

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 – 9 March 2023

Subject: Construction Consultancy Services Framework Commission – Update

Key decision: *Savings or expenditure of more than £1m; Affects two or more Electoral Divisions.*

Classification: Unrestricted

Past Pathway of Paper: Policy and Resources Cabinet Committee – 13 July 2022

Future Pathway of Paper: For Cabinet Member decision

Electoral Division: Countywide

Summary:

This report updates The Policy and Resources Cabinet Committee on progress with the Construction Consultancy Services Framework procurement.

Recommendation(s): The Policy and Resources Cabinet Committee is asked to note progress.

1. Background

1.1 As set out in the report that was presented to the Policy and Resources Cabinet Committee on 13 July 2022, the recommended delivery model (establishment of a framework) has been progressed to procurement.

1.2 As part of this the lotting strategy has been finalised to align to the requirements as defined under the NEC Engineering and Construction Contract.

1.3 The defined lots are shown in the table below:

Lot 1 - Multi-discipline (client delegated duties)

Client delegated duties as required by the Client and under the NEC Engineering and Construction Short Contract (ECSC) when issued to a contractor for minor projects, including the roles of quantity surveyor, planner, clerk of works and Principal Designer.

This lot will include:

- Multi-discipline (client delegated duties) including the role of the quantity surveyor.
- Multi-discipline (client delegated duties) excluding the role of the quantity surveyor.

<p>Lot 2 - Project Manager (inc. client delegated Quantity Surveying duties)</p> <p>This lot will include:</p> <p>Project Manager All Project Manager duties as required under the NEC Engineering and Construction Contract (ECC) when issued to a Contractor for major projects.</p> <p>Client Delegated Quantity Surveying Duties Client delegated quantity surveyor duties:</p> <ul style="list-style-type: none"> ▪ for minor projects, where the quantity surveyor is not required under the Multi-Disciplinary lot 1. ▪ where the Client is appointed as Project Manager under the NEC Engineering and Construction Contract (ECC) and the ECC is issued to a Contractor for major projects. ▪ under the NEC Professional Services Short Contract (PSSC), when issued to a Contractor for early contractor involvement.
<p>Lot 3 - Supervisor</p> <p>All Supervisor duties as required under the NEC Engineering and Construction Contract (ECC), when issued to a Contractor for major projects.</p>
<p>Lot 4 - Technical Advisor</p> <p>Providing the 'critical friend' role in respect of design to the Client as required:</p> <ul style="list-style-type: none"> ▪ when a contract is issued for minor projects to a Contractor under the NEC Engineering and Construction Short Contract (ECSC). ▪ for early contractor involvement under the NEC Professional Services Short Contract (PSSC). ▪ for major projects under the NEC Engineering and Construction Contract (ECC).
<p>Lot 5 - Construction Design Management Advisor</p> <p>Construction Design Management Advisor when a contract is issued to a Contractor under the NEC Engineering and Construction Short Contract (ECSC):</p> <ul style="list-style-type: none"> ▪ for minor projects, only if notifiable ▪ under the NEC Engineering and Construction Contract (ECC) for major projects

2. Progress and Activity Update

Procurement Route

- 2.1 The value of this procurement is above the Public Contract Regulations (PCR 2015) threshold of £213,499 (including VAT) for goods and services, and therefore needs to be procured and advertised in accordance with PCR 2015.

2.2 This procurement is following “Competitive Procedure with Negotiation” which is a multiple stage procurement procedure, well recognized under PCR 2015.

2.3 The stages are graphically illustrated as below:



2.4 Procurement is currently at the tail end of stage 1, Call for Competition, undergoing evaluation and moderation of the responses received from the market.

