

Forward Plan reference number: FP/633/02/20

<b>Report title: Procurement approach for Professional Services</b>	
<b>Report to:</b> Councillor Whitbread – Cabinet Member for Finance	
<b>Report author:</b> Paul Crick, Director for Performance Investment and Delivery	
<b>Date:</b> 14 <sup>th</sup> October 2020	<b>For:</b> Decision
<b>Enquiries to:</b> Ben Finlayson, Head of Infrastructure Delivery (ben.finlayson@essex.gov.uk)	
<b>County Divisions affected:</b> All Essex	

## 1. Purpose of Report

- 1.1. To seek approval to procure and enter into a four-year call-off contract using the Scape Built Environment Consultancy Services (BECS) Framework Agreement with Perfect Circle JV Ltd which will replace the existing ECC Professional Services Framework Agreement which expired at the end of August 2020.
- 1.2. This will enable the continuation of services such as Project Management and Quantity Surveyors to support with the delivery of education and other capital construction projects.

## 2. Recommendation

- 2.1. Agree to procure and award a contract to Perfect Circle JV Ltd via the Scape Built Environment Consultancy Framework Agreement for the delivery of Professional Services to ECC for four years.

## 3. Summary of Issue

- 3.1. Essex County Council's current construction Professional Services are provided by Pick Everard (PE). PE were appointed in September 2016 to supply Project Management, Cost Management, Construction Design & Management (CDM) and Framework Management services for Essex Construction Framework (ECF) projects. This existing arrangement expired at the end of August 2020 and cannot be extended. It is therefore essential that a replacement service is put in place as soon as possible as the previous arrangement can no longer be used.
- 3.2. ECC has carried out a review of the future requirement for the services set out in paragraph 3.1 that will be required. The review confirmed that there remains a requirement for services in relation to Project Management, Cost Management (quantity surveying), NEC Supervisor, Architectural, Town Planning Services, Building Services Engineering and Structural Engineering

Services. ECC delivers a large number of construction projects connected with its functions including building new schools and expanding or refurbishing existing schools as well as other buildings. Framework Management services are no longer required as ECC have brought the framework management role for the ECF in-house and resourced within the Infrastructure Delivery team.

- 3.3. The delivery of ECC construction projects will continue over the next four years and ECC has recently awarded a new Essex Construction Framework (ECF2) which will continue to deliver School construction projects in Essex. ECF2 does not include Professional Services, so there is a requirement to obtain these services to support the projects delivered under ECF2 as Professional Services are key to the delivery of the future construction projects. For services that PE have been commissioned to provide and have not completed by 31 August 2020, PE will continue to provide Professional Services to support these live projects until their completion (up to two years from now).
- 3.4. Additional capacity of 20,000 new school places is predicted over the next ten years. The current capital budget (2020/21) and aspirational capital budgets reflect the need that is evident in the 10-year plan (over the period 2020/21 to 2023/24) and construction works to support this capacity are likely to be procured using ECF2, which will require Professional Services. Projected capital spend for the construction works is in the region of £105m (over the contract period), with related Professional Services such as Project Management (PM) & Quantity Surveyors (QS) being required from an external professional services provider.
- 3.5. The majority of the Professional Services requirements in relation to individual projects are linked to Project Management and Cost Management. These will be the areas of focus going forward for the approach to Professional Services. More specialist services such as the provision of Architecture, Building Services, Engineering, Project Sponsor and Town Planning Consultancy can also be required and can be provided by Perfect Circle JV Ltd under the terms of the proposed contract.
- 3.6. The ECC Infrastructure Delivery Team have built up in-house capacity over the last few years to deliver Project Management and Quantity Surveying services utilising ECC staff which achieves savings on Professional Services however with the pipeline of future work likely to be required under ECF2, there remains as before the need for continued support from external specialist technical services albeit to a lesser degree.
- 3.7. It is proposed that the recommended procurement route as detailed in the Options sections, is to use the Built Environment Consultancy Services Framework Agreement provided by Scape. This is an external Framework Agreement which can be used by Public Sector organisations and will enable the provision of Professional Services to support with identified projects over the next 4 years. The Framework Agreement is a single supplier framework with Perfect Circle JV Ltd (a joint venture of 3 companies, Pick Everard, Aecom and Gleeds) as the framework provider.

