

WEST OF ENGLAND COMBINED AUTHORITY COMMITTEE

14 JUNE 2019

REPORT SUMMARY SHEET

PROFESSIONAL SERVICES FRAMEWORK PROCUREMENT PROCESS

Purpose

This report details the approach that the Combined Authority and its partners will take to procuring a Professional Services Framework to secure support to assist the delivery of the WECA capital investment programme and other authority specific projects.

Summary

This report includes the following key information.

- A summary of the procurement strategy.
- Details of the approach to key elements including evaluation, risk, social value and key contract terms.

Recommendations

Members of the Combined Authority Committee are asked to approve:

1. That approval be given to WECA to publish tender documents which will formally commence the procurement process to establish a WECA led Professional Services Framework.
2. That approval be given for the approach to this procurement which is compliant to the Public Contracting Regulations 2015. This procurement is being conducted on Most Economically Advantageous Terms – the combination of highest combined quality and cost scores. Once the procurement process is complete, the Committee will be asked to approve the outcome at which stage the decision will be to award or not to award.

Contact officer: John Calwell

Position: Senior Procurement Officer

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REPORT TO: WECA COMMITTEE

DATE: 14 June 2019

REPORT TITLE: APPROVAL TO FORMALLY COMMENCE THE PROFESSIONAL SERVICES FRAMEWORK PROCUREMENT PROCESS

DIRECTOR: DAVID CARTER – DIRECTOR OF INFRASTRUCTURE

AUTHOR: JOHN CALWELL – SENIOR PROCUREMENT OFFICER

Purpose of Report

- 1 To detail key elements of the Professional Services Framework (PSF) procurement strategy.
- 2 To seek approval for the approach to this procurement which is compliant to the Public Contracting Regulations 2015. This procurement is being conducted on Most Economically Advantageous Terms – the combination of highest combined quality and cost scores. Once the procurement process is complete, Committee will be asked to approve the outcome at which stage the decision will be to award or not to award.
- 3 To seek approval to formally engage with the market and commence the tender process.

Background / Issues for Consideration

- 4 This report concerns the successor agreement to the Bristol City Council single provider Professional Services Framework. We have a pipeline of projects being developed that have a theoretical value of approaching £2bn. We therefore need to efficiently secure technical support to deliver our capital programme.
- 5 On the 1 February, WECA committee agreed in principle to the establishment of a Professional Services Framework led by WECA with the Unitary Authorities (including North Somerset Council) as named members.
- 6 All parties have agreed the following strategic aims:
 - Fast access to services & skilled support
 - Proportionate competition element
 - Open and transparent Commercial Model

- Achieve economies of scale
- VFM
- Effective Contract Management
- Collaborative working
- Social Value Outcomes
- Quality outcomes to time and budget

Professional Services Framework – Key Elements

7 Term

The framework will run for 4 years, the maximum allowed by the Public Contracts Regulations 2015.

An individual new Project can be issued using this framework up to the last 3 months of the duration of the framework agreement.

This individual Project will be allowed to run on beyond the end of this framework for a maximum period of up to 12 months.

8 Value

The framework will be advertised with a value of between £24m and £32m over the 4-year term. This figure is based on a combination of historical data and projected future expenditure.

It should be noted that a framework does not commit any authority to expenditure at this stage. Individual authority spending decisions will continue to follow established internal approval processes.

9 Scope

The framework will cover 34 specialisms (Appendix A), which will be grouped together under a single lot.

10 Access

The framework will be predominantly for use by WECA, the constituent authorities and North Somerset Council. It is possible that access may be granted to other South West authorities at a later date, and the contract notice will allow for this possibility. Any future access permissions will not affect the current procurement timetable.

11 Structure

The framework will be limited to three suppliers, all of whom will be required to provide all the specialisms either individually or as part of a specialism

The three-supplier model has been chosen for the following reasons:

- Builds strategic relationships with a core number of suppliers
- Ensures that the proposition is financially attractive to suppliers.
- Provides a strong competitive element.
- Limited suppliers will enable high quality contract management.