Call for Competition

2.5 The activity associated with The Call for Competition with selection questionnaire is summarised as follows:

- The Call for Competition was published on 20 October 2022 (as required under PCR Regs) on Contracts Finder, Find a Tender Service and the Kent Business Portal which is open to any supplier who wanted to submit an expression of interest.
- Included the selection questionnaire which sets out the questions, scoring system, weightings for each question and the evaluation model.
- Advised potential candidates that all Suppliers who passed the mandatory section and the project specific quality questions would be invited to tender.
- Advised potential candidates that they could bid for as many or as few of the lots but, if successful for Lot 1 (Multi-Disciplinary Consultant) they would not be able to be awarded any of the other Lots. However, if successful for more than 1 of Lots 2 to 5 then multiple awards could be made.
- Gave potential candidates time and opportunity to ask any questions during the Call for Competition period. A number of questions were asked across a range of subjects including but not limited to:
 - Clarification around ISO9001 (Quality Management Systems) requirements
 - General case study clarifications
 - Some clarifications around the Lots and disciplines
 - The remainder were usually general questions that were already covered in the Call for Competition documentation.
- Stipulated a return date of 9 December 2022.

Selection Questionnaire Questions

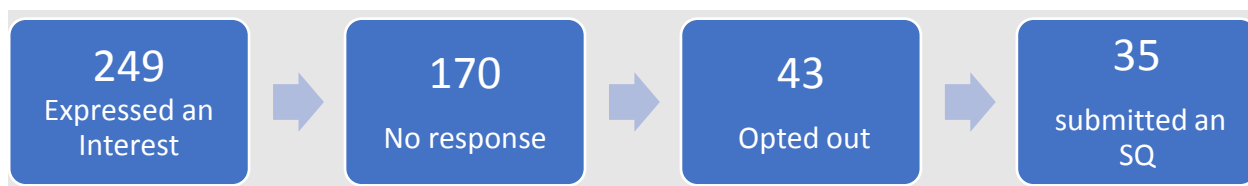
- 2.6 Evaluation was based on a mandatory pass/fail section and then project specific questions tailored for the requirements of the Consultancy Services.
- 2.7 Project Specific questions can only be backward looking and are to demonstrate that the supplier has the capability and capacity to undertake the service. They cannot be forward facing questions at this stage of the procurement process.
- 2.8 The Mandatory Pass/Fail included:
- Part 1: Potential Supplier Information (Standard) – for information only
 - Part 2: Exclusion Grounds (Standard); and
 - Part 3: Selection Questions, including:
 - Economic & Financial Standing
 - Requirements Under Modern Slavery Act 2015
 - Insurances (Employers, Public, Professional Indemnity, Product, Construction Third Party)
 - Equality and Diversity
 - Environmental Management
 - Health & Safety
 - Data Protection
 - Skills and Apprentices
- 2.9 The Project Specific Questions included:
- Section 6 - Technical and Professional Ability
 - 6.1 Discipline specific case studies (2 or 3 depending on Lot)
 - 6.2 Supply Chain Sub-contracting
 - Section 8.8 - Professional Capacity
 - 8.8a ISO 9001
 - 8.8b Royal Institution of Chartered Surveyors (RICS) regulated member
 - 8.8c Partnering and Collaboration approach

Evaluation and moderation of the Selection Questionnaire

- 2.10 There are 16 evaluators and 1 moderator involved in the selection questionnaire evaluation and moderation process.
- 2.11 Evaluation of the mandatory pass/fail questions have taken place.
- 2.12 At the time of writing this report, the evaluation of the Section 6 and Section 8 questions are still taking place. These are, in the main, essay type/case study questions. Each evaluator will undertake an independent evaluation and all scores and comments will be consolidated. Moderation meetings are taking place with the evaluators to agree overall commentary and scores for each question and each supplier.

Selection Questionnaire Evaluation and Moderation Results

2.13 KCC Received 35 responses including several from small and medium-sized enterprises (SME's) and Companies with Kent based offices:



2.14 When the moderation is complete, the successful suppliers to be taken through to tender. Suppliers will be advised of their success or otherwise and will be given feedback on their submissions.

The Tender Process

2.15 Drafting of contractual documentation including the main contract, framework information schedules, conditions of contract, pricing tables, key performance indicator's, tender quality questions and quality and price evaluation models etc. are currently being produced.

2.16 The tender process will include:

- Further Quality Questions – There will be a number of quality questions included as part of the tender, these will be forward facing questions for the suppliers to demonstrate how they will deliver against requirements. These questions will be weighted.
- Price – the supplier's notional tender value will be based on approximate volumes of project types with the supplier's fee percentages applied.
- Price per Quality Point (PPQP) - The overall evaluation model will be Price per Quality Point whereby the supplier's total notional tender value is divided by the Suppliers overall quality score. This model provides a way of ensuring that quality is a strong contribution to the evaluation model and the lower the PPQP the better value for money.