- 3.8. The proposed approach does not require ECC to conduct further competition due to it being a single-supplier framework that was set up in accordance with the Public Contracts Regulations 2015, which reduces the amount of time and resource required to implement the approach. The Scape BECS framework agreement is based upon set percentage rates that will be used for all projects that go through this approach therefore there is clarity around the costs and the services that will be received from the outset which means we can take assurance on the credibility and they also have a corporate history with ECC which will help with onboarding.
- 3.9. It has also been demonstrated that this approach delivers value for money in comparison to our existing contract arrangement as well as other available Framework Agreements by using a range of example project values to understand the potential cost implications of the different approaches available. This analysis evidenced that not only are the proposed arrangements no more expensive but also that they indicate a marginal reduction in cost.
- 3.10. Overall, in comparison with the previous framework agreement, the Scape Framework Agreement demonstrates value for money. There are a number of project values in which the Scape route is more cost effective, whilst other project values are marginally more expensive. Along with information on capacity and capability, the ID team will utilise this cost information to determine which projects are delivered using the in-house team and which utilise the Scape framework for professional services support. The focus is on utilising in-house resource where this maximises value for money compared to using external resource.
- 3.11. The benefit of calling-off the single supplier framework and entering into a contract with Perfect Circle JV Ltd is that the services provided by the Framework Agreement have been in place for some time, since October 2016, and Perfect Circle JV Ltd is an established joint venture, with the 3 companies that make up Perfect Circle JV Ltd having worked with other councils, including ECC, to deliver Professional Services.
- 3.12. The Terms & Conditions that will be utilised under the Scape Framework Agreement are based upon NEC standard contract. It is proposed that ECC will choose the option under the contract that enables a lump sum price to be provided for all proposed projects on a task schedule basis, with task orders to be completed for each individual project.

## **4. Options**

The following 5 options were identified and considered as part of determining the approach to take for Professional Services going forward. All options listed below would also enable ECC to retain the existing working arrangements with Pick Everard for transitional services until the projects under ECF1 have been fully completed.

### **4.1. Option 1 – Do nothing (not recommended)**

This option would mean that upon expiry of the existing PSFA, ECC would not have its own contracting approach in place to deliver the required Professional Services elements. The only Professional Services support that could continue to be provided by the existing supplier relates to projects that are currently in progress under ECF1.

ECC would need to either undertake an open market tender for every individual Professional Services requirement as it arises or call off from a framework agreement provided by another organisation. This will add significant cost and time to each project whilst the procurement is carried out as well as increasing risk in delivery. It could also mean that there are a number of different suppliers appointed to provide the same service which again could lead to resource issues in terms of contract management as well as a lack of continuity, consistency of service and knowledge build-up compared to the current approach.

The estimated cost for internal staff time to complete an individual procurement exercise for professional services is in the region of £6,000 - £7,500 per project. The time required to deliver each individual procurement would be dependent upon the value of the requirement and the procurement process that needs to be followed, most notably whether an OJEU process is required. With this option, ECC could pick up the additional work in-house and provide the Professional Services expertise within the existing Infrastructure Delivery team. This is explored in more detail as a distinct option below (Option 5).

#### **4.2. Option 2 - Carry out a full EU compliant procurement process and create a new Framework Agreement/Single Supplier contract (not recommended)**

Due to the value of the proposed requirement over the next few years and the additional areas that are being included, the total value would be above the EU Services threshold, requiring a full OJEU procurement process to be carried out for Professional Services.

The primary considerations identified with this approach include.

- The cost and time of running a full OJEU procurement exercise – This process would take a significant amount of time (6-9 months) and resource to complete to enable an ECC owned Framework Agreement to be put in place for Professional Services.
- Scope of the new contract – With the removal of the Framework Management element from the existing agreement, ECC's offer to the market is significantly reduced and less attractive as this element is now being provided in-house. There is also the intention for other elements of the service to be provided in-house and therefore the scope has reduced significantly compared to the 2016 procurement exercise.

- Continuity of supply – With a new framework agreement being implemented, it would mean continuity of supply over the next four years with the appointed supplier, however there would be a loss of knowledge and understanding that has been developed by the existing supplier of ECC projects.
- The internal staffing cost for carrying out a procurement exercise of this nature is £30,000-£50,000.

#### **4.3. Option 3 – Utilise the BECS Framework Agreement provided by Scape (recommended option)**

This option utilises an existing Framework Agreement that is available to Public Sector organisations and is provided by Scape. Scape Group is a public sector organisation that is owned by six Local Authorities (Derby City Council, Derbyshire County Council, Nottingham City Council, Nottinghamshire County Council, Gateshead Council and Warwickshire County Council). They offer a suite of fully managed framework agreements, property services, design solutions, community investment opportunities and joint ventures that are available for any public body in the UK.

As set out in this report, this option would involve directly awarding the contract to Perfect Circle JV Ltd under the BECS framework agreement specifically in relation to the provision of Project Management and Quantity Surveying services but also with the ability of call-off other specialist services. The services available through this Framework Agreement include; Project Management, Quantity Surveying, Building Surveying, Commercial Surveying, Architecture and Design Services, Civil and Structural Engineering, Electrical and Mechanical Engineering, Health & Safety, Highways Consultancy and Engineering Services and Strategic Asset Management.