- Concentrating spend with limited supplier allows for greater Social Value impact.
- Simplifies the packaging of work.
- Resilience and continuity of supply in times of high demand

Supplier engagement has confirmed that there is a market to support this model and it is expected that certain bidders may form partnerships or consortia to provide the full scope.

12 Award Mechanism

Authorities will be able to award work packages in two ways.

- Direct Award

In recognition that quick access to services can be a priority, an individual authority will be able to award a work package with a value less than £50k directly to one of the three suppliers (subject to internal CSO approval).

Based on historical data, it is estimated that c25% of work packages, in value, could be eligible for direct award.

- Further Competition

If the work package is over £50k it will be subject to a further competition, with all three suppliers approached to provide a price and a proposal in a similar way to a standard tender process.

13 Evaluation process

Prospective suppliers will be evaluated using the following evaluation model.

- 40% Price – A composite pricing model that will assess supplier day rate prices against all specialisms and consultant levels of experience, acknowledging that the spread of expertise required to deliver a work package is not fixed.
- 40% Quality – A combination of quality questions, and example scenarios.

The quality questions will focus on capacity and capability and will be linked to the projects stated strategic aims.

scenarios have been developed by the infrastructure teams within the participating authorities and will evaluate the prospective suppliers technical abilities.

Quality will be evaluated by representatives from all participating councils.

- 20% Social Value – In line with National best practice, Social value will be linked to the National Themes Outcomes and Measures Framework (TOMs).

Initially, prospective suppliers will be required to answer social value questions, requesting details of approach and previous experience.

If selected to join the framework, social value will be applied by each authority at the further competition stage based on own policies

To demonstrate a real commitment to the SME market, successful suppliers will be required to ensure that at least 25% of the services, in terms of value of work package, are carried out by SMEs having relevant resources and experience. This will only apply to work packages with a value over £100k.

14 Legal

This framework will utilise the NEC4 Framework Agreement (high-level) and the NEC4 Professional Services Contract (work package level).

To mitigate over burdensome contract management WECA will develop contract templates for Authorities who will be free to amend many of the terms at work package level, to reflect the nature, value and complexity of the work package.

There are, however, two key terms that are universal.

- Price Indexation: An annual price adjustment will be catered for and will be limited to Consumer Price Index (CPI). This adjustment will not be routinely applied and will be subject to negotiation.

It should be noted that this clause will only apply to the maximum applicable rates used for direct awarding and will make up c20% of the value passing through this framework, the majority of spend being subject to further competition.

- Liability Levels: Liability levels will be capped, as unlimited liability will make this opportunity unattractive to the market. The exact limit is yet to be agreed prior and is out for consultation with the participating authorities' legal teams.

15 Contract Management & KPIs

Effective Contract management will be essential to unlock the value of this framework.

WECA as the contracting authority will provide the Client Contract management function. Costs will be split between the UA's as agreed.

Furthermore, selective SMART Key Performance Indicators will be used to manage supplier performance.

Suppliers will be managed using the following measures.

- Quality
- Time, Budget
- Social Value
- Effectiveness of project Communications
- Health & Safety and Equality & Diversity

These KPIs will be evaluated and assessed monthly by both the Client Contract manager and the Supplier Contract Manager.

A Framework performance dashboard will be established for WECA SMT, UA Management Teams & WECA Committee as appropriate

16 Timetable

Activities	Start Date
WECA Committee Sign Off	14/06/2019
Issue OJEU notice & tender documentation	17/06/2019
Deadline for submissions for Invitation to Tender	12/08/2019
Evaluation process begins.	13/08/2019
Intention to award decision made.	11/11/2019
Formal framework award	22/11/2019
Framework delivery commences.	01/01/2020

Consultation

17 The project team consists of representatives from all the authorities who have, in turn, consulted with the relevant Infrastructure teams.

17.1 Section 151 Officers have been provided with a summary report and will continue to be updated as the project progresses.

17.2 Heads of Infrastructure have been consulted and are aware of WECA's intentions.

17.3 In February, WECA hosted a Supplier Engagement Event in order to consult with the market for views on potential framework structures, forms of contract and social value.

