

ANGUS COUNCIL

COMMUNITIES COMMITTEE – 6 JUNE 2017

**TERM CONTRACTS BASED UPON SCHEDULE OF RATES 2018 TO 2022
PROCUREMENT AUTHORITY APPROVAL REQUEST**

REPORT BY HEAD OF TECHNICAL AND PROPERTY SERVICES

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. RECOMMENDATIONS

1.1 It is recommended that the Committee:

- (i) notes the indicative estimated overall cost of £4,000,000 for the Schedule of Rates Term Contracts for repair, maintenance and improvement works for the four year framework period from February 2018 to January 2022;
- (ii) approves the procurement authority, as contained in this report, in accordance with the process stated in Section 16.8 of the Financial Regulations;
- (iii) authorises the Service Manager - Property to negotiate with and appoint contractors from other contract Lots where a deficiency of contractors arises in a given trade category and contract Lot due to circumstances outwith the control of the Council, and to empower the Head of Technical and Property Services, 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;
- (iv) notes the financial implications included in Section 6 of this report.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/CORPORATE PLAN

2.1 This report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- We have a sustainable economy with good employment opportunities
- Our natural and built environment is protected and enjoyed

3. BACKGROUND

3.1 The current Schedule of Rates term contract commenced on the 1 December 2012 and is due to expire on the 30 November 2017. A new contract is required to continue the provision of a term contract for works that are repair, maintenance and improvement in nature up to £500,000 in value for each individual order (excluding works of an urgent repair and jobbing nature up to £20,000 in value).

3.2 By having these contracts in place this allows the Council to ensure that maintenance and improvement works can be carried out efficiently without incurring staff time in issuing significant number of small value tenders. Maintaining and improving the Council's building stock ensures that, within the available budgets, the useful life of the stock is extended and assists in reducing the requirement for its replacement.

4. SCOPE OF CONTRACT

- 4.1 The framework will run for four years from the 1 February 2018 to 31 January 2022. Contractors will be appointed on a trade and area basis with individual orders for works being placed with the appropriate appointed contractor. The maximum value of any order is restricted to £500,000, in accordance with Appendix 1 - Procurement Arrangements & Delegated Authority contained in the Financial Regulations. The gap in the framework arrangement timescale is to allow sufficient time to put in place the new contracts and framework.
- 4.2 The contracts allow for revisions to the rates on an annual basis following the first year of the contract. The revisions to the rates shall be calculated based on the General Building Cost Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors.

5. PROCUREMENT AUTHORITY

Objectives

- 5.1 The proposed Term Contracts based upon a Schedule of Rates are a continuation of existing contract practice which has been ongoing for many years and demonstrates the commitment to improving, maintaining and repairing the Council's properties. The procurement of these contracts ensures that suitable repair, maintenance and improvement works can be arranged and carried out quickly by an appropriate contractor.
- 5.2 These contracts allow the Council to order works up to £500,000 in value in an efficient and flexible manner. The tender packages are split into 24 Lots comprising 8 separate trades which are split into three areas comprising 1: Arbroath/Carnoustie/Monifieth; 2: Brechin/Montrose; and 3: Forfar/Kirriemuir. Contractors can apply for one trade in one area (1 Lot) up to all trades/ areas (24 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.
- 5.4 The invitation to tender documentation will include clauses requesting the successful contractor's participation in the Angus Shared Apprenticeship Programme or similar 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.
- 5.5 The evaluation process for these frameworks will be carried out in accordance with the Financial Regulations for contracts over £500k in value and be carried out as set out in Section 5.25 of this report.

Sourcing Route/ Collaborative Opportunities

- 5.6 Collaborative procurement opportunity details were passed to Tayside Procurement Consortium (TPC) on 17 April 2017. Confirmation was received on 18 April 2017 that based on the size, type and timescale of the proposed Council's requirements there are no current opportunities for collaborative procurement under the umbrella of TPC. 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.
- 5.7 The council has a number of procurement options available to carry out repairs and maintenance type works. These range from producing individual tenders, issuing Schedule of Rates orders and requesting quotations.

