

CONSTRUCTION CONSULTANTS' FRAMEWORK

To: Children's and Young People's Committee

Meeting Date: 4th December 2018

From: Wendi Ogle-Welbourn, Executive Director: People & Communities

Electoral division(s): All

Forward Plan ref: 2018/072 Key decision: Yes

Purpose: To advise the Committee of the need to procure a Construction Consultants' Framework to support the delivery of the Council's Education Capital programme and its statutory responsibility to provide sufficient early years and school places.

Recommendation: The Committee is asked to:

- a) approve the procurement of the Construction Consultants' Framework;**
- b) delegate the responsibility for awarding the contract to the Executive Director: People & Communities in consultation with the Chairman of the Children and Young People Committee.**

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1. BACKGROUND

- 1.1 Since around 2013 the Council has operated a Design & Build (D&B) model of procurement to deliver its large-scale, major Education capital projects. Projects are delivered by construction partners and external consultants who are overseen by the Education Capital Team, 0-19 Place Planning & Organisation Service within the People & Communities Directorate. The client team brief and manage the contractors and consultants, and also oversee the involvement of representatives from the Council's Strategic Assets Service, LGSS Finance and LGSS Law Limited.
- 1.2 The external consultants are currently selected by mini-competition from the LGSS Consultants Framework for D&B Project Management. This Framework expires in October 2019 (with an option for a 1 year extension). Originally procured under the LGSS Property Department (which decentralised back to the representative authorities in Autumn 2016), the contract is held by Northamptonshire County Council (NCC). It is uncertain as to whether this Framework will continue beyond its expiry date in October 2019. It is essential, therefore that the Council safeguards its position and ensures continued, uninterrupted high quality delivery of its Education capital programme.
- 1.3 Following soft market testing and analysis of other 'national' frameworks, officers have concluded that the way to achieve best value for money and access to the most experienced consultants, would be for the Council to procure its own lead Framework.

2. MAIN ISSUES

2.1 Commissioning Strategy

- 2.1.1 The D&B model of procurement, to deliver Education capital projects, was adopted in circa 2013. Since this time the Council has delivered 44 projects, amounting to 9,059¹ additional school places across the County, at a total project value of £262m. **Appendix 1** provides a summary of the projects that have completed during this time, and **Appendix 2** is the November 2018 Capital Progress Report which sets out the position of projects that are currently in design development or on site.
- 2.1.2 The original Partnering Contract with consultants expired in June 2015. Due to a lack of availability of consultancy services for large programmes in the market, LGSS Property procured its own Framework, which became operational in 2016. On 12 June 2017, Committee approval was secured for the Council to use this Framework and continue with the combined approach of procuring contractors and consultants separately.
- 2.1.3 The Council have been using the LGSS Consultants Framework successfully over the last two years. Officers have developed good relationships and processes of working with the consultants on the relevant lots. However, the Framework has a complex ranking process, which lacks flexibility and has the potential to add time and cost to projects and programmes. For example, the Education Capital Team need the option to carry out mini-competitions when time allows, but in instances where projects need to move quickly, or

¹ 6,330 primary school places, 756 early years places, 1,640 secondary school places, 333 Special Educational Needs (SEN) school places

where very specific experience is required, it should be possible to direct award based on an already agreed set of capped fee rates and quality criteria.

Furthermore, despite the good relationships with the consultants on the LGSS Framework, it still lacks the ability to develop a 'partnering' relationship including any added value that a longer term more direct relationship can offer. Also there is extra admin involved as the Framework does not provide all the necessary core services that the D&B model using an NEC3² form of contract requires. So for example, the County Council has to appoint the NEC Supervisor role separately as it's not included in the LGSS Framework. In the context of the County Council model, 'added value' includes:

- Ad-hoc advice on specific projects or programmes, and specific issues relating to the local market or construction industry.
- Financial analysis of contractor mini-tenders across the programme.
- Assistance with reporting and managing performance data including Key Performance Indicators (KPIs).
- Assistance in resolving contractors' poor performance.
- Innovation in the design process and procurement in order to help reduce cost across the programme.

2.2 Framework Objectives

2.2.1 An overview of the Council's Framework objectives and requirements is set out in **Appendix 3** compared against the LGSS Consultants' Framework and other leading equivalent frameworks on the market.

2.2.2 In summary, the benefits to result from the Council procuring a bespoke Framework are as follows:

- The continuation of the already successful D&B procurement approach to deliver capital projects.
- Commercially market tested rates.
- Transparency.
- Locally targeted to client needs and requirements.
- Greater client control of the procurement and selection of suppliers (on the Framework and on projects) who have the right experience and skills, as well as a commitment to provide continuity during the course of the Framework contract, increasing efficiency and cost-effectiveness.
- Quicker and best value procurement for projects, making direct appointment easier, where appropriate.
- No cost to the Council as the procurement and performance management of the Framework will be managed in-house.
- Competitive framework rates, with the ability to flex in accordance to market conditions.
- Better management of programme and in-year budget forecasting.
- Potential to secure income by selling the Framework to other local authorities.

