

## **Cabinet**

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**Date of Meeting:** 10 March 2020

**Report Title:** Re-procurement of Low Value Construction Services Framework 2021-2025

**Portfolio Holder:** Cllr Nick Mannion – Environment and Regeneration

**Senior Officer:** Frank Jordan – Executive Director Place

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### **1. Report Summary**

- 1.1. The current framework for undertaking low value construction projects (projects less than £800k) expires on 22nd January 2021. This report reviews the available options for undertaking low value construction projects beyond this date with a recommendation to procure a replacement framework.
- 1.2. This paper requests that the Council establishes a new framework and seeks delegated authority to award contracts to the Executive Director of Place.

### **2. Recommendations**

#### **2.1. That Cabinet :-**

- 2.1.1. Agrees to the establishment of a Framework Agreement to commission low value construction services for a total value of works of £16.5million over four years.
- 2.1.2. Delegates authority to the Executive Director of Place in consultation with the Portfolio Holder for Environment and Regeneration to award contracts to providers meeting the requirements of the Framework.

### **3. Reasons for Recommendations**

- 3.1. It is essential that a mechanism is in place so that the Council can continue to commission contractors to assist in effectively delivering its construction projects.
- 3.2. This procurement exercise will be subject to Public Contract Regulations 2015 requiring a contract notice to be published in the OJEU (Official Journal of the European Union). The programme for the procurement requires an OJEU Notice to be placed in March 2020 to achieve a completed framework procurement by 22nd January 2021. A copy of the procurement timetable is included in Appendix 1.
- 3.3. Legal Services and Procurement will be engaged to provide advice on the procurement process and contract documentation.

### **4. Other Options Considered**

- 4.1. An analysis of options has been undertaken (Appendix 2) and the available options are listed below. The recommendation is to deliver Option 3 i.e. a replacement framework:
  - 4.1.1. Option 1 – In-house provision, including substantial insourcing
  - 4.1.2. Option 2 – Tender each project
  - 4.1.3. Option 3 – Procurement of a Cheshire East Council framework
  - 4.1.4. Option 4 – External frameworks e.g CIF, DfE, LHC, Pagabo etc.
  - 4.1.5. Option 5 – Single service provider
  - 4.1.6. Option 6 – Programme of work through a higher value framework
- 4.2. The main benefits of Option 3, a replacement framework, are:
  - 4.2.1. Tailored to suit the Council's particular requirements, values, policies, climate change agenda and Government best practice etc.
  - 4.2.2. Tailored to suit the requirements of the Council's Alternative Service Delivery Vehicles
  - 4.2.3. Ability to benchmark performance, develop ongoing relationships, build specific loyalty to the Council within a clear mechanism for continuous improvement
  - 4.2.4. Prompt methodology for appointment of contractors through mini competition process
  - 4.2.5. Maintains competition amongst framework contractors

4.2.6. Allows the ability to directly appoint in certain circumstances speeding up the procurement process. Direct Appointments will be made to the contractor who ranked number one in the Framework Tender process.

4.2.7. Of interest to regional companies

4.3. In addition to the above benefits, the establishment of a replacement framework will be the most cost effective solution, compared to the other options available.

## **5. Background**

5.1. Current arrangements for the delivery of low value capital construction projects are generally undertaken via the Council's own Framework Agreement. This Agreement expires on 22nd January 2021 and cannot be extended within Public Contract Regulations 2015.

5.2. The current framework is expected to have delivered construction works to a value of £8million by the time it expires. A review of likely capital spend has been undertaken and taking into account an increased limit of individual projects up to £1million, and inflation, the new framework will be for £16.5million over the life of the four year framework (including an extension option).

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. The Regulations allow local authorities to enter into Framework Agreements with a number of service providers, following a competitive tendering process, and thereafter select from those service providers, as and when required, for a maximum period of four years. The Council can call off contracts under the Framework Agreement by holding a mini-competition between the providers appointed to the framework. In certain circumstances, the Council can appoint a provider directly (via a ranking system) based on the award mechanism established in the original tender process. Where an appointment is by direct award the award, and reasons for doing so, will be published and shared with all contractors on the framework.

6.1.2. Officers will ensure that call-off contracts continue to 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. 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.

- 6.1.3. Officers will ensure that the Council's duties, under the Public Services Social Value Act and the Modern Slavery Act as it applies to framework agreements, are fulfilled.

## **6.2. Finance Implications**

- 6.2.1. The recommendations within this report support the delivery of property projects and ensure that the contractors selected for the Framework Agreement satisfy the requirements of the Council's Financial Rules and comply with EU requirements.
- 6.2.2. The proposed OJEU procurement process will be undertaken by Officers and will incur no external costs. The "opportunity cost" of undertaking this work in officer time has been estimated at £40,000 - £50,000 and will be met from existing revenue budgets.
- 6.2.3. Value for money will be assured by taking into account tendered rates and percentages. The Council will also undertake further mini-competitions for the majority of projects.
- 6.2.4. Although the OJEU limit of £16.5million will need to be stated on the OJEU notice the framework itself does not have a contractual cost attached to it. The framework does not guarantee any work and any projects that do call off from the framework will require individual business cases and their own approved budgets.

## **6.3. Policy Implications**

- 6.3.1. 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 low value construction projects.

## **6.4. Equality Implications**

- 6.4.1. There are no equality implications.

## **6.5. Human Resources Implications**

- 6.5.1. There are no Human Resources implications.

## **6.6. Risk Management Implications**

- 6.6.1. A failure to establish a Framework Agreement for low value construction services through which these services can be purchased will

mean that alternative external frameworks will have to be used or each project will need to be tendered individually.

#### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

#### **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people.

#### **6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

#### **6.10. Climate Change Implications**

6.10.1. In line with the Council's policies, and construction good practice, Officers will ensure that the implications of Climate Change form part of framework procurement process. Framework agreements will also be drafted to ensure climate change policies are considered when individual projects are commissioned.

### **7. Ward Members Affected**

7.1. Although the Framework Agreement covers the whole of Cheshire East Wards will only be affected by call off contracts under the framework and Ward Members will be consulted on a project by project basis.

### **8. Access to Information**

8.1. Appendix 1 – Procurement timetable

### **9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

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