

Report Title: Framework Agreement For Major Construction Works - Value £ 250,000 to £999,999:
Award of contract.

Report of: Director of Finance

1. Purpose:

- 1.1 To seek Member agreement to award the framework contract for Major Contractors for construction projects valued between £250,000 and £999,999.

The framework will provide a contractual mechanism for all Council Directorates to select Major Works Contractors for construction projects valued at £250,000 to £999,999, without the need to undergo further competition for every construction project, unless a mini competition is thought appropriate. It should be noted that the appointment of companies under this arrangement does not constitute a binding commitment to award, or agreement to carry out, work by either party.

1.2 Introduction from Executive Member

"The time and money savings to benefit the council are outlined in the Background section of the report and due process appears to have been followed to secure this contract. In line with the supporting comments of senior officers from legal and finance, I recommend this report to the procurement committee"

- Councillor Richard Milner

2. Recommendations:

- 2.1 That Members agree to award the framework contract for the above Major Contractor works, as allowed under Contract Standing Order (CSO) 11, in accordance with the recommendations in paragraph 7 of this report.
- 2.2 That the contract be awarded for a period of two years with an option to extend for a further period of up to two years subject to satisfactory performance of the companies listed in Appendix B.

Report authorised by:

Signed: 

Date: 21.1.06

Contact Officer: David Mulford

Telephone: 020 8489 1037

3. Access to information:

Local Government (Access to Information) Act 1985

3.1 List of background documents:

The following background documents were used in production of this report:

- Construction Related Consultants Services report 23rd March 2003

3.2 The appendices attached to this report (Appendix A and B) are **not for publication as they contain exempt information under the following categories:**

(i) The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.

And/or

(ii) Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.

4.0 Background

- 4.1 The Council currently runs an approved list of contractors who have been pre-qualified to undertake construction projects on behalf of the Council.
- 4.2 However, given that the contractors are only pre-qualified, and have not provided the relevant information to permit a competitive tender, there is still a need to undertake a full tender exercise each time Council Directorates wish to appoint contractors to carry out a project.
- 4.3 This exercise is often, by necessity, a lengthy process, requiring relevant and appropriate advertising of the project, invitations to tender, bid document submission and evaluation, and contractor interviews. This work is also generally required at a time when there is pressure to undertake and indeed complete the project to tight timescales.
- 4.4 Time and cost efficiency gains will be delivered by the use of a framework agreement for the appointment of Major Contractors. Indeed, early indications have suggested that contractors tendering for this framework agreement have reduced their profit margins.
- 4.5 In order to cover the requirement to consult with leaseholders (under Section 20 of the Landlord and Tenants Act, 1985), consultation with leaseholders in relation to housing projects will be undertaken on a project by project basis. The tender process for housing work will be as open as possible. Specifically, invitations to tender will not be limited to Framework Agreement contractors, and contractors nominated by leaseholders.
- 4.6 The framework agreement reduces the time for the competitive process for each appointment, as part of the competition process has already been undertaken as part of the process of establishing suitable and best value contractors for the framework agreement.
- 4.7 The performance of the companies under the framework agreement will be monitored by the Corporate Procurement Unit (CPU)'s Construction Procurement Group (CPG) within the Finance Directorate. The mechanisms used to measure performance will include:
- Monthly commissioning meetings
 - Client satisfaction surveys
 - Performance against agreed construction Key Performance Indicators
- 4.8 At the start of the contract period, work will be allocated on the following basis:
- the ranking achieved in the tender evaluation (based on the most economically advantageous (MEAT))
 - consideration of allocated work and the company's capability and capacity to undertake new work.

The performance of the individual contractors will be taken into account for any MEAT evaluation. The data will be drawn from reports from Client Directorates and the measurement of achievement against key performance indicators

- 4.9 Directorates will be required to select contractors from this framework agreement in accordance with the terms of the framework where justified by the type of work to be undertaken.

Any requirement to select contractors not included on the framework agreement or to deviate from the selection process (based on the above) must be fully justified.

5 Report

5.1 In accordance with the Public Works Contracts Regulations 1991, advertisements were placed in the Official Journal of the European Union (OJEU) on 15th October 2004, and in *Building* magazine and *Contracts Journal* for a number of categories of framework agreements, of which this is one category. All interested contractors were required to complete a pre-qualification questionnaire.

5.1.1 Initially, 114 companies expressed an interest for the 4 categories of Major Works frameworks of projects valued: (1) £100,000 - £249,999; (2) 250,000 - £999,999; (3) £1000,000 - £3799,999 and (4) over £ 3.8million.

5.1.2 Following assessment by the Council, against its pre agreed criteria, 53 main contractors were excluded at the pre-qualification stages for failing to meet one or more of the following:

- The required criteria in individual evaluation areas were not met (i.e. Health and Safety, financial capacity, equalities etc.) or
- The pre-set overall pass mark was not achieved.

5.1.3 Thirty-eight contractors were invited to tender, and provided responses by the response due date of 11th November 2005. Six (6) contractors did not submit tenders. Three (3) contractors of the thirty two returned tenders failed to submit a method statement in the required format. One (1) contractor failed to complete the pricing framework. Twenty-five (25) contractors who expressed an interest in this category were considered for the price, quality evaluation and interview. Their scores are attached in Appendix A.

