

## **CABINET**

<b>DATE</b>	20 <sup>th</sup> September 2023
<b>REPORT OF</b>	Councillor Stephen Harness – Portfolio Holder for Finance, Resources and Assets
<b>RESPONSIBLE OFFICER</b>	Carolina Borgstrom - Director for Economy, Environment, and Infrastructure
<b>SUBJECT</b>	Procurement of Capital Works Framework 2024 - 2028
<b>STATUS</b>	Open
<b>FORWARD PLAN REF NO.</b>	CB 09/23/03

### **CONTRIBUTION TO OUR AIMS**

The procurement of the framework for capital works (building works to Council owned assets) will primarily contribute to the Council's priority of 'Benefit from a Strong Local Economy' by delivering value for money for the public purse, engaging the local supply chain with the emphasis on delivering social value, and reduction in carbon supporting sustainable communities.

### **EXECUTIVE SUMMARY**

The Council's Capital Works Framework will expire on 31 March 2024. This report therefore seeks approval to procure the renewal of the Framework. The tender process is being managed by the Council's transformation partner, Equans, as required under the Services Agreement. Together with delivering compliant Frameworks, a key element of the process is engaging the local supply chain with the aim of driving local economic benefits.

### **RECOMMENDATIONS**

It is recommended that Cabinet:

1. Approves the undertaking of a procurement exercise for the Capital Works Framework (through Equans).
2. Authorises the Director of Economy, Environment and Infrastructure in consultation with the Portfolio Holder for Finance, Resources and Assets to commence the above procurement exercise.
3. Delegates responsibility to the Director of Economy, Environment and Infrastructure in consultation with the Portfolio Holder for Finance, Resources and Assets to deal with all ancillary matters reasonably arising from and leading to the award of contracts.

4. Authorises the Assistant Director Law and Governance (Monitoring Officer) to complete and execute all requisite legal documentation arising from the above recommendations.

## **REASONS FOR DECISION**

The Council is required to demonstrate value for money in the procurement of capital works under the Public Contracts Regulations 2015. This legislation specially prohibits the use of local bias while undertaking procurement activities. However, as outlined below, a number of initiatives are being included as part of this exercise to actively deliver social value.

### **1. BACKGROUND**

- 1.1 The current framework is due for renewal and must be in place to commence by April 2024.
- 1.2 The Services Agreement between the Council and Equans requires that Equans administer capital programmes of works and service delivery.
- 1.3 The framework will be procured for a period of four (4) years in line with the contracts regulations. The procurement will be carried out using the open process in compliance with the Council's Contract Procedure Rules.
- 1.4 The framework arrangement will not in any legal manner whatsoever constitute a contract between the Authority and the Contractor. If, at any point, the framework is no longer viable or proving value for money the Authority will the give thirty (30) days-notice in writing to inform Contractors of the intention to terminate or re-procure
- 1.5 As with previous procurement exercises previous procurement exercises, the Partnership will continue to work with local contractors by proactively engaging with them. This will be done by advertised training and briefing sessions, as well as working with local advocates such as eFactor, The Grimsby and District Builder's Association and the Hull and Humber Chamber of Commerce.
- 1.6 Supplier engagement days have been arranged for early October to engage with the supply chain and targeting local contractors. The sessions will be aimed at providing training on completing a compliant tender, provide information and receive further feedback from suppliers to ensure the tender requirements are targeted to the right level of supply.
- 1.7 Although it does not form part of the Frameworks that are the subject of this Cabinet report, it is worth noting that the Council's Partnership agreement with Equans contains the requirement to strengthen the local economy. This is expanded in the need for the partner to establish relationships with developers, businesses and government agencies in order to attract public and private investment into the area during the contract term.

- 1.8 All revenue work procured directly by Equans is governed by Equans own Procurement Policy and Delegated Levels of Authority. This is managed via Equans central procurement team using their purchase to payment system.
- 1.9 Equans Procurement Policy allows for establishment of local preferred supplier lists that meet the contractual requirements to strengthen the local economy and Equans are doing this wherever possible.
- 1.10 Framework suppliers will need to demonstrate a commitment to social value for the residents of North East Lincolnshire and to reduce carbon emissions across the borough. Under the current framework suppliers have shown their commitment by employing local people, accessing the local supply chain and supporting charitable organisations.
- 1.11 The new lot structure has been aligned to make the lots more accessible to the local supply chain.
- 1.12 The new lot structure will be as follows:
- Lot 1 £0 - £250k (potentially in multiple lower-lot sizes, no restriction on the number of contractors added that pass the approval criteria)
  - Lot 2 £250k - £500k
  - Lot 3 £500k - £1m
- 1.13 Experience has shown that there are fewer tenders over £1m. The Council will likely achieve greater value by approaching the open market on a project-by-project basis for these works. This will afford more opportunities to shape aspirations around local supply chains, local labour and promoting local apprentices.
- 1.14 All tenders and awards under carried out under the framework agreement are subject to Council governance signoff.

