



**Haringey** Council

Agenda item:

**[No.]**

**Cabinet Procurement Committee**

**On 25<sup>th</sup> March 2008**

Report Title: **Consultants For Construction Works framework agreement (Additional Services): 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 Consultants For Construction Works (Additional Services) Framework Agreement with the companies identified in Appendix A. This Framework Agreement will provide a contractual mechanism for all Council Directorates to select CDM co-ordinators, Clerks of Works and Quantity Surveyors for construction projects. It should be noted that the appointment of the companies under this arrangement does not provide a binding commitment to award work.

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

2.1 This framework will enable all Council directorates to select CDM co-ordinators, Clerks of Works and Quantity Surveyors for construction related projects. The OGC framework provides an alternative competitive provision.

### **3. Recommendations**

3.1 That Members approve the proposal to enter into a Consultants For Construction Works (Additional Services) Framework Agreement with the companies 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 those companies.

Report Authorised by:

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

- 4.1 The Public Contracts Regulations 2006 permits local authorities to establish Framework Agreements with service providers.
- 4.2 The 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 service providers from a shortlist of the organisations that have responded to an advert placed in the Official Journal of the EU and/ or relevant trade publications.
- 4.3 The recommended companies have 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 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 recommendation in Paragraph 3 of this report.

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

- 5.1 This Framework Agreement (CfCW-A) will provide additional and independent specialist construction related services to those provided by the main consultancy framework agreement (CfCW) and which is being submitted to Members for approval at the same time.
- 5.2 The proposed (CfCW-A) Agreement takes account of a reducing capital programme and changing market conditions and is recommending a reduction of firms involved from 19 to 6. This will ensure adequate resources continue to be assigned to the Haringey contract.
- 5.3 Should conditions change such that more or alternative firms are needed, then the Council has access to such resources through the OGC Framework Agreements.

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

- 6.1 CRCS 2004 framework agreement contract document.

6.2 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)

## **7. Strategic Implications**

- 7.1 The services provided by this framework agreement will provide services for Construction Design & Management (CDM) co-ordinators, quantity surveyors and clerks of works for construction projects in conjunction with construction consultancy services covering design and management of construction projects.
- 7.2 Consultants appointed under this framework agreement will provide input into the monitoring of performance of Haringey construction projects. This should lead to an improvement of construction processes and practices across the Council, maximising the efficiency of Haringey construction projects.
- 7.3 The framework agreement could also provide consultancy services for those projects carried out by Homes for Haringey in which Section 20 leaseholder consultation may be required. If consultation agrees, this framework agreement can then be accessed by HfH.

## **8. Financial Implications**

- 8.1 The appointment of the companies identified in Appendix A (3.1) to this framework agreement does not provide a binding contract to award work.
- 8.2 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.
- 8.3 All applicants to the procurement process under this framework agreement have been financially assessed using the Council's criteria for financial viability.
- 8.4 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 £500k-£2million per annum for each of the three disciplines represented. This is based on an estimated fee rate of 2-5% per project. The exact figure can not accurately be predicted, as different types and values of work will accrue different costs. 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. There is also likely to be additional work provided by the companies that does not relate to specific projects.
- 8.5 The rates received under the framework agreement are competitive and are in line with those under the existing Construction Related Consultancy Services (CRCS) framework agreement (see Appendix C). In particular, significant savings will be

seen in Clerk of Works and Quantity Surveying services. Fees for CDM co-ordinator services are higher than under the CRCS 2004 framework agreement. However, the role of CDM co-ordinator has evolved from the role of planning supervisor, which was covered under the CRCS 2004 framework agreement. The CDM regulations 2007 have increased the scope of work for CDM co-ordinators from that specified for planning supervisors. The service specifications for the three disciplines have also been enhanced and expanded (in terms of on-site monitoring, etc.) upon from those under the CRCS framework agreement, meaning the role of the consultant under the three disciplines will have added responsibility and accountability. This will bring a further increase in value for money.

