

Committee: Cabinet	Date: 04/08/2010	Classification: Unrestricted	Report No:	Agenda Item:
Report of: Senior Procurement manager, Category and contract management David Pridmore Originating officer(s) Heidi Mackie Category Manager for Construction & Repairs		Title: Framework for Minor Works & Repairs Wards Affected: All		

Lead Member	Cllr David Edgar, Lead Member Resources
Community Plan Theme	A Prosperous Community
Strategic Priority	1.2 Work Efficiently and Effectively as One Council 3.3 Foster Enterprise

1. SUMMARY

- 1.1 This report follows on from the proposals made as part of the category plans strategies presented in 09-10; and seeks to provide additional information to support the proposal of a Corporate, Minor Works Framework
- 1.2 To request financial support to appoint a consultant to assist with creating the technical documents required to tender, to attend a series of supplier days to support local suppliers in bidding for the work and then manage the initial set up of the working group for the contract management part of the framework

2. RECOMMENDATIONS

Cabinet is recommended to:-

- 2.1 Approve the option of establishing a framework agreement for Minor Works and Repairs to cover the various speciality trades as Lots
- 2.2 To agree that the use of the framework for Minor Works and Repairs be compulsory unless otherwise agreed by Service Head Procurement and Corporate Programmes

- 2.3 To delegate to the Corporate Director of Resources the authorisation to award the framework agreement for Minor Works and Repairs to the successful bidders

3. REASON FOR THE DECISION

- 3.1 The implementation of a Minor Works Framework Agreement to cover various speciality construction trades as Lots will provide the Council with the ability to improve compliance with legal requirements in procuring services whilst at the same time increasing opportunities for local, small and medium enterprises in support of the local economy and for the Council to secure best value for work. This proposal fits within the Community Plan theme of A Prosperous Community and supports our strategic priorities to Work Efficiently and Effectively as One Council and to Foster Enterprise.
- 3.2 It is proposed that the advertisement for this framework goes out in early August. With an anticipated award date of early January. This timetable includes a number of supplier workshop days where local suppliers will be invited to learn more about the framework and ask for any guidance they need to ensure they can be included in the tender.

4. ALTERNATIVE OPTIONS

- 4.1 Continue with ad-hoc process. This will mean continued risk of non-compliance and challenge, inflated rates paid for services, large number of suppliers used, inconsistency in service and quality, reduced control over support of local suppliers
- 4.2 Procurement of each trade as a separate MTC contract – this would enable us to write the tender documents individually (spreading the cost over time and directorates) and it may be that in some cases we have the ability to write them in house. However, for the 17 categories that are to be covered by this framework, we would need to stagger each one, one month apart and so the last one would not be in place for 23 months at best.
- 4.3 Utilising an existing/ national agreement. Although there are a number of frameworks available for use by Local Authorities, these are primarily made up of national, main contractors with only a few SME ones. None of them focus on speciality trades directly and therefore do not support our local suppliers nor economy. In addition, main contractors will ultimately sub let to the smaller companies and this creates another communication link and mark up cost on time.
- 4.4 By eliminating sub-contracting we can control quality and produce savings in the region of 2%.

