

**ANGUS COUNCIL**

**POLICY AND RESOURCES COMMITTEE – 1 SEPTEMBER 2020**

**URGENT REPAIR AND JOBBING TERM CONTRACTS – MAINTENANCE OF PROPERTIES  
(EXCLUDING COUNCIL HOUSING) 2021 to 2025  
PROCUREMENT AUTHORITY APPROVAL REQUEST**

**REPORT BY DIRECTOR OF INFRASTRUCTURE**

**ABSTRACT**

Report seeking authority for the proposed procurement where the maximum value of the contract is above the Chief Officer's delegated authority limit.

**1. RECOMMENDATION**

1.1 It is recommended that the Committee:

- (i) note the indicative estimated overall cost of £16,000,000 for urgent repair and jobbing works with a contract period of four years from April 2021 to March 2025;
- (ii) approves the procurement authority, as contained in this report, in accordance with the process stated in Section 16.8 and that contract acceptances are signed by the appropriate Council Officer in line with Section 16.15 of the Financial Regulations;
- (iv) authorise the Service Leader Assets to negotiate with and appoint contractors from other contract Lots where a deficiency of contractors arises in a given trade package category and contract Lot due to circumstances outwith the control of the Council as noted at 5.11 below,
- (v) authorise the Director of Infrastructure, where appropriate, to recover all additional costs incurred as a result of such action from any terminated/ defaulting contractor who has contributed towards such a deficiency on the understanding that the outcome of all such negotiations are subsequently reported to Committee in accordance with the Financial Regulations and as noted at 5.12 below;
- (v) notes the financial implications included in Section 6 of this report.

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN**

2.1 This report contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- An inclusive and sustainable economy
- Attractive employment opportunities
- Safer secure, vibrant and sustainable communities
- A skilled and adaptable workforce

**3. BACKGROUND**

3.1 The current Urgent Repair and Jobbing (URJ) term contracts for the maintenance of properties (excluding Council Housing) commenced on the 1 April 2017 and is due to expire on the 31 March 2021. A new contract is required to continue the annual repair and maintenance regime for minor works for council properties.

- 3.2 By having these contracts in place this allows the Council to ensure any regular minor property maintenance and improvement works can be carried out efficiently without incurring staff time in issuing significant numbers of small value tenders. These contracts also ensure that any unplanned property maintenance or minor emergency works can be dealt with promptly. Infrastructure – Assets issue in the region of 8,000 URJ orders including for schools, care homes, offices, leisure facilities, economic development and Common Good properties, on an annual basis, under the existing URJ contracts. Maintaining and improving the Council's assets ensures that, within the available budgets, the useful life of the stock is extended and assists in extending the lifespan of the Council's assets and reducing the timescale for replacements.

#### **4. SCOPE OF CONTRACT**

- 4.1 The contracts cover a range of trades with individual orders for works which are of an urgent repair, minor alteration or maintenance in nature being placed with the appropriate appointed contractor. The contracts will run from the 1 April 2021 to 31 March 2025.
- 4.2 The current URJ arrangement is split into 96 individual Lots covering 7 individual Angus Burghs and 23 individual trades. In order to ensure a more efficient operation of the URJ contracts with less administration whilst still retaining flexibility to respond quickly to emergency situations a detailed review of the number of Lots and processes has been carried out which has reduced the number of Lots to 31. This has been achieved through a number of adjustments as follows:
- Amalgamation of burghs: the 7 burghs have been amalgamated into 5 areas: All Angus or separated into Arbroath/ Brechin & Montrose/ Forfar & Kirriemuir/ Monifieth & Carnoustie
  - Combining trades: smaller trade packages have been combined to provided better value for the tenderers
  - Electronic processing of invoices, orders, job sheets and risk assessments to be improved, this will include investigating the option of receiving monthly single invoices for each Lot/contractor.
- 4.3 The Property Assets team are working with Business Support team to determine the extent of the efficiency savings that could result from improvements to the current system of processing invoices and orders.
- 4.4 The contract contains a mechanism which enables revisions to the standard prime cost rates based on market conditions in respect of prime cost of labour materials and plant. These revisions apply when the labour, material and plant rates are adjusted and published by the appropriate national body. The contractors tendered percentage adjustment is then applied to the updated rates. The contracts will incorporate a 'break' clause operable after 12 months, whereby the duration of an awarded contract can be reduced, following receipt of notice by either party. This will provide an effective service delivery process and build on the success of the previous procurement arrangements.
- 4.5 Contractors will be appointed on a trade package and area basis and where possible standby contractor(s) will be put in place. The maximum value of any order is restricted to £50,000, unless approved by the Manager Property Asset.

