



**Haringey** Council

Agenda item:

**[No.]**

**Cabinet Procurement Committee**

**On 18<sup>th</sup> March 2008**

Report Title: **Consultants for Construction Works framework agreement: Award of contract**

Forward Plan reference number (if applicable):

Report of: **Director of Corporate Resources and Chief Financial Officer**

Wards(s) affected: **All**

Report for: **Cabinet Procurement Committee**

### **1. Purpose**

1.1 To seek Member agreement to enter into a Framework Agreement for the provision of construction-related consultancy services with the single lead supplier identified in Appendix A.. This Framework Agreement will provide a contractual mechanism for all Council Directorates to access construction related consultancy services and advice via a single lead supplier without the need for further competition. It should be noted that the appointment of the recommended company under this arrangement does not provide a binding commitment to award work.

### **2. Introduction by Cabinet Member**

2.1 This framework agreement will enable the Council to source construction related consultancy services albeit with a single lead supplier. The OGC framework provides an alternative in the event that the single supplier fails to perform. The contract is only for 2 years.

### **3. Recommendations**

3.1 That Members approve the proposal to enter into a Framework Agreement for the provision of construction-related consultancy services with the single lead supplier identified in Appendix A, as allowed under Contract Standing Order (CSO) 11.03, for a period of two years with the option to extend the framework agreement for a further two years on an annual basis subject to satisfactory performance of the company.

Report Authorised by:

Contact Officer: **David Mulford, Construction Procurement Group Manager, tel. 020 8489 1037**

#### **4. Head of Legal Services Comments**

4.1 The Public Contracts Regulations 2006 permits local authorities to establish a Framework Agreement with a single supplier.

4.2 The single-supplier Framework Agreement to which this report relates has been tendered in the EU in accordance with the Public Contracts Regulations using the restricted procedure, which is a tendering procedure whereby a procuring authority selects a service provider from a shortlist of organisations that have responded to an advert placed in the Official Journal of the EU and/ or relevant trade publications.

4.3 The recommended supplier has been selected applying “the most economically advantageous tender” criteria, in accordance with Regulation 30 of the Public Contracts Regulations.

4.4 As the total value of this framework agreement is likely to exceed £250,000 establishment of the proposed single-supplier Framework Agreement requires Members’ approval pursuant to CSO 11.3 which provides that contracts valued over £250,000 must be approved by the Cabinet Procurement Committee.

4.5 The Head of Legal Services confirms that there are no legal reasons preventing Members from approving the recommendations in Paragraph 3 of this report.

#### **5. Head of Procurement Comments**

The Head of Procurement has declared an interest with regards to this report for the reasons outlined below:

Twelve years ago in a previous job, the company identified in Appendix A (3.1) wished to expand its operation as a trading company.

The Head of Procurement was responsible for designing and implementing their Quality Management System including Customer Standards and operating procedures.

The report to Committee is recommending award of contract to the company identified in Appendix A (3.1).

The Head of Procurement not been involved in this procurement process nor has he added comments to the report. The report comments and a review of the process have been undertaken by Kim Sandford, Head of Supplies and Services Procurement.

## **6. Head of Supplies and Services Procurement Comments**

- 6.1 This framework agreement has been let in line with the Procurement Code of Practice.
- 6.2 The aggregation of construction consultancy will give the council the ability to achieve VFM through the aggregation of work and the identification of whole life costings.
- 6.3 The contract will be monitored by monthly meetings to ensure contract compliance, supplier performance will be monitored against agreed KPI's to identify issues quickly and to mitigate the possibility of service failure.
- 6.4 The risk of service failure with a single supplier has been identified and alternative arrangements identified.
- 6.5 The Head of Procurement supports the recommendation in this report.

