

## **Specialist Services Framework**

### **SUMMARY**

- 1.1 This report seeks Cabinet approval to the establishment of the Derby City Council Framework for Specialist Services.
- 1.2 This Framework is being developed to enable the Council to engage specialist services on an ad hoc basis to support the delivery of Derby City Council projects and objectives, particularly where the use of in-house resources are either not allowed or in-house capacity or capability does not exist. The framework is not designed to replace any in house services.
- 1.3 The Regeneration Division and Procurement have led the development of this initiative, with input from services including Housing, Estates and Planning. However, use of the Framework will be open to all Council services and to external Derbyshire public sector bodies.
- 1.4 This report notes that on projects with European Union (EU) or European Regional Development Fund (ERDF) funding, if the Council intends to use in-house resources it can only claim for direct costs, for example salary costs supported by payroll information as the Council cannot benefit directly from the funding.
- 1.5 In addition, frequently funding bodies set strict criteria regarding the use of Framework agreements and several current the national Frameworks do not meet funding body/ ERDF guidelines. The Framework has been developed to ensure compliance with EU procurement legislation and with the current requirements of the ERDF in mind.
- 1.6 To note that establishing the Framework will not incur any financial commitment. Call-offs from the Framework will only be authorised through processes approved by Chief Officer Group.

### **RECOMMENDATIONS**

- 2.1 To approve the establishment of the Specialist Services Framework as detailed in this report (paragraphs 4.12-4.31)
- 2.2 To give delegated authority to the Acting Chief Executive and the Director of Finance and Procurement to appoint the selected service providers on to the Framework

## REASONS FOR RECOMMENDATION

- 3.1 The Council has historically engaged external specialist services where, either in-house expertise is not allowed (due to grant funding conditions), the capability does not exist or where there is no internal capacity. These requirements have previously been sourced either from external Framework agreements such as the Crown Commercial Service (CCS), Eastern Shires Purchasing Organisation (ESPO) or Scape, the local government owned construction procurement organisation, or by seeking quotations or tenders as the requirements emerge.
- 3.2 These routes sometimes have disadvantages: for example, external Frameworks often attract large national suppliers, which is contrary to the Council's commitment to giving equal opportunities to SME's and local businesses. In structuring this Framework, the Council has increased accessibility for smaller organisations via the lotting structure and ability to form a consortium or sub contract arrangement.
- 3.3 Seeking quotes or tenders as the requirements arise is time consuming and can potentially delay projects as suppliers and bids are assessed. Time constraints can lead to the use of waivers or non-compliance with the Contract Procedure Rules if insufficient time is available to conduct a quotation or tender exercise. Furthermore, the Council frequently underestimates its requirements when appointing consultants leading to scope creep following appointment and further potential for breach of Contract Procedure Rules.
- 3.4 The establishment of the Framework which is compliant with the Public Contract Regulations 2006 will ensure procurement of specialist services is quick, simple and cost effective.
- 3.5 The Framework will offer access to pre-approved suppliers who can be appointed using an efficient and streamlined procurement process; therefore ensuring Officers obtain value for money advice whilst enabling their outcomes to be achieved and ensuring compliance with Contract Procedure Rules.
- 3.6 The Framework will give the Council greater reassurance regarding the probity, compliance and value for money of specialist service contracts.



## **SUPPORTING INFORMATION**

### **Strategic context**

- 4.1 The increase in savings challenges for the public sector and the current economic climate means that procurement is under greater scrutiny than ever before, increasing expectations to deliver increasing savings and service improvements whilst contributing to wider agendas, including Corporate Social Responsibility issues, social value and engagement with SME and local suppliers.
- 4.2 These challenges have resulted in the role of external funding becoming paramount to the delivery of Council Capital Projects. Through the current European Regional Development Fund (ERDF) programme (2007-13), Derby City Council have levered in around £13.4m of grant funding.
- 4.3 The current Regeneration Capital Programme 2014/15 is made up of 2/3 external funding and 1/3 DCC funding. This is a trend which is set to continue. The Regeneration Capital Programme 2015/16-2016/17 includes a budget provision for match funding for EU grant funding.
- 4.4 As noted in paragraph 1.3, EU Community and ERDF funding terms specify that the Council can only claim for direct costs, for example salary costs supported by payroll information as it cannot benefit directly from the funding, the Council must therefore sometimes procure external resources to fulfil the requirements of these projects. The funding bodies also set strict criteria regarding the use of Framework agreements and several of the national Frameworks for consultancy services etc. do not meet the requirements of the funding bodies/ ERDF guidelines.

