

CABINET

29 SEPTEMBER 2015

GATEWAY 3 CONTRACT AWARD: CONSTRUCTION PROFESSIONAL SERVICES CONSULTANCY FRAMEWORK

Portfolio Holder: Councillor Adrian Gulvin, Resources

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Services and Monitoring Officer

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SUMMARY

This report seeks permission to award a series of framework contracts to the suppliers highlighted within section 2.2 of the Exempt Appendix, this is on the basis they passed the quality requirements outlined within the tender documentation and scored within the top eight of their respective Lots where applicable.

The Cabinet approved the commencement of this requirement at Gateway 1 on 2 September 2014.

This Gateway 3 Report has been approved for submission to the Cabinet after review and discussion by CMT and the Procurement Board on 9 September 2015.

1. BACKGROUND INFORMATION

1.1 Budget & Policy Framework

1.1.1 The call off contracts applicable to this framework will be financed through the various project budgets as allocated to Property and Capital Projects (P&CP). The current need is being met via individual competitive tender and a new system has been requested by the P&CP service and agreed as additional best practice for delivery and service costs between P&CP and Category Management; the implementation of the framework will work towards giving additional transparency of projects, more responsive services to meet needs, ensuring KPIs are used to ensure quality via direct allocation and/or

mini competitions. Once in place P&CP shall for the most part select from the framework in accordance with framework call off procedures and inform Category Management of services being delivered by the suppliers to assist with their monitoring of KPI's for the services.

- 1.1.2 As there is no commitment to use frameworks, the Council estimated the amount of business to be delivered through the framework via the OJEU notice which has been outlined as the estimated total contract value on the front page. The right is reserved to still competitively tender to the open market where the P&CP team believe better value and/or expertise for any individual project can be achieved away from these frameworks.

1.2 Background Information

- 1.2.1 PC&P and Category Management having investigated local and national framework alternatives, have agreed that a local framework best suits the Medway Council's priorities.
- 1.2.2 P&CP identified through an alternative service model provision exercise that Medway Council are currently spending £2m per annum on consultancy. These needs are currently met by running repetitive tenders which are time consuming to the Council. By implementing a framework Medway Council will free up their resources and P&CP's involvement including the assistance of Category Management in these tenders and reduce the burden of running tenders and repetitive gateway reports on each occasion and in turn provide cost savings and quality improvements. These frameworks will ensure that the best price is used across the board for the entirety of the framework agreement.
- 1.2.3 The disciplines covered by these frameworks are in frequent demand and by putting in place a framework Medway Council will be able to better monitor spend and receive better supplier performance due to the supplier relationships being built in the correct manner.

1.3 Funding/Engagement from External Sources

- 1.3.1 There is no funding required by external sources.

2. PROCUREMENT PROCESS

2.1 Procurement Process Undertaken

- 2.1.1 The procurement process undertaken was an OJEU restricted process, this was adopted due to the anticipated volume of interested contractors and enabled the evaluation team to ensure only the highest quality contractors were invited back to tender.
- 2.1.2 It should be noted that at PQQ stage there was no limit to the number of contractors who could go through to the ITT stage, instead the criteria used was a threshold on all quality questions, should a

contractor pass all the set thresholds then they were invited back to tender.

2.1.3 Of the 84 submissions at PQQ, 13 contractors failed to meet the prescribed thresholds and therefore 71 were invited back to tender. Of the 71, 10 failed to submit or failed to submit on time and 61 were evaluated, the final successful contractor lists have been presented as Appendix A.

2.2 Evaluation Criteria

2.2.1 The evaluation criteria used at the tender stage was 70% quality and 30% price, this split was adopted to best represent the level of quality the Council seeks going forward but to also entice the contractors to price competitively.

2.2.2 Going forward, however, the quality/cost split will vary depending on the complexity of the project and will be decided on a project by project basis:

Quality Price Matrix for Mini Competitions

PURCHASE TYPE	QUALITY/PRICE RATIO (Q/P)
Innovative	80/20 to 55/45
Complex	70/30 to 50/50
Straightforward	40/60 to 25/75
Routine	30/70 to 20/80

2.2.3 The above table was incorporated into the tender documentation and gives the Council flexibility going forward as it takes into consideration the diverse call off requirements that may be required under the entire framework duration.

3. BUSINESS CASE

3.1 Delivery of Procurement Project Outputs / Outcomes

3.1.1 The following procurement outcomes/outputs identified as important at Gateway 1 to the delivery of this procurement requirement have been appraised in the table below to demonstrate how the recommended procurement contract award will deliver said outcomes/outputs.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?	How will recommended procurement contract award deliver outputs/outcomes?
1. Controlled pipeline spend analyses	By measuring current spend against those of future years	P&CP with the assistance of Category Management & Finance through pipeline trend consultations	Annually	With a set rate for each designation from every company, Medway will be in a better position to understand and plan around financial constraints.
2. Better quality of service	Implementing KPIs to ensure quality service is delivered.	P&CP with the assistance of Category Management & Finance through pipeline trend consultations	On-going, project by project. P&CP to collect KPI Data with the assistance of Category Management	KPIs have been incorporated into the tender documentation and all successful contractors are aware of their obligations to perform to these.
3. Quicker appointment of contractors	Comparing current tendering times against those when the framework is in use	P&CP measuring the effectiveness of the framework operated with the assistance of Category Management	Ongoing	With a set list of contractors Medway has the option to issue direct awards to a contractor based on their tender responses. Ranking lists have therefore been compiled – Contained in Exempt Appendix C

