

## **Report of the Strategic Director, Corporate Resources to the meeting of Corporate Overview & Scrutiny Committee to be held on 15<sup>th</sup> November 2018**

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### **Subject:**

**Procurement of a General Contractors Framework Agreement**

### **Summary statement:**

This is a report provided for information to advise members of the forthcoming procurement of a framework agreement with a value in excess of £2 million, for an initial 3 year period with an optional 1 year extension.

Bradford Council's Built Environment Team within the Corporate Resources Department currently utilises a framework contract for Building Works in Live Education Environments which is used to procure Contractors to deliver new builds, alterations and expansion works in Primary Schools, Secondary Schools and Early Years Provisions.

The current framework has been in place since 24<sup>th</sup> June 2015 and is due to expire on 23<sup>rd</sup> June 2019. Procurement of a replacement framework is required to ensure maintenance of supply, compliance with EU Procurement Legislation and Contract Standing Orders.

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**Portfolio:**

**N/A**

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**Overview & Scrutiny Area:**

**Corporate**

## **1. SUMMARY**

- 1.1 This is a report provided for information to advise members of the forthcoming procurement of a framework agreement with a value in excess of £2m.
- 1.2 Bradford Council's Built Environment Team within the Corporate Resources Department currently utilises a framework contract for Building Works in Live Education Environments which is used to procure Contractors to deliver new builds, alterations and expansion works in Primary Schools, Secondary Schools and Early Years Provisions.
- 1.3 The current framework has been in place since 24<sup>th</sup> June 2015 and is due to expire on 23<sup>rd</sup> June 2019. Procurement of a replacement framework is required to ensure maintenance of supply, compliance with EU Procurement Legislation and Contract Standing Orders.

## **2. BACKGROUND**

- 2.1 Council Officers use the framework to procure contractors to support delivery of projects where there is a lack of resource and/or expertise available in-house to deliver the requirements.
- 2.2 The framework allows Officers to call off Contractors in a timely manner. These contractors have been robustly vetted at the onset of the framework; and call offs allow for competitive pricing tailored to the size and complexity of the works project to achieve the best price at the time of the requirement of the works. The 'call off' process involves utilising the most cost effective, available and suitable contractor on the framework in the particular price band.
- 2.3 The current framework has been used 11 times between August 2015 and October 2018 with a spend of approximately £17 million going through it.
- 2.4 The replacement framework will be expanded from being solely for works on Education Buildings to a General Contractors framework so that it can be used across the Council by all departments who may require contractors to provide construction works. It is anticipated that the majority of use will be for General Building, Affordable Housing Schemes, Residential and Extra Care Homes, Sports & Leisure Facilities and Education Buildings. Building schemes will be in various locations across the Bradford District and outside the District when required to support the Council's income generation on works they have secured externally.
- 2.5 The framework can be set up to allow other Local Authorities, Agencies, Academies and Trusts to use the framework for their own projects for an administrative charge.
- 2.6 The new framework will be divided into 4 value bands with a maximum of ten (10) contractors for each discipline, the value bands are as below for the value of the works projects:
  - £100,000 - £500,000
  - £500,000 - £2.5 million

- £2.5 million - £5 million
- Over £5 million

A separate framework procured and implemented by the Council in 2016 provides access to a broad range of construction trades, including general building work, up to a value of £100k (see 3.1 below).

- 2.7 The in house team will retain an executive project management function of the Contractors and the works.
- 2.8 The procurement of the new framework will be via an open EU compliant procurement process. An EU compliant process takes approximately 6 months to complete, therefore the invitations to tender require to be made available to the market before the end of 2018.
- 2.9 Procurement of this new framework will take account of the Council's Social Value and Inclusive Growth Policy; implemented in April 2018. The Policy provides Officers with a range of inclusive growth orientated measures to pick from and apply to the contracts they are procuring. As this procurement is for a framework, of multiple contractors (across several value bands) it is not practical make specific Social Value asks of the contractors awarded a place on the framework, because at this stage it is not clear how many contracts each contractor may then win. Social Value will have to be considered at the call-off stage when seeking to award a construction contract; at this point reasonable and proportionate Social Value (considering the value and duration of the construction works) can be sought. Well managed construction contracts are proven, in securing Social Value, including; local employment and skills opportunities, facilitating supply chains from the local economy / area, and securing reductions in carbon and waste arising from construction activity.

### **3. OTHER CONSIDERATIONS**

- 3.1 Since June 2016 the Council has had in place a Construction Framework that includes a General Building Category. This currently is for procurements valued up to £1.5 million but the next renewal in 2019 will only cover up to £100,000 to align with this framework agreement and to cover lower value requirements.
- 3.2 Use of Internal Services - Building Services in-house contractors will be used where appropriate in terms of capability and capacity to deliver, in accordance with rule 4 of the Council's Contracts Standing Orders.

