

Brighton & Hove City Council

Strategy Finance City Regeneration Committee

Agenda Item 67

Subject: Collaborative Procurement of Hard Facilities Management Contracts - planned building maintenance

Date of meeting: 5 October 2023

Report of: Executive Director Economy, Environment & Culture

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Ward(s) affected: All

1. Purpose of the report and policy context

1.1 To seek approval to procure a planned maintenance work framework agreement for Hard Facilities Management in partnership with East Sussex County Council (ESCC) Property and Procurement officers led by East Sussex County Council's Orbis Procurement team. The work is delivered by external contractors and relates to civic offices, historic, operational, commercial buildings, social care premises, educational establishments and schools but exclude council housing and highways.

2. Recommendations

2.1 That Strategy, Finance & City Regeneration Committee grants delegated authority to the Executive Director of Economy, Environment & Culture to procure a planned maintenance work framework agreement as detailed in Appendix 1 and to let call-off contracts for works in accordance with that framework agreement. Call off contracts shall be awarded via mini competition under the framework agreement for a duration of up to four years subject to satisfactory performance. Paragraph 3.1.5 sets out the approximate spends for the two sovereign authorities.

3. Context and background information

3.1 BHCC and ESCC collaborative procurement exercise for planned maintenance work framework agreement

3.1.1 In September 2020, BHCC and ESCC awarded places to a range of external contractors on a suite of planned maintenance framework lots. The objectives of the collaborative procurement exercise were:

- To deliver contracts and a supply chain that could work in partnership with the Councils over a four-year period.

- Ensure our assets are maintained to an acceptable standard within limited resources.
- Create added and social value and increase benefit to our local economy and the environment.
- Increase focus on sustainability linked to the Climate Emergency.
- Maximise the benefits from two Councils working together.
- Secure optimum value for money.

3.1.2 The current procurement is being shaped to replace the existing framework for planned maintenance when they expire in September 2024. They are being designed to offer flexibility to the market, learning from the current framework arrangements and shall be further shaped by evidence from market engagement. Four years ago, this engagement suggested that was the approach which offered most competition, value for the services and best reflected the needs of both partner Councils.

3.1.3 Work has started on a re-procurement of a framework agreement for planned maintenance works in collaboration with ESCC. Both authorities remain keen to support our local SMEs.

3.1.4 Property Services in each authority manage a number of assets and customers on behalf of their respective sovereign authorities providing access to a range of services and the planned maintenance framework forms part of this offer.

3.1.5 The approximate annual spend across these two sovereign authorities for planned maintenance services is approximately £15m, with BHCC making up just over 50%. The annual expected expenditure based on the current contract is shown by Lot at Appendix 3.

3.1.6 The requirements will cover the majority of corporate and non-corporate buildings and assets within each authority's responsibility (excluding BHCC social housing and highways property). In addition, the framework agreement may be open for other local public sector organisations to call off contracts from; the details of which will be finalised prior to going to the market.

3.2 Governance Arrangements

3.2.1 The procurement is being led by East Sussex County Council's Orbis Procurement team to ensure full compliance with the Public Contract Regulations 2015 and the Councils Contract Standing Orders..

3.2.2 Members of BHCC and ESCC Property teams meet regularly to discuss how to best shape the offer to the market to ensure it is attractive to local SMEs, shall offer good value for scarce planned maintenance monies available and provide added social value.

3.2.3 Representatives from the group shall also sit on a Board with Assistant Directors from both BHCC and ESCC to report upon progress and further shape the procurement offer. This shall include the financial threshold of each

Lot, maximum number of contractors on each planned maintenance Lot with the aim to maintain good competition whilst remaining attractive to the local market in particular.

- 3.2.4 Call off contracts shall be awarded via mini competition under the framework agreement for a duration of up to four years subject to satisfactory performance. Works shall be called-off through mini-competitions within each Lot. Works of a specialist nature can be procured outside of this framework, in line with Contract Standing Orders, where it makes economic sense such as stonework repairs, resurfacing of school playgrounds, etc.
- 3.2.5 The aim is to ensure that places on the framework agreement are awarded following a robust transparent process that is well communicated. It shall enable local SME's the opportunity to bid for a place on the framework to achieve a good outcome that delivers quality planned maintenance works and embeds, delivers and demonstrates real social value to our City. All bidders will be asked to provide a performance statement on social value, firstly as part of their evaluation for a place on the framework and then annually where a KPI will evidence year on year continuous improvement in adding social value to the City. Those awarded a place on the framework must sign the BHCC Social Value Framework pledge to adopt the principles. Bidders together with their supply chains must demonstrate examples of how they will add social value to the local area such as through employing local labour, interview conditioning to help young people in employment, training & upskilling, apprenticeships, work placements, school trade days, sponsorships, prioritising locally sourced materials, avoiding waste through recycling/reusing materials, innovation & offering cost saving alternatives, being a good neighbour, supporting & collaborating with charities & voluntary organisations, etc.
- 3.2.6 The anticipated timetable for the pre-tender, selection, tender award and mobilisation stages can be found in **Appendix 2**.

