

Cheshire East Council

Cabinet

Date of Meeting:	7 th November 2017
Report of:	Executive Director of Place
Subject/Title:	Construction Related Consultancy Services Framework
Portfolio Holder:	Cllr Ainsley Arnold, Housing, Planning and Regeneration

1. Report Summary

- 1.1. Cheshire East Council has a land and property portfolio worth over £600m and an annual capital building programme of approx. £20m - £30m. Harnessing these assets and investments to deliver greater value for money is a major priority for the Council.
- 1.2. In order to manage this building programme it is important that key enabling systems are maintained to ensure effective project delivery that delivers value for money. Current arrangements for the delivery of construction and development projects include the commissioning of external construction-related consultancy services (e.g. architects, engineers, surveyors, etc.) via the Council's own Framework. This Framework expires on 31st October 2018 and cannot be extended within EU Procurement Rules.
- 1.3. An analysis of options has been undertaken (Appendix 1), with the conclusion that a replacement Framework would be the preferred option, to include lessons learnt from the current arrangements to enhance performance mechanisms and social value aspects, ensuring greater value for money.
- 1.4. 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 by 27th November 2017.

2. Recommendation

- 2.1. It is recommended that Cabinet:
 - 2.1.1. Approve the establishment of a Framework Agreement through which to commission construction related consultancy services.

- 2.1.2. Delegate authority to the Executive Director of Place, in consultation with the Portfolio Holder for Regeneration, to award contracts to providers meeting the requirements of the Framework.
- 2.1.3. Delegate authority to the Executive Director of Place, in consultation with the Portfolio Holder for Regeneration, to abort the procurement, should the need for the Framework no longer be required.

3. Reasons for Recommendation

- 3.1. To ensure that the commissioning of construction related consultancy services complies with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.
- 3.2. To avoid the need for time consuming and costly individual procurements that would be required for each consultancy service on each property project.
- 3.3. On analysis, taking the advantages and disadvantages of each option into account, it has been concluded that the procurement of construction related consultancy services would best be met by the establishment of a replacement consultancy framework (Appendix 1, Option 3).
- 3.4. The main advantages of Option 3 are that it will be tailored to suit the Council's requirements, incorporate clear mechanisms for continuous improvement, maintain competitive tension between providers, include prompt methodology for appointment and will be the most cost effective solution compared to the other options.

4. Other options Considered

- 4.1. A range of options for procuring construction related consultancy services have been considered (Appendix 1), including:
 - 4.1.1. Option 1 – In-house provision, including substantial staff recruitment
 - 4.1.2. Option 2 – Tender consultancy services for each project separately
 - 4.1.3. Option 3 – Procurement of a Cheshire East Council framework (business as usual)
 - 4.1.4. Option 4 – Cheshire East Council corporate consultant contract (Bloom)
 - 4.1.5. Option 5 – Enter into access agreements for existing frameworks, e.g. CCS Framework, SCAPE Framework, etc.

4.1.6. Option 6 – A single service provider for the full range of consultancy services

4.1.7. Option 7 – A joint venture for the full range of consultancy services

5. Background

5.1. The current arrangements for the delivery of construction projects includes commissioning consultants and contractors via the Council's own Framework Agreements, including:-

5.1.1. Property related consultancy services (such as architects, engineers, surveyors, etc.).

5.1.2. Low value construction works (works up to £800,000).

5.2. Larger construction works are generally procured via a regional Framework Agreement managed by the North West Construction Hub.

5.3. The Cheshire East Council Low Value Construction Services Framework is for a 3 year period until January 2020 with an option to extend until January 2021, but the current 4 year Cheshire East Council Framework Agreement for Property related Consultancy Services expires on 31st October 2018.

5.4. Approximately £650,000 per year is spent through the consultancy framework (i.e. approx. £2.6m over the 4 year period), and in the absence of a Framework Agreement that complies with EU Procurement Rules, the Council would need to procure each professional service in accordance with the Contract Procedure Rules for each project, adding delay and cost to the process.

5.5. 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 by 27th November 2018 to ensure that the new arrangements are in place when the existing framework expires.

5.6. 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.

6. Wards Affected and Local Ward Members

6.1. All.

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1. 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 projects.

7.2. Legal Implications

- 7.2.1. The aggregate value of the requirement for construction related consultancy services is such that these services must be procured in accordance with the Public Contracts Regulations 2015 ("the Regulations") and the Council's Contract Procedure Rules.
- 7.2.2. 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 competitive process in relation to each individual procurement. It complies with the Regulations and the Council's rules.
- 7.2.3. 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.
- 7.2.4. 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. 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.
- 7.2.5. The Assets Service 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 engagement on their proposals.

7.3. Financial Implications

- 7.3.1. 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.
- 7.3.2. 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 £75,000 - £85,000 which will be funded from the Assets, Procurement and Legal budgets.
- 7.3.3. Value for money will be assured by taking into account tendered rates. The Council will also retain the option to undertake a further mini-competition for individual projects.

7.4. Equality Implications

- 7.4.1. The formal OJEU procurement process will ensure that consideration is given to all equality implications.

7.5. Rural Community Implications

- 7.5.1. There are no inherent implications for Rural Communities. The consultancy services will be used to support construction related projects which will have considered such implications.

7.6. Human Resources Implications

- 7.6.1. None.

7.7. Public Health Implications

- 7.7.1. There are no inherent Public Health implications. The consultancy services will be used to support construction related projects which will have considered such implications.

7.8. Implications for Children and Young People

- 7.8.1. There are no inherent implications for Children and Young People. The consultancy services will be used to support construction related projects which will have considered such implications.

7.9. Other Implications (Please Specify)

- 7.9.1. As noted above the services procured through the framework will be to support construction related projects. Each individual project will have considered any implications.

8. Risk Management

- 8.1. A failure to establish a Framework Agreement for construction 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.

9. Access to Information/Bibliography

- 9.1. Appendix 3 shows the expenditure through the current framework to date, the anticipated spend through the framework, the number of commissions to date and the anticipated number of commissions. The anticipated expenditure through the proposed framework is also detailed although the values are yet to be finalised.

10. Contact Information

- 10.1. Contact details for this report are as follows:

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