

Procurement Advisory Board (PAB)

Agenda Item

Brighton & Hove City Council

Subject:	Contractors Framework – Housing Repairs & Maintenance	
Date of Meeting:	14/06/2021	
Report of:	Executive Director Housing, Neighbourhoods and Communities	
Commissioning Officer:	Name: Eddie Wilson, Head of Repairs & Maintenance)	Tel: 01273 29-3669
	Email: Eddie.wilson@brighton-hove.gov.uk	
Procurement Officer:	Name: Luke Taylor, Procurement Manager	
	Email: Luke.taylor@brighton-hove.gov.uk	
Type:	New Buy	
Proposed Route To Market:	Open, Over OJEU	

1. SUMMARY AND CONTEXT:

The Procurement Advisory Board (PAB) is an advisory board to council committees on procurement matters. The role of PAB is to report to the relevant committee with its recommendations on the proposals put forward in this report.

PAB is being asked to review and advise on the procurement proposals contained within this report as the estimated lifetime value of the contract to be awarded exceeds £1million

2. RECOMMENDATIONS:

The Procurement Advisory Board is requested to provide recommendations to Housing Committee that it recommends:

- The procurement and award of a four-year multi-contractor framework agreement for the specialist works as detailed in section 3.3 of this report.

- That the Executive Director of Housing, Neighbourhoods and Communities is granted delegated authority to take all necessary steps to implement the framework agreement and to award call-off contracts using the framework.
- The tendering of Asbestos Surveys via the Council's Construction Related Consultancy Dynamic Purchasing System (DPS)
- The use of the Council Highways Works Framework for road surfacing works required in Council managed Housing car parks and garages

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Background

In order to enable the Repairs & Maintenance (R&M) service to be up and running by the 1st of April 2020, the council relied on the use of contract waivers to procure a works management system, a vehicle fleet and a supply chain for materials and subcontractors.

These decisions were made under the delegated authority agreed at Housing Committee and the New Homes Committee, September 2018, and Policy Resources and Growth Committee, October 2018, to award contracts required to implement the recommendations set out in that report.

Appropriate legal and procurement advice were taken and waivers were approved by the Executive Director and lead councillors on the Housing Committee. Members were also informed of the intention to enter into these contracts by a report to the January 2020 Housing Committee

A waiver to continue to use Mears approved list of suppliers, a specified list of 21 subcontractors, was agreed (Waiver CP341), as procurement of a council works supply chain was not possible in early 2020 and due to the continued use of the Mears legacy IT works management systems. The waiver for the use of contractors expires on the 31st March 2022.

In line with recommendations arising from Internal Audit of Repairs & Maintenance service reported to January 2020 Audit & Standards Committee and Housing Committee (20 January 2021) this procurement aligns to the agreed audit actions, that:

- The service will ensure that any additional procurements are planned in such a way to avoid the use of waivers. Procurements should be scheduled to replace the existing waiver arrangements as soon as existing contracts allow.

- The service will procure additional subcontractors to meet the requirements of the housing repairs service. Procurements will be in accordance with the councils Contract Standing Orders.

The Council's own separately procured IT system, Northgate Housing Contractor portal is scheduled to go live in the summer of 2021, allowing for the procurement of a contractor solution for the Council to enter into contract with all the additional services required by the Repairs & Maintenance team. With the Northgate Housing Contractor portal in place, the service will be able to issue works and payments to contractors.

There are a number of areas of works and services that need to be procured separately within the service, and there are additional opportunities for other Housing services to use the contractor framework mechanism to compliantly meet their contractor needs in future.

3.2 Objectives

The procurement of a framework mechanism for the repairs and maintenance service to contract with various multi-trades, has 4 main objectives:

- Provide a compliant process for the service to issue works orders to contractors when needed. This is typically needed because either;
 - i. the works contracted out are of a specialist nature that cannot be met from within the existing in sourced Repairs & Maintenance Service direct labour, or,
 - ii. the works are required to provide additional support to the insourced service meet the demand on the service.
- For key areas such as empty property (void) repairs the procurement will establish a contracted programme of works to be allocated to contractors, to allow interested contractors to allocate sufficient resources to meet this demand.
- To engage the local supply chain of contractors to help meet the council's requirements and to ensure the local economy is prioritised whenever possible.
- To provide the service with a diverse and reliable pool of contractors that can work with the service in an agile manner, to deliver improved outcomes for all residents in Council managed housing stock.

3.3 Requirements of Contract

The framework will have 8 Lots for each work type with a maximum number of contractors per Lot as set out in table 4.2. The framework is anticipated to have a value of £16,000,000 over the four year term. The contracts required by the service with the anticipated annual spend and proposed number of contractors is set out in the table below

Work Type	Anticipated Annual Spend	Maximum No. of Contractors Proposed
Void Repairs (ready for Re-let at Lettable Standard)	£1,275,000	3
Additional R&M support -General Building, Masonry, Carpentry, Plastering)	£625,000	3
Scaffolding	£500,000	2
Asbestos Removal	£450,000	2
Damp & Condensation works	£340,000	2
Window & Door Repairs	£360,000	2
Clearance & Environmental Cleans*	£300,000	n/a
Roofing Repairs	£150,000	2
Floor Fitting	£125,000	1

The framework agreement would have a Lot for each of the areas above with the exception of Clearance & Environmental cleans* (as this would be included within the Void Repair specification).

