

ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET

1.	Meeting:	Cabinet
2.	Date:	6 August 2014
3.	Title:	YORbuild2 Construction Framework
4.	Directorate:	Environment and Development Services

5. Summary

This report sets out proposals for the procurement of a YORbuild 2 Construction Framework and for the Council to continue in its lead role within the management of the YORhub frameworks.

The YORbuild1 Construction Framework has been in place since December 2009 and has successfully delivered building projects both in Rotherham and more broadly in the Yorkshire and Humberside Region. The Framework provides for speedy, efficient and inexpensive procurement of construction contracts. It also supports local employment and economy objectives by providing employment and skills opportunities to local residents.

Local contractors will be advised about the opportunities from being involved in the Framework and encouraged to participate in it.

There could be a small unbudgeted cost associated with setting up the Framework, although there is only a small risk of this falling directly on the Council as other funding is expected to be available to cover the costs.

6. Recommendations

It is recommended that:

- a) **The Council should continue as the lead authority for the South Area of YORbuild Construction Framework in procuring Yorbuild2 and enter into a partnership agreement with the other lead authorities for the procurement of the Framework.**
- b) **The Council should enter into framework contract agreements with the contractors appointed under the Framework.**
- c) **The Cabinet Member for Planning, Highways and Street Scene Services be authorised to approve recommended lists of contractors for tender and, subsequently, lists of contractors for appointment to the Framework.**
- d) **The Council should continue to participate in the management of the YORhub frameworks including the YORhub Framework Board.**

7. Proposals and Details

- 7.1 The main benefit of the OJEU-compliant YORbuild Construction Framework, and the resulting availability of contractors through the framework, is the avoidance of lengthy and costly contractor procurement exercises. On occasions, the ability to use the Framework also enables the Council to access funding opportunities that have a short response timescale, for example from the Homes and Communities Agency.
- 7.2 Other benefits have included the provision of Employment and Skills opportunities, delivering good numbers of apprentice-weeks, school visits / workshops and of people progressing into full time employment. In Rotherham, over 900 apprentice weeks have been provided; 566 students have participated in site visits and 388 students have attended skills workshops. Most notably, 45 Rotherham people have progressed into employment through the YORbuild framework.
- 7.3 The appointment of contractors to the original YORbuild1 Framework was for a period of 4 years with an option to extend by 2 years subject to satisfactory performance. That option was exercised so that the end date for the YORbuild1 framework is November 2015. Other construction frameworks in the same style have also now been set up for consultants (YORconsult) and civil engineering and highways works (YORcivil). All of the frameworks are now branded under the 'YORhub' banner and have similar end dates.
- 7.4 The benefits of using these frameworks and partnership working remain. In fact, renewal of the arrangement would help protect against rising prices as the private sector construction market begins to recover. The use of frameworks will also result in cheaper project procurement by avoiding the cost of tendering for any construction projects.
- 7.5 A number of lessons have been learned from use of the frameworks and future arrangements will be adjusted to take account of these:
- The Lotting structure (dividing the framework into pools based on value) will be reviewed to ensure sufficient competition is achieved without making the pool of contractors too large to make it unattractive to bidders.
 - Lower value bands will be set up to encourage involvement by SMEs and local contractors. A suitable advertising strategy will be drawn up to ensure that local contractors are forewarned and kept informed of opportunities.
 - The use of a single form of construction contract (the NEC form) has proved a barrier to use by some organisations and it is proposed to widen the framework to allow other forms of construction contract.
 - Lots could be added for Affordable/social housing, heritage and pre-fabrication (including modular building construction) to extend the opportunities available.

