

**Bob Lanzer, Cabinet Member for Economy and Corporate Resources**

**March 2021**

**Procurement: Construction Framework Arrangement**

**Report by Andrew Edwards Director of Property and Assets**

**Electoral divisions: All**

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## **Summary**

This report seeks approval from the Cabinet member to commence procurement of a Framework for the Provision of Construction works within the county, on behalf of the County Council and its District and Borough Councils (as will be defined in the Find A Tender Service (FTS) Notice and Framework Agreement).

It will enable the County Council to use a variety of qualified contractors to deliver works to the corporate estate under £5m in value and will be structured in 3 lots based on value:

Lot 1- Standard works between £2m and £5m

Lot 2- Intermediate works between £500k and £2m

Lot 3- Multi-disciplinary minor works between £5k and £500k. – restricted to direct delivery suppliers.

The County Council previously had a “select list” of contractors that expired in 2018.

## **Recommendations**

That the Cabinet Member for Economy and Corporate Resources approves:

1. The commencement of a Find A Tender Service restricted procurement process to establish a new Construction Framework Agreement as set out at in the report to commence 01 September 2021 and run for a period of 4 years; and that
  2. Authority be delegated to the Director of Property and Assets to award the Framework Agreements and any call-off contracts as a result of mini competitions run under the Frameworks.
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## **Proposal**

### **1 Background and context**

- 1.1 A Framework Agreement is used to deliver capital and revenue construction works around and within the corporate estate, where repairs, refurbishment or new build requirements are needed. It will enable the County Council to use a variety of qualified contractors to deliver works. Specified Contracting Authorities will also be able to access the Framework Agreement, such as the County's Schools, District, Borough and Parish Councils.
- 1.2 The Council previously had a "select list of contractors" that expired in 2018 and the Cabinet Member is asked to approve the commencement of a procurement process to create a new Framework.
- 1.3 The spend, through the new Framework, is anticipated to be £300m over the maximum term of 4 years. The value of the Framework is greater than £4,733,252 ex VAT, therefore, in order to comply with the Public Contract Regulations 2015 and the County Council's Standing Orders on Procurement and Contracts, a Find A Tender Service procurement must be run to establish a new Framework Agreement.
- 1.4 The Framework will be used by officers from the Place directorate with support from Procurement & Strategic Contract Management Services. There will be several Key Performance Indicators that all contractors will be required to meet and falling below these minimum requirements could result in suspension from the Framework.
- 1.5 The primary drivers for the new Framework are compliance to health & safety regulations, customer service, financial savings, efficiency and continuous improvement, integrated service delivery, flexibility of the contract model, and achieving achievement of the most economically advantageous offering for the County Council.

## **2 Proposal details**

- 2.1 It is proposed to establish a Framework Agreement, for a period of 4 years., these Frameworks will be divided into 3 lots by spend:
  - I. **Larger Spend Lots (1 and 2) allocation £500k to £5m:**
    - a. Lot 1: Standard works between £2m and £5m (up to 9 contractors)
    - b. Lot 2: Intermediate works – between £500k and £2m (up to 9 contractors)
  - II. **Lot 3 Multi-disciplinary minor works between £5k and £500k. – restricted to direct delivery suppliers**
    - a. General Building works (up to 12 contractors)
    - b. Demolition and Removal of existing buildings/structures (up to 10 contractors)
    - c. Asbestos – Surveys (up to 6 contractors)
    - d. Asbestos - removal of asbestos (up to 6 contractors)
    - e. Roofing – New, refurbishment or relay of existing roofs (up to 12 contractors)

- f. Drainage – Interceptor clearance, blocked or damaged drains (up to 10 contractors)
- g. Windows and Doors – New or repair of existing (up to 12 contractors)
- h. Fencing (up to 12 contractors)
- i. Internal Refurbishment (including Flooring) (up to 10 contractors)
- j. Hard Landscaping (up to 10 contractors)
- k. Soft Landscaping (up to 10 contractors)

