

## **Finance Sub-Committee**

---

<b>Date of Meeting:</b>	5th January 2022
<b>Report Title:</b>	Re-procurement of a Construction Related Consultancy Services Framework 2022-2026
<b>Report of:</b>	Alex Thompson - Director of Finance & Customer Services
<b>Report Reference No:</b>	FSC/21/21-22
<b>Ward(s) Affected:</b>	All Wards

---

### **1. Executive Summary**

- 1.1.** The Council undertakes a significant capital spend on construction works each year. To facilitate these works construction consultants (e.g. architects, engineers, surveyors, etc.) are required to undertake feasibility studies and design activities. These services are currently commissioned via the Construction Related Consultancy Services Framework which expires on 31<sup>st</sup> October 2022.
- 1.2.** This report reviews the available options for undertaking construction related consultancy services beyond this date with a recommendation to procure a replacement framework.
- 1.3.** This paper requests that the Council establishes a new framework and seeks delegated authority to award and enter into contracts to the Executive Director of Corporate Services in consultation with the Chair of the Finance Sub-Committee.
- 1.4.** The Council's Corporate Plan 2021-25 sets out our vision for a more open, fairer, greener Cheshire East. The plan sets out a number of priorities under the three broad aims. The replacement framework will contribute to a number of priorities under "a thriving and sustainable place".

## **2. Recommendations**

### **2.1. Committee are recommended:**

- 2.1.1.** To approve the procurement of a Framework Agreement for construction related consultancy services.
- 2.1.2.** To delegate authority to the Executive Director of Corporate Services in consultation with the Chair of the Finance Sub-Committee to award and enter into Framework Agreements with successful suppliers who meet the procurement criteria and 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 consultants to assist in effectively delivering its construction projects.
- 3.2.** To avoid the need for time consuming and costly individual procurements that would be required for each consultancy service on each construction project.
- 3.3.** To ensure, where possible, that design teams are repeatedly engaged engendering a collaborative environment where lessons learned are shared and taken forward through subsequent projects in line with construction industry best practice.
- 3.4.** The replacement framework will contribute to the Council's strategic aim of providing a thriving and sustainable place and in particular will contribute to:
  - 3.4.1.** creating a great place for people to live, work and visit
  - 3.4.2.** reducing impact on the environment
  - 3.4.3.** being a carbon neutral Council by 2025

## **4. Other Options Considered**

- 4.1.** An analysis of options has been undertaken (Appendix 1) and the available options are listed below:
  - 4.1.1.** Option 1 – In-house provision, including substantial insourcing
  - 4.1.2.** Option 2 – Tender consultancy services for each project separately
  - 4.1.3.** Option 3 – Procurement of a Cheshire East Council framework
  - 4.1.4.** Option 4 – Cheshire East corporate consultant contract (Bloom)
  - 4.1.5.** Option 5 – External frameworks, e.g. CCS, SCAPE etc.
  - 4.1.6.** Option 6 – A single service provider
  - 4.1.7.** Option 7 – A joint venture for the full range of consultancy services

- 4.2.** The recommendation is to deliver option 3 i.e. a replacement framework. Of the other options available several were discounted due to the heavy reliance on significant resources being available to develop and progress. Options 1 and 7 would require significant investment to address staffing and recruitment and/or adversely, staffing consultations, and is currently at odds with the Council's Strategic Commissioning approach. Options 2, 4 and 5 are generally more expensive and provide limited opportunities to build on Continuous Improvement and option 6 limits the opportunities for SME's.
- 4.3.** The main benefits of Option 3, a replacement framework, are:
- 4.3.1.** Tailored to suit the Council's particular requirements, values, policies, climate neutral agenda and Government best practice etc.
  - 4.3.2.** Ability to benchmark performance, develop ongoing relationships, build specific loyalty to the Council within a clear mechanism for continuous improvement.
  - 4.3.3.** Prompt methodology for appointment of consultants through the direct award mechanism.
  - 4.3.4.** Ability to reopen competition to maintain competitive tension.
  - 4.3.5.** Obligation on Framework Management Group to meet the framework strategic aims.
  - 4.3.6.** Of interest to regional companies as well as SME's
- 4.4.** The establishment of a replacement framework is considered to be the most cost-effective solution in comparison to the more likely alternatives of the Cheshire East corporate consultant contract or the use of external frameworks.