## **2.0 RISKS AND OPPORTUNITIES**

- 2.1 The key risk around failing to renew the Frameworks is that all capital works would need to be tendered on a case-by-case basis. This would be inefficient and potentially result in additional costs for projects through increased administration and the opportunity to develop ongoing commercial relationships is limited.
- 2.2 Opportunity - Positive engagement with the local supply chain.
- 2.3 Opportunity - Management of capital project related costs.

## **3. OTHER OPTIONS CONSIDERED**

### **3.1 Status Quo**

- 3.1.1 A decision could be made not to implement further contracting arrangements, although for the Council this would potentially reduce value for money opportunities that come by aggregating demand.

### **3.2 e-Auctions**

- 3.2.1 e-Auctions are best suited to commodity and service-based contracts. They are also difficult to design for works requirements and therefore this option is not recommended.

### **3.3 Central Purchasing Bodies**

- 3.3.1 The Council could access Government framework arrangements such as the Yorbuild3 Construction Frameworks for Yorkshire and Humber. However, Government frameworks do not necessarily consider local supply chain development and there is an associated cost per project to access the call off arrangements. Therefore, this option is not recommended.

## **4. REPUTATION AND COMMUNICATION CONSIDERATIONS**

- 4.1 Risk of Financial Loss: There is a risk of financial loss/increased costs if the framework agreements are not renewed. Without a formal arrangement the services are unable to manage the market effectively and would be required to undertake individual tenders for each piece of work required, which increases administrative costs for both the Council and any prospective Contractor.

## **5. FINANCIAL CONSIDERATIONS**

- 5.1 Framework agreements are required to be renewed to ensure continued value for money is achieved.
- 5.2 The use of framework agreements has a number of benefits, including –
- Reduced administrative burden from running a full procurement procedure each time specific works is required from external contractors.
  - Opportunity to identify suppliers and contractors that meet quality and deliverability criteria.
  - Able to expedite tendering process resulting in cost effective and efficient delivery of works.

## **6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

In accordance to the Public Procurement Note – Taking into account of Carbon reduction Plans in the procurement of major government contracts 06/21- 'As part of assessing a supplier's technical and professional ability, in scope organisations should include, as selection criterion, a requirement for

bidding suppliers to provide a carbon reduction plan (using the template in Annex A) confirming the supplier's commitment to achieving Net Zero by 2050 in the UK, and setting out the environmental management measures that they have in place and which will be in effect and utilised during the performance of the contract'

[Procurement Policy Note 06/21: Taking account of Carbon Reduction Plans in the procurement of major government contracts – GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/taking-account-of-carbon-reduction-plans-in-the-procurement-of-major-government-contracts)

## **7. CONSULTATION WITH SCRUTINY**

There has been no consultation with Scrutiny at this stage.

## **8. FINANCIAL IMPLICATIONS**

Framework contracts represent an efficient and cost effective way of managing tendering processes for both the Council and prospective contractors. The periodic renewal of framework contracts supports the continued delivery of value for money and management of Council budgets.

## **9. LEGAL IMPLICATIONS**

- 9.1 The procurement exercise will be conducted so as to comply with the Council's policy and legal obligations, specifically in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015, and supported by relevant officers.
- 9.2 Legal Services will support the completion of this procurement exercise and review the contractual documentation to ensure that the Council's interests are protected to the greatest extent reasonably and commercially possible.
- 9.3 The approach recommended is a framework contract which has the benefits stated in the report. A framework contract is an agreement with suppliers establishing contracts that may be awarded during the life of the agreement. It also sets out the terms and conditions for making specific purchases of goods and services – sometimes known as call-offs. This approach is considered good practice and efficient.
- 9.4 The delegations sought are consistent with an exercise of this nature.
- 9.5 Officers should note that an award constitutes a further decision and will be subject to completion of an Officer Decision Record. Where key decision criteria are met such Officer Decision Record will be subject to call in. Award and implementation timelines should accommodate this.

## **10. HUMAN RESOURCE IMPLICATIONS**

There are no direct HR implications arising from this report.

**11. WARD IMPLICATIONS**

This proposal affects all wards.

**12. BACKGROUND PAPERS**

There are no background papers currently.

**13. CONTACT OFFICERS**

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**COUNCILLOR STEPHEN HARNESS – (PORTFOLIO HOLDER FOR FINANCE, RESOURCES AND ASSETS)**