2.2 The below table outlines the proposed timetable for procurement:

Event	Date
Issue of Find A Tender Service (FTS)Notice	March 2021
Issue of Invitation to Tender (ITT) Documentation – Stage 1 (PAS91)	March 2021
Return of Stage 1 – (PAS91)	April 2021
Evaluate and Shortlist	April 2021
Issue of Invitation to Tender (ITT) Documentation – Stage 2	April 2021
Return of Stage 2	May 2021
Evaluation of Stage 2	June 2021
Recommendation of Preferred Service Providers	June 2021
Framework Award	August 2021
Framework Commencement	September 2021

### **3 Other options considered (and reasons for not proposing)**

#### **3.1 Do nothing option.**

3.1.1 The previous arrangement provided a cost effective and efficient way of delivering various works through 3rd party contractors. For example, replacement and refurbishment of roofs, resurfacing works, refurbishment and drainage works. Running a full procurement exercise every time works are required is currently inefficient, involves duplication of documentation and evaluation and as such this option has been discounted.

#### **3.2 Extend existing arrangements**

3.2.1 The previous “select list” arrangement expired in 2018.

### **3.3 In source services**

3.3.1 Works of this nature are delivered by skilled trades who specialise in a particular occupation. Staff within Place Services do not have the necessary capacity, skills, or experience to deliver the works inhouse.

### **3.4 Use other existing contracts**

3.4.1 The services delivered through this Framework are different in nature to any existing contract or Framework and past reviews have demonstrated these types of works to be more costly if delivered through the larger Term Maintenance contractors.

## **4 Consultation, engagement and advice**

- 4.1 In January 2020, the Industry sector was consulted, through a soft market testing round table discussion and on-line questionnaires, which has informed development of the Framework lot structure.
- 4.2 Discussions with other local authorities have taken place, to explore the advantages and disadvantages of various procurement models for a new Framework lot structure, and to identify contemporary best practice.
- 4.3 The procurement is supported by a Project Board, which will include the Director of Property & Assets. Procurement & Strategic Contract Management Services are managing the procurement and are satisfied that the procurement process meets WSCC Standing Orders on Procurement and Contracts.
- 4.4 Following completion of the procurement exercise, a maximum of 9 contractors will be awarded in Lots 1 and 2 Framework Agreements and up to 12 contractors may be awarded in each Lot 3 Direct Delivery Framework Agreement, meaning minimal subcontracting of work. There will be several sub-lots under Lot 3 by discipline.
- 4.5 The successful Framework contractors will then be ranked in order of the quality score they achieve at the establishment of the Framework. This will be used as a mechanism for issuing mini competitions to the top 6 contractors and will be incorporated into the Framework Agreement.
- 4.6 Lot 3 will be further split into a <£50k and £50k-£500k spend bands and will be restricted to direct delivery trade contractors that have an ability to respond promptly across the county for higher volume reactive activities.
- 4.7 For the under £50k band, the top 3 ranked suppliers will be invited to tender, however, should any supplier decline to tender then the next ranked supplier will be invited and so on until we achieve 3 bidders.
- 4.8 For works with an estimated value of £50k to £100k, 6 suppliers will be invited to tender, however, should any supplier decline to tender then the next ranked supplier will be invited and so on until we achieve 6 bidders.
- 4.9 For works with an estimated value of £100k to £500k, 9 suppliers invited to tender, however, should any supplier decline to tender then the next ranked supplier will be invited and so on until we achieve 9 bidders.

## 5 Finance

- 5.1 WSCC budgeted spend is anticipated to be in the region of £166m over the 4 years of the Framework as shown in the table below.
- 5.2 Districts and Boroughs Councils have anticipated that their spend will be £100m over the 4 years of the Framework as shown in the table.
- 5.3 Therefore, the Find A Tender Service notice will be published at £300m, this includes a 10% contingency to prevent any unforeseen overspend of the notice.

