

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	10 th December 2013
Report of:	Director of Economic Growth and Prosperity
Subject/Title:	Property-related Consultancy Services
Portfolio Holder:	Cllr P Raynes, Finance

1.0 Report Summary

- 1.1 Cheshire East Council has ambitious growth plans and is taking a pro-active approach to development, construction and the strategic use of its assets. There are plans to create at least 20,000 jobs and 27,000 new homes by 2030 with major new infrastructure projects in development.
- 1.2 In addition, the Council is undertaking some major schemes to enhance public services such as developing a Lifestyle concept to provide the opportunity for the integration of the services that citizens need in relation to their lifestyle all in one place. This is exemplified in the £15m Crewe Lifestyle project which is currently in design phase and proceeding at pace.
- 1.3 Cheshire East Council has a land and property portfolio worth over £600m; a net asset management budget of £17,638,348 and an annual capital building programme of approx. £15m - £20m. Harnessing these assets and investments to deliver greater value for money is a major priority.
- 1.4 In delivering greater value for money, the Council, as part of its business planning for 2014/15, will be considering options for the future delivery of asset-related services, building on the achievement of the Corporate Landlord model and the formation of the Development Company.
- 1.5 In this fast-moving environment, it is important that key enabling systems are maintained to ensure effective, value for money and controlled project delivery during and beyond this transformation process. Current arrangements for the delivery of the construction and development projects include the commissioning of external property-related consultancy services (e.g., architects, engineers, surveyors, etc.) via the Council's own Framework Agreement. This Agreement expires on 31st October 2014 and cannot be extended within EU Procurement Rules.
- 1.6 The transformation process mentioned in paragraph 1.4 and its implementation could extend beyond the October 2014 expiry date mentioned in paragraph 1.5 and it is essential that a mechanism is in place so that the Council can continue to deliver its property-related projects effectively.

- 1.7 An analysis of options has been undertaken (Appendix 1), with the conclusion that a replacement Framework Agreement would be the preferred option, to include lessons learnt from the current arrangements to enhance performance mechanisms ensuring greater value-for-money.
- 1.8 The value of the services procured means it will be subject to EU Procurement Rules requiring a contract notice to be published in the OJEU (Official Journal of the European Union). The project plan for the procurement (Appendix 2) requires an OJEU Notice to be placed in December 2013 / January 2014.
- 1.9 The option analysis process has identified that Stockport Metropolitan Borough Council has recently (1st September 2013) entered into a Strategic Property Partnership with Carillion and CBRE (see paragraph 10.11 – 10.12 for more details). Initial discussions identified the potential for Cheshire East Council to utilise this Framework, either at Partnership or Supply-Chain level. The Partnership is currently in mobilisation stage and will not have supply-chains in place until February 2014. Whilst it is too early to be sure, it seems that this Partnership may present potential benefits for Cheshire East Council for a range of asset-related services. It is recommended therefore that the Stockport Strategic Property Partnership is further explored by officers with due diligence undertaken and service delivery explored at the same time as initiating the OJEU procurement process outlined in paragraph 1.8. This will keep the Council's options open whilst also protecting its position by ensuring that a mechanism for commissioning property-consultancy services can be in place when the current arrangement expires.

2.0 Recommendations

2.1 That Cabinet

1. approve the establishment of a Framework Agreement through which to commission property-related consultancy services;
2. note the recent establishment of Stockport Strategic Property Partnership and authorise officers to explore service delivery options and undertake due diligence in connection with the Council's potential utilisation of the Partnership;
3. delegate authority to the Director of Economic Growth & Prosperity, in consultation with the Portfolio Holder for Finance and Assets, to award contracts to providers meeting the requirements of the Framework;
4. delegate authority to the Director of Economic Growth & Prosperity, in consultation with the Portfolio Holder for Finance and Assets, to abort the procurement, should the need for the Framework no longer be required; and
5. delegate authority to the Director of Economic Growth & Prosperity, in consultation with the Portfolio Holder for Finance and Assets, to

utilise the Stockport Strategic Property Partnership on the basis of recommendations from Assets, Finance, Procurement and Legal Services.