## **7. Local Government (Access to Information) Act 1985**

- 7.1 CRCS 2004 framework agreement contract document.
- 7.2 The information in Appendix A of this report is exempt as it relates to the business affairs of the firms identified in the procurement process for this framework agreement (under part D.2 – Appendix A of the Council constitution)

## **8. Strategic Implications**

- 8.1 The services provided by this framework agreement are construction consultancy services. The services allowed within this framework agreement are project management, architecture, building surveying, mechanical, electrical, civil and structural engineering and quantity surveying, and the framework agreement is due to take effect from April 2008.
- 8.2 The contract document for this framework agreement specifies that the appointed lead consultancy is expected to produce a template for whole life costing exercises on all new build and refurbishment projects over £250,000. Fees for whole life costing exercises carried out by the consultant will be contained within their fee rates. The use of whole life costing techniques is a method for demonstrating cost considerations throughout the life-cycle of a building. It is enhanced within this framework from the allowances included under the previous framework. The adoption of such exercises should improve Value for Money within construction projects in the long term where implemented. Whole Life Costing also supports the Haringey Greenest Borough Strategy in that sustainable solutions may be incorporated into the designs for Haringey buildings as a consequence of WLC exercises.

- 8.3 The framework agreement could provide consultancy services for those projects carried out by Homes for Haringey (HfH) in which Section 20 leaseholder consultation may be required, if consultation agrees.

## **9. Financial Implications**

- 9.1 The appointment of the company identified in Appendix A (3.1) to this framework agreement does not provide a binding contract to award work.
- 9.2 A schedule of rates for fees has been set out within the specification. Council officers undertaking construction projects under this framework agreement should identify budget provision for the associated consultant fees within their budget estimations.
- 9.3 All applicants to the procurement process under this framework agreement have been financially assessed using the Council's criteria for financial viability.
- 9.4 The work under the 2008/09 capital programme covered by this framework agreement totals approximately £33million. The corresponding work for 2009/10 and 2010/11 total approximately £28million and £26million respectively. Consultant fees under this framework agreement are estimated to total £3-£6million per annum. This is based on an estimated fee rate, ranging between 7% and 20% per project. The exact figure can not accurately be predicted, as different types and values of work will accrue different costs. For example, the percentage rate will be lower for projects of lower value than projects of a higher value. The inclusion of as-yet unknown externally funded and revenue-based work that is likely to be carried out under the framework agreement will also affect the figures.
- 9.5 The rates received under the tender are in line with or below those currently being paid by the Council under the existing CRCS framework agreement. Ssee Appendix C (13.35) for details.

## **10. Equalities Implications**

- 10.1 Pre-qualification questionnaires submitted by interested companies included a section on Diversity in which companies' equalities policies have been evaluated.
- 10.2 The companies invited to tender met the Council's criteria for Equalities.
- 10.3 The framework agreement covers all Council wards and all Council directorates.

## **11. Consultation**

- 11.1 Members of Cabinet Procurement Committee have been consulted on the current process in February 2008. A presentation was also given to Cabinet Advisory Board (CAB) on 21<sup>st</sup> February 2008.

- 11.2 Senior officers from all Council directorates were consulted during the procurement process for this framework agreement and a number of officers have been briefed at further Construction Key Officer Network (CKON) meetings.
- 11.3 Consultation sessions regarding the pricing mechanism to be incorporated into the framework agreement were held with Council officers from all directorates.
- 11.4 The Office of Government Commerce (OGC) was consulted for advice as to the possible arrangement to be implemented under this framework agreement. Consultation meetings were also held with the South West Regional Development Agency (SWRDA) and Constructing Excellence.
- 11.5 Following consultation, both internally and externally (with government agencies), and the conducting of an options appraisal of possible mechanisms for the framework agreement; best practice suggests that a 'one-stop-shop' approach to providing the Council's construction consultancy would be an efficient approach. See Appendix B for details of the proposed structure.
- 11.6 Some other issues have been raised during the consultation. These are that the Council should consider the potential for centralising construction project management and also the feasibility of developing an in-house provision for these professional disciplines. The costs, benefits and deliverability of these will need to be assessed.