Where Work Types are awarded to more than 1 contractor, jobs will be allocated equally between the contractors with spend monitored to ensure the total value of jobs is within the contracted parameters. Allocating works to multiple contractors will allow for more interest from local SME's.

Performance management would be monitored by the service, with allowances in the allocation process to adjust the number of jobs issued to a contractor where Key Performance Indicators (KPIs) fall below the required standard.

The service currently operates using multiple contractors, to carry out the same Work Types. This method of allocating works mitigates against the poor performance of one contractor impacting the whole of the service.

A maximum number of contractors is set for each Work Type, to ensure the commercial viability of each contract for the successful contractors. A Market Engagement event will be held prior to the issue of tender documents to obtain feedback from bidders on the proposed Work Type allocation.

In addition to the works above the following areas also require contracts that PAB is asked to recommend procurement via existing Council Frameworks or Contracts:

Work Type	Anticipated Annual Spend	Maximum No.of Contractors Proposed	Procurement Route
Asbestos Surveys (including communal parts)	£250,000	2	Call-off Competition from the Council's Dynamic Purchasing System (DPS) For Construction Related Consultancy, Lot 2 – Asbestos Surveying
Car Park & Garages Repairs	£110,000	1	Use of the Council's Highways Contract

The total 4 year value of the framework to Brighton & Hove City Council (BHCC) is anticipated to be £16,000,000. The use of the Construction Related Consultancy DPS for Asbestos Surveying services over the same four year period is expected to total £1,000,000.

The framework agreement would specify how many contractors are to be appointed in line with the column above and would set out the allocation process for the works at the outset (based on an equitable split of the works value). This will allow contractors certainty to plan their resources to the level required by the service, and will ensure clarity on contract performance from the start of the contracts.

Feedback from suppliers will be obtained as to how they would prefer to have the works allocated, following a market engagement day, that will be factored into the final tender documents.

By allocating the work areas to more than one contractor, it is anticipated that there will be more incentive for local Small Medium Enterprises (SME) to apply for the framework, and allows the service to manage the risk of single contractor failure. The service is experienced at working with multiple contractors.

The framework would also allow for call-offs where works arise that are outside the day-to-day requirements of the service. The framework will be allow for call off contracts to be run and awarded by Adur & Worthing councils.

4. POSSIBILITY OF PROVIDING THIS CONTRACT IN-HOUSE

- 4.1 Use of contractors will always be required to meet the ebbs and flows in demand, specialist works and to provide flexibility for the service to carry out repairs. In the 2018 Committee reports it was noted that use of sub-contractors, under the contract with Mears, accounted for up to 90% of void works. Should we wish to reduce this to 50% the service would require additional staff to be employed by the Council.

- 4.2 The report recognises that there is scope for the void works that are contracted out to be reduced if the numbers of directly employed operatives are increased. However, this would not be possible to implement in time for April 2022 when this contract needs to be in place.
- 4.3 Over the 4-year framework term, the contacted spend could be reduced with the recruitment of additional directly employed labour. Full value analysis of additional staff numbers would be required prior to any further recruitment to ensure budgetary implications are considered.
- 4.4 A number of the works required under this framework are of a specialist nature which cannot be met by the directly employed operatives. These include Asbestos Removal and scaffolding which require specialist qualifications, licensing and equipment that are not budgeted for within the service.

5. SUSTAINABILTY CONSIDERATIONS

- 5.1 This project links to the following corporate principles and priorities, and outlined in the Corporate Plan and delivered through the Housing, Neighbourhoods and Communities Directorate Plan:
- A city to call home
1.4 Improve council housing
 - A sustainable city
Become a carbon neutral city by 2030
- 5.2 By running our own framework, the Council can specify sustainability requirements to match our corporate priorities, including the use of sustainable timber/steel and other requirements.
- 5.3 All bidders will be required to answer specific questions on their sustainability priorities that will be evaluated as part of their tender submission.
- 5.4 The procurement documents will also be designed in a manner to encourage Small to Medium Enterprise (SME) applicants, at both the selection and the call off stage

6. SOCIAL VALUE AND COMMUNITY WEALTH BUILDING CONSIDERATIONS

- 6.1 During the procurement process bidders will be asked to deliver Social Value in accordance with the Council's Social Value Framework. The benefits for each call off will be identified and evaluated at each mini competition.
- 6.2 In addition, the Council will ensure that the specific Social Value requirements such as local employment, cascade of payment terms and

living wage commitments will be agreed as part of gaining a place on the framework.

