

6. West Midlands Contractor Framework

Purpose of report

1. To inform Members of the formation of the West Midlands Contractor Framework and the Authority's involvement in the consequent Partnering Agreement involving Worcestershire County Council, Herefordshire Council, West Mercia Police and The Fire and Rescue Authority and seek approval of the use of Standing Order 5.1.f in awarding contracts under the framework .

Recommendation

The Clerk recommends that Members note the content of the report and approve the use of Standing Order 5.1.f. in awarding contracts under the framework agreement.

Background

2. Members will be aware of the continuing trend for public authorities to work together to drive down the cost of procurement. This usually happens through the use of framework agreements. A framework agreement involves the public authorities, usually through a single lead authority (in this case Worcestershire County Council) going out to the market through a European procurement process for a particular type of works, services or goods. Before going to the market each authority estimates the likely spend it will incur under the contract. Bidders submit prices for a range of quantifiable elements specified for the contract type.
3. This has a number of advantages for both the public authorities and contractors. Public authorities, particularly smaller authorities get better value tenders because of the scale of the framework agreement , there is a reduction in both the cost and time taken in tendering as authorities are not required to go through an Official Journal of the European Union (OJEU) tendering process for each individual contract. Instead they can then contract direct with one of the winning bidders knowing they are compliant with EU procurement regulations. It is attractive for potential bidders as they know they will be bidding for a sizeable piece of work and are therefore more likely to put in a competitively attractive bid.
4. The West Midlands Contractor Framework came into operation in September 2010 and it is estimated by Worcestershire County Council that it will overall deliver up to £180 million of work over four years. It is to be used for projects over £1million in value, but this threshold will be reviewed during the Framework period.
5. Three contractors have been awarded a place on the Framework - Kier Moss, Cheltenham, Speller Metcalfe Malvern Ltd, and Thomas Vale Construction of Stourport - following an OJEU advertised tendering process. With the three contractors all having demonstrated in the selection process capability,

experience, strong personnel and good environmental attitudes, as well as good value. Contracts are awarded on a rotational basis on most occasions rather than by competition. In return the contractors are expected to share knowledge with each other as well as with the client organisations. They are also required to provide and maintain good performance. The success (or failure) of process and delivery is monitored, and poor performance will cause contractors to miss allocations. Acceptability thresholds will be increased year on year to encourage enhanced performance, and regular shared training and learning sessions will be held to pursue improvement by both contractors and client organisations.

6. In the standard procedure the public authority wishing to use the framework will contract directly with one of the contractors. A contractor is appointed under an NEC Professional Services Contract (PSC) to join the design team for the project, and awarded a Construction Contract only if and when a firm price and programme have been agreed. This early involvement enhances the buildability of designs, allow the contribution of key supply chain members and other specialists, and increase cost planning and programming reliability. To ensure value for money, targets for improvement upon client budgets have been set, and successful delivery will be rewarded. Construction contracts will also use the NEC format (option A). Individual contracts will be between the client authority and the allocated contractor. Variations to the standard procedure are available to accommodate, for example, unusual projects, design and build procurement, or the engagement of the contractor only for the construction stage. However, these are for exceptional use only, as the full benefits of extensive and early contractor collaboration will be obtained by using the standard allocation and procurement systems.
7. The Framework governance and management structure comprises a Board, both containing representatives of the client partners and all three contractors.

Fire Authority Standing Orders

8. The Fire Authority contract standing orders provides that for contracts over £100,000 three tenders must be sought .As mentioned earlier the framework agreement works on that basis that projects are allocated on a rotational basis and does not envisage running mini competitions between the three contractors.
9. Exemptions from tendering contained in the standing orders already enable this to happen.
10. Standing Order 5.1 provides that a tendering exercise need not be undertaken

(f) Where the contract is awarded through a Consortium of which the Fire Authority is a member or which the Chief Fire Officer has resolved to use, bearing in mind the need to be satisfied that the contract(s) is properly awarded and good value obtained.

11. Whilst your statutory officers are comfortable that the use of such an exemption would be appropriate when contracting under the framework agreement, it was felt as use of this framework agreement would be considered as part of the Property Strategy on a relatively frequent basis, it would be more transparent for this matter to be brought to Members' attention and agreement that use of such an exemption is appropriate.

Conclusion

12. Members note the report and agree to the use of Standing Order 5.1.f.

Financial Considerations

Consideration	Yes/No	Reference in Report i.e paragraph no.
There are financial issues that require consideration	y	Throughout

Legal Considerations

Consideration	Yes/No	Reference in Report i.e paragraph no.
There are legal issues e.g. contractual and procurement, reputational issues that require consideration	Y	Throughout

Additional Considerations

13. The table below sets out any additional issues arising from the proposals contained in this report and identifies the relevant paragraphs in the report where such issues are addressed.

Consideration	Yes/No	Reference in Report i.e paragraph no.
Resources (e.g. Assets, ICT, Human Resources, Training & Development, Sustainability).	N	
Strategic Policy Links (e.g. IRMP, Authority Plan, Equality & Diversity, Partnerships, Environmental Impact).	N	
Risk Management/Health & Safety (e.g. risk management and control measures, risk register score).	N	
Consultation with Representative Bodies	N	

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