### **Overview**

- 4.5 The Framework is intended to make procuring specialist services quick simple and cost effective.
- 4.6 An EU Open tender exercise which is compliant with the Public Contract Regulations 2006 is being undertaken to select organisations onto the Framework. The Framework will offer access to pre-approved suppliers who can be appointed using an efficient and streamlined procurement process; therefore ensuring Officers obtain value for money advice whilst enabling their outcomes to be achieved.

### **Eligible users**

- 4.7 Whilst the Framework has been initiated by Regeneration and Procurement, it will benefit all relevant departments and will be open for use by all Derby City Council Officers and other Derbyshire public sector bodies.

### **Benefits of using the Framework**

- 4.8 It will be quick and simple to access.
- 4.9 The Council will have already carried out a tender process which is compliant with the Public Contract Regulations 2006, thereby saving valuable time and resources with greatly reduced procurement timescales. There is no need to advertise the call-off contracts and there are no minimum time periods within the process which must be adhered to.
- 4.10 Access to a choice of pre-approved suppliers.
- 4.11 Suppliers listed on the Framework will have already been assessed for their quality, experience and technical ability.

### **Structure of the Framework**

- 4.12 The Framework will be divided into packages called 'Lots' under the procurement regulations
  - Lot 1 Strategic Planning
  - Lot 2 Development Management
  - Lot 3 Heritage
  - Lot 4 Urban Design
  - Lot 5 Public Participation and Training
  - Lot 6 Commercial
  - Lot 7 Marketing and Communications
  - Lot 8 Employers Agent (Commercial & Residential)
  - Lot 9 Technical and Surveying Services (Commercial & Residential)
  - Lot 10 Architectural Services (Commercial & Residential)
- 4.13 Tenderers are invited to bid for a maximum of 2 Lots.
- 4.14 The number of Suppliers offered a place on the Framework will depend in part upon the number and nature of bids received. The objective will be to ensure that the Framework offers Customers a choice of a maximum of 4 Suppliers in all Lots. This number is not fixed, the final composition of the Framework will be as decided by the Council, whose aim will be to ensure Customers are offered choice and diversity, whilst avoiding 'diluting' the economies of scale which the Framework should bring about.

### **Framework Term**

- 4.15 The Framework will be let for an initial period of two years; the Framework is estimated to commence 01 April 2015 and expire 31 March 2017
- 4.16 There will be an option to extend the Framework for a further two years in annual

increments. The maximum Framework duration is four years

- 4.17 Individual contracts awarded under the Framework may be of any reasonable duration regardless of when they commenced, i.e. an individual contract may outlive the expiry of the Framework itself. However, given the nature of the services being sourced under the Framework, it is anticipated that the duration of most individual contracts will last no longer than one year.

### **Evaluation of Tenders**

- 4.18 The contract notice for the Framework was advertised in the Official Journal of the European Union (OJEU) and on Source Derbyshire on the 22 September 2014. The deadline for tender responses was 19 December 2014.
- 4.19 There have been two principal stages to the evaluation of tenders, called 'qualifying' and 'award'.
- 4.20 The 'qualifying' stage assessed the organisations' general suitability and capability as a potential supplier. Those offers that met the minimum standards and so 'passed' the qualifying criteria proceeded to the second, 'award' stage of the evaluation. This stage is designed to assess the merits of each bid, based upon Tenderers' service delivery proposals.
- 4.21 Tenderers that did not pass the 'qualifying' stage in the process did not proceed to the second, 'award' stage, and will not therefore be considered further.
- 4.22 Tenderers that met the qualifying criteria proceeded to be evaluated against the award criteria. Two criteria ('quality' and 'price') have been used to determine the most economically advantageous tenders for each lot. These carry the following weightings in the evaluation scheme:
- |         |     |
|---------|-----|
| Price   | 60% |
| Quality | 40% |
- 4.23 There has been a positive response to the tender from suppliers on all Lots, including a number of competitive bids from SME's and local companies.
- 4.24 The tender responses are currently being evaluated by Officers from relevant departments including Finance and Procurement, Regeneration, Estates, Planning, Communications and Housing. The most economically advantageous tender responses for each lot will then be recommended for inclusion on the Framework.

