

Forward Plan reference number: FP 275/10/23

Report title: Essex County Council Communications & Marketing Framework 2: competitive tender process for a new Framework	
Report to: Councillor Kevin Bentley, Leader of the Council	
Report author: Andy Allsopp, Head of Profession Communications & Marketing/Richard Puleston, Director of Policy	
Date: 12 March 2024	For: Decision
Enquiries to: Jessica Baldwin, Communications & Marketing Manager and Karen Yates, Communications & Marketing Manager	
County Divisions affected: All Essex	

1. Everyone's Essex

- 1.1 Essex County Council (ECC) has a duty to communicate to its residents, communities, and businesses, so that they are informed as to how their council tax is spent. For reasons of trust and accountability it is vital that people know how their council tax is invested and the value for money ECC brings to their lives.
- 1.2 Everyone's Essex, as our organisation strategy, sets a clear course of direction for the authority. It brings a focus on four key areas: a strong, inclusive and sustainable economy; a high quality environment; health, wellbeing and independence for all ages; and a good place for children and families to grow. Alongside this we have five guiding principles: financial competence, care, being on our communities' side, pride in our county and trust.
- 1.3 How we communicate this is critical. Under Everyone's Essex, everyone has the right to know how ECC operates, how we deliver the services our communities rely on and need and how we spend the money we are entrusted with.
- 1.4 The role of communications and marketing at ECC is therefore clear - to share information, engage and inspire, helping to bring about positive change.
- 1.5 ECC has a responsibility to ensure that all communication should be accessible to all, across a wide range of formats and channels.
- 1.6 Accessible communications across multiple channels to a multitude of audiences requires specialist skills, which could include but isn't limited to photography, videography, advertising, PR and graphic design..
- 1.7 To support ECC's officers to do this effectively, external specialist services are sometimes needed to deliver communications and marketing activities where specialist skills or additional capacity is required. ECC's existing Communications and Marketing Framework is due to expire in May 2024 and a new framework is recommended.

- 1.8 'Everyone's Essex' sets out the Council's four strategic aims and 20 commitments. Services commissioned through the Framework will enable ECC officers to effectively deliver work aligned to their relevant strategic aim and commitments through associated communication and marketing activities. The new Framework is therefore likely to support delivery of communications work and campaigns which relate to all four of the strategic aims:
- A strong, inclusive, and sustainable economy
 - A high-quality environment
 - Health wellbeing and independence for all ages
 - A good place for children and families to grow
- 1.9 The framework provides assurance to communications and marketing professionals that the Framework Suppliers have been quality assessed to ensure they are capable of delivering a professional service, can comply with ECC standards and brand guidance and provide value for money services. This is particularly important given the hub and spoke model of communications and marketing resource across ECC and acts a tool for the corporate team to ensure best practice and standards are being adhered to.
- 1.10 Approving the recommendations in this report will help officers across ECC to achieve effective campaigns and outcomes to support the organisation's strategic outcomes using the most suitable pre-qualified suppliers to ensure value for money is consistently achieved.

2 Recommendations

- 2.1 Agree to launch a two-stage, competitive procurement using the restricted procedure, to procure suppliers to provide communication and marketing services through a Framework Agreement with an initial 2-year term with options to extend in any number of periods not exceeding 2 years in total.
- 2.2 Agree to divide the services into the following multi-supplier lots:
- Lot 1A: Design - Digital/Web Design: working to WCAG 2.2 level AA guidelines
 - Lot 1B: Design - Branding: Identity and Guidelines
 - Lot 1C: Design – Publications
 - Lot 1D: Design - Generic materials
 - Lot 1E: Design - Campaign: concept and application
 - Lot 2: PR Services
 - Lot 3: Photography
 - Lot 4: Videography
 - Lot 5: Media Services
 - Lot 6: Full Service
- 2.3 Agree that the award criteria for the procurement of the Framework Agreement will be 30% price: 70% quality of which 5% of the quality score will assess social value.

- 2.4 Agree that the Director, Policy is authorised to agree the detailed evaluation criteria for the restricted procurement.
- 2.5 Agree that the Framework will enable call-off contracts to be awarded via both direct award and further competition with a 40% price: 60% quality weighting for mini-competitions.
- 2.6 Agree that the Director, Policy is authorised to appoint successful suppliers onto the Framework following completion of the procurement process.