## **12. Section 20 Consultation**

- 12.1 The Council is obliged to consult leaseholders in accordance with the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003 ('the Regulations'). The Regulations require the Council to send three notices to leaseholders before the services are provided. The first notice ('Notice of Intention') was sent to leaseholders on the 18<sup>th</sup> of October 2007. A second notice ('the Notice of Proposal') will be sent to leaseholders after March 2008. However, before the second notice can be sent out, the Council must make an application to the Leasehold Valuation Tribunal (LVT) for a dispensation from some of the requirements of the Regulations. Specifically, the Council will be asking the LVT to dispense with the requirement to provide financial information in the second notice. Providing this information will not be possible due to the nature of the proposed Framework Agreement. A similar problem was encountered, and successfully overcome, during the procurement of the Decent Homes Frameworks Agreements. Legal Service is confident that the LVT will grant a dispensation in this instance.
- 12.2 The Framework Agreement will not provide consultancy services for projects in which Section 20 leaseholder consultation may be required, until the statutory consultation is complete.

### **13. Background**

- 13.1 The Construction Related Consultancy Services framework agreement (CRCS) was set up by the Construction Procurement Group (CPG) in April 2004. The framework agreement was set up to provide consultancy for the Council's construction projects. Nineteen firms were appointed onto the framework agreement, representing eight construction disciplines.
- 13.2 Contracts were awarded for a period of three years with the option to extend for a further period of three years on an annual basis, subject to satisfactory performance of the appointed companies. An extension to the contract for a period of one year from April 2007 was granted in December 2006. This was in order for the Construction Procurement Group to further consider the market, and allow them to propose the most suitable model for the next framework agreement(s).
- 13.3 Additional framework agreements were set up by the Construction Procurement Group in 2006 for providing urban regeneration consultancy services (URCS) and landscape architecture consultants services (LACS).
- 13.4 The additional framework agreements were awarded for three years with the option to extend for a further year subject to satisfactory performance of the appointed companies.
- 13.5 Due to the volume of firms employed under the three framework agreements in place it has become increasingly difficult for clients and the Construction Procurement Group to maintain control of the performance of all firms employed by the Council for its construction projects, due to the number of different firms within the supply chain for each project taken from the current framework agreement. In addition to this, the associated infrequency of work received by the appointed firms has led to a decrease in the quality and consistency of resources allocated to projects undertaken by Haringey. The Construction Procurement Group has responsibility for the setting up and maintenance of the framework agreement, and the stakeholders.
- 13.6 Framework agreements for consultants have been set up for the Building Schools for the Future (BSF) and Decent Homes (DH) schemes, by the Children & Young People's Service and Homes for Haringey respectively. The capital programmes for these schemes are significant over forthcoming years. Therefore, the potential work under this framework has fallen significantly from previous years.

#### **Scope of the framework**

- 13.7 The framework agreement will provide all construction consultancy services relating to construction work; these being in the main (but not limited to) building surveying, general architecture, landscape architecture, mechanical and electrical engineering, structural engineering, civil engineering and project management. There is overlap with the existing URCS and LACS (see 13.3) until the expiration

of these contracts in 2009. Any new commissions for these areas of work from 2009 will be included under this new framework agreement.

- 13.8 Under this framework there is no obligation to award project work to the single lead supplier. To enable ongoing value for money checks throughout the life of the framework certain projects may be tested against suitable companies from the Office of Government Commerce's (OGC) framework agreements, such as *'Project Management & Full Design Team Services'* or *'Construction and Property Professional Services'* (see Appendix B for details).
- 13.9 Additional framework agreements for providing CDM co-ordinator services, quantity surveying and clerk of works services have been procured alongside this new framework agreement, and will run concurrently with this framework agreement (subject to award of contract). These additional framework agreements will be used in order to provide independent assurance in terms of health & safety, quality and value for money for the work carried out by the consultant and contractors appointed to Haringey construction projects.

### **Benefits**

- 13.10 There are several advantages to the implementation of this arrangement. The single point of contact will allow the Council much greater opportunity to communicate with the appointed firm in order to monitor performance, and resolve any problems and identify achievements throughout the course of the contract. Sustainability and environmental considerations are high on the agenda for Haringey, and are stated within the framework agreement. The increased contact between the two parties will allow these factors to be incorporated into the work carried out by the consultant under the arrangement by increased communication of our goals and requirements.
- 13.11 A single contract will be considerably easier for the Council to manage, and will allow the team more opportunity to implement strategic improvements to the way Haringey procures its construction. It will allow both parties to work together more closely and frequently in order to improve both internal and external processes used within the procurement and subsequent building phase and future use of facilities designed and built by Haringey.
- 13.12 The use of a single point supply chain will bring increased accountability of work to the appointed firm and is key to the delivery of this framework. Communication amongst design team members will be enhanced, with consultants bringing IT systems that will aid the communication flow throughout Haringey construction projects. Break-down in communication is often a contributing factor to delays in programmes and overspends in budget. The increased communication should therefore bring with it an increase in performance within construction projects and ensuring a greater level of quality, innovative designs and functionality.

