

Report title: Sourcing strategy for Construction Projects	
Report to: Leader of the Council	
Report author: Paul Crick, Director for Capital Investment and Delivery	
Date: 29 th January 2020	For: Decision
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County Divisions affected: All Essex	

1 Purpose of Report

- 1.1 To seek approval to award a four-year framework agreement for construction services to successful contractors following completion of a OJEU compliant procurement process. The framework will replace the existing Essex County Council Construction Framework which expires in early 2020. The framework will provide design and construction services for education and other capital construction and major maintenance projects and will be available to other contracting authorities.
- 1.2 The sourcing strategy was approved by Cabinet in January 2019 (FP/314/12/18) with authority delegated to the Cabinet member for Finance, Commercial and Traded Services to award contracts on the framework to the successful bidders.

2 Recommendations

- 2.1 Approve the award of four-year multi supplier framework agreement contracts to the successful contractors (listed in 3.5 below) for the provision of both design and build services; and construction only services.

3 Background and Proposal

- 3.1 The existing Essex Construction Framework has been operational since 1st March 2016 and has been the sourcing route for just under £200m of construction projects to date, principally education related. The framework has demonstrated good value for money when compared against other authorities using national benchmarks.
- 3.2 The current framework is due to expire at the end of February 2020, as such, in January 2019 Cabinet provided approval to go out to the market to procure a four-year multi supplier replacement framework. A notice was published in the Official Journal of the European Union (OJEU) and a full OJEU compliant procurement process has now been undertaken.

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- 3.3 43 individual organisations submitted a completed prequalification response, with some bidding for multiple lots, subsequently 22 organisations were invited to submit tenders.
- 3.4 Tenders were evaluated taking into account the pricing of an example project and responses to various aspects of service quality, including social value with an overall ratio of 50:50 price to quality as follows:

Assessment Criteria	Applied Weighting	
Price - Design fee - Fee - Fixed construction preliminaries - Total tender price	17.5% 17.5% 5% 10%	50%
Quality - Sample project - Design and Programme Management - Cost Control - Supply Chain Management - Handover and post completion - Environmental Consideration - Training - Other	21% 18.5% 18% 12.5% 11% 9% 5%	50%

- 3.5 The successful contractors are set out below under each of the four framework lots in rank order:

Lot 1A – EAST ESSEX : £0 - £1.5m

1. Beardwell Construction Ltd
2. NetZero Buildings
3. Phelan Construction
4. T J Evers Ltd
5. Coulson & Son Ltd
6. Borrás Construction Ltd
7. Bakers of Danbury Ltd
8. SEH French Ltd

Lot 1B – WEST ESSEX : £0 - £1.5m

1. Beardwell Construction Ltd
2. NetZero Buildings
3. Phelan Construction
4. T J Evers Ltd
5. Borrás Construction Ltd
6. Bakers of Danbury Ltd
7. Rose Builders Ltd
8. O. Seaman & Son Ltd

Lot 2 : £1m - £4.5m

1. Morgan Sindall PLC
2. R G Carter Ipswich
3. Barnes Construction
4. Kier Eastern
5. Phelan Construction
6. Beardwell Construction Ltd
7. ENGIE Regeneration Ltd
8. T J Evers Ltd

Lot 3 : Over £4m

1. Morgan Sindall PLC
2. Barnes Construction
3. R G Carter Ipswich
4. Kier Eastern
5. Willmott Dixon Holdings
6. ENGIE Regeneration Ltd
7. BAM Construction
8. John Graham (Dromore) Ltd t/a Graham Construction

- 3.6 It is proposed that all bidders will be notified of the result and, following a standstill period of 10 days, framework contracts will be issued for signature by each of the contractors. It is proposed that the new framework will come into operation on the 1st March 2020, after which each of ECCs requirements and projects can be competitively tendered via a mini-competition between suppliers on the relevant Lot. However, an option to direct award was also included for the two lower value Lots.
- 3.7 The evaluation criteria used for the award of individual call-off contracts will be determined on a project specific basis to retain flexibility and ensure the framework remains attractive to external users. The price and quality ratio may vary depending on the type of contract being let, for example a fully designed project may have a higher price ratio than one requiring full design by the successful contractor. The proposed price and quality ratio for individual projects will be included in the governance paper for that particular project or requirement at the time of call-off.
- 3.8 Recent events in the construction industry, such as the collapse of Carillion and the continuing fall-out of the Grenfell disaster, have led to a concern over the stability of key contractors in the market. Insurance firms are also reflecting the volatility of the construction industry, with many firms withdrawing from the Professional Indemnity insurance market, and those remaining are increasing premiums significantly. Experts are warning that premiums could more than double in the next round of renewals. This is exemplified by the issues currently being faced by some of the top UK construction companies that have recently suffered decreasing share prices.