3 Background and Proposal

- 3.1 ECC's existing Communications & Marketing Framework (the Existing Framework) enables officers across ECC to easily commission pre-qualified suppliers to deliver communication and marketing services without the need for individual procurement processes. The Existing Framework provides assurance to users that the Framework Suppliers have been quality assessed to ensure they can deliver a professional service, can comply with ECC standards and brand guidance, and provide value for money services.
- 3.2 The Existing Framework was procured in 2021 with a 2+1+1-year term. One of the extension options has been utilised and the Existing Framework is due to expire in May 2024.
- 3.3 The existing Framework has been used extensively and has helped ECC officers to successfully deliver campaigns which have informed, inspired and changed behaviours. It has enabled strategic marketing campaigns to be delivered including the Year of Reading campaign, which has supported increasing reading levels amongst school age children; recruitment campaigns for social care and early years staff, and the recruitment of foster carers to meet an increase in demand. It has also enabled us to deliver the extensive graphic design work that is required by the Authority which exceeds the capacity of the Council's internal design team.
- 3.4 In the main, the Existing Framework has been working well, but following engagement sessions with both internal and external stakeholders, key areas for improvement on the replacement Framework have been identified as follows:
 - A revised lot structure with the addition of a Full Service lot
 - A more transparent and clear direct award process whereby users of the Framework will, if the criteria in the Framework is met:
 - a) ensure their requirements meets the criteria for direct award and;
 - b) then use the relevant supplier ranked list to award work without further competition.
 - A streamlined further competition process to encourage participation and reduce costs for both suppliers in bidding and ECC officers in evaluating submissions.
 - Improved framework and contract management provisions to maximise potential opportunities, such as social value benefits with the Framework Suppliers by:

- a) including revised KPIs to monitor and manage supplier performance;
- b) having better visibility of call-off contracts to monitor and manage spend through the Framework through improved Management Information provided by Suppliers and;
- c) an improved mechanism to obtain user feedback via an electronic client satisfaction survey.

- 3.5 Suppliers' rates submitted at the ITT stage will be fixed for the first two years of the Framework. Provisions will be included that will provide that ECC can consider, at its absolute discretion, a blanket price uplift across all Framework Suppliers when considering whether to utilise the contract extension provisions, based on Supplier feedback and intelligence of changes in the market, including inflation. Any price uplift will be based on the Consumer Price Index (CPI) and would be applied to Supplier's rates at the commencement of any extension period. This approach should help to mitigate the risk of suppliers pricing in too much risk from the outset at the cost of ECC.
- 3.6 Following receipt of 93 supplier expressions of interest in the new Framework in response to an early market engagement exercise carried out in October 2023, a restricted procedure is considered the most appropriate procurement route to manage resource time for ECC in evaluating bids and providing supplier feedback. This approach will also make the opportunity more attractive to bidders as only shortlisted bidders will be invited to tender (ITT), meaning bidders will have a higher probability of a successful outcome at ITT stage as there would be less competition than through an Open Procedure.
- 3.7 A minimum of 10 and maximum of 12 suppliers will be shortlisted from the SSQ stage to invitation to tender (ITT) on each lot.
- 3.8 The ITT will be evaluated based on 70% quality and 30% price. The emphasis on quality with a 70% weighting in the evaluation is deemed necessary given the nature of the requirements, i.e., delivery of marketing and communications to both internal and external stakeholders (including the residents of Essex), where poor quality could risk ECC's reputation. Furthermore, a higher weighting on quality is likely to provide better value for money as there would be less likelihood of rework (saving time, resources, and associated costs with this) and higher quality suppliers are more likely to achieve effective campaigns and outcomes. Additionally, for Media Services, there is little price differentiation in the market as the price of media tends to be standardised for those buying on behalf of local government, therefore there will be limited opportunity for competitive analysis between bidders with any higher price weighting at this stage.
- 3.9 Within the 70% quality weighting, 5% of this score will assess social value. Early market engagement indicated that suppliers are delivering a wide range of social value. The recommended weighting and approach to assess social value through this procurement has been adjusted to take into account that the majority of suppliers who have expressed an interest are Small and Medium Sized Enterprises (SMEs) and the nature of the call-offs i.e., a high volume of low value requirements to ensure that these are achievable and inclusive for all suppliers in the market.