## **5. Background**

- 5.1.** The current arrangements for the commissioning of construction related consultancy services are generally undertaken via the Council's own Framework Agreement. This Agreement expires on 31<sup>st</sup> October 2022 and cannot be extended within Public Contract Regulations 2015.
- 5.2.** The current framework consultants have been commissioned on construction projects related to schools, leisure centres, town centre regeneration projects, Tatton Park, ground remediation, heritage projects, demolition schemes, farms, carbon reduction schemes and environmental and ecological surveys. The framework end date was recently extended to the maximum four years allowable based, in part, on the KPI scores attained at that date. The scores for eight client satisfaction KPIs demonstrated good performance and averaged between 8.79 and 9.31, with a score of 9.00 equating to totally satisfied.
- 5.3.** Taking into account changes to the framework operation to incorporate lessons learned and innovation, and an allowance for inflation, the new

framework will be for a maximum value of between £3.00million and £4.00million over the four year life of the framework (including an extension option).

- 5.4.** The aggregated financial value of the services to be procured through the proposed framework means that it will be subject to UK Public Contract Regulations 2015 rules and will require a contract notice to be published on the Find a Tender website. The procurement timetable (Appendix 2) requires a Find a Tender Notice to be published by 10th January 2022 to ensure that the new arrangements are in place when the existing framework expires.

## **6. Implications**

### **6.1. Legal**

- 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 primarily by direct award, via a ranking system, based on the award mechanism established in the framework tender process. Where a provider is appointed by direct award the commission will be based on the pricing and/or other information established in the original tender process. If the price cannot be directly determined, or in order to ensure best value, the Council can hold a mini competition between the providers appointed to the framework in order to award a call off contract.
- 6.1.2.** Officers will ensure that call-off contracts will contain provisions such that the contract can be terminated in the event that 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, Modern Slavery Act and Bribery Act (2010) as they apply to framework agreements, are fulfilled.

### **6.2. Finance**

- 6.2.1.** The recommendations within this report support the delivery of construction projects and ensure that the providers selected for the Framework Agreement satisfy the requirements of the Council's Financial Rules and comply with Public Procurement Regulations.
- 6.2.2.** The proposed 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 £80,000 - £90,000 and will be met from existing Estates revenue budgets.

- 6.2.3.** Value for money will be assured by using framework tendered percentages and rates. Where the price cannot be directly determined, or in order to ensure best value, the Council will also undertake further mini competitions between the providers appointed to the framework.
- 6.2.4.** Although the framework value of between £3.00million and £4.00million will need to be stated on the Find a Tender notice the framework itself does not have a contractual cost attached to it. The framework does not guarantee any work and any commissions that do call off from the framework will require individual business cases and their own approved budgets.
- 6.2.5.** The recommendations to the Committee do not require amendments to the Medium-Term Financial Strategy. The recommendations focus on a cost-effective way to manage future contracts. The values are indicative based on forecast demand for this type of work. Spending within the framework is either within existing budgets approved by Council and aligned to Committees, or will support additional spending that will have to be authorised via decisions made in advance of spend and in line with the constitution

### **6.3. Policy**

- 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 construction related consultancy services.
- 6.3.2.** The replacement framework will contribute to the Council's strategic aim of providing a thriving and sustainable place and in particular will contribute to:
- 7.3.2.1** creating a great place for people to live, work and visit
  - 7.3.2.2** reducing impact on the environment
  - 7.3.2.3** being a carbon neutral Council by 2025

### **6.4. Equality**

- 6.4.1.** There are no equality implications.

### **6.5. Human Resources**

- 6.5.1.** There are no Human Resources implications.

### **6.6. Risk Management**

- 6.6.1.** A failure to establish a Framework Agreement for construction related consultancy services through which these services can be purchased will mean that alternative external frameworks will have to be used or each commission will need to be tendered individually.

**6.6.2.** As with any public procurement there is the risk that an award may be challenged which could halt the process or have the award set aside. To mitigate this risk the Estates team will work closely with Procurement and Legal Services to ensure the documentation is robust and procurement processes are followed.

**6.7. Rural Communities**

**6.7.1.** There are no direct implications for rural communities.

**6.8. Children and Young People/Cared for Children**

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

**6.9. Public Health**

**6.9.1.** There are no direct implications for public health.

**6.10. Climate Change**

**6.10.1.** In line with the Council's policies Officers will ensure that the Council's Environmental Strategy and Carbon Neutrality Action Plan form part of framework procurement process. The Framework Agreement will contain strategic aims specifically capturing these policies and the scope of services for call off contracts will be drafted to ensure these policies are considered for each individual commission.

<b>Access to Information</b>	
Contact Officer:	Alex Thompson - Director of Finance & Customer Services,
Appendices:	Appendix 1 – Options Analysis Appendix 2 – Procurement timetable
Background Papers:	None