The use of an existing Framework Agreement and the Scape approach is the recommended option for a number of reasons as detailed below.

- Analysis was initially carried out in relation to a number of available Framework Agreements that could be used by ECC for this requirement. The focus of this analysis was to identify which Framework Agreement offered best value for money to ECC and included a comparison against the existing rates that are part of the current Professional Services Framework Agreement.
- The use of an external existing framework agreement reduces the amount of time and resource that is needed to enable a new contract to be put in place.
- The BECS agreement is a single-supplier approach with Perfect Circle JV Ltd (joint venture) which will provide all required Professional Services areas and is a known approach to ECC as it has been used on previous projects.

- One of the partners in the joint venture, Pick Everard, has a thorough understanding of how ECC projects work given the services they are providing under the existing Framework Agreement that expired on 31 August 2020. Using the Scape BECS framework would therefore result in a reduced mobilisation period.

#### **4.4. Option 4 – Utilise other existing Framework Agreements that are available (not recommended)**

Alongside the BECS Framework Agreement provided by Scape, there are also other existing Framework Agreements that are available for Local Authorities to use in relation to providing Professional Services support.

Each of the existing Framework Agreements that are available to ECC have different approaches to providing the services and how they can be used with the majority requiring mini competitions to be carried out. This would increase the amount of time and resource needed in terms of procurement process to be able to do this.

As referenced in the option above, analysis was carried out initially in relation to a number of available Framework Agreement that could be used by ECC for this requirement. This was to identify which Framework Agreement offered best value for money to ECC. As it was identified that the Scape Framework Agreement provided best value for money, this option of utilising other Framework Agreements was not progressed further.

#### **4.5. Option 5 – Provide the Professional Services requirements in-house within Infrastructure Delivery (not recommended)**

A further option that was considered and referenced in option 1 above, was the potential to deliver all Professional Services Consultancy requirements in-house, utilising the Infrastructure Delivery team.

There has been a progressive move over the last 2 years to upskill and resource the internal team to undertake more PM and QS work on projects. Since the implementation of ECF2, this moved on further as the restrictions on the use of existing consultancy arrangements were lifted, with more and more projects being delivered this way, achieving savings compared to the use of external consultants.

However, as detailed above, the internal team is not equipped to meet the resource requirements of the full programme and a balance must be struck between internal and external resources. To deliver completely in-house would require additional resource to be recruited in a challenging marketplace where it would be difficult to attract all of the right people with the correct skills to be able to meet demand. With this option there is also the issue of managing peaks and troughs in workload and the potential for internal staff to have reduced workloads when there are less projects. The approach of having an external consultant is preferable in this situation, as it would be financially

advantageous for ECC to use external resources that can manage staff capacity fully across a number of clients. There is also then the option in case of emergency projects for reach-back, where a consultant can bring in additional resource at short notice from its wider pool, something that ECC wouldn't be able to achieve using internal capacity alone.

For these reasons this option has not been considered any further. It is considered that the steps already taken to bring the majority of work in house are appropriate and deliver best value. This needs to be supplemented by external resources to address capability and capacity issues when necessary.

#### **4.6. Recommended Option**

It is recommended that Option 3 (see above) is progressed for the delivery of Professional Services support by utilising the BECS Framework Agreement provided by Scape. This approach would enable continuation of supply whilst retaining the knowledge of how ECC projects work as well as removing the additional resource that would have been needed to manage two or more suppliers.

### **5. Issues for consideration**

#### **5.1. Financial implications**

5.1.1. Financial values to go through this contract are estimated based on the latest pipeline capital programme for the period of the proposed contract, i.e. 4 years. This is primarily PM and QS services to support the Education capital programme although there is scope to utilise the framework on non-Education projects such as major highways projects and for other professional services to be called off.

5.1.2. In terms of estimated values, then the value of work relating to Education capital schemes, the key area of focus, to go through this new Professional Services contract is estimated at £1.25m for the four-year period. This cost will be charged through as a capital cost to each relevant project. The cost has been allowed for within the latest Capital Programme and so there are no budgetary implications of this decision. In addition to the core area of focus it is estimated, based on previous working arrangements, that ECC could procure an additional £3m (£2m Highways and £1m in ad-hoc consultancy services) through this contract and these estimates are further analysed below in section 5.1.3. In the event of such additional services being procured through this arrangement, then again there would be no additional budget requirement, since this is a cost that is already allowed for in any project's budget setting. There is also potential for the Economic Growth team within ECC to call upon this agreement where the requirements identified align with the services offered by the Framework and sufficient value remains within this approach.

