

## **Cabinet – 27 September 2006**

### **Partnering and Framework Contracts**

**Portfolio:** Councillor John O'Hare, Resources

**Service:** Property Services

**Wards:** All

**Key Decision:** Yes

**Forward plan:** Yes

#### **Summary of report**

This report recommends that the Council establishes a number of framework contractors and consultants, as detailed in Appendix A, to provide construction, engineering and professional services in respect of Walsall's property estate.

Current arrangements for ordering construction and engineering work require that every job is subject to quotations for work up to £50,000 and tenders above this sum. Every project is effectively a one off and good performance is not rewarded with follow-on work.

Significant improvements will be achieved by adopting framework contracts. Key benefits will include:

- Substantial reduction in the procurement of tenders and quotations for construction work.
- Less people involved in procurement processes.
- Increased levels of 'auditability' and 'open book accounting'.
- Improved cost information and better estimates.
- Reduced time from works request to start on site.
- Closer working between client, contractor and the professional team.
- Use of new IT based systems to generate orders and payments, while providing accurate management information
- Rigorous use of performance indicators to enable objective decisions to be taken when allocating work. This will include monitoring, price, completion on time, within budget, achieving good quality standards and securing customer satisfaction.
- Value engineering projects with the contractor at an early stage to ensure 'buildability' within target costs

It is proposed to use the Scape/Willmott Dixon national framework arrangement to build a replacement for the Mary Elliot School on a site adjacent to the Frank F Harrison School. A decision to use this framework would mean that the Council would not competitively tender works in the traditional way.

The report also proposes to use Constructionline (a government approved list of contractors and consultants) to draw up future tender lists for consultants and contractors for those projects that fall outside the framework arrangements. However, to ensure that smallest local firms are not overlooked, a substantially reduced tender list will be maintained for small jobs.

## **Recommendations**

It is recommended that Cabinet authorises:

1. The use of framework contracts to appoint consultants and contractors as set out in this report.
2. The use of the Scape/Willmott Dixon national framework contract to replace Mary Elliot School subject to:
  - a. the development of a concept scheme and price, and,
  - b. a further detailed report being presented to Cabinet to authorise progression of the project to feasibility/contract stage.
3. The adoption of Constructionline for compiling future tender lists for construction and professional and related services for any works falling outside the scope of the framework contracts.
4. The compilation of a substantially reduced Approved Small Firms tender list to enable local firms to tender for small jobs outside the scope of the framework contracts.

## **Resource and legal considerations**

The proposals set out in this report are intended to make better use of the Council's professional, technical and support staff employed within Property Services. In particular it is proposed that current out dated procurement arrangements be replaced with partnering arrangements to reflect current best practice. This will substantially reduce the quotation/tendering process and will enable work to be procured promptly.

Departing from traditional procurement practices does require that Legal Services and Internal Audit are closely involved in the process to award long term contracts and early discussion has taken place, specifically about the recommendation to use the Scape/Willmott Dixon framework.

Appointing consultants to work alongside the in house staff will give the Council greater capacity and flexibility should current levels of work diminish in the future. Clear benchmarks will be established for the in-house staff in terms of market fees.

## **Citizen impact**

Walsall residents will benefit from reduced procurement costs, the provision of responsive professional construction and estates services, and better value for money by entering into long terms arrangements for the delivery of building and engineering works. The Council Tax payer should see an improvement in quality with projects completed on time and within budget estimates.

## **Community safety**

The construction industry has a poor record in respect of health and safety issues and it is important that the Council appoint consultants and contractors that have a vested interest in maintaining high standards.

Many building and construction projects are undertaken on occupied premises and in particular within schools, where safety standards must be rigorous at all times. Contractors and consultants will have specific performance indicators to monitor health and safety standards.

## **Environmental impact**

Major building projects have an environmental impact. The Council will need to develop its policy towards developing sustainable buildings. Good practice would be to achieve the Building Research Establishment's Environmental Assessment rating of at least good. However, all of the framework contracts will require that consideration be given to deliver sustainability and energy efficiency with the limitations of individual budgets.