Other Options Considered

18 A route to market options appraisal is attached (Appendix B)

Risk Management/Assessment

19 Risk summary is detailed below.

Risk	Management/Mitigation
Incorrect Scope	The specialisms listed in the scope document have been considered by the infrastructure teams and have been deemed to be correct.
Risk	Management/Mitigation
Failure to meet key deadlines	<p>Timetable slippage is a risk in all projects. This risk will be mitigated in the following ways:</p> <ul style="list-style-type: none"> • Regular project team meetings. • Project issues and action tracker reviewed regularly. • Evaluation team and process established early in the project. • Established decision making process to ensure prompt decisions are made.
Risk of challenge	<p>The risk of challenge from an unsuccessful supplier is inherent in all procurement processes. This risk will be mitigated in the following ways:</p> <ul style="list-style-type: none"> • Ensuring compliance with the Public Sector Contract Regulations 2015. • A robust and published evaluation method. • Evaluation duties shared between all authorities to reduce unconscious bias. • An eight-week tender timeframe will give bidders enough time to seek clarifications and form consortia. • Providing absolute transparency to the bidders in terms of decision making and evaluation criteria.
Conflict over Terms & conditions	NEC4 are an industry standard set of construction terms and conditions designed to balance the interests of both the client and the contractor.
Insufficient number of responses	A market engagement event has confirmed that there is a healthy market to provide the required services, and that this market is motivated to respond.

Public Sector Equality Duties

20 The public sector equality duty created under the Equality Act 2010 means that public authorities must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimization and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The general equality duty therefore requires organisations to consider how they could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected in the design of policies and the delivery of services, including policies, and for these issues to be kept under review.

As standard with a procurement of the value associated with the Professional Services Framework a full equalities impact assessment evaluation will be conducted.

Finance Implications, including economic impact assessment where appropriate:

21 It is agreed, in principle, that costs associated with administering and managing the framework will be established and reviewed, and an inter-authority agreement put in place to ensure that WECA costs are covered.

Advice given by: Malcolm Coe

Legal Implications:

22 This procurement will be conducted in-line with the Public-Sector Procurement Regulations 2015, best practice and other relevant legislation.

- a. The procurement will result in a framework agreement that will not commit WECA, or the UAs, to a minimum spend value. Call offs, and therefore contracts, will be made directly between the UAs and the suppliers.
- b. The NEC4 standard form of contract will be used, these are industry standard and minimise risk of contractual issues.

Advice given by: Shahzia Daya

Land/property implications

N/A

Human Resources Implications:

- 23 The process for awarding work packages within the framework will remain the responsibility of the individual authority, and the resource for this will continue to be provided within the individual authority.
- a. The requirement for a dedicated contract management function within WECA is recognised, however scope and costs are yet to be established.
 - b. Due consideration will need to be given to IR35 implications of the supplier associates/supply chain by the appointing authority.

Advice given by Alex Holly.

Recommendations

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Appendix A –Infrastructure Professional Services Framework Scope

Appendix B – Infrastructure professional services framework procurement options appraisal.

West of England Combined Authority Contact:

Any person seeking background information relating to this item should seek the assistance of the contact officer for the meeting who is Ian Hird / Tim Milgate on 0117 332 1486; or by writing to West of England Combined Authority, 3 Rivergate, Temple Way, Bristol BS1 6ER; email: democratic.services@westofengland-ca.gov.uk

Appendix A - Professional Services Framework Scope

Specialism	Name	Areas covered
1	Health and Safety	CDM to advise clients Qualified Principal Designers Other HSW for compliance Links to HSE etc
2	Masterplanning	Site appraisals, capacity viability, feasibility studies, Masterplans and development strategies, Regeneration strategies, Development briefs, Delivery programmes, Project management, Design guidance, detailed design, architecture and public realm design. Planning applications Visualisation Public consultation
3	Waste Management & Strategy	Project management; infrastructure optimisation & waste modelling; stakeholder engagement Transport logistics; environmental services; design and planning services Contract and tender documentation; contract administration and construction supervision
4	Surveys / Ground Investigation	Topographical surveys, Geotechnical surveys, Ground penetrating radar surveys
5	Flood Services	FDGiA or Local Levy funding work – outline business case and design to construction phase. Property Level Resilience surveys and property management. Flood and Surface Water modelling, to include reviews and build data gathering after a major flood events and reports. - Hydrological analysis and assessment - Hydraulic modelling, - Flood mitigation and SuDS scheme feasibility and design - Environmental assessment - Multidisciplinary services (projects that require all of the above)
6	Environmental Impact Assessment	Environmental assessment to support planning applications, supporting policy