3.0 Reasons for Recommendations

- 3.1 To ensure that the council examines options for alternative delivery models for asset-related services, whilst maintaining the short-term ability to secure value for money in the procurement and delivery of property-related projects and the capital building programme.
- 3.2 To ensure that the commissioning of property-related services complies with the Public Contracts Regulations 2006 and the Council's Finance and Contract Procedure Rules.
- 3.3 To explore all options for securing value for money in the delivery of asset-related services.
- 3.4 To avoid the need for time-consuming and costly individual procurements that would be required for each consultancy service on each property project.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 The recommendations in this report support the delivery of the council's priorities by ensuring that key compliant mechanisms are in place to enable the controlled delivery of property-related projects.

7.0 Financial Implications

- 7.1 The recommendations within this report support the delivery of property projects and ensure that the consultants selected for the Framework Agreement satisfy the requirements of the Council's Financial Rules and comply with EU requirements.
- 7.2 The proposed OJEU procurement process will be undertaken by Property Projects officers supported by Procurement and Legal Services colleagues, therefore there are no external costs for this procurement. However, there is an "opportunity cost" of undertaking this work and this cost in officer time has been estimated at £100,000 - £140,000 including oncosts. Significant officer time will not be required until February – April 2014 at which time it should be apparent whether the Stockport option is beneficial. These procurement costs and the costs of accessing any other alternative contracts/frameworks will be taken into

account in deciding whether to abandon this procurement in favour of other options, e.g., the Stockport Strategic Property Partnership.

- 7.3 Value for money will be assured by taking into account tendered rates for lower value commissions and by undertaking mini-competitions to the consultants within each Lot of the Framework for any larger commissions.

8.0 Legal Implications

- 8.1 The aggregate value of the requirement for property-related consultancy services is such that these services must be procured in accordance with the Public Contracts Regulations 2006 (“the Regulations”) and the Council’s Finance and Contract Procedure Rules
- 8.2 A Framework Agreement enables the Council to meet its need for a service for a set period of time in order to obviate the need to undertake a wide competitive process in relation to each individual procurement. It complies with the Regulations and the Council’s rules.
- 8.3 The Regulations allow local authorities to enter onto Framework Agreements with a number of service providers, following a competitive tendering process, and to thereafter select from those service providers particular services, as and when required for a maximum period of four years. The Council can choose to call off contracts under the Framework Agreement by appointing a supplier directly (direct award) based on the pricing and/or other information established in the original tender process or if the price cannot be directly determined or in order to ensure best value it can hold a mini-competition between the suppliers appointed to the framework in order to award a call off contract.
- 8.4 In order to evidence value for money the Asset Service will engage with Legal Services to ensure that call-off contracts contain provisions which enable continuing value for money to be tested and to contain provisions such that the contract can be terminated in the event that either the service cannot be provided on terms which remain acceptable to the Council or after the initial 2 year term should the Council wish to explore other options. The Framework Agreement will not contain a guarantee of a certain volume of required services to the appointed providers and can be utilised in conjunction with other options.
- 8.5 The Assets Service have been advised and will engage with Legal Services to ensure that the Council’s duties under the Public Services Social Value Act, as it applies to framework agreements, are fulfilled. The Act requires the Council to:
- consider how what is proposed to be procured might improve the social economic and environmental well-being of the relevant area
 - how in conducting a procurement process it may act with a view to securing that improvement
 - whether to undertake any community consultation on their proposals

9.0 Risk Management

- 9.1 A failure to establish a Framework Agreement for property-related consultancy services through which these services can be purchased will mean that each service for each project will need to be tendered individually. This is prohibitive both in terms of time and cost.

10.0 Background and Options

- 10.1 The Council's land and property portfolio is worth over £600m made up of our operational estate, commercial portfolio, farms estate and our non-operational landholdings.
- 10.2 As part of its business planning for 2014/15, the Council will be considering options for the future delivery of asset-related services, building on the achievement of the Corporate Landlord model and the formation of the Development Company. These options will be outlined in a future report to Cabinet and will consider the impact on the Council's asset management arrangements of the newly formed wholly-owned companies and Leisure Trust and will take into account the need to ensure that our assets deliver the following aims:
- 10.2.1 Rationalise our property portfolio to reduce revenue expenditure
 - 10.2.2 Utilise strategic assets to deliver wider regeneration benefits, stimulate jobs and economic growth
 - 10.2.3 Serve Cheshire East customers by providing cost effective property management and construction services which support frontline service delivery
 - 10.2.4 Generate maximum net income and releasing capital from the estate
 - 10.2.5 Reduce the Council's carbon emissions and deliver against our Carbon Reduction plan
 - 10.2.6 Support commissioned services and partners to use Council property to stimulate new ways of delivering frontline services to customers by consolidating assets and delivering from shared facilities
- 10.3 The current arrangements for the delivery of property projects includes commissioning property-related works and services via the Council's own Framework Agreements, including:-
- 10.3.1 Property-related consultancy services (such as architects, engineers, surveyors, etc.)
 - 10.3.2 low-value construction works (works up to £500,000)
- Larger construction works are procured via a regional Framework Agreement managed by the North West Construction Hub.
- Facilities Management contracts are currently being rationalised to expire simultaneously in March 2015.