7. FINANCIAL CONSIDERATIONS

- 7.1 The total estimated value of the contractor framework over the 4 years is set out in section 3.3 of the report, which includes both spend against HRA stock and the General Fund (Temporary Accommodation and Seaside Homes).
- 7.2 It is anticipated that overall costs will increase as a result of this procurement because the schedule of rates currently in operation is over 10 years old. The full financial implications of the framework contract will need to be factored into future annual budget setting and closely monitored as part of this year's budget monitoring process.
- 7.3 Section 4 of this report looks at the future option of providing more works in-house rather than sub-contracting the works. This will need a full cost benefit analysis so that the financial implications are fully explored prior to any decision.

Finance Officer Consulted: Monica Brooks Date: 01/06/2021

8. EQUALITY CONSIDERATIONS

- 8.1 The tender documents will include questions that ensure the bidders address all equalities considerations, both as a business and through evaluation of how they will engage with residents to ensure they give consideration to the diversity of the city's population.
- 8.2 Contractors will be expected to carry out their works in line with the Council's Fair & Inclusive action plan

9. LEGAL IMPLICATIONS

Standard legal implications for procurement of framework agreements (over threshold).

The Public Contracts Regulations 2015 apply to the procurement and award of framework agreements above the relevant thresholds for services, supplies and works. PCR 2015 defines a framework agreement as 'an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quality envisaged.' The process

to award a framework agreement should be run in accordance with the Regulations as well as the council's Contract Standing Orders (CSOs).

The Social Value Act 2012 defines social value as 'improvement to economic, social and environmental well-being of the relevant area' and requires specific consideration by the council prior to starting a procurement process of how to improve these benefits through the procurement and how to undertake a procurement process with a view to securing that improvement. In addition, The Public Contracts Regulations 2015 expressly allow contracting authorities to incorporate social and environmental factors into specifications for a contract, award criteria and contract conditions provided they are linked to the subject matter of the contract, proportionate to what is being procured, do not result in unequal treatment of bidders, are free from discrimination and comply with the principle of transparency.]

10. COST/QUALITY WEIGHTING CONSIDERATIONS

Weightings for the tendered activity would be set at between 40-60% for Price and Quality to ensure that successful bidders provide works to a high standard, in addition to a best value price. These ratios have been used in other Housing Contracts and provide a best value outcome.

11. VALUE and SAVINGS

The cost codes that are currently used by the service are based on a schedule of rates that is now over 10 years old, and so therefore it is not anticipated that that this activity will create cashable savings.

12. POTENTIAL RISKS

- 12.1 Contracting with multiple companies presents challenges in ensuring that works are allocated as set out in the tender documents. The service will be required to monitor closely the allocation of works. The allocation process will be defined prior to publication of the tender, taking into account feedback from the market. Contract reviews will take place regularly and will include details of all work offered under the framework to ensure fair distribution.
- 12.2 There is a possibility that costs will increase due to the age of the schedule of rates currently used, being over 10 years old. Mitigation against this risk is that it ensures contractors can be performance measured against a modern schedule of rates. The maximum number of contractors in each Lot will require bidders to submit pricing cost at tender that are commercially competitive.

13. EVALUATION OF ROUTES TO MARKET

Several procurement routes have been assessed. Details of each including the preferred option are detailed below:

13.1 Compliant Council Managed Framework – PREFERRED OPTION

Procure a multi-contractor framework that includes Lots for each major work area.

A framework would be established with Lots for the following key areas (annual value ~£4 million):

- Voids / Clearance work
- Scaffolding
- Windows & Door repairs
- Asbestos Removal
- Damp & Condensation
- Flooring Fitters
- Roofing Repairs
- Building Works (Inc. plastering/carpentry/insurance works)

The Framework to be drafted will allow for allocation of works based on ranking/rotation to the requirements specified at tender. Further Mini-Competitions could be raised for more complex projects if required.

Benefits to include:

- Creating BHCC framework allows for more local SME's to apply for work than if contracts were awarded via national frameworks
- The specified volumes of work for each Lot in the Framework Agreement would allow bidders to resource according to our needs – leading to more reliable service provision
- Leaseholder consultation done once for all work areas on framework, allowing for faster response for repairs needed in future
- Our own framework allows for consideration to be given to local supply chain for materials etc, meeting social value requirements
- Using more than one contractor per Lot allows more access to local SME's and mitigates risk of poor contract performance by one contractor.

13.2 Use of existing contracts

Due to the requirement for leaseholder consultation, many of the existing contracts that cover the works are not able to be accessed by the Repairs & Maintenance service, as those contracts did not include for the leaseholder consultation requirement.

For 2 areas, Asbestos Surveying and Car Parks the intention is to use existing council mechanisms via a DPS to call off the contracts, and to continue to use the council's Highways contract.

13.3 Central Purchasing Body Frameworks:

Suitable frameworks have been identified for the areas covered, however in this instance there may be several disadvantages

- May not support the local economy with many being large, national suppliers
- May not be value for money as rates and margins may be larger than local SMEs who may have further to travel
- Leaseholder consultation is required for all works that may impact on leaseholders, with leaseholders able to nominate a preferred contractor, that may not be allowed under framework rules
- Requires management of tender process for each call-off
- Terms and conditions of framework may not satisfy the Council requirements and each framework would require legal review of all framework and call-off documentation prior to call-off which would add additional time to the projects