



REPORT TO POLICY AND RESOURCES COMMITTEE - 11 JUNE 2015

CONTRACTOR SELECTION

1 Recommendations

It is recommended that the Policy & Resources Committee:

- 1.1 Endorses the changes to the process for contractor selection introduced in order to ensure compliance with the Financial Regulations, specifically the use of the Public Contracts Scotland website for the advertisement of contracts and the electronic publishing of tender documents, with all tenders being “open.”;**
- 1.2 Instructs Officers to extend the current use of the Public Contracts Scotland website to include the use of Public Contracts Scotland Tender (PCS-Tender), the national eTendering system provided free of charge by the Scottish Government; and**
- 1.3 Approves the undertaking of a procurement exercise for the replacement Main Contractors Framework Agreement to deliver major construction projects for the Council.**

2 Background and Discussion

- 2.1 In 2002 the Policy & Resources Committee approved the current process for single-stage selective tendering for medium sized works as detailed at Band 4 at 2.3 below. In June 2010 the Committee approved a report on Asset Management Planning. This report set out the revised project management methodology for capital projects which was termed the Gateway Process (Details attached at Appendix B). On 10 January 2013 the Committee approved a report on the post-contract review process for property related construction projects, including the contractor performance review procedure.**
- 2.2 The purpose of this paper is to outline the changes to contractor selection brought in to ensure compliance with the revised Financial Regulations introduced on 3 April 2014. The report also reflects the need to implement recommendations from the recent review of Scottish Public Sector Procurement in Construction.**

2.3 The previous situation

Previously the contractor selection process was as follows. This was aligned to the then current Financial Regulations:

Project value	Methodology
1. Below £10,000	Term Maintenance Contractors or up to 4 quotations
2. Response Cyclical Maintenance	Building and Service Term contractors (in accordance with European Union (EU) regulations if appropriate)
3. Above £10,000 but below £60,000	Through Term Maintenance Contractors or by 4 quotations
4. Above £60,000 but below EU threshold	Single stage selective tendering
5. Above EU thresholds*	In accordance with EU regulations

* Since 1 April 2014 the thresholds for local authorities have been:

Works	€5,186,000 (£4,322,012)
Goods and services	€ 134,000 (£ 172,514)

- 2.4 The process remains unchanged for projects with values above the EU thresholds or below £60,000, i.e. only band 4 is impacted by the revised proposals.
- 2.5 For projects with values below the EU thresholds, but above £60,000, when single stage selective tendering was used, a procedure was adopted for contractor selection. The tender list of (typically) six firms was compiled as follows:
- (i) The three firms which had submitted the lowest tenders for the most recent similar project; plus
 - (ii) Three firms selected from a search of the Constructionline database.
- This had some disadvantages, chiefly that, given the limited number of building contractors in the North East, tender lists appeared to comprise the same small pool of firms on a repeated basis and it was difficult to demonstrate that other firms had had the opportunity to be considered.
- 2.6 Constructionline is a procurement and supply chain management service that collects, assesses and monitors standard company information through a standardised pre-qualification questionnaire developed by British Standard Institution (BSI) to reduce duplication within the construction industry. The aim is to provide efficiency savings by streamlining procurement procedures and improving the supply chain management processes by reducing risk, creating cost efficiencies and helping buyers engage with new suppliers, including Small and Medium sized Enterprises (SMEs) and local companies.
- 2.7 The Service uses evidence of Constructionline membership as a “kitemark” indicating that a tenderer meets the Council’s quality standards, obviating the need for the inclusion of quality questions in either the selection or the award stage of a tender process. This means that contracts can be awarded on the basis of price alone (all bidders having been deemed to have met the minimum quality standard required).

2.8 The proposed approach

This process was changed as a result of the introduction of the new Financial Regulations. They state at 5.3.15 that [italics added] “if the total value of the contract is estimated to be £60,000 or over, over the term of the purchase/contract, a formal tender shall be issued to appropriate tenderers. ***The Public Contracts Scotland website must be used for the advertisement of contracts***, unless the Head of Procurement has given express permission for another advertising method to be used.”

