

SURREY COUNTY COUNCIL

CABINET

DATE: 31 JANUARY 2017



REPORT OF: MS DENISE LE GAL, CABINET MEMBER FOR BUSINESS SERVICES AND RESIDENT EXPERIENCE

MRS LINDA KEMENY, CABINET MEMBER FOR SCHOOLS, SKILLS, AND EDUCATIONAL ACHIEVEMENT

LEAD

OFFICER: JOHN STEBBINGS, CHIEF PROPERTY OFFICER

SUBJECT: APPROVAL TO USE A RANGE OF FRAMEWORK AGREEMENTS FOR ASSETS AND INFRASTRUCTURE CONTRACTS AND APPROVAL OF SCHEME OF DELEGATION FOR AWARDED CONSTRUCTION CONTRACTS

SUMMARY OF ISSUE:

In order to meet the timescales for delivering assets and infrastructure projects including those which form part of Schools Expansion Programme approval to use a range of framework agreements and to delegate authority to award contracts over £500,000 are requested.

Cabinet will exercise control over commitment of expenditure via a forward plan tracker, member updates and by the continuing need for Cabinet approval for the Business Case of projects before they are formally tendered.

RECOMMENDATIONS:

It is recommended that:

1. Cabinet approves the use of a range of existing framework agreements to deliver Surrey County Council's (SCC) construction projects.
2. In order to reduce timescales for awarding these contracts Cabinet delegates authority to award contracts above £500,000 in value, either where a competitive tender procedure has been followed under a Framework Agreement compliant with the Public Contracts Regulations 2015, or where a local procedure has been followed in accordance with Procurement Standing Orders for contracts below the Regulations Thresholds. Authority would be delegated to the Chief Property Officer in consultation with the Leader of the Council, Cabinet Portfolio Holder as appropriate, Assistant Director of Procurement and Section 151 Officer.

REASON FOR RECOMMENDATIONS:

Property Services are responsible for delivery of construction projects including the Schools Basic Needs Programme which together are estimated to be £200m over the next 4 years.

In order to deliver this Programme Property and Procurement Services are developing a Delivery Model for Orbis which will involve the use of a suite of complementary procurement arrangements. These include existing regional construction frameworks and other frameworks for construction works and services which are used by the Council, as listed in paragraph 4 below.

The Delivery Model will be supplemented with a new Orbis Construction Framework and Orbis Professional and Technical Services Framework which are being procured concurrently. The recommendation to award/use these two Orbis Construction Frameworks will be presented to Cabinet for approval in June 2017.

In order to reduce timescales for awarding contracts above £500,000 in value Cabinet is requested to delegate authority to award contracts. This proposed scheme builds on the principles established under previous delegations for contracts over £500,000 in value approved by Cabinet on 25 September 2012 and on 4 February 2014.

DETAILS:

Business Case

1. SCC's Construction Capital Programme is anticipated to be £200m over the next 4 years.
2. Schools Basic Need projects form a significant part of the Programme. SCC has a statutory obligation to provide school places. It is estimated that SCC will have to provide 11,000 primary and secondary school places over the next five years to meet growing demand. In order to meet the timescales for delivering construction projects including Schools Basic Need projects, approval to delegate authority to award contracts is requested in order to reduce the timescales for awarding these contracts.
3. Orbis Property and Procurement Services are developing the strategy for the procurement arrangements for the management and delivery of construction projects and programmes across the two founding partners East Sussex County Council and Surrey County Council. This will be scalable to incorporate wider requirements of future Partner and Client Organisations who choose to adopt Orbis as their preferred partner of choice.
4. The resulting Orbis Delivery Model for Major Projects will consist of the range of complementary procurement arrangements. These will include the existing regional construction frameworks and other frameworks for construction works and services which are currently used by SCC, namely:
 - The Sussex Cluster Construction Framework
 - The Southern Construction Framework
 - The Southern Modular Buildings Framework
 - The South East Consortium Framework

Providers on each of these frameworks will competitively bid for individual projects.

5. The regional Southern Construction Framework has been developed in collaboration with Local Authorities in the South including SCC. The Framework has been developed with specific focus on major projects in the Education

Sector. Under the Delivery Model this Framework has been adopted for use for procurement of building contractors for major projects or programmes of work such as for construction of new secondary schools.

6. The Southern Modular Buildings Framework encompasses a range of innovative modular methods of construction of buildings. It has been developed in collaboration with SCC and other Authorities. The Framework has adopted SCC classroom specifications as standard for schools expansion projects. Therefore, under the Delivery Model this Framework has been adopted for use for school expansion projects as well as other construction projects which would benefit from the modular method of construction.
7. The South East Consortium has established a range of framework agreements specifically for the residential sector. These frameworks have been adopted by SCC for non-schools projects which will benefit from the expertise of designers and building contractors who are grouped under these frameworks.
8. The Sussex Cluster Construction Framework is owned and managed by Orbis. It is due to expire on the 28 February 2017. The Framework will be replaced with a new Orbis Construction Framework which is being procured concurrently with Orbis Professional and Technical Services Framework. In accordance with Orbis Partnership's priorities the Orbis Construction Framework will be delivered by a range of contractors including SME's. The recommendation to award the Orbis Construction Framework will be presented to Cabinet for approval in June 2017. This framework will typically be used for projects up to a maximum value of £10m and will cover a range of new build work, extensions, improvements and refurbishment works.
9. In accordance with Public Contracts Regulations 2015 SCC is obliged to procure contracts which exceed certain thresholds by following strict tendering procedures.
10. The Orbis Delivery Model includes the range of pre-qualified Frameworks outlined above to enable rapid contractor deployment. This covers contracts both in excess of and below the Contract Regulations threshold for Works of £4.1m. However, local markets also exist which are capable of delivering cost effective schemes. As freedom exists within the regulations to tender locally for contracts up to the £4.1m threshold, the Delivery Model allows for tendering to local contractors in accordance with the Council's Procurement Standing Orders. This has proved a very successful approach for school extensions and refurbishments and other minor capital works and is recommended as a means of supporting the local economy.
11. These Frameworks and local arrangements will ensure that the most appropriate route to market is available for projects of different types in order to deliver an effective assets and infrastructure programme over the next four years.