### **Operation of the Framework**

- 4.25 Officers wishing to procure services via the Framework will normally do so in one of two ways:

- 4.26 (i) 'Calling Off'  
Referring to the summary of Lots as detailed in paragraph 4.12 above, the Officer will initially identify within the Framework which type of service is most suitable for their needs. For example, an Officer requiring expert assistance on conservation will more than likely select the 'Conservation and Heritage' Lot.
- 4.27 Subsequently, the Customer will then identify the most suitable supplier for provision of their needs, making their selection on the basis of the pricing and/or ranking of the suppliers. Such information will be taken from the rates submitted in the tenders received and will be published in a User Guide which will be prepared and made available by Procurement, following the award of the Framework.
- 4.28 (ii) Conducting a further competition, leading to 'call off'  
Officers will conduct a further competition exercise amongst those suppliers identified within a specific Lot of the Framework as being capable of supplying the required Services.
- 4.29 Typically the further competition will be run by inviting all successful suppliers (within the Officer's chosen Lot) to complete a concise tender document, which will then be evaluated by officers using the same, or broadly similar, criteria as used to establish the Framework.

### **Governance**

- 4.30 This report seeks delegated authority to finalise the recommendations and appoint service providers onto the Framework. 'Call- offs' from the Framework will only be used following a process approved by Chief Officer Group.
- 4.31 The Framework will be managed by the Regeneration Division, supported by Procurement.

## **OTHER OPTIONS CONSIDERED**

- 5.1 Other Frameworks do exist, offering some of the services included here. However they have their limitations and problems as documented under 3.1

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b>  <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Emily Feenan – Principal Lawyer Martyn Marples – Director of Finance and Procurement Sarah Smith – Principal Accountant N/A N/A Richard Williams – Director of Regeneration Greg Jennings – Head of Regeneration Projects Ray Poxon – Head of Procurement
<b>For more information contact:</b>  <b>Background papers:</b> <b>List of appendices:</b>	<b>Susan Hunter – <a href="mailto:susan.hunter@derby.gov.uk">susan.hunter@derby.gov.uk</a> 01332 641606</b> <b>Sherry Russell – <a href="mailto:sherry.russell@derby.gov.uk">sherry.russell@derby.gov.uk</a> – 01332 643273</b>

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 One of the aims of establishing the Framework is to achieve efficiencies and value for money.
- 1.2 The Framework will be monitored and used in accordance with contract and finance procedure rules.
- 1.3 No financial commitment is requested under this report. All requests for call off's will be made via the Procurement/Use of Consultants approval form through Chief Officer Group.
- 1.4 Derby City Council is obliged to recover the costs incurred in the management of the Framework. This obligation is to be met by means of a retrospective rebate which will be payable by the Framework's suppliers to Derby City Council based on the total turnover of business conducted by them under the Framework. This rebate will be at a rate of 0.75% of contract turnover.

**Legal**

- 2.1 Establishing the Framework will assist in managing the Council's risks around contracting and improve compliance with legislative and other regulatory requirements.
- 2.2 Legal services will develop an access agreement for the Derbyshire public sector bodies to sign prior to using the Framework which will limit the Council's liability & manage the risk around any potential litigation.

**Personnel**

- 3.1 None directly arising from this report.

**IT**

- 4.1 None directly arising from this report.

**Equalities Impact**

- 5.1 None directly arising from the report. Equalities Impact Assessments will be carried out for individual call offs as required, in addition to consultation with the Disabled People's Diversity Forum where required.

## **Health and Safety**

- 6.1 None directly arising from the report. Health and Safety implications will be considered and implemented for individual call-offs as required.

## **Environmental Sustainability**

- 7.1 None directly arising from the report.

## **Property and Asset Management**

- 8.1 None directly arising from the report. Property and asset implications for individual call offs will be assessed as required with full involvement of the Estates Team where appropriate.

## **Risk Management**

- 9.1 Establishing a Council Framework will assist in managing the council's risks around Procurement and Contracting, it will ensure compliancy with the Public Contract Regulations 2006 and improve compliance with the finance and contract procedure rules.
- 9.2 Establishing the Framework will assist in managing the council's risks around compliance with procurement law and external grant funding conditions. Under the general law if the Directives are not observed a contract may be prevented from being awarded and/or damages may be awarded by a Court. In the case of external grant funding and specifically the European Regional Development Fund (ERDF), errors or failures in procurement procedures carry the consequence of correction (leading to grant money being clawed back from the Grant Recipient).
- 9.3 The provision of a mechanism for speedy procurement of essential specialist services reduces the risks around delivery of priority projects.

## **Corporate objectives and priorities for change**

- 10.1 The increase in savings challenges for the public sector and the current economic climate means that procurement is under greater scrutiny than ever before, increasing expectations to deliver increasing savings and service improvements whilst contributing to wider agendas, including Corporate Social Responsibility issues, social value and engagement with SME and local suppliers.
- 10.2 One of the aims of establishing the Framework is to achieve efficiencies and value for money.