		documents and environmental consents for transport projects including; specialist habitat surveys, ecologist supervision, environmental licences, Environmental Statements and Habitats Regulation Assessment, noise pollution and air pollution calculations and measurement & Ecological and Arboriculture expertise.
7	Public inquiries	Expert witness at public inquiries or examinations in public
8a	a) Transport studies	Scheme Economic Appraisal Schemes Options Appraisal - Other bids for funding e.g. Large Local Majors, Major Road Network Other studies e.g. Parking Major Scheme Business Cases, including specialist services such as environmental appraisal, including Habitats Regulation Assessments and Equalities and Health
8b	b) Transport Modelling -	Transport Modelling
9	Transport data collection	Highway link and junction counts Roadside interview surveys Public transport data collection Household interview surveys Parking Surveys Data analysis and reporting
10	Travel planning and Smarter Choices	Personalised travel plans Promotional literature and marketing Company travel plans School travel plans Walking and cycling
11	Project Management and scheme implementation	Major Scheme Business Cases Financial support – cost managers Other expertise as required – BIM, carbon etc. Expert contractual advice – NEC/ECC Communications expertise Other schemes
12	Transport Development	Comment on planning applications on behalf of the transport authority Provide specialist advice on aspects of applications or supporting policy frameworks. Preparation of planning applications for transport schemes.
13	Public consultation	Public consultation Providing representation at public meetings Preparation of consultation materials Organisation of stakeholder events

		Analysis of consultation responses Answering WECA and Mayor correspondence
14	Transport policy	Joint Local Transport Plan development and monitoring Policy advice and development
15	Passenger transport	Passenger transport projects, including rail, bus, rapid transit, taxis community transport and other demand-responsive modes Development of bus priority and other infrastructure improvements Partnership working with operators Park and Ride Passenger transport information systems including Real Time Information Concessionary Travel Supported bus services Integrated ticketing
16	Traffic management services	Traffic management, road safety, cycling, motorcycling, and walking projects Answering correspondence Petitions – investigation and response Disabled Parking Bays – processing applications Project Design; feasibility, preliminary, detailed Scheme procurement Construction supervision Statutory Orders, including TROs Key Route Network management
17	Scheme audits	Road safety audits Non-motorised user audits Cycling and walking audits
18	Traffic signal engineering services	Project Design; feasibility, preliminary, detailed Modelling Scheme procurement Construction Supervision Maintenance ITS
19	Highway improvement work	Project Design; feasibility, preliminary, detailed, soil investigations & reports Scheme procurement Construction supervision Supervision Key Route Network schemes
20	Development services	Advanced payments code Approval of Section 38 and Section 106 works

		Supervision of Section 38 and Section 106 works
21	Street lighting design	Design Procurement Construction supervision
22	Structural engineering support services	Design and management of structures Analysis of structural engineering problems Structural Engineering (Bridges, Retaining Walls, Culverts, Buildings) Geotechnical Engineering (Investigation and Design) Temporary Works (Coordinator, Supervisor, designer) Topographical surveys and structural surveys
23	Asset management	Data collection and records Asset management plans
24	Highway maintenance	Feasibility studies Soil investigations & reports Detailed scheme design Key Route Network schemes
25	Drainage design	General advice on drainage matters to the LLFA. Advice on land drainage matters and flood investigations. General drainage design, including SUDS, and review of designs.
26	Legislative and technical advice	New Roads & Street Works Act Traffic Management Act Other legislation
27	Green Infrastructure	General advice of ecological matters. General advice on landscape matters. General advice of arboriculture matters. Development Control Applications, (ecology, trees, landscape, public rights of way) Parks and Open Spaces design Feasibility studies Soil investigations and reports Detailed scheme design Construction supervision
28	Air Quality	Clean Air Zones Air Quality Management Areas Clean Air Plans Cleaner vehicle schemes Funding bids
29	Transport consultation responses	Department for Transport, Highways England, Network Rail, GWR, Office of Rail and Road consultations
30	Demand management	Congestion charging Work Place Parking Levies