2.9 While the Financial Regulations state only that the Public Contracts Scotland website must be used for the advertisement of contracts, the Service has agreed with the Head of Finance and the Head of the Commercial and Procurement Service that as a matter of good practice the website is to be used for the electronic publishing of the tender documents with all tenders being “open,” ie there is no restriction on the number of firms that may submit a bid.

2.10 This has a number of advantages, including that the process outlined at 2.5 above is no longer necessary and it is transparently the case that all firms which wish to bid for work have the same opportunity.

2.11 There was a possibility that the open tendering process would lead to local businesses being supplanted by firms from outside the North East but in practice this is not happening.

2.12 Prior to the introduction of the new process the Service wrote to the most frequently used contractors alerting them to the need to register as suppliers on the website. With colleagues from the Economic Development and Commercial & Procurement Services it also held a “Meet the Buyer” event on 3 February 2015 to answer any queries about the system from local businesses.

2.13 Next steps

At present, while tender documents are published electronically, it remains the case that the tenderers are required, after populating the documents, to print them and deliver hard copies to Woodhill House by 10:30am on the Wednesday stated in the documents as the tender return date.

2.14 The Service recommends that the Council extends its current use of the Public Contracts Scotland web portal to include the use of **Public Contracts Scotland Tender** (PCS-Tender), the national eTendering system provided free of charge by the Scottish Government. This system is a secure and efficient means for buyers and suppliers to manage tender exercises online. It is used by public sector organisations including other Local Authorities, NHS Scotland, The Scottish Government, Agencies & NDPBs and Higher & Further Education. It helps contracting authorities adhere to legislation, policy and procedures through a standard approach to public sector procurement. Furthermore, the proposal adheres to a recommendation within the Review of Scottish Public Sector Procurement in Construction.

- 2.15 There would be a number of advantages, both for the Council and for businesses bidding for Council contracts, including that bidders would no longer have to print and deliver hard copies, while Council officers could carry out all arithmetical and other checks electronically.
- 2.16 A major benefit would be that the use of Constructionline could be discontinued. Both the Economic Development and Commercial & Procurement Services have expressed the view that this is advisable, partly because Constructionline is a private company (it is owned by Capita plc). PCS-Tender includes standard Pre-Qualification Questionnaire templates which would allow the Council to create a standard set of quality questions. Suppliers could store answers to these standard questions and automatically pre-populate tender responses whenever the Council used them. This would address a concern often expressed by the private sector about the duplication of effort involved in completing inconsistent public sector tender documentation, while the Council would still have an assurance that contractors meet the quality standards that it requires without having to prepare PQQs on a project-by-project basis. A detailed Appendix illustrating the construction procurement methodology is provided at Appendix A.
- 2.17 This report deals with contractor selection. The committee has previously considered a report on contractor performance. This is currently being reviewed and will take into consideration current and forthcoming procurement regulations. A further report on Contractor Performance will be presented to this committee in the near future.
- 2.18 Main Contractor Framework Agreement
- This report further seeks approval for the undertaking for a procurement exercise for a replacement Main Contractors Framework Agreement (MCFA). Members may recall that the Policy and Resources Committee at its meeting on 10 November 2011 approved the appointment of contractors to the MCFA to undertake major construction projects for the Council. At the Policy and Resources meeting of 13 November 2014, the Committee agreed to an extension of the MCFA until 15 January 2016.
- 2.19 As this approach has been successful officers are progressing the procurement of a new Main Contractor Framework Agreement given that the existing framework ceases in January 2016. Further details are provided at Band 5 of Appendix A.
- 2.20 The Head of the Commercial and Procurement Service has been consulted and his comments incorporated within the report.
- 2.21 The Head of Economic Development has been consulted and is happy with the recommendations.
- 2.22 The Head of Finance has been consulted and had no adverse comments.
- 2.23 The Monitoring Officer within Business Services has been consulted and has no comment to make.

3 Equality, Staffing and Financial Implications

- 3.1 An Equalities Impact Assessment has not been prepared because the recommended actions do not have a differential impact on people with different protected characteristics.
- 3.2 There is a staffing implication of using PCS-Tender in that it will be a small reduction in workload for staff on Reception, in the Commercial and Procurement Service and in the Facilities Management and Quantity Surveying services, freeing them to carry out other duties.
- 3.3 Any financial implications will be reported through reports considering tenders. There will be a saving through less requirement for printing.