5.2 Tender Evaluation

5.2.1 The bids submitted have been subjected to a detailed evaluation under the Council's agreed criteria and in compliance with the Council's Contract Standing Orders. The evaluation process consisted of the following stages:

5.2.2 Quality (1) – Method Statement Evaluation (40% of total marks available)

- Evaluation of the written submissions for each of the sections of method Statement:

- A) Contract Management.
- B) Supply Chain Management.
- C) Client Liaison and Satisfaction.
- D) Labour Resources, Recruitment, Training and Development.
- E) Cost Management.
- F) Health and Safety.
- G) Sustainability.
- H) Quality.
- J) Partnering.

5.2.3 Interview – 30 minutes (20% of total marks available)

Interviews comprised the following:

- A question and answer session comprising nine questions, 4 of which the contractors had been made aware of prior to interview. The questions addressed categories as below:

- A) Organisational structure and management of the Framework Agreement.
- B) Supply Chain implementation and Management.
- C) Management of their own performance.
- D) Key/ Critical success for the Framework Agreement.
- E) Project Management within the Framework Agreement.
- F) The minimisation of natural (non-renewable resources).
- G) The improvement of the local economy.
- H) How the partnering ethos would be instilled.
- I) How the Framework Agreement would deliver improved value and quality to the Council's construction projects.

5.2.4 Pricing Mechanism (40% of the total marks available)

The Pricing Mechanism, devised in-house by CPG's Quantity Surveying team, tested not only the company's ability to accurately and competitively price, but also acts as the competitive basis upon which future projects will appoint contractors.

Each bidder had been asked to supply pricing matrices to be used against a broad scenario of possible project types and values. The bidders were required to provide three pricing elements, which were:

- Central Office Overheads
- Profit
- Preliminaries (site based overheads)

5.2.5 The evaluation team included representatives from the Construction Procurement Group, covering procurement, sustainability and technical construction areas.

5.2.6 The Quality and Pricing scores are shown at Appendix A.

5.2.8 The number of contractors selected for the Major Works Contractors Framework Agreement value £250,000 - £999,999 is based on the scores obtained by the contractors and the number of contractors deemed to be suitable for the execution of this category of project.

5.2.9 This was based on the expected number of projects over this value and the overall financial capacity of the contractors in this category and their overall capability to meet the needs of the Council's capital programme. The evaluation team also took into consideration that the number of contractors in this category should not be so great as to falsely raise the expectations of the contractors.

6.0 Recommendations

6.1 That Members award the framework agreement contract for Major Works Contractors for projects of £250,000 – £999,999 to those contractors as outlined in Appendix B for a period of 2 years with an option to extend for a further period of 2 years:

6.2 That Members approve the use of framework contractors as a first priority, eliminating the need to go out to tender, unless the framework contractors can be demonstrated not to be suitable.

7.0 Equal Opportunities Implications

- 7.1 The response to the pre-qualification questionnaires regarding the company's equalities policies were evaluated by the Council Equalities Advisor and the companies invited to Tender met the Council's criteria for Equality.
- 7.2 Equalities questions were further examined within the method statements submitted by the companies and within the interviews.

8.0 Health & Safety Implications

- 8.1 The response to the pre-qualification questionnaires regarding the companies' Health & Safety policies were evaluated by the Council and those companies invited to Tender met the Council's criteria for Health & Safety.
- 8.2 Health & Safety questions were further examined within the method statements submitted by the companies.

9.0 Sustainability Implications

- 9.1 The response to the pre-qualification questionnaires regarding the companies' sustainability policies were evaluated by the Council's sustainable development manager and the companies invited to tender met the Council's criteria for sustainability.
- 9.2 Sustainability questions were further examined within the method statements submitted by the companies.

10.0 Comments of the Director of Finance

- 10.1 Director of Finance has no additional comments to make.

11.0 Comments of the Head of Legal Services

- 11.1 The new EU Public Sector Procurement Directive permits local authorities to use Framework arrangements in selecting contractors.
- 11.2 This framework agreement has been tendered in the EU in accordance with the Public Works Contracts Regulations 1991, using the open procedure, which is a tendering procedure whereby any interested organisation may submit a tender in response to an advert placed in the Official Journal of the EU and relevant trade publications.
- 11.3 Contractors for the framework agreement have been selected based on the most economically advantageous tenders in accordance with Regulation 20 of the Public Works Contracts Regulations.
- 11.4 As the total value of this framework agreement is likely to exceed £250,000 the proposed award must be approved by Members pursuant to CSO 11.3 which provides that the Executive must award all contracts valued over £250,000.
- 11.5 The Head of Legal Services is satisfied that the use of a separate tender process for housing works, whereby invitations to tender are not limited to the Framework contractors or contractors nominated by leaseholders, will ensure compliance with the Council's leaseholder consultation obligations under Landlord and Tenant Act 1985 and the Service Charge (Consultation Requirements) (England) Regulations 2003.

11.6 The Head of Legal Services confirms that there are no legal reasons preventing members from approving the recommendations in Paragraphs 2 and 6 of this report.

12.0 Comments of the Head of Procurement

12.1 The Head of Procurement has sponsored the establishment of a number of framework agreements. The Main Contractor Works (Value £3.8m and over) Framework Agreement was approved by Members on 20th December.

12.2 This Major Construction Works (Value £250,000 - £999,999) is one of four (3 Main and 1 Minor Contractor reports) that Members are now being asked to approve.

12.3 Framework agreements not only provide a faster route to market for those procuring capital and construction services, thereby contributing to efficiency and efficiency savings, but also offer some degree of capacity certainty in a market which is already extremely stretched.

12.4 In order to ensure that framework agreements develop the local economy, extreme care has been taken to select those contractors to this framework agreement who recognise, understand and can contribute to Haringey's community strategy.

12.5 The Head of Procurement therefore asks members to approve the Framework Agreement and the nominated contractors herein.

