency
Quantity Surveyor	Provide independent cost consultancy services which include, but are not limited to, the following services: feasibility studies, cost planning, tendering and procurement of contracts, value engineering, valuation of compensation events or variations, cost/financial reporting.
Supervisor	Provide independent service that is responsible for monitoring and controlling quality of construction, issuing instructions for works, for testing or for rectifying defects, witness testing, checking compliance with the works information and that all works are carried out in accordance with the contract and manage the defects process.
Project Manager	Project management is typically delivered in-house via the Major Capital Programme Team within Property, Infrastructure. At times, where necessary due to capacity within KCC or driven by specialist requirement, New Engineering Contract (NEC) competent Project Management services may be bought in from external agencies.

- 3.5 It is recommended that there are 3 consultants per discipline to:

- ensure there is sufficient works for the consultants to get familiar with KCC processes and procedures
- provide some resource flexibility to flex with the pipeline.

- 3.6 It is proposed that the fee structure will predominantly be by tendered fee percentage rates for each discipline. Pricing schedules for each discipline will be split into different project scopes, procurement routes, project complexity and construction value bands and fee percentages will be provided for each permutation.
- 3.7 In addition to the fee percentages, hourly/daily rates for key disciplines will be tendered, these will be used for variations/compensation events/ad hoc services that are not covered by the fee percentage.
- 3.8 In essence this model creates a table where the KCC representative can select the project type, complexity and value etc. and then see the consultants fee percentage that will be applied and undertake a swift appointment using these rates.
- 3.9 The new Framework will be:
- Nil-commitment framework with no guaranteed pipeline of works. This will be made clear to all potential candidates in the Invitation to Tender documentation.
 - NEC4 Professional Services Short Contract (PSSC) contract and all projects will adhere to the appropriate governance process.
 - 4 years in duration

4. Benefits and Challenges of Construction Consultancy Services

4.1 Benefits

- Consultancy appointments – fast and efficient.
- Consultancy flexibility/choice to flex with the pipeline changes.
- Consultancy familiarity with KCC governance, process, templates.
- Collaboration through partnering arrangements will drive best value across the pipeline working with other Consultants, the Construction Partnership Framework Contractors, and the Minor Works Framework Contractors.
- Drive consultancy performance as works are allocated on a rotational basis, but not if the supplier is not performing.
- Standardisation of contract terms e.g. NEC 4 which provide a clear understanding of contract management requirements and will promote cooperation and a focused approach.
- Support Kent County Council's Strategic Plan 2020-2023 by:
 - Supporting the delivery of the Council's Infrastructure Capital Delivery programme.
 - Supporting the delivery of the Kent Commissioning Plan for Education Provision 2020-2024, including the Basic Need programme.
 - Supporting the KCC Corporate Estate maintenance programme.
 - Supporting the KCC Education Estate maintenance programme.

4.2 Challenges

- Maximising Kent based suppliers - Lotting strategy will encourage Kent based suppliers or suppliers with office locations in Kent. This will be identified at the Invitation to Tender stage where potential consultants not primarily based in Kent will be asked to demonstrate their locality within the county.
- Incorporating social value – ensuring that KCC maximise their commitment to Social Value within the county. Consideration to using the Social Value Exchange platform as part of the tender process could be given as the platform will allow suppliers to provide their time, equipment, and opportunities to accredited community-based organisations and projects. It will also allow suppliers to contribute to skills, employment, and enterprise in the local area - for instance, by offering apprenticeships.
- Demonstrate to suppliers' a consistent volume of work. A pipeline of work over the 4-year contract period will be included within the tender documents and will articulate which projects would typically require which discipline.
- Mobilisation of consultants onto the Framework – a number of successful consultants may require onboarding which will put some strain on KCC resources. However, this will be a short-term challenge during the early stages of the Framework.
- TUPE implications associated with the new model will be considered.

5. Financial Implications

- 5.1. The establishment of this framework is considered to offer the best route to obtain optimum value for money for the Council's construction projects.

6. Legal implications

- 6.1 The award of any contracts will be in full compliance with all relevant procurement and governance regulations.

7. Equalities and Data Protection Implications

- 7.1. An Equalities Impact Assessment has been completed.

8. Conclusion and Next Steps

- 8.1. It is envisaged that the new Construction Consultancy Services Framework is implemented in early 2023 to support the Construction Partnership Framework and the proposed Minor Works Framework. To ensure the timely delivery of the new framework, the following indicative activities are required:

July – November 2022
Procurement process commences with the Selection Questionnaire testing potential applicants on their capability and capacity to deliver future construction schemes. The project team will finalise the Invitation to Tender documentation prior to the shortlisting process.
November 2022 – February 2023
Those candidates that pass the Selection Questionnaire will be invited to submit a tender based on fee percentage rates for each discipline and hour rates for ad hoc services. There will be scope to negotiate with tenderers to clarify requirements prior to seeking best and final offers.
February 2023 - April 2023
Complete the evaluation report and seek governance approval to award the Construction Consultancy Services Framework. Commence the onboarding of appointed consultants.

8.2. A further update will be brought to the Policy and Resources Cabinet Committee to ensure that the Key Decision is in place ready for any contract awards.

9. Recommendation(s)

Recommendation(s):

The Policy and Resources Cabinet Committee is asked to **Note** the proposal, preferred option and the procurement timetable.

10. Contact details

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