- 3.10 Subject to receipt of compliant bids, all lots of the new Framework will be multi-supplier, with a maximum of 6 suppliers to be appointed onto each lot.
- 3.11 The new Framework will have an initial 2-year term with options to extend in any number of periods not exceeding an extension period of 2 years in total. This initial agreement length will enable ECC to reflect on the frequency of movements in the market as well as consider advances in communications and marketing approaches and techniques which may impact our requirements and supplier selection in future. The option to extend beyond 2 years will provide ECC with flexibility to carry on using the new Framework if it is still meeting ECC's requirements but will also enable ECC to consider any opportunities within the Procurement Act 2023, which is due to be implemented in October 2024, for any changes in future procurement approach.
- 3.12 The new Framework will enable call-off contracts for individual/batched requirements via both direct award and further competition for all lots except lot 6: Full Service, which will require further competitions for all call-off requirements.
- 3.13 The award criteria for further competitions will be set as: 60% quality: 40% price to ensure sufficient differentiation between bidders, providing clear positioning between scores which will mitigate the risk of any potential procurement challenges regarding scores. As suppliers' social value commitments are being assessed during the ITT to get onto the Framework, social value will not be evaluated in further competitions.
- 3.14 Direct awards will be permitted where there is a time pressure for the delivery of a requirement under the timescales specified and/or if the value of a requirement is under the threshold level for the respective lots as set out in the Direct Award Criteria table below in paragraph 3.16. The terms for this will be clearly set out in the Framework Agreement.
- 3.15 The published direct award process must be followed, utilising the ranked list in each respective lot.
- 3.16 The direct award thresholds in the Direct Award Criteria table below have been determined based on two key factors:
- 3.16.1 Firstly, on an analysis of spend, including the volume and value of call-offs within each lot of the Existing Framework. This analysis has proven that there have been hundreds of low value call-offs from the Existing Framework. This demand is anticipated to continue. It will not be commercially viable to require suppliers to participate in further competition for every requirement as in some case the cost of tendering would outweigh the project value/profit achievable. Further competitions for every requirement would also not provide value for money for ECC given the resources involved in running a further competition, evaluating, and providing supplier feedback. The value thresholds have been designed based on these considerations alongside ensuring a balance of work remains subject to further competitions. The Direct Award values thresholds are all in line with, or less than ECC's standalone provisions to direct award (currently

£10,000 in ECC's Procurement Policy and Procedures) so would all be classified as low risk.

3.16.2 Secondly, the urgency of a piece of work. Officers are required to be responsive and there are occasions where work is required to be turned around within extremely tight timescales. The delivery thresholds set out in the Direct Award Criteria table below have been determined by reflecting on the knowledge and experience of communications and marketing professionals in ascertaining time pressures and the length of time required to undertake a further competition, relevant briefing process and delivery times. The provisions to direct award requirements where the delivery deadline is under the timescales specified will enable ECC Officers to meet tight timescales which will protect ECC's reputation.

3.17 Direct Award Criteria:

Lot	Direct Award Criteria - Value Threshold	Direct Award Criteria - Delivery Timescale
1A: Design - Digital/Web Design: working to WCAG 2.2 level AA guidelines	<£10k	<3 weeks
1B: Design - Branding: Identity and Guidelines	<£3,500	<2 weeks
1C: Design – Publications	<£2,500	<3 weeks
1D: Design - Generic materials	<£1,000	<1 week
1E: Design - Campaign: concept and application	<£4,000	<2 weeks
2: PR Services	<£2,000	<2 weeks
3: Photography	<£1,000	<2 weeks
4: Videography	<£5,000	<3 weeks
5: Media Services	<£10,000	<3 weeks or when there is a risk of availability of advertising at key seasonal points of the year -advertising spend seasonality (January, April, May, November)

6: Full Services	n/a	n/a
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- 3.14 The estimated new Framework value for the initial 2-year term is circa. £3m. This is based on the highest spend year through the Existing Framework and includes non-framework spend for communications and marketing services. Should all extension opportunities be utilised, the maximum 4-year Framework value is £6.2m. This includes up to a 3% CPI uplift in years 3 and 4 as outlined in paragraph 3.4. A separate decision will be taken to agree any extension to the term of the Framework and to uplift prices.