5. BACKGROUND

- 5.1 LBTH spend in the region of £20-25million on responsive repairs or low value specialist works such as asbestos removal. This currently accounts for 240 suppliers over half of which we spent below £5,000 with.
- 5.2 The current economic climate is such that the construction industry has become seriously affected by the recession, and with the introduction of the Remedies Directive the risk of legal challenge to the procurement process is higher than ever. Even with contracts below EU threshold, there is a genuine concern that we could be challenged if there is any doubt as to the integrity of the process. By introducing a framework agreement, we will have completed a full OJEU process, provided adequate advertisement of the agreement, and ensured all local suppliers are given every opportunity to be part of the project. This should minimise risks.
- 5.3 Spend analysis has highlighted multiple use of suppliers by various directorates but with varying rates being paid for the same services. This is especially evident in low value versus higher value orders. By accumulating the annual spend under one agreement, we should be able to improve on the competitiveness of rates that directorates in the council have been achieving.
- 5.4 Currently, each time a small piece of speciality trade is required, a consultant is appointed to define the work such that quotes can be obtained, this is a slow and costly process and has caused delays to projects..
- 5.5 As the council has not previously had a corporate contract to cover all of the services to be incorporated into this framework and as such does not currently hold a comprehensive list of specifications, the creation of this has a time and cost implication to be balanced out against the costs associated in item 3.5 above.
- 5.6 Historically we have appointed one company (two at best) to MTC contracts. This means that if a company develops problems, we are left either without a contractor or a very complicated contract management problem. A framework typically has 3-4 suppliers per lot and this reduces the risk of no supplier, keeps them competitive and keen to achieve the desired quality as no work is guaranteed.

6. PROPOSED FRAMEWORK

- 6.1 The proposed framework will incorporate the following features:
- 6.2 It will be a corporate framework, open to all Council services. The content of the framework will be suitable for all directorates including schools, commercial buildings and parks to use.
- 6.3 Lots will comprise Mechanical Services, Public buildings, Electrical services providing a reactive response in junior schools, libraries and other; demolition including asbestos removal; Metalwork including architectural

work, repairs to railings, bandstands; General build, repairing damage, hanging doors; Fire/security alarms; Lifts in both housing and commercial premises; CCTV; Air Conditioning; Lightning Protection; Extractor fan servicing and testing; Surveys for DDA asbestos;. Decoration; Drainage; Flooring and Glazing.

- 6.4 To secure best value a range of smaller specialist contractors will be sought rather than a multi service facilities management company. The proposal is for the framework will be awarded in early January. And the specification will include the requirement to employ local people and apprentices.
- 6.5. There will also be a number of supplier workshops where local suppliers will be given an opportunity to meet the contract team to discuss any concerns or queries they may have with the framework tender.
- 6.6 Schedules and pricing documents for Electrical, Mechanical, General Building, Demolition and Metalwork will be produced. Standardised corporate ITT and evaluation criteria will be used and A20 and specifications commissioned for the purpose of tendering sufficient to enable a formal tender then rotation or mini competition.
- 6.7 The framework will have standard Terms and Conditions and enable use of JCT 2005 Rev 2 for minor works or SBC as appropriate.
- 6.8 The framework will be managed and monitored by a working group. In addition briefings will be held with bidders so that they understand the nature of contracting arrangements and how to price the documents. The use of dynamic scheduling arrangements will be explored in order to improve service, productivity and pricing.
- 6.9 Post award support will be provided in liaison with the steering group to ensure compliance and in order to ensure that the contracts are bedded in correctly.
- 6.10 This framework will build upon the spend analysis work to identify the historic patterns of demand and use these to rationalise and develop schedules which can be used as part of tender documents. This will result in a localised document suitable for Tower Hamlets Council.
- 6.11 A specialist contractor will be appointed to undertake a gap analysis to identify any areas which can be improved and differing approaches to the schedules for reactive, planned and minor works across the Council. This will all be facilitated and project managed by Procurement to ensure the process is supporting the local economy.
- 6.12 It is estimated that the cost of specialist support to produce this procurement framework is £49,290 and can be met from existing budget provision.