- 5.8 The Term Contracts based upon a Schedule of Rates procurement process has evolved over a number of years and the Property division's experience in operating this type of contract had led to the identification of trades which it is considered beneficial to procure on this basis. The Schedule of Rates documentation is based on a bespoke contract containing a specification and a schedule of rates section which allows orders to be issued for specific works efficiently and quickly. These orders are generally for repairs, maintenance and improvement items to the various types of properties which are the responsibility of Angus Council. These contracts incorporate standards of performance and performance assessment which are reviewed by the Property division; clients and contractors. These contracts incorporate standards of performance and performance assessments which are reviewed by Technical and Property Services; clients and contractors.
- 5.9 The trades which are procured on a Schedule of Rates basis have a 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 type of works where the use of the Schedule of Rates is beneficial are generally straightforward and non-specialist in nature and can contain levels of repetitive work that can be generically costed.
- 5.10 The use of other methods of procurement for works for these types of works would lead to the constant issuing of tendering/quotation documentation which would be an inefficient use of the available staff resources. The use of the framework arrangement reduces any issues with contractors' workload and continuity of work as more than one contractor will be appointed to each Lot. This will assist in managing the risk to the Council if a contract is determined due to performance issues or insolvency if only one contractor was appointed. In most cases the orders will be issued to the preferred contractor appointed through the procurement process. As part of the framework arrangement, depending on the type, extent and nature of the works to be carried out a further procurement exercise using a mini-competition can be carried out. This can be used to provide an additional element of competition with the documentation being issued to all the approved contractors on the appropriate framework Lot.
- 5.11 Where there isn't a suitable contractor available within a Lot following a termination/default due to performance issues, insolvency or other such contingency, an option will be available to allow the Service Manager – Property, if appropriate, to negotiate and appoint a contractor from within the same trade but from a different area (Lot).
- 5.12 The Head of Technical and Property Services, 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 16.24.10 (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 framework arrangement which includes the appointment of suitable contractors within each Lot where available. The 'break' clause, which can come into operation at any time 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) during June 2017 in line with Council policy. Any capable local contractors will be identified and steps taken to alert them to the bidding opportunity prior to advertisement of the project.
- 5.15 Consideration has been given to the possible implementation of Project Bank Accounts (PBA) on this project. This is being promoted by the Scottish Government on construction projects over £4.1 million in value. As the SOR contracts will have individual orders issued below £500k in value and will include a mixture of several works order to different main contractors or individual trade orders to specialist contractors is it not considered practical or appropriate to use PBA's in this case.
- 5.16 Procurement will be via a two stage 'restricted' process which will require contractors to submit the standard European Single Procurement Document (ESPD (Scotland)) which,

under the Procurement (Scotland) Regulations 2016. 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. The evaluation methodology is set out in Section 5.23 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.

- 5.17 Following the evaluation of the ESPD, it is anticipated that invitations to tender will be issued in October 2017 and returned during November 2017. Tenders will be evaluated in accordance with Section 5.25 of this report and the projected date for award of contract is January 2018 with the contracts commencing in February 2018. The contract period is for four years up to January 2022.
- 5.18 It is the recommendation of the Head of Technical and Property Services that the most appropriate procurement option for delivering this project in the established timescales and to deliver the stated objectives is to utilise the approach detailed in section 5 of this report.
- 5.19 This report details the funding arrangements and procurement options that fall within the procurement authority requirements contained in Financial Regulations 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 an ‘Information Report’.

Sustainable Procurement Considerations

- 5.20 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. Technical and Property Services 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.
- 5.21 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 the Angus Shared Apprenticeship Programme.

Procurement Procedure and Contract Award Criteria

- 5.22 The procurement of the contract will follow a two-stage ‘restricted’ tender procedure as the best means of procuring the works. There is anticipated to be a high degree of interest in tendering for the Lots and based on similar projects this 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 using the ESPD (Scotland) document 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 70%, with the other quality related criteria listed below to be given a total weighting of 30% in accordance with the Financial Regulations. Once the tenders have been evaluated, as noted below, then an acceptance will be issued to the preferred tenderer providing the highest MEAT score within each Lot. Other tenderers will be appointed on the basis of the next highest MEAT scores within each Lot.

Quality Criterion

- Management and Supervision – 7%: Tenderers to identify number, role, qualifications and management of staff who are to deliver the requirement.
- Resources – 7%: Tenderers to identify project management and project administration processes.
- Quality and Performance – 7%: Tenderers to identify process and procedures to ensure quality and performance of the contract is maintained at appropriate levels.
- Community Benefit – 5%: Tenderers to identify additional community benefits to be provided as part of this procurement to meet the Councils' requirements.
- Fair work practices – 4%: Tenderers to confirm how they commit to Fair Work Practices for workers (including any agency or Sub-Contractor workers) engaged in the delivery of the Contract.

Price Criterion

- The weighted price of 70% 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" which are used to calculate the lowest price weighting will contain an average figure for schedule of rates items based on typical orders raised under the previous term contract together with estimated daywork cost figures for labour, materials, plant and non-productive overtime. The contractor will apply his percentage adjustments to these figures contained in the "model account" which will provide a tender price weighting factor which is used to evaluate and compare the various tender returns.

6. FINANCIAL IMPLICATIONS AND ALLOWANCE IN ESTIMATES

- 6.1 The estimated total cost for works carried out under the Term Contracts based upon Schedule of Rates 2018 to 2022 is estimated to be £4,000,000. This figure is based on the costs associated with orders issued under the previous contracts by trade/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 An assessment is being undertaken for this project and has initially identified risks associated with workload and continuous delivery resulting from contractual issues and ensuring local SME involvement. Currently no other significant risks have been identified other than the normal risks inherent in carrying out a project of this size and complexity. Technical and Property Services have extensive experience of procuring projects of this nature in a timely manner and every measure will be taken to ensure that these contracts are effectively

managed. The assessment of risk for this procurement has initially identified the following issues:

Risk	Mitigating Actions
Encourage SME Bidding Opportunity	Procurement split into 24 Lots comprising several works trade and other separate trades by 3 Council areas. Promotion of the bidding opportunity and alerting local suppliers prior to publishing the contract notice
Continuity of Service	Appointment, as part of the framework arrangement of contractor(s), which meet the minimum requirements, in each Lot. If required contractors appointed from adjacent contract Lots.

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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