#### **5. PROCUREMENT AUTHORITY**

##### **Objectives**

- 5.1 The proposed tendering of the Urgent Repair and Jobbing term contracts Maintenance of Properties, with the above improvements, is a continuation of existing contracting practice which has been successfully in place for a number of years and demonstrates the commitment to maintaining and repairing the Council's properties. The procurement of these contracts ensures that urgent minor repair and maintenance works type can be carried out quickly by an appropriate contractor. These contracts allow the Council to order minor works up to £50,000 in value in an efficient and flexible manner.
- 5.2 Following the above review the tender packages are now split into 31 Lots comprising in the region of 19 separate trade packages which, depending on the value, are either split into up to

three areas or retained as a combined Angus area package. Contractors can apply for one trade package in one area (1 Lot) up to all trades in all areas (31 Lots) but will be invited to tender based on the selection criteria as set out in section 5.23.

- 5.3 The Lotting strategy of this project has been used successfully for previous similar procurements and will encourage participation by local small to medium enterprises (SME's) in this procurement opportunity and will allow them to compete on an equal basis with larger contractors. By reducing the number of Lots without removing the ability for local SME's to participate in the procurement opportunity it will allow a more efficient use of Council officers' time in managing and operating the URJ contracts.
- 5.4 The tender evaluation process will be carried out in accordance with the Financial Regulations for contracts over £2,000k in value and be carried out as set out in Section 5.25 of this report.

#### **Sourcing Route/ Collaborative Opportunities**

- 5.5 Collaborative procurement opportunity details were passed to Tayside Procurement Consortium (TPC) on 21 July 2020. Confirmation was received on 21 July 2020 from TPC that they are reviewing the options for collaborative opportunities. A 'break' clause at 12 months after contract commencement will be incorporated into the tender documents, so that if a collaborative opportunity is identified which would provide significant benefits to Angus Council then this clause could be implemented and the works would migrate across to any new collaborative procurement process.
- 5.6 The Council has a number of procurement options available to carry out improvement, repairs and maintenance type works. These range from producing individual tenders, issuing Schedule of Rates several works contract orders and requesting quotations.
- 5.7 The URJ Contracts procurement process has evolved over a number of years and the Infrastructure Property Asset team's experience in operating this type of contract has led to the identification of trades which it is considered beneficial to procure on split between an 'actual time spent, materials and plant used' basis and trades which are procured on a 'schedule of rates' basis. The URJ Contract documentation is based on a bespoke contract containing a specification and where appropriate, specific trade 'schedule of rates' sections which allows orders to be issued for small items of works efficiently and quickly. These orders are generally for minor improvement, repairs and maintenance items to the various types of non-housing buildings which are the responsibility of Angus Council. These contracts incorporate standards of performance and performance assessment which are reviewed by the Infrastructure Property Asset team; clients and contractors.
- 5.8 Due to the range of types of buildings which are the responsibility of the Council and the small monetary value of the majority of the trades involved in the URJ contracts, the application of an 'actual time spent' procedure ensures that the claim for the works is dealt with on a straight forward and efficient basis. The trades which are procured on a 'schedule of rates' basis within the URJ contracts have a manageable number of 'rates' relating to the type of work they carry out and these can be easily selected by the contractor or contract administrator (the Council). The trades which benefit from the 'schedule of rates' option are glazing and data/voice cable installations where there is a higher level of repetitive work that can be generically costed.
- 5.9 The use of other methods of procurement for works which are generally of a small monetary value or require to be carried out quickly would lead to the constant issuing of tendering/quotation/mini-competition documentation which would be an inefficient use of the staff resources available and delay completing low value works.
- 5.10 Previous experience with the URJ contracts has identified that due to the large number of trades and areas the awarding of Lots to one contractor for each area/trade package has led to issues with workload and continuity of work if contracts were determined due to performance issues or insolvency. To manage the risk to the Council, where appropriate and based on value for money, standby contractor(s) will be appointed to cover each Lot. The standby contractor(s), will only be used where the first contractor is unable to meet workload deadlines.
- 5.11 Where there isn't suitable standby contractor(s) available following a termination/default due to performance issues or insolvency the option will be available to allow the Service Leader

Assets, if appropriate, to negotiate and appoint a contractor from within the same trade package but from a different area (Lot).