## **Equality implications**

The Council's new framework arrangements will specifically have regard to the employment opportunities being created for local people. All consultants and contractors will be required to satisfy officers that the successful companies have good equalities policies and practices.

## **Consultation**

Early notice will be given of the proposals to establish framework arrangement through the European procurement process. Should a decision be taken to support the recommendations, existing consultants and contractors will be formally advised of the Council's proposals, enabling companies to compete for the works through the tendering process.

Consultation will take place with client groups and particularly schools to explain the proposed improvements.

## **Vision 2008**

Any client contacting Property Services will be able to immediately access a professional advisor or contractor enabling work up to the value of £2m to be ordered without the need for quotations and tenders.

Costs will be closely benchmarked and there will be confidence that building and engineering work will be delivered on time and within budgets. Over time, quality standards will rise as supply chains are developed.

Procurement costs will be dramatically cut and the introduction of improved computer based ordering, project management and payment systems will secure excellent project management and performance data.

These benefits will help the Council in moving towards its objectives of Transforming Walsall into an Excellent Local Authority and Making Our Schools Great.

### **Background papers**

None

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**Signed:**

**Executive Director:** J Morris

**Date:** 18 September 2006



**Signed:**

**Portfolio Holder:** Councillor J O'Hare

**Date:** 18 September 2006

### Introduction

Sir John Egan's report Rethinking Construction published in 1998, proposed that traditional construction arrangements were not efficient and typically led to an adversarial approach between the contractor and the client/profession team. Traditional contracts tended to be one off and typically long term relationships were not established between the contractor and client/professional team.

The Rethinking Construction report recommended moving away from traditional tendering towards establishing 'partnering arrangements', whereby long term relationships were developed and the construction team and client team worked closely together. Key benefits were considered to be:

- Price reduction as a result of an increase in work volume
- Fewer claims
- Improved quality
- Completion on time and within budget
- Development of supply chains
- Improved customer satisfaction

Since 1998 many public sector bodies including local authorities have adopted the recommendations within Sir John Egan's report and the use of framework contracts/partnering arrangements is considered to be current best practice.

In 2006 Tim Byles, ODPM Procurement Champion stated:

'With £14bn of capital alone spent by English local authorities on construction, I am convinced that frameworks and the adoption of the principles behind them provide a key opportunity for considerable efficiency gains'.

### Current Procurement Arrangements

Up until September 2006, construction and engineering work in respect of Walsall's property portfolio was ordered by using quotations for work up to £25,000 and tenders for work above this figure. The quotation threshold has recently been lifted to £50,000. Effectively every job is a one off. Good contractors are not rewarded with follow on work and the procurement process is bureaucratic using paper based systems.

Walsall spends in the region of £20 - £25m/annum on building and engineering works. The procurement process is slow and many clients require a more responsive service and particularly schools who now hold their own devolved budgets.

It is considered that by adopting framework contracts, significant improvements can be achieved and better value for money secured.

## **Proposed Contract Arrangements**

It is proposed that the following contract arrangements be established in accordance with European procurement rules.

It is to be noted that, following discussions with the EMT, action is currently being taken to invite expressions of interest from the European market to achieve target timescales of securing new contract arrangements in place from 2007 onwards.

### **1. Emergency Work/Out of Hours Works/Day to Day Work**

It is proposed that up to four contractors be appointed to provide building and engineering services using the National Schedule of Rates/JCT Measured Term Rates as an appropriate pricing base. Contracts will be awarded for a four year period, with an option to extend subject to good performance.

### **2. Electrical/ Mechanical/ Planned Maintenance Works**

It is proposed that up to four contractors be appointed to undertake work in each of the following categories to enable orders to be placed on a call off basis.