² NEC3: Engineering and Construction Contract is the main construction contract within the NEC3 family. The contract is used for the appointment of a contractor for engineering and construction work, including any level of design responsibility.

2.3 Financial Analysis

2.3.1 The rates for the Project Management and Full Design Team Services Framework (PMFDTS - Crown Commercial Service) are available (via the Crown Commercial Service website) and a cost comparison exercise has been received by the Built Environment Consultancy Services (BECS – Scape). However, it is difficult to draw any real conclusions as it not possible to compare the true like-for-like difference in cost because they each apply location and value factors/weightings differently. Furthermore, there is also little benefit in comparing these when there is the option for the Frameworks to allow their suppliers to review their prices, as they only provide a snapshot of cost on the day in question. This is of little use to the Council when it needs a Framework in six months' time, where market conditions may be different or a supplier takes a view depending on whether they are interested in the work and/or have the capacity to deliver.

2.4 Framework Proposals

2.4.1 It is proposed that the Framework is procured via the Official Journal of the European Union (OJEU³) restricted competitive tender process. The duration will be for a 3 years (plus 1 year possible extension) and will consist of the following 2 Lots:

- Lot 1 – Full Multidisciplinary
 - Design (up to Royal Institute British Architects (RIBA) Plan of Work Stage⁴ 2 only).
 - Project Management, Contract Administration with Quantity Surveying/Cost Consultancy and Principal Designer (RIBA Plan of Work Stage 0-7).
 - NEC Supervisor (RIBA Plan of Work Stage 3-7).
- Lot 2 – Project Management
 - Project Management, Contract Administration with Quantity Surveying/Cost Consultancy, Principal Designer and (RIBA Plan of Work Stage 0-7)
 - NEC Supervisor (RIBA Plan of Work Stage 3-7).

With the following construction band values:

- Bands A - £0 -£3m
- Band B - £3 - £6m
- Band C £6 – £10m

The Council will seek to up to four different suppliers on each Lot.

2.5 Contract and Performance Monitoring

2.5.1 It is proposed that contract performance for the Framework will be managed and monitored via Key Performance Indicators (KPIs) and regular engagement meetings by the Education Capital Team. They will work closely with LGSS Law Ltd and Procurement teams to ensure that performance is managed and monitored throughout the course of the Framework

³ OJEU stands for the Official Journal of the European Union (previously called OJEC - the Official Journal of the European Community). This is the publication in which all tenders from the public sector which are valued above a certain financial threshold according to EU legislation, must be published. The restricted procedure allows us to "pre-qualify" suppliers based on their financial standing and technical or professional capability so as to narrow the number permitted to submit bids. Based on the invitation to tender, bidders will be able to deliver a fully priced bid without the need for any negotiations following receipt of the bid.

⁴ The RIBA Plan of Work 2013 organises the process of briefing, designing, constructing, maintaining, operating and using building projects into a number of key stages. It details the tasks and outputs required at each stage, which may vary or overlap to suit specific project requirements.

arrangements. Subject, to Committee's approval to proceed, officers expect to be in a position to award the contract in March or April 2019, well in advance of the expiry date for the LGSS Consultants' Framework.

3. ALIGNMENT WITH CORPORATE PRIORITIES

3.1 Developing the local economy for the benefit of all

3.1.1 Capital investment in public infrastructure provides employment and supports economic development. Providing access to local and high quality educational provision and associated children's services should enhance the skills of the local workforce and provide essential childcare services for working parents or those seeking to return to work. Schools and early years and childcare services are also providers of local employment.

3.2 Helping people live healthy and independent lives

3.2.1 If pupils have access to local schools and associated children's services, they are more likely to attend them by either cycling or walking rather than through local authority-provided transport or car. They will also be able to access more readily out of school activities such as sport and homework clubs and develop friendship groups within their own community. This should contribute to the development of both healthier and more independent lifestyles.

3.3 Supporting and protecting vulnerable people

3.3.1 Providing sufficient and suitable school places to match local demand as closely as possible will ensure that services can be more easily accessed by families in greatest need.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource Implications

4.1.1 Under the Council's Constitution and Principles of Decision-making, procurement of the Framework presents a Key Decision, requiring Committee approval. This is because, although the Framework itself does not hold any value, its adoption is likely to result in expenditure in a related series of transactions in excess of £500,000.

4.1.2 All the 0-19 Education Capital team costs are charged against the Children and Young People Capital Programme.

4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

4.2.1 The procurement, evaluation and award of the new Framework would be undertaken by the 0-19 Education Capital Team, working in partnership with LGSS Procurement and LGSS Law Limited to ensure that the relevant compliance measures are met.