- 5.12 The Director of Infrastructure, where appropriate, shall endeavour to recover all additional costs incurred as a result of any action following termination/ default or insolvency from any contractor who has contributed to the deficiency in service on the understanding that the outcome of all such negotiations are subsequently reported to Committee. The appropriate level of governance will be applied to the termination/ default and appointment of any contractors in accordance with the Financial Regulations clauses 16.19.2 (failure to comply with terms and conditions) and 16.24.8(c) (direct award-including prematurely terminated contracts).
- 5.13 Based on the latest procurement information the most beneficial option to the Council is to provide a four year contractual arrangement which includes standby contractor(s) within each Lot where available. A 'break' clause after 12 months will allow the Council to review the contracts ensuring that they continue to provide value for money with contractors that regularly perform to a satisfactory level.
- 5.14 The project will be advertised on Public Contracts Scotland (PCS) in October 2020 in line with Council policy. As the estimated value for the works noted in Section 6.1 exceeds the EU threshold of £4,733,252 the relevant EU procurement procedures will apply. Any capable local contractor will be identified and steps taken to alert them to the bidding opportunity prior to advertisement of the project.
- 5.15 Procurement will be via a two stage 'restricted' process which will require contractors to submit the standard European Single Procurement Document (ESPD) under the Public Contract (Scotland) Regulations. Those bidders who satisfy the minimum thresholds set and communicated within the Contract Notice will be invited to submit a tender. The Invitation to Tender will include a schedule of items to be priced by the bidders and the evaluation methodology as set out in Section 5.25 of this report. The tender documentation will incorporate Angus Council conditions, contract specific preliminaries, pricing documents, community benefit clauses, fair working practices question, pre-construction information pack and specification of requirements.
- 5.16 Following the evaluation of the ESPD, it is anticipated that invitations to tender will be issued in November 2020 and returned during December 2020. Tenders will be evaluated in accordance with Section 5.25 of this report and the projected date for award of contract is February 2021 with the contracts commencing in April 2021. The contract period is for four years up to March 2025.
- 5.17 This report details the funding arrangements and procurement options that fall within the procurement authority requirements contained in Financial Regulations (FR) 16.8. This procurement is not considered to be a "major procurement" in terms of Financial Regulation 16.8.4. Approval of this report would mean that the contract can be accepted without the need for further approval by the relevant committees. In accordance with the current arrangements the contract award will be the subject of a 'Noting Report' and will be available on the Council's 'Information Hub'.

### **Sustainable Procurement Considerations**

- 5.18 The Scottish Government 'Sustainability Test' will be utilised to identify any additional sustainable procurement measures which could be incorporated within the requirements or contract conditions. Due to the nature of these contracts (Lots) it is not possible to identify sufficient materials of a high recycled content. Therefore, the target of 10% by value of recycled content in property related construction projects valued over £1 million cannot be achieved on a measurable basis. Infrastructure - Assets will ensure that, where possible, any material specified includes an element of recycled content. The specification will incorporate the Sustainable Timber Policy approved by the Corporate Services Committee on the 23 October 2008 (Report No. 1040/08, Article 11 refers) ensuring that all timber or timber materials required for this contract will be from sustainable sources.
- 5.19 The invitation to tender documentation will include clauses requiring the successful contractors to employ new and/or existing apprentices and request the successful contractor's participation in the shared apprenticeship programme through Share Apprentice Limited together with community benefit engagement to meet the delivery of community benefit outcomes. The

contact documents will incorporate conditions to fulfil the Council's commitment to pay valid invoices within 30 days of receipt. The documents will also include the Council's commitment to the application of Fair Work Practices and the Living Wage in line with the Council and Scottish Government policies. The application of these practices will also form part of the quality assessment for this project.

- 5.20 The successful bidder will be required to meet the community benefits requirements as specified and set as proportionate and relevant to the subject matter of the contract. This will include consideration of the use of Shared Apprentice Limited to access apprenticeship places.

#### **Procurement Procedure and Contract Award Criteria**

- 5.21 A Prior Information Notice (PIN) was placed on the Public Contracts Scotland Portal on the 14 May 2020 to provide notice that the Council is considering carrying out a procurement exercise to replace the URJ contracts. There is no commitment on the Council's part by issuing this PIN but it does allow in certain circumstances to reduce the EU procurement timescales if necessary. Incumbent contractors were contacted directly to ensure they were aware of the notice and encouraged to submit a note of interest. Following the publication of the PIN there are 83 notes of interest as at 21 July 2020 from a range of contractors with 24% from Angus, 27% from Dundee and 16% from other adjacent Council areas, the balance is from contractors out with the local area.

- 5.22 The procurement of the contract will follow a two-stage 'restricted' tender procedure as the best means of procuring the contracts. Based on the submitted notes of interest there is a significant level of interest in tendering for the Lots. Based on similar projects this two-stage process will allow the Council to select a list of up to six of the most appropriate bidders to receive tender documents within each Lot.

- 5.23 The first stage pre-qualification assessment will use the standardised "European Single Procurement Document" ESPD and will address:

- Pass/ fail assessment against minimum requirements for: suitability (business probity, absence of relevant convictions, etc.), economic and financial standing, quality assurance schemes and environmental standards.
- Scored evaluation of: Technical & Professional Ability; previous relevant experience, level of resources/capability, environmental management measures.