- 10.4 The Cheshire East Council low-value construction framework is for a 3-year period until January 2016 with an option to extend until January 2017, but the current 4-year Cheshire East Council Framework Agreement for Property-related Consultancy Services expires on 31st October 2014.
- 10.5 Approximately £650,000 per year is spent through the consultancy framework (i.e., approx £2.4m over the 4-year period), and in the absence of a Framework Agreement that complies with European Procurement Rules, the Council would need to procure each professional service exceeding £10,000 for each project via open tender, adding delay and cost to the process.
- 10.6 A range of options for short/medium term arrangements for Property-related Consultancy Services have been considered (Appendix 1), including:
- 10.6.1 Option 1 - In-house provision, including substantial in-sourcing
 - 10.6.2 Option 2 - Tender consultancy services for each project separately
 - 10.6.3 Option 3 - Procurement of a Cheshire East Council framework
 - 10.6.4 Option 4 - Enter into access agreements for existing frameworks, e.g. GPS Frameworks, North West Construction Hub, Stockport Strategic Property Partnership (SSPP), etc.
 - 10.6.5 Options 5/6 – A single service provider/partner/joint venture for the full-range of asset management services
- 10.7 On analysis, taking the advantages and disadvantages of each option into account it has been concluded that, whilst the above options may provide suitable longer-term procurement options as part of the examination of alternative delivery models for asset services, the short/medium term procurement of property-related consultancy services would best be met by the establishment of a replacement consultancy framework agreement (Option 3), but ensuring flexibility moving forward by building-in the ability to terminate the framework after years 2 and 3.
- 10.8 The aggregated financial value of the services to be procured through the proposed Framework means that it will be subject to EU Procurement Rules and will require a contract notice to be published in the OJEU (Official Journal of the European Union). The project plan for the procurement (Appendix 2) requires an OJEU Notice to be placed in December 2013 / January 2014 to ensure that the new arrangements are in place when the existing framework expires.
- 10.9 Whilst we commission significant consultancy work through the framework, there is no contractual obligation to procure any work through the arrangement. This means that the Council is not contractually “locked in” to this arrangement. It should also be noted that whilst the OJEU procurement process needs to be commenced immediately to ensure continuity of service, should the major work to examine alternative delivery models provide results quickly, the recommended OJEU procurement process for consultancy services can be terminated at any time.
- 10.10 The option analysis process for Property-related Consultancy Services identified that there is limited opportunity to easily access existing frameworks

(e.g., GPS, ESPO, NWCH Frameworks) all of which are multi-disciplinary arrangements but any single Framework may not cater for all our needs. However Stockport Metropolitan Borough Council has recently (1st September 2013) entered into a Strategic Property Partnership with Carillion and CBRE following a lengthy procurement process. An initial discussion with representatives of the Partnership has identified the potential for Cheshire East Council to utilise this Framework as the Council was specifically named in the procurement process. This access to the Partnership can be either at Strategic Partnership level or at Supply-Chain level.

- 10.11 The Stockport Partnership is currently in mobilisation stage and will not have supply-chains in place until February 2014. Whilst it is too early to be sure, it seems that this Partnership may have potential benefits for Cheshire East Council for a wide range of asset-related services. Further investigation would be needed to identify whether the Stockport Partnership would be able to be fully accessed by the Cheshire East Council's Alternative Service Delivery Vehicles as they were not specifically named in the procurement process. It is therefore recommended that the Stockport Strategic Property Partnership is further explored by officers with due diligence undertaken and service delivery options explored at the same time as initiating the OJEU procurement process outlined in paragraph 1.8. This will keep the Council's options open and will also inform the options for alternative service delivery models whilst at the same time protecting the Council's interests by ensuring that a mechanism for commissioning property-consultancy services can be in place when the current arrangement expires.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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