



To: Executive Councillor For Climate Change and Growth Cllr Clare Blair

Report by: Simon Payne, Director of Environment

Relevant scrutiny committee: Environment Scrutiny Committee

Wards affected: ALL

Procurement of Construction Services

Key Decision

1. Executive summary

The City Council is planning to tender a new framework agreement to provide civil engineering construction services across all of its user departments. These services are planned to be in place by summer 2011, following a procurement process. In the meantime an interim supplier of civil engineering construction services is required, to enable the City Council to continue to deliver its services. This report requests an approval to procure civil engineering construction services from Cambridgeshire Highways, through a written agreement with Cambridgeshire County Council, in accordance with the City Council's procurement rules.

2. Recommendations

2.1 The Executive Councillor is recommended:

- To approve the procurement of interim civil engineering construction services from Cambridgeshire Highways through a written agreement with Cambridgeshire County Council in accordance with City Council procurement rules and relevant legislation.
- To note the proposed development of a new City Council framework agreement for civil engineering construction services.

3. Background

3.1 The City Council has a requirement for construction services across many departments, from housing maintenance to capital environmental improvements (EIP), of which EIP schemes form the majority.

3.2 A new framework agreement is proposed to be advertised and be in place by summer 2011. A significant amount of construction work is planned before then, as such an interim Contractor who will work on a call off basis is required as soon as possible.

3.3 The possible options that have been reviewed include:

- Letting a new contract for construction services. This is planned, but as indicated, the timescales associated with the procurement process would not allow any construction work to be completed this financial year. Additionally a review of the long term funding of the EIP programme is due in October 2010 and until that is completed there is no clear vision of future work volumes.
- Requesting individual quotations for each item of work. This would not only be resource intensive, significantly reducing the amount of work constructed, but would also fail to meet the procurement rule associated with the aggregation of contracts and not bring economies of scale.
- An agreement with Cambridgeshire County Council to provide construction services through their contract with Cambridgeshire Highways is seen as the most appropriate option to ensure the continuation of the delivery of City Council projects planned for this financial year.

3.4 The Legal Services Team has reviewed the Cambridgeshire Highways Contract. In their opinion, the arrangements that we are proposing to put in place with the County Council, to deliver City Council schemes through this contract are acceptable.

3.5 The Procurement Team has ensured that the strategy proposed is fully in line with both the Council's own Contract Procedure Rules and wider procurement legislation. These issues have been addressed with the following conclusions:-

- The value of the overall programme is well below the OJEU threshold for works (£3.9M).
- The City Council legal team and County Council have advised that the Cambridgeshire Highways contract is open to use by the City Council, although it is noted that the City Council must authorise work via the County Council and cannot enter a direct contractual relationship with Cambridgeshire Highways. Thus the City Council can legitimately have work carried out against that contract, which has been the subject of competitive procurement in accordance with County Council procurement rules and relevant legislation.

- 3.6 The planned programme of work falls within the value band £500,001 - EU threshold. Under the City Council Contract Procedure Rules this requires an Invitation to Tender to at least four candidates after advertising. However Rule 6 of the Contract Procedure Rules covers collaborative Procurement arrangements/ use of Purchasing Consortia. Specifically para 6.3 states that:-

"Any contracts entered into with other local authorities where a competitive process has been followed that complies with the equivalent of the Rules of the leading organisation (in this case the County Council) but do not necessarily comply with these rules, will be deemed to comply with these rules and no exemption is required"

Use of the Cambridgeshire Highways contract would meet the requirements of Rule 6 including para 6.3 and on this basis no exemption/waiver is necessary in support of this strategy.

- 3.8 In order for the City Council to procure construction services to its own requirements and in an efficient manner, an agreement will be required between Cambridge City Council and Cambridgeshire County Council. This will include procedures for the administration of the provision of construction services, including any particular requirements as well as the necessary financial arrangements.
- 3.7 This contract has been used in the past by the National Trust and Network Rail, and is currently being used by Huntingdonshire District Council for their £5 million Town Centre redevelopment scheme. Our proposed procedures would be very similar to those put in place by the above organisations.
- 3.8 The contract is a New Engineering Contract (NEC) Target Price Contract. The build up of the contract value or target price associated with individual schemes is based on the expected cost of the plant, labour and materials associated with the project. This cost, with a percentage addition for overheads and profits identified within the contract, makes up the agreed target price. The Contractor then records the actual cost of these items throughout the construction phase and the City Council will pay this actual cost up to the agreed target. If this is exceeded and no additional work has been requested, the City Council will only be liable for 7% of the additional costs above this figure. Similarly if the actual costs fall below the target, the Contractor will take a 7% share of the savings. This is referred to contractually as a pain-gain arrangement and encourages the Contractor to work efficiently and remain within the original target cost.

- 3.9 Cambridgeshire County Council is also proposing to add an additional 10.925% to the value of individual priced schemes as a contribution to the overheads of the Girton offices and the County officer time spent managing the process. This percentage figure is also applied to all County Council schemes delivered through this contract.
- 3.10 A value for money exercise has been carried out using an Environmental Improvement Scheme as a case study. The resulting target price fell within our estimate, which was based on a schedule of contract rates tendered competitively within the last two years.

4. Implications

- 4.1 A written agreement between the City and County Council would be required before any construction services could be procured.
- 4.2 This new method of procuring construction services will require appropriate procedures to be introduced to ensure that the contract is administered correctly with the efficient delivery of quality end products, whilst minimising the intensity of resources required.
- 4.3 The proposed procurement route will enable City Council schemes to be programmed for construction in accordance with their approved timescales.
- 4.4 The construction programme will be significantly compressed to the end of the financial year, however the proposed Contractor has the capacity to deal with a large workload and introduce additional resources as required.
- 4.5 The resources within Cambridgeshire County Council to manage the agreement have been assured by County Council Senior Officers. Minimal input will be required on a day to day basis with the agreed procedure critical to the effective use of this resource.
- 4.6 The proposed procurement method represents the best option to meet the needs of a number of important programmes requiring delivery during this financial year. A multi discipline project group from across the Council has looked at options and identified this strategy as the best solution. Separate work will be carried out during the year to identify optimum medium and longer-term procurement strategies for work beyond April 2011.

5. Background papers

These background papers were used in the preparation of this report:

Cambridgeshire Highways NEC ECC Construction Target Price Contract

6. Appendices

6.1 There are no appendices associated with this report.

7. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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