31	New technology	Autonomous vehicles Mobility as a service Cleaner vehicles New data opportunities Electric vehicle charging Hostile vehicle mitigation
32	Freight	Consolidation centres Freight Route Network Rail freight
33	Road safety	Education Campaigns Schemes
34	Feasibility and Business	Case Production Business Case production – SOC, OBC and FBC stages Business Case considerations for Housing, Highways, Rail and other infrastructure schemes. Expertise to cover all 5 cases for the different types of development type. (Strategic, Economic, Commercial, Financial and Management

Appendix B - Infrastructure professional services framework procurement options appraisal.

Number	Name	Description	Advantages	Disadvantages	Comments
Option 1	Full Time recruitment	Recruit full time members of staff	Consistency in knowledge	Lack of flexibility.	This option will form a part of the overall solution but cannot be implemented in isolation.
			No IR35 Considerations	On costs.	
			No procurement process	May struggle to recruit for the salary offered (competitive market).	
Option 2	Interim route (Various agencies direct)	Employ Consultants on an Interim Basis	Flexibility to hire and fire.	No employee commitment (can leave at any time).	This option will form a part of the overall solution but cannot be implemented in isolation.
				Potential IR35 Considerations.	
Option 3	Conduct a Tender via Pro-contract for each requirement as and when required.	Contract with Suppliers following an advertised Tender Process	Likely to be popular with Supplier base (in comparison with Option 3)	Risk of challenge.	There is an obligation to take a long term view on an Organisations spending habits, and where there are similar services being purchased over a long period, this spend should be aggregated. This option does not do that and we could be open to a challenge from Suppliers.
			Direct Contract - no 3rd Party Fees	Will attract significant interest and therefore we could have to evaluate a high number of submissions (even at initial SQ stage).	
			Allows new entrants to the market to apply for contracts.	Potential IR35 Considerations.	
				Managing each individual procurement will involve significant resource and deliver questionable value.	
				Will not allow quick access to the supply base.	
				Disaggregating spend will not result VIM and could raise questions over compliance with the procurement regulations.	
Option 4	Conduct OJEU process to establish a Framework agreement open to the West of England UA's.	Contract with Suppliers following an advertised Tender Process	Likely to be popular with Supplier base.	Risk of challenge.	This option will involve significant up front resource to establish, and due to the high value there is a chance of challenges from unsuccessful suppliers. However, once established this is a long term solution that will ensure a framework that is both fit for purpose and allows easy access to suitably qualified suppliers.
			Direct Contract - no 3rd Party Fees.	Will attract significant interest and therefore we could have to evaluate a high number of submissions.	
			Aggregating our spend should increase VIM.	Potential IR35 Considerations.	
			Long term commitment to the successful Suppliers will allow them to plan internal resources effectively.	Significant internal resource required.	
			Opportunity to design a Framework that suits our needs.		
			Gives us the ability to limit the quantity of Suppliers		
Option 5	Use of an External Framework.	Conduct a further competition within an external Framework agreement e.g. CCS3745 (Lot 7) for individual requirements.	OJEU Compliant - No need to advertise.	Framework provider will charge the Supplier <1% fee for access.	Conducting a further competition for every requirement will take significant levels of resource and deliver questionable value. In addition, this approach will not allow suppliers to effectively plan long term resources.
			Terms and Conditions pre-agreed.	Potential IR35 Considerations.	
			Evaluation Criteria outlined.	Dealing with 41 Suppliers is administratively burdensome.	
			Bespoke pricing models allowed.	To conduct a further competition for every requirement is time consuming.	
			Access to 41 Suppliers including the main Suppliers in this space.		