### **4. FINANCIAL & RESOURCE APPRAISAL**

- 4.1 This framework is to facilitate the Council's Building and Construction Programme, other than officer time, there will be no cost impacts around the procuring of the Framework itself.

### **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

- 5.1 Risks identified:

- 5.1.1 Changes mean that works are not required: The Council will not guarantee any volumes of work via the framework, providing no financial commitment.
- 5.1.2 Contractors do not deliver a satisfactory level of service/ non-conformance: Contractors will be corporately managed to ensure any issues are dealt with. There will be a suspension and deletion process incorporated into the framework to assist in managing the Contractors.
- 5.1.3 Procurement compliance: Transparency and adherence to regulations will be enhanced via the existence of the framework.
- 5.2 Corporate Governance has been implemented both for the management of the framework within Architectural Services (Built Environment) and in relation to Contractor management aligned with Consultants Contractors by the Consultant and Construction Review Group.

## **6. LEGAL APPRAISAL**

- 6.1 The establishment of a framework agreement of this value requires compliance with EU procurement legislation, in the form of the Public Contracts Regulations 2015. Regulation 33 sets out the process for setting up a framework agreement, and this and all relevant regulations will be adhered to. Failure to comply could lead to legal challenge incurring costs, delays and reputational damage to the Council.
- 6.2 Correct framework establishment, however, helps to reduce the risks undertaken in placing call-offs under the framework, which will still be subject to the legislation but will benefit from the demonstration of a robust competitive process. Framework agreements are a routine procurement method.

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

Equality assessments – Equalities has been considered and the conclusion is that it has no impact to protected characteristic groups.

### **7.2 SUSTAINABILITY IMPLICATIONS**

The framework as a whole will not provide any sustainability implications, but by putting a framework in place this shall ensure that any sustainability factors will be taken into account on individual call offs.

Consideration will be given to Social Value and Inclusive Growth Policy (in line with 2.9 above).

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

The framework as a whole will not provide any Greenhouse gas impacts, but by

putting a framework in place this shall ensure that any greenhouse gas factors will be taken into account on individual call offs.

#### **7.4 COMMUNITY SAFETY IMPLICATIONS**

The framework as a whole will not provide any community safety implications, but by putting a framework in place this shall ensure that any safety factors will be taken into account on individual call offs.

#### **7.5 HUMAN RIGHTS ACT**

Not Applicable

#### **7.6 TRADE UNION**

In house services will be utilised in the first instance in accordance with Contract Standing Orders therefore there is no impact.

#### **7.7 WARD IMPLICATIONS**

Call offs will deal with any Ward implications where applicable.

#### **7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)**

Not Applicable.

#### **7.9 IMPLICATIONS FOR CORPORATE PARENTING**

Not Applicable.

#### **7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

The DPIA Screening Checklist was followed and no further action is required.

### **8. NOT FOR PUBLICATION DOCUMENTS**

None.

### **9. OPTIONS**

#### **9.1. Procure a Framework**

- Advantages –
  - time to appoint for each works project is reduced
  - further competition method will enable competitive pricing for all projects
  - known reduced supply base will be managed including suspension process
  - no volume of usage guarantee
  - the structure of the framework should encourage local businesses to

- apply
    - as a Council procurement there is the opportunity for well planned pre-procurement early market engagement, providing opportunity to encourage appetite amongst local (and non-local) contractors to engage in the procurement process
  - Disadvantages –
    - Closed market doesn't allow new Contractor organisations to join, however the framework can have a maximum duration of 4 years.
    - Some demand on resources (particularly Officer time) for procuring the framework

## 9.2. **Utilise other frameworks (e.g. YORbuild, SCAPE)**

- Advantages –
  - does not require Bradford Council officer time to prepare and implement
- Disadvantages –
  - does not currently provide a Bradford supply base
  - rebate charged for usage of the framework resulting in higher costs
  - there is a potential lack of clarity of specification and terms
  - there is a lack of direct management of the supply base
  - based on past experiences of using these there is a lack of supplier engagement
  - The Council has had less control over the establishment of the framework

Option 1 is the preferred option; to procure a Bradford Council specific framework with significant benefits in terms of time management, competitiveness and supplier relationships and performance without the need to guarantee any volume of business. The establishment of a framework is not in itself binding, and other procurement routes can be considered for more bespoke or specialist projects, for example requirements imposed by 3<sup>rd</sup> party capital grant conditions.

## 10. **RECOMMENDATIONS**

The committee consider the recommendation of Option 1 detailed in 9.1.

## 11. **APPENDICES**

None provided.

## 12. **BACKGROUND DOCUMENTS**

None provided.