4.2.2 Contract performance would be managed, monitored and, where appropriate, challenged, against a set of KPIs and regular engagement meetings throughout the length of the Framework arrangements. This will be undertaken in close liaison with LGSS Procurement and LGSS Law Limited.

- 4.2.3 A tender process would be undertaken in compliance with EU procurement rules. It is proposed to award contracts on a three year (plus one) basis.
- 4.2.4 Approval has been secured from the CCC Commercial Board and Cambridgeshire and Peterborough Joint Commissioning Board.
- 4.2.5 Each month a Capital Programme monitoring report is produced, which currently tracks 70 projects. All of these projects are either in design, in construction or at defects stage. Projects are rag-rated and mitigating action taken where necessary to address programme slippage, emerging cost pressures and performance standards. The Chair of the Children and Young People Committee (CYP) receives a copy this. In addition, it is a standing item for review and discussion at the Capital Programme Board chaired by the Council's Chief Finance Officer. It has been identified as a model of good practice for other Council services to consider adopting or adapting to aid their monitoring of capital projects. Any Member who wished to receive a copy each month can request one via Vikki.spittles@cambridgeshire.gov.uk

4.3 Statutory, Legal and Risk Implications

- 4.3.1 The Council has a statutory responsibility to ensure that every child whose parents want them educated in the state-funded sector is offered a school place. In addition, it has a duty to secure sufficient and suitable early years and childcare places.
- 4.3.2 The vast majority of the schemes within the CYP capital programme are focused on creating additional capacity to provide for the identified need for new places for Cambridgeshire's children and young people in response to demographic need and housing growth. The procurement of the new Framework will ensure that the Council continues to be able to deliver the planned level of infrastructure investment and meet its statutory responsibilities.

4.4 Equality and Diversity Implications

- 4.4.1 All accommodation has to be compliant with the provisions of the Public Sector Equality Duty and current Council standards.

4.5 Engagement and Communications Implications

- 4.5.1 Significant levels of engagement and consultation take place with all schools and early years' settings identified for potential expansion to meet the need for places in their local areas over the development and finalisation of those plans. Schemes are also presented to local communities for comment and feedback in advance of seeking planning permission.
- 4.5.2 In cases where the Council has identified the need to run a competition to identify a potential sponsor for a new school, a consultation event is always arranged to be held in the area local to where the school will be established to enable families and anyone else with an interest to hear about the proposals and express views on these.

4.6 Localism and Local Member Involvement

- 4.6.1 Local Members are kept informed of planned changes to provision in their wards and their

views sought on emerging issues and actions to be taken to address these.

4.6.2 The Council's new school competition process includes a joint officer/member assessment panel. The relevant local Member(s) are invited to participate in this.

4.7 Public Health Implications

4.7.1 It is Council policy that schools:

- should be sited as centrally as possible to the communities they serve, unless location is dictated by physical constraints and/or the opportunity to reduce land take by providing playing fields within the green belt or green corridors;
- should be sited so that the maximum journey distance for a young person is less than the statutory walking distances (3 miles for secondary school children, 2 miles for primary school children)
- should be located close to public transport links and be served by a good network of walking and cycling route; and
- should be provided with Multi-use Games Areas (MUGAs) and all weather pitches (AWPs) to encourage wider community use of school.

4.7.2 School design specifications for new schools includes provision for suitable and sufficient outdoor play spaces, natural ventilation and opportunities to maximise use of daylight in preference to artificial light sources. Discussions are underway with colleagues from Public Health to determine how to ensure that the specifications for future schools can further support and promote physical activity and mental wellbeing.

Implications	Officer Clearance
Have the resource implications been cleared by Finance?	Yes Name of Financial Officer: Martin Wade
Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?	Yes Name of Officer: Paul White
Has the impact on statutory, legal and risk implications been cleared by LGSS Law?	Yes Name of Legal Officer: Salma Kantharia
Have the equality and diversity implications been cleared by your Service Contact?	Yes Name of Officer: Jonathan Lewis

Have any engagement and communication implications been cleared by Communications?	Yes Name of Officer: Jo Dickson
Have any localism and Local Member involvement issues been cleared by your Service Contact?	Yes Name of Officer: Jonathan Lewis
Have any Public Health implications been cleared by Public Health	Yes Name of Officer: Tess Campbell

SOURCE DOCUMENTS GUIDANCE

Source Documents	Location
Business Plan 2016/17, which includes the CYP capital programme	https://www.cambridgeshire.gov.uk/council/finance-and-budget/business-plans/business-plan-2016-to-2017/
Children and Young People Committee report from 2nd June 2016 - Item 6. Cambridgeshire County Council Framework and Term Contracts.	https://cmis.cambridgeshire.gov.uk/ccclive/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/164/Committee/4/Default.aspx