- Boiler replacements
- Electrical rewires
- Roofing
- Window replacements
- Small civil engineering works
- Tarpaving
- Fencing
- External painting

The above specialist contracts to be appointed for a four year period with an option to extend for a further 2 years subject to performance.

### **3. Major Building Works**

It is proposed that up to four contractors to be appointed to undertake capital building works up to a value of £2m for any individual project. Contracts to run for 4 years with an option to extend for a further 2 years, subject to performance.

For schemes above £2m it is suggested that the work volumes will be too small to attract competitive offers. However, there is merit in combining with other councils to put in place joint arrangements – for example a Black Country framework. Some preliminary discussions have taken place about this opportunity. A national framework exists, which is available from August 2006 and this is the Scape/Willmott Dixon framework - referred to below. In the meantime at least, it is proposed that projects above £2m are tendered individually, as at present.

### **4. Scape/Willmott Dixon**

Scape is a public sector owned company established by the Consortium of Local Authority Special Projects – CLASP. The Consortium has been in existence for over 40 years. Up until March 2006, CLASP had a national framework contract

with Skanska, which had run for six years including a two year extension. Effectively, one of Scape's roles is to act as a central purchasing body, in terms of the supply of building components for the Scape system and by establishing the national framework contract.

The new framework has been subject to competition through the European tendering process and the contract was awarded to Willmott Dixon in August 2006. Willmott Dixon has built a good reputation in recent years. For example, the company has a partnering arrangement with Leicestershire County Council to build four high schools. It has completed two, on time, within budget and to good quality standards. The other schools are in the construction phase and are on programme. The Leicestershire professional team is pleased with performance to date.

As part of the procurement process, Scape assessed the company against the following criteria:

- Capacity and capability
- Continuous improvement
- Supply chain development
- Funding
- Related partnering experience
- Unlocking potential

Despite being in competition against other excellent firms, the company achieved the highest overall rating by the selection team, which included independent adjudicators'.

This national framework is specifically available to local authorities and enables councils to use Willmott Dixon to undertake major building works in the range from £2m upwards. Clients can use the Scape steel frame system or other construction forms together with design build solutions.

This framework is being considered for the construction of the Mary Elliot special school using a design build approach. A further detailed report will be provided to the Cabinet once a concept scheme and price have been established.

To use the Scape framework, the Council will be required to enter into an Access Agreement with the Scape company. This sets out roles and responsibilities between the parties. A separate contract would be entered between Willmott Dixon and Walsall, should the Council wish to proceed and this will be after a feasibility study has been completed and maximum price for the works established.

No charges are levied for initial concept work but if a decision is taken to proceed to full feasibility and project estimates, the contractor will develop a scheme and tender the works packages and charges will be levied for abortive work if the project does not proceed. Further clarification is being sought as to the precise meaning of 'guaranteed price', which the contractor provides before orders are placed. A meeting is to be held between officers and Scape/Willmott Dixon to discuss a number of areas that require clarification and these will be reported to the meeting.

The Scape/Willmott Dixon framework is considered to be particularly appropriate for the following reasons:

- The selected site is affected by mineshafts in the area and the Scape system was specifically designed for use in mining areas.
- A budget of £6.9m is available to rebuild the school and it is proposed to set a building target cost of £6.5m including all fees and charges.
- The project will be a design build scheme and this transfers risk from the client to the contractor
- A replacement school is urgently required and the use of the framework will enable the school to open in early 2008 rather than the Autumn of 2008 using a traditional procurement route
- Orders are not placed until a scheme has been designed, individual works packages have been tendered/priced and a maximum cost to build has been established.
- In the event the Council does not wish to proceed, all feasibility work and cost information is owned by the client albeit payments are required for costs incurred. This documentation can form the basis of a traditional tender or market offers for a design build solution
- Willmott Dixon has established a good reputation for its work in the education sector in recent years – see reference to Leicestershire.

### **Professional Services**

Restructuring the Asset Management Group to establish a new Property Services function anticipates that staffing numbers will be established at a level that will be able to accommodate reductions in future work volumes that will arise with the Building Schools for the Future programme and if other services are ever outsourced.