4 Links to our Strategic Ambitions

- 4.1 The Framework will support delivery of all four strategic aims within the Organisational Strategy 'Everyone's Essex' as it will provide ECC officers with the ability to effectively deliver work aligned to their relevant key aim:
- A strong, inclusive, and sustainable economy
 - A high-quality environment
 - Health wellbeing and independence for all ages
 - A good place for children and families to grow
- 4.2 The recommendations in this report do not have any direct environmental or climate change implications, however through the procurement process and subsequent contract management for those suppliers that are successfully appointed to the Framework, suppliers will be encouraged to work towards having a compliant carbon reduction plan (CRP) published on their website within 12 months of ECC's aggregated spend with them through the Framework reaching £100,000. Our intention is that this element of the procurement will not be a mandatory requirement or scored, the purpose of inclusion is to encourage suppliers to help reduce GHG emissions and prepare for future procurements when CRPs may become weighted and/or mandatory requirements.

5 Options

5.1 Option 1: Procure Individual Requirements (Not recommended)

Should we allow the current framework to end and not provide a replacement solution, this would have the following impact:

Pros

- Enable flexibility for new suppliers to be utilised as and when they enter the marketplace.

Cons

- Risk of non-compliance with disaggregated spend.
- Resource intensive for ECC officers to repeatedly run procurement processes to commission services.

- Suppliers would not be subject to any pre-qualification for suitability which may risk quality standards and increase reputational risk for ECC.
- Would not enable ECC to develop relationships with a consistent pool of suppliers, manage supplier performance or reap potential opportunities, such as social value benefits.

5.2 Option 2: Call-off all ECC's requirements from a third-party/neutral vendor managed Framework Agreement/DPS (Not recommended)

Utilisation of an already established third-party Framework Agreement built for national provision of services would have the following impact:

Pros

- Save ECC time and resource in procuring and managing a bespoke ECC Framework.
- Would likely provide a larger market scope/supplier base than ECC may achieve in a bespoke ECC Framework due to greater reach.

For a neutral vendor managed existing agreement:

- It would be possible to onboard local SMEs and incumbent suppliers

Cons

- Would not be bespoke to ECC's requirements
- Would not be inclusive to local Essex based SMEs (therefore not supporting ECC's objectives)
- Risk that larger suppliers wouldn't have any appetite to deliver ECC's lower value requirements.
- Pre-established supplier list not inclusive to all incumbent suppliers who ECC have developed good relationships with and who understand ECC's brand.
- ECC would have a lack of control over Framework and Contract Management, minimising the ability to develop strong relationships with suppliers, manage performance and reap potential opportunities, such as social value benefits.
- Mark-up of costs particularly for neutral vendor managed agreements – unlikely to provide ECC with the best value for money.

For a neutral vendor managed existing agreement:

- ECC would have a lack of control over the onboarding process with regards to compliance with the Public Contract Regulations 2015 as third-party vendors are not subject to the same rules as a public sector organisation.

5.3 Option 3: Set up a Dynamic Purchasing System (DPS) (Not recommended)

This would be a completely electronic 2 stage process for awarding individual projects carried out through an online system. Suppliers are required to meet the minimum requirements to the Standard Selection Questionnaire (SSQ) to be admitted onto the DPS and invited to further competition. This approach would have the following impact:

Pros

- Ability to add new suppliers at any time during its existence

- Relative speed of which it can be set up.

Cons

- Would not enable direct awards
- Would require assigned resource to manage new supplier onboarding throughout the process and conduct further competitions for all ECC's requirements which is not available to the Communications and Marketing team.