- 3.9 As set out in the Cabinet report, ECC has sought to minimise the exposure of the new framework to contractor failure by increasing the number of contractors from 5 contractors under the existing framework to 8 under ECF2. Whilst providing more capacity, a strong performance management approach will limit each opportunity to the top 5 contractors thereby addressing market concerns over excessive competition.
- 3.10 To ensure a robust framework is established, and then maintained throughout the life of the framework, the team will continue to review market stability and will consider the need to adjust the mini-competition call-off process if considered necessary, especially for the higher value tier. The Framework Agreement also allows the option for Parent Company Guarantees to be requested at the call-off stage.
- 3.11 The successful Contractors will undergo monthly financial standing checks by the council via Dunn and Bradstreet reports which highlight monthly changes to status and potential risk to supply chain. ECC will challenge contractors for rationale and assurances to minimise the risk alongside the standard quarterly framework contractor meetings that take place to establish, maintain and develop relationships.
- 3.12 Framework management will follow the principles as laid out in the Outsourcing Playbook, the Central Government Guidance on outsourcing decisions and contracting. This is an approach that has been adopted and recognised as best practice by the LGA and the National Association of Construction Frameworks (NACF). ECC will continue to work with these groups throughout the lifecycle of the Framework to share intelligence with regards to market risk and how best to mitigate.

4 Issues for consideration

4.1 Financial implications

- 4.1.1 The capability on the client-side to mobilise and manage the contract is already in place. This is informed and enabled by the Council's experience in managing the existing construction framework.
- 4.1.2 The financial evaluation for the tender responses has tested rates for preliminaries, profit, and overhead as well as many quality aspects related to value, thus ensuring ongoing value for money for the Council. Projects called off from the proposed new framework will then be competitively tendered to all eligible contractors on the relevant framework tier on the basis of a client generated target cost based on benchmarked pricing data.
- 4.1.3 The proposal to continue a managed framework approach to delivery will allow ECC to continue to deliver projects with minimal procurement costs. The cost of an open market procurement of an above threshold construction contract is estimated at circa £30,000 per average project, with smaller contracts costing circa £5,000, these costs will be saved through the use of this framework.

4.1.4 The framework will be open for third party use with access fees payable to ECC in line with the councils Fees and Charging Policy. The fee level was determined as part of the market testing stage and has been approved through Chief Officer Action by the Authority's S151 Officer as delegated in the January 2019 Cabinet paper. Utilisation by third parties cannot be guaranteed and any income achieved will be used to contribute to the costs of administering the framework and an existing saving of £250,000 from 2020/21 within the Medium-Term Resource Strategy on top of the continued cost avoidance identified with this option.

4.2 Legal implications

4.2.1 ECC has a duty to secure best value in the delivery of its services. The duty is to make arrangements to secure continuous improvement in the way functions are exercised, having regard to a combination of economy, efficiency and effectiveness. ECC is satisfied that procurement of the proposed new framework will achieve best value.

4.2.2 ECC is a contracting Authority for the purposes of the Public Contract Regulations 2015. The estimated value of the framework exceeds the EU threshold for Works of £4,551,413. A full and PCR 2015 compliant procurement has been undertaken in compliance with the Regulations.

4.2.3 The framework procurement documents specify clearly and in sufficient detail the process which will be followed to award call-off contracts. When ECC calls off services from the Framework, it must follow the process defined in the framework agreement.

4.2.4 All parties who are to be eligible to access the framework will be required to sign an access agreement prior to accessing the framework.

5 Equality and Diversity implications

5.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

5.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 5.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

6 List of appendices



190114 - ECF2
Cabinet Report FINAL

7 List of Background papers

N/A

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor David Finch, Leader of the Council with additional responsibilities for Finance, Property and Housing	10/02/2020

In consultation with:

Role	Date
Executive Director for Finance and Technology (S151 Officer) Stephanie Mitchener on behalf of Nicole Wood	07/02/2020
Director, Legal and Assurance (Monitoring Officer) Laura Edwards on behalf of Paul Turner	29/01/2020