4. Analysis and consideration of alternative options

- 4.1 Failure to have robust routes to market for the procurement of all forms of building maintenance increases risks to meet statutory and Health and Safety liabilities, of inhibiting service delivery, may not deliver best use of scarce council budgets, and would not provide an opportunity for local SME contractors or delivery of social value within the City.
- 4.2 **Insource the hard facilities management services** – The diverse nature of planned maintenance framework works means that skilled specialist workers are required in a wide variety of construction and maintenance fields e.g., carpenters, bricklayers, plumbers, electricians, flat roofers, pitched roofers, scaffolders, tarmac layers, etc. To insource this would be challenging and very costly given that TUPE is likely to apply as well as many other implications. In addition, the market is very uncertain at the moment and ability to retain and attract such a large, diverse team of suitably qualified skilled and experienced staff might create an unsustainable pressure on the council, particularly as

salaries and associated benefits are lower than those offered in private practice. Furthermore, the infrastructure required would need significant investment in plant, equipment, buildings and depot, welfare facilities, specialist management and administration capacity as well as requiring additional support staff in legal and finance.

- 4.3 **Constructionline** – Prior to the current planned maintenance framework BHCC used lists created within Constructionline. Constructionline was set up around 25 years ago as a government run scheme. To be accredited to the scheme contractors have to meet pre-qualification criteria to assess suitability and competency such as financial checks, Health and Safety policy assessment, training, insurance etc. However, there were changes in the membership levels, fees and checks applied by Constructionline to contractors when registering and as such BHCC felt four years ago that this was not a sustainable compliant route to market.
- 4.4 **Other existing frameworks** – BHCC could access framework agreements already put in place by central purchasing bodies and other public sector organisations. The access would either be by direct call off or through mini competition as defined by each framework agreement. There are numerous options available to BHCC, however, the use of such agreements would limit the opportunity to deliver specific social value to the local area or provide opportunities for incumbents or local SMEs.

5. Community engagement and consultation

- 5.1 Regular consultations take place with all ESCC and BHCC Property and Procurement officers as well as all service client officers in the relevant Directorates. The relevant representatives meet regularly to progress the collaborative procurement.
- 5.1.1 A thorough market engagement exercise will be undertaken to ensure that contractor's views are considered in determining the most appropriate structure for the proposed new arrangements. This shall commence by the issuing of a Prior Information Notice (PIN) to notify the market about a joint market engagement exercise in relation to BHCC & ESCC planned maintenance requirements. The aim of the market engagement day is to obtain feedback from potential bidders on the following in order to inform future delivery and procurement activity:
- Current market interest and capacity
 - Factors affecting successful delivery
 - Appropriate procurement models and structures
 - Value for money and commercial considerations
 - Social Value including employment and environmental considerations

6. Conclusion

- 6.1 The recommendation by officers is to proceed in accordance with the recommendations set out in the recommendations, Section 2 of this report.

7. Financial implications

- 7.1 The planned maintenance works included within this procurement process will be met primarily from existing capital and revenue budgets with funding built into projected budgets for future years for the duration of the contract. The individual contracts procured for these works would be subject to the market conditions at the time, and though there may be some economies of scale they are not expected to generate significant budgetary savings. However, they may lead to efficiency savings, for example through reduced administration time. With the emphasis on quality of work as well as cost, there could be cost avoidance of repeat works or insurance costs. Indicative maintenance contracts and estimated annual spend is detailed in Appendix 2.

Finance Officer Consulted: Rob Allen

Date: 22/08/23

8. Legal implications

- 8.1 The Framework Agreement will be procured in compliance with the Public Contracts Regulations 2015. The use of a Framework Agreement to call-off works contracts is a route to market which complies with the Regulations and the Council's Contract Standing Orders.

Lawyer Consulted: Alice Rowland

Date: 14/8/23

9. Equalities implications

- 9.1 Where applicable, items of maintenance work within a programme will consider the Equality Act 2010 to improve access and general facilities to address the diverse needs of staff and users of the council buildings. Planned maintenance works may lead to a temporary reduction / change in access or other facilities. Where this may be the case the Contractor, Client and Contract Administrator work together with staff and users to agree how these changes can be managed to minimise any negative impact.

10. Sustainability implications

- 10.1 Sustainability will be improved through the rationalisation of assets, associated infrastructure and environmental improvements. Energy efficiency measures will be incorporated into maintenance and improvement works where appropriate.

- 10.2 Sustainable Procurement is supported through specific KPIs and specifying certain requirements such as Waste to Landfill and Sustainable Sourcing of materials.
- 10.3 The market engagement will collate feedback from bidders on what they propose can be delivered in terms of social value under the contracts. Officers anticipate it will cover employment and environmental considerations such as volunteering, buying local, reuse, reduce waste and reducing carbon and the impact on climate change. Cost/quality weightings for the evaluation of submissions at SQ and ITT stages shall be developed that will include sustainability. For BHCC the signing of the Social Value pledge shall be a stand or fall assessment.
- 10.4 In terms of the market and supply chain Social Value might be; employing local labour, interview conditioning to help young people in employment, training & upskilling, apprenticeships, work placements, school trade days, sponsorships, prioritising locally sourced materials, avoiding waste through recycling/reusing materials, innovation & offering cost saving alternatives, being a good neighbour, supporting & collaborating with charities & voluntary organisations.
- 10.5 BHCC and ESCC operate different Social Value requirements. BHCC has the Social Value framework principles and ESCC has a SV charter. There is a need to ensure both requirements are met, and this will be monitored by procurement officers.