2.17 The Suppliers will be ranked in order of PPQP and the supplier with lowest PPQP would be recommended to be awarded the contract. Suppliers who are successful for Lot 1 and other Lots will not be awarded more than one Lot.

3. Programme

3.1 The programme has been updated since the indicative key activities were presented previously to the July 2022 Policy and Resource Cabinet Committee. The programme has been delayed due to significant resources being required during the scoping phase to ensure the proposed roles and services required aligned to the NEC roles and responsibilities under the various forms of contract across Major and

Minor works. The completion date is expected to be October 2023 (subject to no further delay in the programme).

3.2 The preparation of the documents, the evaluation and moderation has taken a considerable amount of resource but has been contained in the original time allocated for these phases. The key programme activities and milestones for the next stages are shown in the table below:

Activity	Date
Selection Questionnaire Evaluation	Early December 2022 – January 2023
Selection Questionnaire Moderation complete	Mid-February 2023
Selection Questionnaire Recommendation and Approval	Late February 2023
Policy & Resource Committee Update	March 2023
Invitation To Tender Out (minimum 30 days)	April 2023
Tender Return	May 2023
Tender Response Evaluation	June 2023
Tender Response Moderation complete	July 2023
Policy & Resource Committee / Key Decision	July 2023
Complete Award Report	August 2023
Authority to Contract Granted	August 2023
Issue Award Letter	August 2023
Contract Award (standstill over)	August 2023
Contracts drafted signed/sealed	September 2023
Service Commencement Date	October 2023

4. Financial Implication

4.1 The resources involved in this multiple procurement exercise are as follows:

- KCC Procurement resource from within Strategic Commissioning
- Internal KCC Operational resource from within Infrastructure
- Other KCC teams (e.g. Health and Safety)
- External Legal support from Browne Jacobson
- External NEC Technical support from Stradia

4.2 The estimated cost of the procurement is shown in the table below. There is also an internal cost whereby we are utilising resources within existing teams across Strategic Commissioning, Infrastructure and other teams. No additional resources

are being brought into these teams with business activity being re-prioritised to support the procurement of the framework. The legal and technical costs are associated with third-party organisations and will be funded from infrastructure budgets.

Resource	Estimate Cost - September 2022 to January 2023	Estimate Cost - February 2023 to October 2023	Estimate Cost over 14 months
Procurement	£42,391	£76,303	£118,694
Infrastructure	£36,000	£108,000	£144,000
Other KCC	-	£8,000	£8,000
Legal (External)	-	£11,000	£11,000
Technical (External)	£1,185	£25,700	£26,885
Total Estimate	£79,576	£229,003	£308,579

5. Legal Implications

- 5.1 The form of contract used is an industry standard contract for construction (NEC Engineering and Construction Contract).
- 5.2 External legal advice will be sought and KCC Legal have advised that Browne Jacobson should be appointed.
- 5.3 The award of contracts will be in full compliance with all relevant procurement and governance regulations.

6. Equalities and Data Protection Implications

- 6.1 An Equality Impact Assessment (EqIA) was completed in March 2022, and it is not felt that this procurement activity presents any impact on any of the nine areas specified by KCC.
- 6.2 No Data Protection implications are anticipated as a result of this procurement activity.

7. Conclusion

- 7.1 A positive number of suppliers have submitted a selection questionnaire. It is envisaged that the new Construction Consultancy Services Framework is implemented in October 2023 to support the Construction Partnership Framework and the proposed Minor Works Framework.
- 7.2 A further update will be brought to the Policy and Resources Cabinet Committee ahead of a key decision which is expected to be taken in July 2023 to ensure contract awards to enable the framework to become operational in October 2023.

8. Recommendation(s)

Recommendation(s):

The Policy and Resources Cabinet Committee is asked to Note progress.

9. Background documents

Appendix A - Equalities Impact Assessment (EQIA)

10. Contact details

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