CONSULTATION:

12. No formal consultation was required. However, various members of Procurement and Property Services across Surrey and East Sussex County Councils have been involved in the procurement of the frameworks, feeding in their expert knowledge around the design of the specification and evaluating tenders and agreeing contract award. Legal Services were also consulted to ensure what was being proposed was legally compliant. Similarly, Procurement and Property Services have worked closely on the development of the local arrangements for contracts up to the £4.1m threshold.

RISK MANAGEMENT AND IMPLICATIONS:

13. These framework agreements are not a commitment by SCC to purchase any works or services. Commitment to purchase will only be made by SCC when it issues an official Purchase Order under the terms of the framework agreement.
14. SCC does not guarantee the value or volume of instructions it may place with any of the contractor under any of these frameworks.
15. Should SCC's service requirements change the new Orbis Construction Framework agreement can be terminated by giving 3 months' notice.
16. All framework contractors will have successfully completed satisfactory financial checks as well as checks on competency in delivery of similar contracts at the pre-qualification stage in order to be awarded a place on a framework.
17. There are no minimum spend commitments in place as part of the local contractors arrangements for contracts up to the £4.1m threshold. Nevertheless all contractors are subject to pre-qualification covering financial, health and safety, equalities and environmental checks before being included on any tender lists.

Financial and Value for Money Implications

18. It is estimated that the value of the SCC spend across this suite of procurement arrangements will be between £30m and £50m per annum over the next 4 years.
19. The use of a combination of complementary procurement arrangements will ensure best value is obtained particularly in terms of quality of service and reduced contract award timescales.
20. Control will be exercised over commitment of expenditure via a forward plan tracker, member updates and by the continuing need for Cabinet approval for the Business Case of projects before they are formally tendered. In this way, should financial issues arise a project can be stopped at an early stage. In addition the Leader and Cabinet Portfolio Holder can choose not to approve the award of a contract under this proposed delegated authority should financial circumstances change between Business Case approval and contract award stage.

Section 151 Officer Commentary

21. The Section 151 Officer notes the delegation of authority and that any award of contract will be on the basis of prior approval by Cabinet or Cabinet Member of the business case to proceed with each project. Further control and oversight is provided by the requirement for the Section 151 Officer to be consulted prior to the award of contract.

Legal Implications – Monitoring Officer

22. Section 13 of the Education Act 1996 places a general duty on local education authorities to secure that efficient primary education is available to meet the needs of the population in its area. In doing so, the Council is required to contribute to the spiritual, moral, mental and physical development of the community. Section 14 of the Education Act 1996 places a duty on the Council to secure that sufficient schools are provided for providing primary and secondary education

are available in its area. There is a legal duty on the Council therefore to secure the availability of efficient education in its area and sufficient schools to enable this.

23. The proposed delegation will enable the Chief Property Officer to take timely decisions, in consultation with Cabinet Members and key Council officers. In view of the budget made available for these construction projects and this specific delegation to the Chief Property Officer, subsequent exercise of this delegation will not be treated as a "Key Decision".
24. SCC will be responsible for the governance and delivery of its own projects in accordance with the principles of each framework agreement and SCC own Standing Orders. The risks which SCC exposes itself to under these frameworks is the risk related to its own purchases.

Equalities and Diversity

25. All works will comply with DDA (Disabilities Discrimination Act) regulations as appropriate.
26. Construction projects will provide employment and apprenticeships opportunities in the area.
27. The expanded schools will be for children in the communities served by the schools. If there is sufficient provision available, then it would be beneficial for all children.
28. The schools will be expected to contribute towards community cohesion and will be expected to provide the normal range of before and after schools clubs as are provided in a typical Surrey County Council school.
29. Where appropriate for individual projects an Equalities Impact Assessment will be carried out with information included in the Contract Award report when presented for delegated authority approval.

Corporate Parenting/Looked After Children

30. The projects covered by this proposal would provide increased education provision in the County, which would be of benefit to all in the communities served by the schools. This means it would therefore also be of benefit to any looked after children who will attend the schools.

Climate change/carbon emissions implications

31. The design philosophy used for assets and infrastructure projects is to create new build elements that will support low energy buildings to meet or exceed the requirements of Building Regulations in terms of thermal insulation and energy consumption and this will be achieved by a high performance thermal envelope which will reduce the overall heating demand with minimal heating provided to compensate for fabric losses only.

WHAT HAPPENS NEXT:

32. The proposed delegated authority will be used to award contracts for School Basic Needs and other major Assets and Infrastructure projects totalling approximately £200m over the next 4 years. Exercise of the delegated authority will facilitate timely and speedy delivery of these projects over the next four years.

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Consulted:

Consultation has also been undertaken with senior representatives of Property, Legal and Procurement Services.

Annexes:

None