## **9. Equalities Implications**

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

## **10. Consultation**

- 10.1 Senior officers from all Council directorates were consulted during the procurement process for this framework agreement.
- 10.2 Consultation sessions regarding the pricing mechanism to be incorporated into the framework agreement were held with Council officers from all directorates.
- 10.3 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. Section 20 Consultation**

- 11.1 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 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. The Legal Service is confident that the LVT will grant a dispensation in this instance.

- 11.2 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.

## **12. Background**

- 12.1 The Construction Related Consultancy Services framework agreement (CRCS) was set up by the Construction Procurement Group 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.
- 12.2 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.
- 12.3 Of the nineteen firms appointed under the CRCS framework agreement five provide Quantity Surveyor services and five provide CDM co-ordinator (previously called planning supervisor) services. Clerk of Works services are provided as an extra-over function by Architectural and Multi-disciplinary firms on the framework agreement. This function has also been carried out by officers in Homes for Haringey's construction design team.

## **Scope of the framework**

- 12.4 The CfCW(A) framework agreement will be used in order to provide assurance in terms of health & safety, quality and value for money for the work carried out for the Council. The service disciplines employed under this framework agreement will work alongside the main supply chain consultant appointed to the Consultants for Construction Works framework agreement. The purpose of this arrangement is to monitor the work produced by the main consultant company in order to maintain the standards required by the Council.

## **Procurement Process**

- 12.5 An EU restricted tender process was used to procure this framework agreement. A contract notice was published on the Official Journal of the European Union (OJEU) website on 27<sup>th</sup> June 2007 and in *Building* magazine. All interested parties were requested to complete a pre-qualification questionnaire (PQQ).
- 12.6 63 companies expressed an interest in tendering for the framework agreement. Pre-qualification questionnaires were received from 18 companies to have expressed an interest.

- 12.7 A pre-set pass mark of 50% for the PQQ evaluation was agreed as the cut-off score for selection to the tender list for this procurement. Two firms fell below this figure and were excluded from tendering for the framework agreement. Sixteen firms were invited to tender for the framework agreement on 16<sup>th</sup> October 2007 (see Appendix A for details).
- 12.8 Twelve tenders were received before the 1.00pm deadline on 27<sup>th</sup> November. Three firms withdrew from the tender process. One tender was received after the deadline and was excluded from the tender process. See Appendix A for details.
- 12.9 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. Verbal references were taken from clients of the tenderers, with each client answering questions based on the performance of the consultant. The breakdown of the evaluation process is as follows:
- Quality – 30%
  - Interview – 25%
  - References – 5%
  - Price – 40%
- 12.10 Quality assessment consisted of a series of questions based upon a scenario presented at tender stage (see Appendix B), followed by questions relating to each organisation's quality arrangements, systems and processes. The quality assessment also looked at the areas of staffing and resourcing and qualifications and experience of individuals relevant to the framework agreement. Questions relating to sustainability, Evaluations were carried out by Council officers representing Construction Procurement, Property & Contracts (Children & Young People's Service) and Corporate Health & Safety.
- 12.11 Interview assessment was based upon a question and answer session. Questions tested technical aspects of the work carried out by each discipline (see Appendix B for details). The panels for interviews included officers from Construction Procurement, Property & Contracts and Corporate Health & Safety.
- 12.12 Price evaluation was carried out for a schedule of rates that each bidder had been asked to provide prices for. Categories against which bidders were expected to price related to the type and value of construction work to be carried out. Bidders were required to provide two pricing elements, which were:
- Fee Percentages
  - Hourly Rates
- 12.13 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). This should therefore achieve better Value for Money in the services provided under this framework agreement.

- 12.14 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 the different categories of construction were weighted according to the likelihood/frequency of their occurrence for each consultant discipline. The overall potential costs were calculated using these weightings and the submitted fees. 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.
- 12.15 Verbal references were taken from clients of the tendering companies, with each client asked a series of questions 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.
- 12.16 See Appendix A for the final evaluation process scores.

### **13. Conclusion**

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

### **14. Use of Appendices / Tables / Photographs**

- 14.1 Appendix A – Information relating to the procurement Process (Exempt).
- 14.2 Appendix B – Additional Information
- 14.3 Appendix C – Price comparison