Stephen Archer
Director of Infrastructure Services

Report prepared by: Allan Whyte, Head of Property and Facilities Management
1 May 2015
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PROPERTY AND FACILITIES MANAGEMENT – TABLE SUMMARISING THE PROCUREMENT PROCESS

Value/Band	Procurement	Contractor Selection	Contractor Approval	Property Management Methodology	Post Project Evaluation	Performance Indicator	Conditions of Contract
1. Under £10K	Building Term Contractor. Otherwise for orders and contracts less than £10K Service Managers are to be given discretion to use single sourcing up to 4 quotations.	Officer discretion	Officers	Not applicable	Not applicable	Not applicable	SBCC minor works building contract for use in Scotland (MW/Scot)
2. Response/ Cyclical Maintenance	Building and Service Contract Term Contractors*	Official Journal of European Union (if above threshold)	Policy and Resources Committee	Term Contract Conditions	Client Feedback	Contract Compliance %age jobs completed within target timescales (Target 95% jobs completed within target)	SBCC Measured Term contract for use in Scotland (MTC/Scot) 2011 edition
3. Minor Works £10K - £60K	Building and Service Term Contractors/ 4 quotes from contractors including use of Quick Quote	Term contractors/ Officer Discretion	Officers	Term Contract Conditions Minor Works Process Documents	Contractor Performance	Predictability of Delivery %age of jobs completed within target timescales	SBCC minor works building contract for use in Scotland (MW/Scot) 2011 Edition

APPENDIX A

Value/Band	Procurement	Contractor Selection	Contractor Approval	Property Management Methodology	Post Project Evaluation	Performance Indicator	Conditions of Contract
4. Medium Sized Works £60K - £250K, £250K - OJEU Threshold	Open Tendering	Public Contracts Scotland Tender/ including use of Quick Quote where appropriate	Under £250K estimated cost approved – Officer Over £250K – Committee	Royal Institute of British Architects (RIBA)	Client Feedback Contractor Performance Contractor Feedback	<p><i>Predictability Of Time For Design Construction and Budget</i></p> <p>(i) %age of design phase completed on time (target 80%)</p> <p>(ii) %age of construction phase completed on time (target 80%)</p> <p>(iii) %age projects delivered within approved budget. (Target 90%)</p> <p>(iv) Overall Client Satisfaction with project (Target 83%)</p>	<p>If not complex project: SBCC minor works building contract for use in Scotland (MW/Scot) 2011 Edition</p> <p>More complex projects: SBCC Standard Building Contract with Quantities for use in Scotland (SBC/Q/Scot) 2011 Edition</p> <p>D&B Projects: SBCC design & build contract for use in Scotland DB/Scot (2011 Edition)</p>

APPENDIX A

Value/Band	Procurement	Contractor Selection	Contractor Approval	Property Management Methodology	Post Project Evaluation	Performance Indicator	Conditions of Contract
5. Major Works >£3m ie new schools, Care Homes	Main Contractor Framework Agreement	OJEU Procurement	Area/ Policy and Resources Committee	Major Works Process Guidelines	Client Feedback Contractor Performance Contractor Feedback	<p>1. Defects (1) Zero defects at handover. (2) Latent defects.</p> <p>2. Considerate Constructors – Contractor registers project with Considerate Constructors Scheme’s Site Code of Considerate Practice.</p> <p>3. Duration on Site – Construction programme delivered in accordance with agreed contract programme (subject to significant client changes)</p> <p>4. Cost – Outturn cost compared with agreed tender figure.</p> <p>5. Health and Safety (1) Details of random inspections (reported monthly)</p>	SBCC Standard Building Contract with Quantities for use in Scotland (SBC/Q/Scot) 2011 Edition D&B Projects: SBCC design & build contract for use in Scotland DB/Scot (2011 Edition)

APPENDIX A

Value/Band	Procurement	Contractor Selection	Contractor Approval	Property Management Methodology	Post Project Evaluation	Performance Indicator	Conditions of Contract
						(2) Nr of inspections (reported monthly in accordance with CPHSP). (3) Nr of incidents (reported monthly). 6. Employment & Skills Strategy & Other Community Benefits – As defined in specific project ESP.	