- 5.24 The second stage will comprise issuing tender documents to those bidders who satisfy the minimum qualification thresholds set out in 5.23 above. The tender returns will be evaluated in line with the following contract award criteria.

- 5.25 The tenders will be evaluated on the basis of the most economically advantageous tender (MEAT) having regard to the following criteria which are weighted according to importance. Price is to be given a weighting of 60%, with the other quality related criteria listed below to be given a total weighting of 40%. This weighting retains the emphasis on pricing whilst still assigning a significant element of the MEAT assessment to quality. Once the tenders have been evaluated, as noted below, then an acceptance will be issued to the tenderer providing the highest MEAT score within each Lot. Standby contractor(s) will also be appointed on the basis of the next highest MEAT scores within each Lot. Contractors can apply for all Lots however in order to ensure emergency coverage and mitigate risk one contractor will not be awarded all the Lots where there are multiple Lots within a trade package.

#### **Quality Criterion**

- Management and Supervision – 9%: Tenderers to identify number, role, qualifications and management of staff who are to deliver the requirement.
- Resources – 9%: Tenderers to identify project management and project administration processes.
- Quality and Performance – 9%: Tenderers to identify process and procedures to ensure quality and performance of the contract is maintained at appropriate levels.

- Community Benefit – 7%: Tenderers to identify additional community benefits to be provided as part of this procurement to meet the Councils' requirements.
- Fair work practices – 6%: Tenderers to confirm how they commit to Fair Work Practices for workers (including any agency of Sub-Contractor workers) engaged in the delivery of the Contract.

#### Price Criterion

- The weighted price of 60% will be evaluated on the basis of the lowest total price received in each Lot once the contractor's tendered rates have been applied to the "model accounts" following a check for arithmetical and rating errors. The "model accounts" are prepared for the purposes of equal and transparent bid price evaluation using sample labour, material, plant and schedule of rates values (where appropriate) from orders raised under the previous term contract for different burghs/areas. The bidder applies his/her rates (or percentages increase / decrease for schedule of rates figures) to these amounts which will then provide an overall comparable tender price used for evaluation of all bids.

### 6. FINANCIAL IMPLICATIONS AND ALLOWANCE IN ESTIMATES

- 6.1 The estimated total cost for works carried out under the Term Contract for Urgent Repair And Jobbing Contracts – Maintenance Of Properties (Excluding council housing) 2021 to 2025, is estimated to be in the region of £16,000,000. This figure is based on the costs associated with orders issued under the previous contract by burgh/area and adjusted for possible future year costs. This figure will vary depending on the level of budget available on a year to year basis.
- 6.2 As this contract does not relate directly to a specific project and is only used to 'call-off' orders for works when necessary no specific budget or allowance in estimates is identified. Works ordered under this contract are subject to the level of resources available to the Council and are usually funded from various sources including Planned Maintenance, Unplanned Maintenance, Insurance, Capital, Common Good and Client Revenue budgets.

### 7. OTHER IMPLICATIONS

#### Risks

- 7.1 Procurement risk will be managed in accordance with the Council's Risk Management Strategy. No extraordinary risks were identified but risks specific to this Project have been analysed and mitigation measures taken all as outlined below.:

Risk	Analysis and Evaluation	Mitigating Actions
Lack of contractor interest in tendering	Likelihood Low to High depending on financial climate, Impact Low to High depending on financial climate. Above appetite, wish to reduce likelihood to low and impact to medium	Continue to engage with contractors to ensure they are fully appraised with relevant information to support their decision to bid for the contracts. Issue a Prior Information Notice. Issue a Prior Information Notice to alert the market.
SME's not applying for the Bidding Opportunity	Likelihood Low to High, Impact Low to High. Above appetite, wish to reduce likelihood to marginal.	Procurement split into 31 Lots comprising separate trades packages and Council areas. Each Lot allows for lower value contracts to encourage SME's.

Continuity of Service/Contract Failure	Likelihood Medium, Impact Medium . Above appetite, wish to reduce likelihood to marginal.	Restrict the number of Lots within a trade package that a contractor can be awarded. Appointment of standby contractor(s), where available, in each Lot. If no standby contractor available one will be appointed from adjacent contract trade package Lot to provide interim cover until a substitute contractor is appointed.
Quality of works and services.	Likelihood Low to High, Impact High. Above appetite, wish to reduce Impact to marginal.	Include quality control protocols for staff and contractors within the contract documentation.

**NOTE:** The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Corporate Services Committee 20/10/08

Report No 1040/08 – Sustainable Sourcing of Timber and Timber Products for Property Construction Projects

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