5.4 Option 4: Procure a replacement multi lot, multi supplier Communications and Marketing Framework (2) (Recommended)

A replacement bespoke ECC Framework would have the following impact:

Pros:

- Enables the foundations of the existing Framework model to be built on utilising feedback from users, incumbent suppliers and from the wider market.
- Can be tailored to ECC's requirements.
- Fully inclusive to existing suppliers, as well as other suppliers in the market (including local SMEs).
- Having multiple suppliers appointed to each lot of the Framework will provide competition between pre-qualified suppliers who have the capability to meet ECC's quality standards and brand guidelines, provides contingency should any of the suppliers cease trading during the Framework term and minimises the risk of Framework suppliers not having capacity to deliver ECC's requirements.
- Once established, the Framework will be much more efficient for users to call-off than other options.
- Will enable relationships to be developed with a consistent pool of suppliers.
- Will enable framework performance management to maintain required standards. and maximise potential opportunities, such as social value benefits with the Framework Suppliers.

Cons

- The time and resource involved in the procurement and subsequent management of this approach will be more involved than other options however this is offset by the Pros.

6 Issues for consideration

6.1 Financial implications

- 6.1.1 Expenditure against the current marketing and communications framework has varied year on year, and is incurred across the Council, a breakdown by each Function is shown in the following table:

	2021/22	2022/23	2023/24 ¹
Function	£000	£000	£000
Adult Social Care	3	35	40
Chief Executives Office	215	244	52
Children and Families	67	191	65
Climate, Environment and Customer Services ²	266	267	75
Economy, Investment and Public Health		458	167
Corporate Services	4	3	-
Education	0	156	17
People and Transformation	35	29	14
Total	590	1,383	430

¹ spend in 2023/24 is for the first 5 months of the financial year

² It is not possible to split the spend between the two Functions in 2021/22 as those services were together in that financial year

6.1.2 In addition to spend with suppliers on the framework there has also been expenditure with suppliers outside of it, as use of the framework is not mandated – spend over the past 3 years with suppliers not on the framework has been as follows:

	2021/22	2022/23	2023/24
	£000	£000	£000
Adult Social Care	16	-	-
Chief Executives Office	30	6	6
Children and Families	53	68	54
Climate, Environment and Customer Services	94	5	19
Economy, Investment and Public Health		55	65
Corporate Services	71	-	-
Education	7	-	-
People and Transformation	-	2	-
Total	271	136	144

Overall total spend with suppliers on communications and marketing activity	861	1,519	574
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6.1.3 Before approaching any supplier, budget holder approval must be gained to ensure that there is sufficient budget to cover any costs –this will continue with the new framework.

6.1.4 It is not anticipated that the new framework will result in any additional pressures to ECC's finances as services will continue to be expected to contain costs within their current budgets and have successfully done so to date.

6.2 Legal implications

- 6.2.1 ECC is a contracting authority for the purposes of the Public Contract Regulations 2015 (the “PCR 2015”). The total expected spend under the new Framework is above the financial threshold for services. The procurement of the new Framework must be undertaken in accordance with the PCR 2015.
- 6.2.2 A framework, typically, must not last for more than 4 years. Call-off contracts must be awarded in accordance with the process and terms set out in the framework.
- 6.2.3 A direct award, without re-opening competition, can be made if the Framework sets out all the terms governing the provision of the services and all the objective conditions that are required to make a decision for award of the specific contract. The selection of the provider must be based on objective criteria laid out in the procurement documentation.
- 6.2.4 The Public Services (Social Value) Act 2012 replaces a requirement on contracting authorities to consider, when procuring services, how the economic, environmental and social wellbeing of the local area may be improved and how this can be delivered through the procurement.
- 6.2.5 Contracts should be awarded on the basis of the most economically advantageous tender and qualitative, environmental and/or social aspects should be linked to the subject matter of the contract.

7 Equality and Diversity Considerations

- 7.1 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.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, 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).
- 7.3 The Equalities Comprehensive Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8 List of Appendices

Equalities Comprehensive Impact Assessment

9 List of Background papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Kevin Bentley, Leader	11.03.24

In consultation with:

Role	Date
Tom Walker, Executive Director for Economy, Investment and Public Health	5.03.24
Executive Director, Corporate Services (S151 Officer)	12.01.24
Stephanie Mitchener on behalf of Nicole Wood Director, Legal and Assurance (Monitoring Officer)	5.3.24
Katie Bray on behalf of Paul Turner	