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report requests approval for a four year agreement to manage the Council's requirements to commission minor repair works from construction companies. The Council would achieve better value for money and produce savings through compliance with agreed rates of pay for levels of services and is consistent with the Council's financial strategy to maximise the value for money on all its procurements.
- 7.2 To progress this agreement there is a requirement to produce a repairs works technical specification and also have Council capacity to initially lead on the engagement of suppliers. This is estimated to cost £49,290 which will be met from existing budget provision.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

- 8.1 The relevant EU directive (2004/18/EC) defines a framework agreement as an agreement with suppliers, the purpose of which is to establish the terms governing contracts to be awarded during a given period (usually 4 years) , in particular with regard to price and quantity.
- 8.2 In the UK the term framework agreement is normally used to cover agreements which set out the terms and conditions for subsequent call-offs but place no obligations, in themselves, on the Council to buy anything. The benefit of this kind of agreement is that, because the Council is not tied to the agreement, it is free to use the framework when it provides value for money, but can scale expenditure up or down depending on its needs and the availability of finance. Also there is an efficiency saving as when work is called off the contract there is no need to complete a separate contract for each call off as the terms have been set as the framework was awarded.
- 8.3 The key to this type of framework is that it is a means of reducing procurement work because contracts can be awarded under framework agreements without the need to re-advertise and re-apply the selection and award criteria. The Council's interests are protected as the contractors' financial viability, health and safety policy, equalities policy, insurances and quality procedures have all been assessed as the framework was awarded.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1 The design of this contract has been specifically geared around what will have the most positive impact on our community. Currently the country's economy is struggling and EU law continues to impose more and more restriction upon us as a council in how we do business. In an attempt to re balance the odds, and empower local companies to service the borough in which they reside; we have reviewed the services from a bottom up approach and identified a number of specialist trades that could be appointed directly to carry out these works.

- 9.2 By formatting the tender to state contractually that no subcontracting will be permitted as part of the tender, and working closely with local companies, through supplier days, we will reduce the risk of inequality to local companies due to locality, size or cultural background. By working co-operatively with bodies such as East London Business Place, FEAT and Skills Match and through offering support in completing the tender process and advising what is required to be successful in submitting a bid, we hope to improve both the local environment and economy at the same time. In addition, by utilising our local suppliers and residents, we are likely to see an increase in output quality, a reduction in communication and cultural barriers and a generally improved perception of Tower Hamlets Council.
- 9.3 As much of the works to be completed under this framework are general rather than for individual benefit; it should produce cohesion in everyone by all working towards the same goals as opposed to creating perceptions of unequal treatment. Where works have a cultural or religious impact, it could be seen as positive if one part of the community is benefiting financially from completing works for which their neighbours of a different religion are benefiting in a materialistic format.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The level of sustainability requirements that can be applied to this contract is difficult to define. It is our intention to target SMEs through the wording of the OJEU, and through publicity and co-operative working with ELBP to provide additional support to local suppliers to aid them with being selected. This will have a significant impact on carbon levels and reducing traffic in an out of London. We will specify recycling targets and working practices, but these will have to be on a project by project basis as not all sites lend themselves to waste segregation practices and smaller companies will not be experienced in practices and processes such as BRE Environmental Assessment Method (BREeam) and whole life analysis. They will however be able to help us with product specification and working practices efficiencies in waste reduction and environmental contamination with regards to their individual speciality.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 Current practices are to procure these works/ services on an ad-hoc basis. This often results in procurement procedures not being correctly followed; the quote process not always being used, competition being removed, cumulative spend exceeding OJEU thresholds and thus an increased risk of challenge on lost opportunities at all values of orders. An OJEU compliant procedure, with a broad tolerance in potential spend levels, with bandings within each Lot, will ensure fair and transparent opportunities for all suppliers, through public notification, such that risk of challenge either now or over the life of the framework can be mitigated by thorough process adherence.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

No implications.

13. EFFICIENCY STATEMENT

- 13.1 By standardising terms and conditions the need to produce individual documentation for each piece of work will be reduced and thereby costs and overheads in preparation for tender. Through simplification of the supply chain, management overheads will be reduced affording greater efficiencies to both the Council and local suppliers which can be reflected in more competitive prices for work.

14. APPENDICES

Appendix 1 - Risk Register

Appendix 2 - Programme for Minor Works & Repairs Framework

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Brief description of “back ground papers”	Name and telephone number of holder and address where open to inspection.
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none