- A number of briefing and help sessions will be held to advise and support contractors, particularly SMEs, in applying for places on the frameworks. Two of these events will be held in Rotherham.
- 7.6 Rotherham MBC has taken a regional lead in the frameworks and retained its reputation in providing construction procurement services to bodies such as South and West Yorkshire Police, charitable bodies and all of the South Yorkshire Councils. The Council has derived income from the framework for providing these procurement services. In addition, our position has led to opportunities to carry out other services to clients such as design, procurement and contact / project management.
- 7.7 Due to the benefits described above it is proposed to continue to be the lead authority (Framework Authority) for a new South Area contractors' framework (YORbuild2). Sheffield City Council is the Framework Authority for YORconsult and Barnsley MBC has that role for YORcivil. If Rotherham MBC decides not to take part in YORbuild2 then it is likely that either of these Councils will step in, denying Rotherham the commercial opportunities that come along with being recognised as Framework Authority and potentially adversely affecting the positive reputation the Council has built up through these services.
- 7.8 In order to comply with EU procurement rules, the Framework will need to be advertised in the OJEU. It is currently proposed to advertise for expressions of interest using a Pre-Qualification Questionnaire, then draw up a shortlist to tender for standard pricing elements. The draft programme requires placing the advert in the OJEU in October 2014. Rotherham MBC, as Framework Authority, would enter into a framework agreement with the appointed contractors. However, the appointment to any individual project contract would remain with the commissioning authority, together with any contractual risk.
- 7.9 As the framework tender process progresses, it is proposed that the Cabinet Member for Planning, Highways and Street Scene Services approves the recommended lists of contractors for tender and subsequently the lists of contractors for appointment to the Framework. The new framework would commence in November 2015.
- 7.10 The YORbuild framework is governed by a Board made of senior Council officers from the framework authorities. Since the formation of the consultants and highways frameworks, this Board has been renamed the YORhub board. If the Council continues to be the Framework Authority for YORbuild 2 then it would still be represented on the YORhub Board.
- 7.11 The Council itself would continue to use the framework for appropriate projects, where this would lead to best value.
- 7.12 It should be noted that the Council is already operating a standing list of contractors work for construction works valued below £150k (Minute 121 of the 7th April 2014 Cabinet Member for Regeneration and Development refers),

whereby the scoring mechanism is weighted to support opportunities for local contractors. This standing list will be used for appropriate projects and for those for which the Yorbuild framework is not suitable.

8. Finance

- 8.1 It is estimated that the procurement costs for Yorbuild2 will be in the region of £230k, based on experiences in YORconsult and YORcivil. These costs are predominantly for officer time from the administering authorities.
- 8.2 The Regional LEPs are being asked to contribute to or meet the costs from the Regional Growth funds, in reflection of the benefits to employment and training from the framework. Should that route of funding prove unsuccessful, it is proposed that some or all of the procurement costs could be met from surpluses currently being generated through the YORcivil framework. Other sources of funding are also being investigated.
- 8.3 The fall-back position would be for each of the four framework authorities (Rotherham MBC, East Riding of Yorkshire Council, Leeds CC and Scarborough BC) to fund the procurement of Yorbuild2 and recover the costs through framework call-off income. This may mean that the costs may not be recovered within the year expended. The maximum potential total costs to Rotherham MBC would be between £50 and £70k, falling on the Asset Management fee-trading account.
- 8.4 Overall, we see little risk in being able to recover set-up costs through the routes outlined above.
- 8.4 Additionally, it is worth noting that the Council derives approximately £25k income p.a. from acting as Framework Authority and procuring work for other organisations, and there are opportunities to gain further income from additional services offered to Framework users. If necessary, this could be used to offset any costs.

9. Risks and Uncertainties

- 9.1 There is a risk that the 22 local authorities and other public bodies within the Yorbuild region do not fully support the Framework. If insufficient projects are commissioned through the Framework, there is a risk that operating costs of approximately £167k for the whole framework exceed income. To mitigate against this, the operating model will adopt a prudent estimate of income and operating costs will be reflective of this.
- 9.2 The contractual arrangements for individual commissions will be between the relevant contractor and council / public body. There would be no contractual risk to Rotherham MBC.
- 9.3 There is a risk that the local contractors and SMEs do not apply for or are not successful in getting places on the framework. A suitable advertising strategy

will be drawn up to ensure that local contractors are forewarned and kept informed of opportunities. The Standing List mentioned in 7.12 will continue to provide opportunities if local contractors are unsuccessful in bidding for the Yoebuild2 framework. In addition, the Supply Chain Engagement Programme within the Framework will signpost work package opportunities to interested suppliers and sub-contractors.

- 9.4 There are risks associated with funding described in section 8 above. If any unmet costs materialise, a further report will be produced.
- 9.5 A project risk register will be produced and reviewed / revised as required.

10. Policy and Performance Agenda Implications

- 10.1 The use of the YORbuild2 construction framework will contribute to meeting the following policies:

Community Strategy - Priority 1 Help local people and businesses benefit from a growing economy. The use of these construction frameworks can assist this Priority by providing Employment and Skills opportunities.

- 10.2 This project shows the Council taking a regional lead

11. Background Papers and Consultation

- 11.1 Government Construction Strategy Framework Working Group report – ‘Effectiveness of Frameworks’

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