- 13.13 The appointed consultant will be expected to provide training on various aspects of construction, e.g. project management, the use of environmental design considerations, etc. This will increase the skills base within the Council and enable Council officers to be able to procure and manage construction work. With an increase in the skills base of its own staff, this should increase the effectiveness of capital project delivery across all directorates. It should also lead to better project planning, which should enable the necessary funding for projects to be spent within the allotted timeframes available.
- 13.14 Whole Life Costing exercises will be undertaken for projects over £250,000. Such exercises will be included within the fees that were submitted at tender stage. The use of Whole Life Costing is used to assess the potential costs for a facility throughout its life-cycle. It can therefore be used to assess the best options to take in the design and build of a facility. Sustainable solutions may be further incorporated into designs by the increased evaluation of whole-life costs to demonstrate the potential savings. This would aid the Council in fulfilling its objectives under the Greenest Borough Strategy.
- 13.15 The service specification section of the tender document for the framework agreement specifies that the consultant should ensure that Health & Safety audits are carried out for all projects along with the independent consultants and copies are issued to all project stakeholders. They will also be expected to monitor any Health & Safety issues raised and ensure that actions are taken to resolve these issues. This will help to minimise the number of accidents on Haringey sites that are deemed reportable to the Health & Safety Executive (HSE) and that sites do not pose any hazard to the public.
- 13.16 It is envisaged that the increased certainty of work available to the successfully appointed firm will help contain and provide greater assurance of construction costs to the Council. This will provide increased value for money and allow for greater scope of work in terms of aesthetic and sustainable designs, improving both quality of life and quality of use to service users/workers.
- 13.17 The reduced mainstream work outside of the BSF and Decent Homes schemes means that with only one consultant appointed they will be receiving sufficient work to maintain their interest in the framework, leading to consistent levels of quality throughout the life of the framework.
- 13.18 When a project is commissioned the consultant will be tasked with assembling a supply chain for the project. The consultant will be expected to show evidence of experience in the type and area of work for the specific project. This will allow the Council greater flexibility in the services that are procured through this framework.
- 13.19 Whilst separate framework agreements have been set up for the BSF and Decent Homes schemes, the Consultants for Construction Works framework agreement will be accessible to these schemes, if necessary.



## Risks

- 13.20 The adoption of such a mechanism has its associated risks. The predominant risk to the arrangement is the failure of the appointed company to fulfil their duties under the contract and provide the quality of service that Haringey as a Council demands. Monthly meetings and performance monitoring through the use of agreed Key Performance Indicators (KPI) will be used to mitigate any possible reduction in quality and to address any problems that may arise.
- 13.21 Another risk may be the financial failure of the company. If the contract fails, the options available are the use the Office of Government Commerce (OGC) framework agreements, such as '*Project Management & Full Design Team Services*' or '*Construction and Property Professional Services*' on a project by project basis or to individually advertise and tender each project subject to value under a restricted tender process (under EU directives this could take 6-9 months).

## Procurement process

- 13.22 An EU restricted tender process was used to procure this framework agreement for a period of two years with the option to extend for a further two years on an annual basis. Four years is the maximum allowed under revised EU directives for a framework agreement. With the initial period of two years this enables Haringey to reassess the framework on a yearly basis based on performance. A contract notice was published on the Official Journal of the European Union (OJEU) website on 1<sup>st</sup> June 2007 and in *Building* magazine. All interested parties were requested to complete a pre-qualification questionnaire (PQQ). The questionnaire assessed various areas of operation, including sustainability and diversity. It also requested information relating to the staffing and experience of each company.
- 13.23 78 companies expressed an interest in tendering for the framework agreement. Pre-qualification questionnaires were received from eleven companies.
- 13.24 Following the assessment by the Council against its pre-agreed criteria, two firms were excluded from the process due to having insufficiently high turnovers (a turnover of £40million was required). The pre-set pass mark of 65% was exceeded by all remaining parties.
- 13.25 Nine firms were therefore invited to tender for the framework agreement on 19<sup>th</sup> September 2007 (see Appendix A for details).
- 13.26 Three legitimate tenders were received, plus one tender received late and one tender incorrectly sealed. (See Appendix A for details).
- 13.27 The bids submitted were evaluated under the Council's agreed criteria and in compliance with Standing Orders. Tenders were evaluated on the basis of quality and price. Interviews were held with the three tendering firms, with scores taken from the results of these interviews. Clients of the firms have been visited, with