11. Other Implications

- 11.1 The maintenance of operational properties is part of the BHCC Corporate Property Strategy & Asset Management Plan to ensure efficient and effective use of assets contributing to the City and the council's strategic priorities.

Crime & Disorder Implications:

There are no direct implications in respect of the prevention of crime and disorder within this report although certain items of planned maintenance work try to minimise vandalism through design, specification and use of relevant materials.

Risk and Opportunity Management Implications:

The risks and opportunities are dependent upon the successful outcome of the frameworks, robust contract and financial management to ensure that works are completed safely within budget, programme and meet any associated statutory duties. Officers shall monitor risk throughout this procurement with a live shared Risk Log document updated regularly by Property and Procurement officers.

The Construction Sector is currently experiencing high rates of liquidations due to the current market instability. Around 17% of all liquidations in the market are currently construction related companies and the number of liquidations in construction has sharply increased since 2021, with nearly a

50% increase in 2022 and currently a 30% increase in 2023. This is due to the ongoing effects of supply chain volatility (COVID, Ukraine conflict and Brexit), skilled labour shortages and as contractors fall into liquidation credit owed is damaging the supply chain creating cash flow issues and increased caution from materials suppliers.

To mitigate the financial risks the procurement will include a robust financial assessment model and the forms of call-off contract will include clauses to assist with financial difficulties in contract delivery.

The market volatility has resulted in steadily increasing costs which will be mitigated as far as reasonably practicable through the competitive procurement process. Another is that the market may not engage, this is being mitigated through robust communication by the ESCC Orbis Procurement team and the market engagement days.

Public Health Implications:

Planned maintenance works programmes will prioritise projects that reduce risk to public health e.g., structural repairs, etc.

Corporate / Citywide Implications:

The collaborative working on this procurement with ESCC provides added value. All regular forms of maintenance and repair of BHCC properties are part of the BHCC Corporate Property Strategy & Asset Management Plan in order to ensure efficient and effective use of assets contributing to the City and the council's strategic priorities. By providing opportunities for local SMEs the procurement of the new arrangements will be supporting the local agenda.

Supporting Documentation

Appendices:

1. Framework Lots.
2. Timetable.

Documents in Members' Rooms

None

Background Documents

None

APPENDIX 1: Framework Agreements for planned maintenance

Planned Maintenance Framework Lots	Number of Contractors
Lot A Mechanical	9 (top 3 are shared and then each Council gets another 3. 6 in total)
Lot B Electrical	9 (top 3 are shared and then each Council gets another 3. 6 in total)
Lot C Roofing	9 (top 3 are shared and then each Council gets another 3. 6 in total)
Lot D Building -£100k	9 (top 3 are shared and then each Council gets another 3. 6 in total)
Lot E Building -£100k-£250k	9 (top 3 are shared and then each Council gets another 3. 6 in total)
Lot F Building - £250k-£1m	9 (top 3 are shared and then each Council gets another 3. 6 in total)
Lot G Asbestos	4

APPENDIX 2: Anticipated Timetable

	Key Milestone	Date
Pre-Tender	Market Engagement Day	18/09/2023
	Document for final review	29/09/2023
	Strategy, Finance & City Regeneration Committee	05/10/2023
Tender Stage	Publish FTS Contract Notice	13/10/2023
	Deadline for SQ Applications	24/11/2023
	Inform Applicants of Outcome and Selection	26/02/2024
	Issue ITT documents	01/03/2024
	Deadline for receipt of ITTs	19/04/2024
	Final Moderation and Confirmation of Final Selection of Bidders	28/06/2024
Award Stage	PPR (part 2) Gateway 3 (Award) approval	18/07/2024
	Approval of Reg 84 report	18/07/2024
	Contract award date / Contract Award Letter sent	19/07/2024
	Contract Signed	30/08/2024
	Contract Start	01/09/2024

APPENDIX 2: Annual expenditure by Lot.

Planned Maintenance Framework Lots	Number of projects	Total Estimated Annual Expenditure
Lot 8 Mechanical	8	c.£. 593,500
Lot 9 Electrical	8	c.£. 1,210,000
Lot 11 Roofing	14	c.£. 1,130,250
Lot 12 Building -£100k	27	c.£. 1,986,922
Lot 13 Building -£100k-£250k	7	c.£. 1,012,050
Lot 14 Building - £250k-£1m	4	c.£. 2,100,000

Lot 15 Asbestos	3	c.£.146,000
Total		c.£.8,178.722

