

Committee Name and Date of Committee Meeting

Cabinet – 13 February 2023

Report Title

Procurement of Rotherham Construction Partnership Framework

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

The existing Rotherham Construction Partnership (RCP) Framework Agreement (4th version) expires in May 2023. This report seeks authority to re-procure the fifth version of this framework, which will be advertised as RCP5, to provide access to a range of suitably qualified contractors to deliver a variety of building works projects.

Recommendations

That Cabinet:

1. Approves the re-procurement of a framework of suitably qualified contractors to deliver a variety of building works projects as and when required for Rotherham and other Local Authorities and Public Sector Organisations.
2. Delegates authority to the Strategic Director of Regeneration and Environment, in consultation with the Cabinet Member for Jobs and the Local Economy and the S151 Officer, to enter into the resulting Framework Agreements with the successful contractors.

List of Appendices Included

Appendix 1 Part A – Initial Equality screening assessment form
Appendix 2 Carbon Impact Assessment

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Rotherham Construction Partnership Framework

1. Background

- 1.1 The Rotherham Construction Partnership (RCP) framework is a call-off contract established by the Council to efficiently appoint contractors to deliver specific building works projects. The framework essentially creates a list of pre-approved contractors with agreed terms and conditions but no guarantee of spend.
- 1.2 The fourth iteration of the Rotherham Construction Partnership framework (RCP4) was procured and awarded in May 2019 and will expire in May 2023. £11m of work has been procured through this framework and, as this framework is open to other regional authorities for a small access fee (of 0.6% to 1.0%), this has generated an income stream of approximately £80k.
- 1.3 The proposed lots within the new framework are as follows:
 - Lot 1 - Flat Roofing
 - Lot 2 - Pitched Roofing
 - Lot 3 - Demolition
 - Lot 4 - Building Works 1 (up to £150k)
 - Lot 5 - Building Works 2 (£150k to £500k)
 - Lot 6 - Building Works 3 (£500k to £1m)
 - Lot 7 - Building Works 4 (£1m to £2m)
 - Lot 8 - Building Works 5 (£2m to £4m)
 - Lot 9 - Structural Repairs
 - Lot 10 - Mechanical Works
 - Lot 11 - Electrical Works
 - Lot 12 - Housing Adaptions/Disabled Facilities Extensions (up to £100k)

2. Key Issues

- 2.1 When procuring building works contracts, the Council can consider a range of options, including individual tender exercises, the use of regional frameworks such as YORbuild, or the use of bespoke frameworks established by the Council, such as RCP4.
- 2.2 Whilst conducting individual tender exercises on a project-by-project basis enables the inclusion of specifications tailored to the needs of the Borough, and accessing regional frameworks improves the quality and value through increased volumes, the establishment of a bespoke framework, RCP5, can provide both of these benefits to the Council.

Social Value

- 2.3 In particular, the new iteration of the RCP framework will enhance the social value that is secured through construction contracts, by incorporating the levels set in the Social Value Policy, and by including enhanced contractual measures to ensure that social value commitments are met. The Council's Social Value policy will apply to RCP5, and the framework will enable a greater degree of control and commitment than RCP4, enhancing the delivery of Social Value outcomes in Rotherham.

- 2.4 Tenderers will be required to sign up to the Social Value Portal for the ongoing measurement and management of Social Value commitments at Framework award stage. Any tenderers who do not commit to the Social Value Policy at Framework stage, will be rejected.
- 2.5 Social value for RCP4 currently only applies to contracts in excess of £100k in line with the minimum in the Social Value Policy. For RCP5, for individual call-off contracts of £25k and above, contractors will be expected to make a Social Value commitment against the key priority measures within the Council's Social Value framework along with a milestone tracker (forecast) on when commitments will be made.
- 2.6 Applying a minimum threshold of £25k for Social Value, rather than the £100k threshold in the Social Value Policy, will enable the Council to maximise the Social Value benefits from the Framework, as potentially there could be a high number of call off contracts with a value between £25k and £100k where these added value benefits for the Borough would be missed.
- 2.7 As the Framework will be construction and works related, Framework Contractors will be expected to commit to Social Value outcomes related to employment, training, work experience placements and local spend as part of their proposals for individual call-offs.

Contract volume and estimated value

- 2.8 The approach to the new framework anticipates the increased use of RCP5, helping to drive increased volumes, better value, and enhanced social value.
- 2.9 In order to incorporate projected Council spending activity on building and associated works, RCP5 will include 12 Lots (as identified at 1.2); with the removal of Lots for asbestos removals and fixed wire testing which will be procured separately to suit those specific service types. The number of Lots for "Building Works" will be increased from two to five with additional levels of call-off values.
- 2.10 The financial limitations of contracts permitted in each lot have been structured in such a way to provide more opportunity for SME's to participate in those tenders where they may not have the required turnover levels to meet the minimum requirements of higher value and higher risk contracts.
- 2.11 RCP4 was limited to works contracts up to £750k, RCP5 will permit call-off contracts up to £4m. This is in order to accommodate higher value call-off contracts that would have previously been procured via other routes.
- 2.12 Based on the number and value of call-off contracts by the Council and other authorities via the RCP4 Framework, and the number and value of contracts via other routes, the estimated value of the Framework is up to £97m over a four year period.
- 2.13 It should be noted that as this is a Framework, there is no guaranteed commitment to this level of spend with Contractors, and separate approvals

will be obtained in accordance with the Council Constitution and Finance and Procurement Procedures Rules (FFPRS), prior to awarding each call-off Contract.