each client completing a questionnaire based upon the performance of the consultant. These scores have also been included. The breakdown of the evaluation process is as follows:

- Quality – 30%
- Interview – 25%
- Price – 40%
- Visit – 5%

- 13.28 Quality assessment was based upon a method statement relating to a scenario presented at tender stage (see Appendix B for scenario). The quality assessment also looked at the areas of staffing and resourcing and qualifications and experience of individuals relevant to the framework agreement. Effort was made to ensure that responses required consideration of sustainability and whole-life costs, as these are key areas that the Council wishes to exploit under this framework agreement. Evaluations were carried out by Council officers representing Corporate Procurement, Construction Procurement, Economic Regeneration, Property & Contracts (Children & Young People's Service), Recreation Services and Accommodation Strategy. Corporate Health & Safety were consulted throughout the process in developing the strategy from a Health & Safety perspective.
- 13.29 Interview assessment was based upon a presentation against a scenario presented before interviews (see Appendix B for details) followed by a question and answer session. Firms were allowed 45 minutes to prepare their presentations.
- 13.30 Questions tested both technical and non-technical aspects (e.g. understanding of Council objectives) of the appointment under this framework agreement (see Appendix B for the questions). The panel for interviews included officers from Corporate Procurement, Construction Procurement, Property & Contracts and Accommodation Strategy.
- 13.31 Price evaluation of a schedule of rates that each bidder had been asked to provide prices for was carried out. Categories against which bidders were expected to price related to the type and value of construction work to be carried out. Prices were also broken into the various consultant disciplines required for construction projects. Bidders were required to provide three pricing elements, which were:
- Fee Percentages
  - Lump Sums
  - Hourly Rates
- 13.32 The capital programme for 2008/09, in conjunction with historic trends and advice from key clients was taken into consideration in the evaluation of the schedule of rates. Prices against each category of construction were weighted according to the likelihood/frequency of their occurrence. The overall potential costs were calculated using these weightings and scored accordingly. The lowest priced bidder received the maximum 40% for this section, with the other bidders' scores

adjusted by a percentage equal to the variance between their total fees and the lowest priced fees. Details of the price evaluation are contained in Appendix A.

- 13.33 A visit to clients of each of the tendering companies was held, with each client asked to complete a questionnaire relating to the work carried out by the consultant. Questions related to both technical and non-technical aspects of the consultants' appointments. See Appendix B for details.
- 13.34 See Appendix A for the final evaluation process scores.

## **Pricing**

- 13.35 The rates received under the tender are in line with or below those currently being paid by the Council under the existing CRCS framework agreement (see Appendix C). By putting the design services and management to one provider this should demonstrate and lead to efficiencies being achieved, by better streamlined procedures and reporting, better dissemination of information, increased briefings on Council procedures, and training of internal staff. This will provide Value for Money in the service expected.
- 13.36 The increased certainty of work volume has the effect of off-setting industry price rises such that we are able to maintain or reduce costs in line with existing costs.

## **14 Conclusion**

- 14.1 This report seeks the approval of the Cabinet Procurement Committee for the award of the contract to the lead company named in Appendix A (3.1).
- 14.2 The contract will provide consultancy services for all construction projects across all Council wards and directorates.

## **15 Use of Appendices / Tables / Photographs**

- 15.1 Appendix A – Information relating to the procurement Process (Exempt)
- 15.2 Appendix B – Additional Information.
- 15.3 Appendix C – Price Comparison