Overview of project approach and gateway review process

Strategic appraisal	Project Stage 1 - Assessment	Project Stage 2 - Develop proposed solution	Project Stage 3 - Develop preferred solution	Project Stage 4 - Construction	Project Stage 5 - Handover and Review
<p>Programme management</p> <ul style="list-style-type: none"> ➢ Prepare Service strategies ➢ Link to Strategic Plan/Community Plan ➢ Determine overall funding for Capital Plan ➢ Prioritise with Capital Plan / Asset Management Plan ➢ Identify individual projects 	<p>RIBA 1: Preparation</p> <ul style="list-style-type: none"> ➢ Project Management Structure (Project Sponsor/Manager/Team) ➢ Elected Member consultation ➢ Stakeholder involvement (Client End User, IT, Planning, Environment) ➢ Determine projects objectives ➢ Design brief – Inception, Feasibility ➢ Define options (Do nothing, refurbishment, extend, new build) ➢ Option appraisal ➢ Assess options ➢ Risk management ➢ Value management/engineering ➢ Site identification / site appraisal ➢ Site Acquisition (with conditions to planning consent) ➢ Agree lifespan of buildings ➢ Sustainability and BREEM Planning issues ➢ Section 75 approval in Authority's favour (if applicable) ➢ Whole life costing (NPV) ➢ Cost / Value matrix – scoring mechanism (Net cost of development) 	<p>RIBA 2 & 3: Concept & Developed Design</p> <ul style="list-style-type: none"> ➢ Outline proposals and detailed estimate scheme design ➢ Outline specification ➢ Sustainability & BREEM ➢ Risk / Value Management ➢ Need for estimated cost report to be developed / approved ➢ Consultation with Services, Area Committees ➢ Planning application submitted ➢ Major Application Planning process 	<p>RIBA 4 & 5: Technical & Specialist Design</p> <ul style="list-style-type: none"> ➢ Detailed design ➢ Production information ➢ Risk / Value management ➢ Procurement options ➢ Tender Action ➢ CDM Planning 	<p>RIBA 6: Construction</p> <ul style="list-style-type: none"> ➢ Project Programme ➢ Project construction ➢ Risk/Value Management ➢ Cost Control ➢ Budget monitoring and project progress reports 	<p>RIBA 7: Use & Aftercare</p> <ul style="list-style-type: none"> ➢ Post occupancy evaluation ➢ Defects period ➢ Final account ➢ Lesson learned report
<p>Output – Recommend projects to progress to Business justification Stage</p> <p>Gateway Review 0 - Recommendations by Capital Plan Group/Strategic Management Team followed by approval of Policy and Resources Committee for individual projects to progress</p>	<p>Output – Business Case with recommended options and approximate costs for a project which is deliverable</p> <p>Gateway Review 1 - Submission to Asset management / Capital Plan Group for recommendation followed by approval by Policy Committee for inclusion in Capital Plan</p>	<p>Output – Completed scheme design and estimated costs</p> <p>Gateway Review 2 - Scheme Design / Estimated costs approved by Area Service Committee and Policy and Resources Committee if in excess of Capital Plan approved figure.</p>	<p>Output – Completed detailed design and competitive construction quotes</p> <p>Gateway Review 3 - Tender approval by Area Committee and Policy and Resources (if in excess of Capital Plan)</p>	<p>Output – Building works completed and building occupied</p> <p>Gateway Review 4 - Confirm the project meets the business need and operational governance measures are in place</p>	<p>Output – End of defects liability period and final account settled</p> <p>Gateway Review 5 – Confirm smooth operation, delivery of outputs, and achievement of benefits</p>

Author: Allan Whyte	Issue Date	Reference Number
Reviewer: Dave Clark	29 August 2010	PAFW/CPM/0001

Abbreviations guide
RIBA – Royal Institute of British Architects (applicable to property projects only)
CDM – Construction (Design & Management) Regulations
NPV – Net Present Value
BREEM – British Research Establishment Environmental Assessment Method