- 2.14 The Council will still retain access to existing frameworks such as YORbuild, but will no longer play an active role in promoting or administering other frameworks, in order to focus on delivery through RCP5.
- 2.15 Similarly, the proposal will enable other public sector organisations across the Yorkshire and Humber region to access the RCP5 Framework, providing an opportunity to generate income for the Council. Access fees are proposed to continue on the current basis of percentage call-off value of 0.6% for the general building works Lots and 1% for the specialist works Lots.
- 2.16 Call-off contracts are proposed to be awarded either by undertaking a mini-competition with all Contractors on the relevant Lot, or via direct award on a ranking basis.
- 2.17 Supplier engagement events are to be held with interested Contractors prior to publication of the Framework tender, to raise awareness of the Framework, and to give an overview of tendering for public sector Contracts. Communication activity is taking place with the support of the SYMCA Supply Chain Engagement Team to ensure local Contractors are made aware of these events.

3. Options considered and recommended proposal

- 3.1 Option 1 – Re-procure the Framework which will be advertised as RCP5 with the Council entering into framework agreements with the successful contractors in each relevant lot. Individual works contracts will be awarded as required between the contractor concerned and the Council following the most suitable call-off procedure. Other Local Authorities and public sector bodies within the Yorkshire and Humber region will be able to access the framework. This is the recommended option.
- 3.2 Option 2 – Continue with existing framework arrangements and specific tender exercise, and do not procure RCP5. This will not allow the Council necessary control in its objectives in terms of ethical procurement. This option is not recommended.
- 3.3 Option 3 – Continue with the existing framework arrangements and proceed with RCP5 with Building Works Lots but for lower value contracts only (capped at £1m) as per the current RCP4 framework. Capping the works at £1m would reduce the opportunity to procure higher value projects through RCP5. This option would not deliver as much social value to the borough and would recover in less income. This option is not recommended.

4. Consultation on proposal

- 4.1 There has been no public consultation on the proposal. Following award of the framework, potential users of the framework, including other Local

Authorities, will be contacted and made aware of the successful suppliers and the lot value thresholds.

5. Timetable and Accountability for Implementing this Decision

5.1 The existing RCP4 Framework expires in May 2023.

The proposed timetable is as follows:

Milestone	Date
Tender issued	20.02.2023
Deadline for receipt of tender queries	15.03.2023
Deadline for responses to tender queries	16.03.2023
Tender return date	23.03.2023
Clarification meetings	14.04.2023
Notification of award	05.05.2023
Standstill period	06.05.2023 – 15.05.2023
Contract commencement	16.05.2023

6. Financial and Procurement Advice and Implications

6.1 The financial value of the Framework over the four-year duration is estimated to be £97m excluding VAT. As this exceeds the Public Contracts Regulations 2015 threshold for Works of £5,336,937 including VAT, £4,447,448 excluding VAT, the procurement will need to be published on the UK Governments Find-A-Tender Service and Contracts Finder websites in accordance with the legislation and the Councils FPPRs. The Framework will be procured compliantly in accordance with the Public Contracts Regulations 2015.

6.2 The Framework will comply with the Council's Social Value Policy where Contracts with a value of £100,000 and above require Suppliers to commit to proposing and delivering Social Value outcomes. In order to maximise the level of Social Value to be generated, Suppliers will be required to make commitments on all call-off contracts which exceed £25,000, alongside other ethical considerations such as the payment of the Real Living Wage, and the requirements of the Modern Slavery Act 2015.

6.3 Whilst the YORbuild framework has provided a source of external income which was approximately £20,000 per annum, it is expected that the access fee generated through RCP5 will be in excess of this and will be retained solely by the Council.

7. Legal Advice and Implications

7.1 As stated in the body of the report, this procurement exercise will be run in accordance with the Public Contract Regulations 2015 (as amended) and as such will be compliant. Again as referred to above, subsequent contracts for individual projects will include all appropriate terms and conditions.

8. Human Resources Advice and Implications

8.1 There are no direct human resources implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

9.1 Any implications on the welfare of children and young people will be given due consideration on individual call offs from the framework. As this report is solely for the approval to procure a framework the implications are unknown.

10. Equalities and Human Rights Advice and Implications

10.1 Any implications on equalities and human rights will be given due consideration on individual call offs from the framework. As this report is solely for the approval to procure a framework the implications are unknown.

11. Implications for CO2 Emissions and Climate Change

11.1 Any implications for CO2 emissions and climate change will be given due consideration on individual call offs from the framework. As this report is solely for the approval to procure a framework the implications are unknown.

12. Implications for Partners

12.1 Other Local Authorities, public sector bodies and charitable organisations within the Yorkshire and Humber region will be able to access the framework.

13. Risks and Mitigation

13.1 The contractors appointed to the framework will be made aware that there is no guarantee of any work through the use of the framework, therefore there will be no liability over and above individual project contracts.

13.2 Should there be any risk of delay to the tender process resulting in RCP5 not being awarded before the RCP4 framework expires at the end of May, other compliant procurement routes such as YORbuild are still available so it will not stop the Council from delivering projects.

14. Accountable Officers

Mike Mullins – Principal Quantity Surveyor

Jonathan Marriott – Head of Asset Management

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	30/01/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	24/01/23

	Named Officer	Date
Assistant Director, Legal Services (Monitoring Officer)	Phillip Horsfield	26/01/23

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This report is published on the Council's [website](#).

