

SURREY COUNTY COUNCIL

CABINET

DATE: 27 JUNE 2017



REPORT OF: MR TIM OLIVER, CABINET MEMBER FOR PROPERTY AND BUSINESS SERVICES

LEAD

OFFICER: MR JOHN STEBBINGS, CHIEF PROPERTY OFFICER

SUBJECT: APPROVAL TO APPOINT BUILDING CONTRACTORS TO ORBIS CONSTRUCTION FRAMEWORK AGREEMENT

SUMMARY OF ISSUE:

Following a competitive tender exercise Procurement and Property Services seek Cabinet approval to appoint selected building contractors to the Orbis Construction Framework.

The new Orbis Construction Framework will supplement a number of procurement arrangements which are available to SCC to deliver capital construction projects.

The objectives of the Framework put an emphasis on the delivery of Social Value benefits in the local community such as creation of employment, training and apprenticeships opportunities for residents and sub-contracting opportunities for local contractors.

In order to reduce timescales for awarding construction contracts Cabinet approval is sought to delegate authority to award contracts over £500,000.

RECOMMENDATIONS:

It is recommended that:

1. The Cabinet approves the appointment of selected building contractors to the Orbis Construction Framework.
2. In order to reduce timescales for awarding contracts under the Orbis Construction Framework the Cabinet delegates authority to award contracts above £500,000 in value, where a mini-competition tender procedure has been followed, to the Chief Property Officer in consultation with the Leader of the Council, Cabinet Portfolio Holder, Assistant Director of Procurement and Section 151 Officer.

REASON FOR RECOMMENDATIONS:

Property Services are responsible for delivery of SCC capital construction projects which are estimated to be £200m over the next 4 years.

In order to deliver these projects Property and Procurement Services developed a Delivery Model for Major Capital Projects which involves the use of a suite of complementary procurement arrangements. The Delivery Model includes existing

regional frameworks and other frameworks for construction works and services which are used by the Council. Where local markets exist for construction contracts the Delivery Model allows for tendering local building contractors in accordance with the Council's Procurement Standing Orders.

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.

Sussex Cluster Construction Framework which formed part of the Delivery Model expired on 28 February 2017. Sussex Cluster Construction Framework will be replaced with a new Orbis Construction Framework which will supplement the Delivery Model with a flexible procurement arrangement.

Procurement and Property Services undertook a restricted tender procedure to select a group of building contractors with demonstrable experience and capacity to deliver construction projects between £1,000,000 and £10,000,000 in value. The tender for the new Orbis Construction Framework is at a stage where Cabinet approval is required in order to conclude the tender procedure and appoint successful building contractors to the Framework.

This new Orbis Construction Framework will enable rapid contractor deployment via mini-competition route. In order to reduce timescales for awarding contracts above £500,000 in value Cabinet is requested to delegate authority to award contracts to Chief Property Officer in consultation with the Leader of the Council, Cabinet Portfolio Holder, Assistant Director of Procurement and Section 151 Officer.

This proposed schedule of delegation is the same as the previous schedule which was approved by Cabinet on 31 January 2017 for Assets & Infrastructure contracts over £500,000 in value.

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.

DETAILS:

Business Case

1. SCC's Construction Capital Programme is anticipated to be £200m over the next 4 years. Schools Basic Needs projects form significant part of the Capital Programme as 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.
2. Property and Procurement Services have been 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.
3. The resulting Orbis Delivery Model for Major Projects consists of the range of complementary procurement arrangements. The Delivery Model is scalable to incorporate wider requirements of future Partner and Client Organisations who choose to adopt Orbis as their preferred partner of choice.
4. The Delivery Model for Capital Projects includes existing regional construction frameworks and other frameworks for construction works and services which are currently used by SCC, namely:

- The Southern Construction Framework

- The Southern Modular Buildings Framework
 - The South East Consortium Framework
5. The Sussex Cluster Construction Framework formed part of the Delivery Model until it expired on 28 February 2017. In order to replace this Framework, Property and Procurement Services carried out a restricted tender procedure in accordance with the Public Contracts Regulations 2015 in order to set up a new construction framework.
 6. During the tender procedure the building contractors were scrutinised to demonstrate robust experience, capacity as well as competitiveness in delivering construction projects. The tender has been led by Surrey County Council for and on behalf of Orbis Partners and future Clients. The Evaluating Panel which comprised of colleagues from Property and Procurement Services across Orbis has completed assessing tender responses and recommends that Cabinet approves the appointment of the building contractors which are listed in the confidential Part 2 of this Cabinet Report.
 7. In accordance with Orbis Partnership's priorities the Orbis Construction Framework will be delivered by a range of contractors including SMEs. The Framework is split into 2 value banded Lots:-
 - Lot 1 for works between £3m and £10m
 - Lot 2 for works between £1m and £3m

There is no guaranteed minimum level of spend or volume of work under the Framework.
 8. The new Orbis Framework will supplement the Delivery Model (see paragraph 4 above) with a flexible procurement arrangement which will enable rapid building contractor deployment via a mini-competition route.
 9. The method of selection of a contractor from the Framework will be a mini-competition. The Contracting Authority may invite all Framework Providers in each Lot to tender in a mini-competition. Alternatively, the Contracting Authority may choose to use a short listing process to limit the number of Providers who would be invited to a mini-competition in order to reduce the cost to suppliers and the Council of abortive tendering.
 10. In order to enable rapid contractor deployment and to reduce timescales for awarding contracts under the Orbis Construction Framework, an approval is sought from Cabinet to delegate its authority to award contracts above £500,000 in value, where a mini-competition tender procedure has been followed, to the Chief Property Officer in consultation with the Leader of the Council, Cabinet Portfolio Holder, Assistant Director of Procurement and Section 151 Officer.
 11. This proposed delegation is the same as that approved by Cabinet on 31 January 2017 for Assets & Infrastructure contracts over £500,000 in value.
 12. 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.
 13. There is an upper limit of £10m on the value of individual contract which can be awarded under this Framework.

14. Concurrently to the tender for Orbis Construction Framework, East Sussex County Council has been leading on the procurement of Orbis Professional and Technical Services Framework on behalf of Orbis Partners and future Clients. Once the tender for Professional and Technical Services Framework Agreement is concluded the Professional and Technical Services Framework will become part of the Delivery Model for Major Capital Projects for Orbis and it will be available to for use by SCC to deliver its capital construction projects.
15. These Frameworks and local arrangements which form the Delivery Model will ensure that the most appropriate route to market is available for projects of different types in order to deliver construction as required and an effective assets and infrastructure programme over the next four years.

CONSULTATION:

16. 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 framework, 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 that what was being proposed was legally compliant. Financial Services were consulted to determine minimum acceptable level of tenderers' financial stability.

RISK MANAGEMENT AND IMPLICATIONS:

17. This framework agreement is not a commitment by SCC to purchase any works or services. Commitment to purchase will only be made by SCC when it issues into a legally binding contract under the terms of the framework agreement.
18. SCC does not guarantee the value or volume of instructions it may place with any of the contractor under this framework.
19. Should the service requirements change the new Orbis Construction Framework Agreement can be terminated by SCC giving 3 months' notice.
20. All framework contractors 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. Framework Management Team will be carrying out financial and insurance checks regularly in order to ensure that the Framework Contractors meet the minimum criteria during the life of the Framework.

Financial and Value for Money Implications

21. Of the total estimated spend of £200m on capital construction projects over the next 4 years, between £20m and £40m per annum will be spent via this Framework. The balance of the contracts will be procured using other frameworks or local arrangements (see paragraph 4 above).
22. 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.
23. 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

24. 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

25. The procurement process was carried out in accordance with the Public Contracts Regulations 2015.
26. Tenders were evaluated using selection criteria that identified the most economically advantageous tenders and best value.

Equalities and Diversity

27. All works done will be compliant with the Equalities Act 2010.
28. Framework Providers appointed to construction contracts will be required to deliver a minimum of 5% of the call off contract sum as Social Value, as calculated by reference to the Social Value Charter. This will result in employment, training and apprenticeships opportunities for residents.
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.

Other Implications:

30. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	No significant implications arising from this report.
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report.
Public Health	No significant implications arising from this report.
Climate change	No significant implications arising from this report.
Carbon emissions	Set out below.

Climate change/carbon emissions implications

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

Annexes:

Annex 1 – Tender evaluation summary