**Table showing Budgeted spend and total for OJEU Notice:**

<b>Inflight and Pipeline Projects</b>	<b>2020/01 £000</b>	<b>2021/02 £000</b>	<b>2022/03 £000</b>	<b>2023/04 £000</b>	<b>2024/05 £000</b>	<b>Total £000</b>
Lot 1: Standard works –s between £2m and £5m	1,581	13,929	22,686	18,997	17,400	74,59
Lot 2: Intermediate works –between £500k and £2m	1,492	9,164	15,088	14,208	16,617	56,569
Lot 3: Multi-disciplinary minor works between £5k and £500k.	4,678	8,453	6,659	7,893	7,829	35,513
Total Inflight and Pipeline	7,751	31,546	44,433	41,098	41,846	166,675
Districts and Boroughs	20,000	20,000	20,000	20,000	20,000	100,000
Total spend in West Sussex	27,751	51,546	64,433	61,098	61,846	266,675
Contingency Percentage 10%						26,667
Total for OJEU Notice						293,342

5.4 The effect of the proposal:

(a) **How the cost represents good value**

Best value is provided through the competitive nature of the Framework as all works will be awarded by way of mini competition. Direct awards against fixed overheads and profits will be reserved for exceptional urgent circumstances.

(b) **Future savings/efficiencies being delivered**

The contractors on the Framework are not guaranteed any works or any value of work so this allows the County Council the flexibility to respond to any potential future financial pressures.

The Lot 3 contractors will retain a direct trades capability with minimal reliance on supporting contractors and have an ability to respond promptly across the county for reactive activities and emergency capital works, as well as planned maintenance.

Lot 3 will operate in parallel and complement Facilities Management's existing and future term maintenance contracts and provide an additional procurement option to the existing procurement process for the delivery of the typically higher volume, but lower value works; frequently with restricted delivery timescales that require local building knowledge and specialist skills.

**(c) Human Resources, IT and Assets Impact**

The resources required to run the procurement have been identified as part of business as usual activities in Procurement & Strategic Contract Management Services, Legal Services, Financial Services and Place Services

**(d) Risk implications and mitigations**

This Framework will be utilised by the County Council's Multi-Disciplinary Consultant ("MDC") to assist the management and mitigation of risk.

The failure to ensure continuity of the contracted services across all corporate buildings will impact on the wider delivery of nearly all County Council services. The lack of a contract could possibly result in non-compliance with statutory obligation to provide a safe working environment as directed under the Health and Safety at Work Act and more specifically under the Workplace (Health and Safety and Welfare) Regulations. This would be mitigated by continuing the current process of going to tender for each and every project, with the current long timescales remaining.

The risk of no tender submissions is considered negligible following the PIN advertisement and market research. However, the price range of the compliant bids remains unknown, this will be mitigated through a detailed review of the tender bids.

## **6 Policy alignment and compliance**

### **6.1 Legal Implications**

- 6.1.1 The contractual model will be an overarching Framework Agreement with 3 main Lots and sub-lots. Call off contracts from the Framework Agreement will be works contracts, and therefore the Framework and subsequent call off contracts will be from the model form JCT Suite of Contracts 2016 with the exception of Lot 3c Asbestos Surveys which will be based on a service call off contract. The choice of JCT contract form will be decided based on the value and type of works being procured.
- 6.1.2 The Framework Agreement will need to include clear methodology regarding the process of the mini-competitions for each call-off contract.
- 6.1.3 As the value of the Framework exceeds the Find A Tender Service threshold for works contracts, the Public Contracts Regulations 2015 will apply.

### **6.2 Equality and Human Rights Assessment**

- 6.2.1 The public sector equality duty will apply to the delivery of the services which fall within the Framework, and the terms of the Framework Agreement will ensure that they enable the County Council to fulfil its obligations through the delivery of the call off contracts and provide sufficient assurance that the duty will be complied with.

6.2.2 The proposal has no implications under the Human Rights Act 1998.

### **6.3 Climate Change**

6.3.1 All suppliers will be monitored on their impact to the environment and zero carbon options will be encouraged on all projects.

### **6.4 Social Value and Sustainability Assessment**

6.4.1 The Framework Agreement is designed to attract interest from local small and medium sized contractors.

6.4.2 As part of the procurement, contractors will be asked to outline how they will seek to use local labour and suppliers as well as how they will support the County Council in the delivery of the Sustainability Strategy.

### **6.5 Crime and Disorder Reduction Assessment**

6.5.1 There are no foreseeable crime and disorder implications to this proposal.

### **6.6 Public Health**

6.6.1 There are no foreseeable public health implications to this proposal.

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Appendices: None

Background Papers: None