5.1.3. The reference to ad-hoc consultancy spend above (5.1.2) relates to potential secondary services that may be required as well as where ECC

may have capacity/succession issues or potential Highways projects have been identified. A breakdown of this spend has been included below in addition to the core Education work:

- 5.1.3.1. Core work - PM/QS support to the Education Programme over 4 years (i.e. the period of the contract): £1.25m
  - 5.1.3.2. Additional specialist services to support the education programme over 4 years: £1m
  - 5.1.3.3. Potential Highways projects (PM/QS/Additional services) over 4 years: up to £2m
- 5.1.4. Each year the pipeline of projects (typically project values range between £370,000-£8.8m) will be reviewed and a list will be identified where support from the Professional Services provider will be required, as well as determining the projects that ECC will manage in-house. This will be reviewed and agreed with the Professional Services provider to enable them to ensure that they have sufficient resource and support available to meet ECC's requirements.
- 5.1.5. Estimated contractual values are set out above in section 5.1.3.
- 5.1.6. There are no direct budget implications of this decision since an allowance has been made within the capital programme for the costs arising under this contract. Any savings are anticipated to be marginal.
- 5.1.7. The Council sets and formally approves its Capital Programme for one year ahead and then a further pipeline aspirational Programme for additional years (generally 2 years) beyond that. The Programme is reviewed at least annually and each first year formally approved each February. In June 2020 the full pipeline programme was reviewed in the light of the global situation. The estimated values to go through this Professional Services framework reflect the latest view of the Capital Programme.
- 5.1.8. Costs arising under this contract will be managed both a) on a project by project basis by the assigned Project Sponsor b) at the contract level within Infrastructure Delivery by the Framework, Cost and Quality Manager / relevant Programme Team Manager (Education / Highways).
- 5.1.9. Value for money has been evidenced for the preferred option both a) by comparison against previous arrangements i.e. within the current expiring contract b) by comparison against other available frameworks available at the current time.
- 5.1.10. Performance under the new arrangements will be monitored and ensured by way of active management of each project using the scope of service (quality and time allowance) as defined in the Scape Framework Agreement. As part of the Framework Agreement, Scape will also carry out performance management of the contractor which will work alongside

the regular update meetings that ECC carry out in terms of project performance.

5.1.11. The savings in time and resource of drawing down from an existing framework as opposed to procuring a new arrangement or individual project procurement exercises to replace the existing framework agreement are proven and significant as set out in the options noting that no savings arise as this is the current delivery method in place. A full OJEU procurement process which would be required for this level of spend can take between 6-9 months to complete, whereas a call-off from an existing framework agreement can take a much shorter process given that a lot of the process has already been completed. This is reduced further in this case as the Scape Framework Agreement is a single-supplier approach, therefore requiring no further evaluation of contractor submissions.

5.1.12. There are projected savings of having a single supplier (reducing hand-offs/relationship management), however it must be noted that this is the approach that ECC currently utilise and therefore there is no cashable saving. Savings of ECC management time are estimated in the region of £15,000 to £30,000 over the 4-year period. This saving is calculated from reduced ECC management time overseeing and managing one professional services supplier over multiple suppliers.

5.1.13. In relation to any potential risk surrounding contractor failure and in the current circumstances regarding Covid-19, regular monitoring of supplier's credit scores can be carried out and be monitored to identify if there are any issues arising. As this is based upon an overarching Framework Agreement managed by Scape, they will also be monitoring the supplier. It is worth noting that as Perfect Circle is a consortium of three suppliers that if there is an issue with one of them that there is the potential that the work could be moved to one of the other suppliers on the same rates.

## **5.2. Legal implications**

5.2.1. The estimated value of the professional services set out in this report is above the OJEU financial threshold so these services must be procured under a compliant procurement process. ECC is seeking to call-off the Scape Built Environment Consultancy Services Framework Agreement, which is an OJEU compliant framework agreement that is available for ECC to directly award a call-off contract for the provisions of professional services.

5.2.2. Any call off will be directly awarded in accordance with the provisions set out in the framework. Provision of the services will be subject to the terms and conditions set out in the Framework Agreement and ECC will be required to enter into a call-off contract with Perfect Circle JV Ltd on the same terms as set out in the Framework.

## 6. Equality and Diversity implications

6.1 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.

6.2 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).

6.3 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.

## 7. List of appendices

Appendix A – EqIA

## 8. List of Background papers

None

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b>
<b>Councillor Chris Whitbread Cabinet Member for Finance</b>	05/11/20

### In consultation with:

<b>Executive Director for Finance and Technology (S151 Officer)</b> Nicole Wood	28/10/2020
<b>Director, Legal and Assurance (Monitoring Officer)</b> Susan Moussa on behalf of <b>Paul Turner</b>	16/10/2020