It is planned that, by staffing to an optimum level, peak workload can be managed by external consultants working with in-house Built Environment teams on a 'partnering basis'. Specifically consultants will need to be appointed to support:

- Estates
- Development Group
- Building Services

It is anticipated that up to four consultants be appointed to support each of these teams with a contract period to run for four years with an option to extend for a further two years. Other services within the Council will be able to use these consultants where required (eg. landscape architecture services for the Regeneration directorate).

### **Existing Contracts**

It is proposed that where formal contracts and warranties exist, they shall be allowed to run to completion. When the contracts and warranties are exhausted they will be absorbed within the proposed framework contracts. Whilst concerns will arise that the proposals in this report will impact on small local firms, it is anticipated that local companies will make up the supply chain of the successful framework contractors.



## **Advantages**

The framework arrangements proposed within this report will secure:

- Substantial reduction in the procurement of tenders and quotations for construction work.
- Less people involved in procurement processes.
- Increased levels of 'auditability'.
- Improved cost information and better estimates.
- Reduced time from works request to start on site.
- Closer working between client, contractor and the professional team.
- Use of new IT based systems to generate orders and payments, while providing accurate management information.

## **Performance Management**

Every contract placed under the new framework arrangements will include the requirement to monitor:

- Price
- Quality
- Completion on time
- Completion within budget
- Customer satisfaction

The expectation is that construction cost will reduce, quality will improve and greater customer satisfaction will be achieved. Work will only be awarded subject to the contractor/consultant maintaining a high level of service and performance indicators will provide objective measurement of performance. There will be no guarantee of minimum workload and contracts will only be allocated if consistently high standards of performance and workmanship are maintained.

## **European Procurement**

Whilst no guarantees will be given to any contractor or consultant, the potential work value and professional fee levels likely to be generated over a four year period requires that tenders be sought through the European procurement process. The key stages below and timescale indicate that all the new arrangements will be in place for the start of the 2007/8 financial year.

## European Procurement Process Timetable

### WORKS + SERVICES

**Restricted procedures** (if no indicative notice has been published)

Invite expressions of interest      October 2006

Receipt of applications to take part from the date when the notice is sent for publication in the Official Journal - not less than **37 days**

Evaluate the interested parties      November 2006

Issue tender invitations      November 2006

Receipt of tenders from the date of dispatch of the written invitation to tender - not less than **40 days**      January 2007

Tender evaluation      January 2007

Appointment      February 2007

## Replacing the Council's Select List for Contractors and Consultants with Constructionline

The Council's current approved list of contractors was established in 1997, when a single unified list of contractors was established to replace four separate lists maintained by different departments.

The selection process involves rigorous checks including:

- Financial
- Insurance cover
- Health and safety practice and record
- Trade qualifications
- Equal opportunities
- Quality assurance

Initially, the cost of maintaining the list was shared with other departments, including the former Housing Department. Resources to maintain the list have diminished and it is estimated that the unit cost of checks on individual applications amounts to £95 and the total cost of maintaining the list over a 5 year cycle is in the order of £160k.

As an alternative to these arrangements, it is proposed that the Council adopts the use of Constructionline to draw up tender lists for contractors and consultants for the smaller number of contracts that fall outside the framework arrangements proposed above. Constructionline is a national initiative for the procurement of construction work in the public sector. It was established by the Department of Trade and Industry and is managed by Capita.

The use of Constructionline is free to the public sector, but applicants wishing to be included within the Constructionline listing pay for the cost of the rigorous checks undertaken by Capita – replacing the need for the Council to undertake its own checks.

### **Support to Small Local Contractors**

For jobs below £100K, it is proposed that a new list is established to enable small local business – (SME's) to provide services to Walsall Council without the need to incur Constructionline costs. However, it is anticipated that these firms will also have opportunities to form part of the supply chain for the larger framework contracts.