<p>4. Greater Control and visibility of Spend</p>	<p>Category Management will be able to pinpoint all spend through low value construction projects and consultancy</p>	<p>P&CP managing the Budgets with the collaboration of the Client services</p>	<p>Annually</p>	<p>Spend reports can be become convoluted when disaggregating the project team and allocating the costs associated. With this framework all costs will be easily identifiable and future spend reports will have an accurate representation of spend</p>
<p>5. Larger & more diverse range of suppliers – Appointment based on merit rather than preference</p>	<p>Post tender, by analysing the contractors who were successful through the tendering procedure</p>	<p>P&CP measuring the effectiveness of the framework operated with the assistance of Category Management</p>	<p>Post Tender P&CP to run KPIs, review success and submit papers to procurement board annually with CM</p>	<p>As there are 5 value bands for each of the 9 lots tendered there is an adequate range of contractors suitable for each foreseeable project, some contractors are those used previously but others are new to working with Medway.</p>
<p>6. Greater ability to plan annual programmes</p>	<p>By Category Management working with service areas earlier to appoint contractors with a greater lead in time</p>	<p>P&CP, with the assistance of Category Management and the Service departments.</p>	<p>Annually through framework usage meetings</p>	<p>With rankings lists established it will be quicker and easier to appoint contractors and with the transparency in pricing an early estimated project cost would be more accurate than at present.</p>
<p>7. Less tendering requirements to be undertaken by Category Management with the ability to focus more on proactive procurement</p>	<p>Success will be measured by the time Category Management will be able to allocate to other procurements</p>	<p>PC&P with the assistance of Category Management</p>	<p>When the framework is used Category Management will be able to indicate the time they would have been spent on that programme but instead can be used</p>	<p>There is currently a relatively high demand on Category Management's resources to procure construction related consultancy services. By establishing a framework to cover these needs, resources can be used on other projects</p>

			on other requirements.	
8. More standardised specifications for more compliant tender returns	This will be measured through the tendering process to become part of the framework and also as part of the mini competition to reduce any potential ambiguity in the current process	PC&P will be producing the specifications	Will be measured Quarterly via supplier and framework member feedback	Where a standard specification was used at tendering stage this reduced tenderer ambiguity and provided a high number of compliant responses

4. RISK MANAGEMENT

4.1 Risk Categorisation

1. Risk Category: Procurement	Likelihood: Low	Impact: Critical
Outline Description: Legal Challenge by unsuccessful bidders post award		
Plans to Mitigate: By following the EU principles of non-discrimination, transparency and equal treatment we will reduce the ability for a vexatious legal challenge		
2. Risk Category: Financial	Likelihood: Low	Impact: Critical
Outline Description: Value for money not being achieved following award of lots		
Plans to Mitigate: Plan pricing strategy for each lot to ensure appropriate approach is taken; this may include a schedule of rates/ day rates, overheads and profit.		

5. PROCUREMENT BOARD

- 5.1 The Procurement Board considered this report on 9 September 2015 and supported the recommendation set out in paragraph 8 below.

6. SERVICE COMMENTS

6.1 Financial Comments

- 6.1.1 The procurement requirement and its associated delivery (as per the recommendations at Section 6), will be funded from the existing and ongoing Capital Programme budgets.
- 6.1.2 Although it would be the intention of Medway to use the framework in all possible instances, it should be noted that there is no requirement to do so and therefore there is no financial implications with awarding the framework to the contractors highlighted in Exempt Appendix C.
- 6.1.3 Further detail is contained within section 2.1 Financial Analysis of the Exempt Appendix.

6.2 Legal Comments

- 6.2.1 The Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.
- 6.2.2 The process adopted complies with the EU procurement regulations and the Council's Contract Procedure Rules.
- 6.2.3 As this is a high risk procurement the decision to award this contract is a matter for Cabinet.

6.3 Procurement Comments

- 6.3.1 Medway has run a fully compliant OJEU Restricted tender which has resulted in the proposed award to all the operators contained within Exempt Appendix C, this is as they scored within the top 8 of the lot(s), value banding(s) and office location(s) they tendered against. The number of operators for each list was capped at 8 within the OJEU notice; this was to ensure the framework runs as intended and doesn't burden the Council with running lengthily mini competitions for each requirement.
- 6.3.2 A range of contractors whom already provide services for Medway have gained a place on the framework but with the addition of more contractors whom Medway have had no dealings with previously, this is believed to be due to the supplier engagement event held prior to tendering which raised the awareness of the opportunity and provided guidance.

6.4 ICT Comments

6.4.1 There are no ICT implications.

7. OTHER INFORMATION

7.1 As approved at Gateway 1, project specific Gateway 1 & 3 papers will not reported. The frameworks will be monitored by the presentation of an annual summary report to Procurement Board. These will contain a running total of projects to date and also the running total of spend and KPI performance.

7.2 Standard and approved Contracts will be selected and utilised by P&CP as the delivery team from, wherever possible, recognised standard suites of Contracts produced by professional bodies such as JCT/NEC suites and using standard amendments agreed between PC&P, Client Service Contract Professionals, with prior ratification by Medway Legal Teams. Any special amendments to be agreed with Medway Legal Services.

8. RECOMMENDATION

8.1 The Cabinet is asked to agree the award of framework places to the contractors outlined Exempt Appendix C to the report.

9. SUGGESTED REASONS FOR DECISION

9.1 The recommendation is based on having completed an OJEU compliant restricted process which going forward, and if approved, will streamline the tendering process and provide pricing granularity for upcoming consultancy requirements.

LEAD OFFICER CONTACT

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APPENDICES

Exempt Appendices

BACKGROUND PAPERS

The following documents have been relied upon in the preparation of this report:

Description of Document	Location	Date
Gateway 1 Report	http://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?IId=13331	02/09/14