

Report of : Head of Asset Management

Report to : Chief Officer Culture and Sport

Date: 16th August 2017

Subject: Proposed Contractor Procurement Strategy, in connection with Leeds Town Hall maintenance works to roof areas.

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): City and Hunslet		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<p>Appendix 1 is confidential under Access to Information Procedure Rule number: 10.4 (3) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). See para 4.6.3 below</p> <p>Appendix number: 1</p>		

Summary of main issues

1. The report advises that following the RIBA Stage 3 design phase a procurement meeting was held with officers from City Development (Asset Management), PPPU, and NPS Leeds to consider the procurement route for the appointment of a contractor to undertake the proposed roof maintenance works at Leeds Town Hall.
2. Having regard to the nature of the proposed works, the programme constraints of the project, the Council's approach to risk transfer, and the desire as far as possible to achieve cost certainty, the report advises that the meeting concluded that the Council should pursue the appointment of a contractor via an openly advised tender utilising the restricted procurement process, using the NEC3 form of construction contract.

Recommendation

3. In accordance with CPR 3.1.8 the Chief Officer Culture and Sport is requested to;
 - i) provide authority to procure a contractor, to undertake the proposed roof

maintenance works on Leeds Town Hall, through the OJEU restricted procurement process

- ii) approve the proposed procurement route including the evaluation weighting of 60% price and 40% quality for the selection of a contractor, at an estimated contract value of £4.2m.
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1 Purpose of this report

- 1.1 The purpose of this report is to seek the authorisation of the Chief Officer Culture and Sport to procure a contractor utilising the OJEU tendering process, for the proposed roof maintenance works at Leeds Town Hall, utilising a standard NEC 3 construction contract. The Chief Officer Culture and Sport is also requested to approve the tender evaluation weighting of 60% of marks for the price and 40% of marks for quality for the selection of the contractor to undertake the proposed works.

2 Background information

- 2.1 NPS priced condition surveys were carried out in September 2013 on the roofs at the City Art Gallery, Leeds Central Library and Leeds Town Hall. Priority works were subsequently agreed by Strategic Investment Board (SIB) and funding sufficient to carry out works on the City Art Gallery and Central Library was provided by Executive Board in February 2014 through the Council's Heritage Buildings Maintenance programme (scheme no 16996).
- 2.2 In February 2017 Executive Board approved a further injection into capital scheme 16996, which will be used to fund the Town Hall roof works. Details of the budget and cost estimates are provided in confidential appendix 1 accompanying this report.
- 2.3 The roof works to the Art Gallery and Central Library have now been completed. In May 2017 a RIBA stage 3 report was produced by NPS Leeds containing detailed design works and cost estimates for repairs to the Town Hall roof.

3 Main issues

- 3.1 In view of the historic significance and sensitivity of the building (grade 1 listed), as well as the city centre location the intention is to appoint a managing contractor as the main contractor to ensure effective organisation and management of the site.
- 3.2 The following procurement options have been considered by officers from Asset Management, Culture and Sport, PPPU and NPS Leeds :-
 - (i) Do Nothing – This is not recommended. The roof is in urgent need of refurbishment, there is a risk of deterioration to the structure of the grade I listed building, with consequent damage to the commercial offer and potential of the Council's flagship city centre venue.
 - (ii) Internal Service Provider (ISP) – In accordance with CPR 3.1.4 the ISP (Leeds Building Services) have been consulted and advised that they do not have the capacity to undertake this work
 - (iii) Constructionline – is a resource available to public bodies to access pre-qualified contractors on below threshold procurements – in effect this is an

approved list managed by Capita on behalf of the government. The estimated value of this contract is above the OJEU threshold and therefore this route is not appropriate or available

- (iv) Utilise an Approved Framework – by utilising an approved framework, in this case such as Yorbuild2, the Council has access to high quality contractors who have undergone a rigorous quality evaluation. The Chief Officer Culture and Sport should note that an expressions of interest exercise has been carried out with companies on the Yorbuild2 framework from the appropriate value banding. Only two contractors from the relevant list responded positively, the Yorbuild2 framework manager went back to the contractors with the aim of alleviating some of the risks which contractors had identified as disincentives to tender. Following this two other contractors expressed an interest, given the value and profile of this scheme the project team do not consider that this low level of interest will provide adequate competition which creates the risk of delays and poor value for money.
- (v) OJEU restricted procurement (recommended) –Whilst the OJEU process takes longer than utilising a framework it does open up competition to a larger number of bidders, whose suitability can be assessed through the evaluation process. The process includes an initial pre-qualification questionnaire (PQQ) evaluation to establish a final tender list of preferably between 6 – 8 suitable contractors. The Town Hall has arranged for the closure of the Victoria Hall between June and September 2019, there is sufficient time to undertake the OJEU process and maintain this programme.

- 3.3 Risk Allocation: The procurement route must ensure that risk is placed with those best suited to manage those risks, whilst ensuring that no significant premium is paid by the Council in passing risk to another party. In this context a design and build contract would transfer design risk to the contractor. However a design and build option was discounted because the design has already reached RIBA Stage 3, meaning the Council would be transferring, and potentially paying for, a risk unnecessarily.
- 3.4 Programme: A two stage tender would create a greater potential for the programme to slip which would have an unacceptable reputational and commercial impact on the Town Hall by restricting bookings in the Victoria Hall and potentially creating issues if the city is awarded the Europe Capital of Culture Year 2023.
- 3.5 Form of Contract: It is recommended to utilise a NEC3 Engineering and Construction Contract (ECC) Option A – Activity Schedule which is a fixed lump sum contract. These contracts require an early resolution of issues which can be of benefit during contract management.
- 3.6 The Chief Officer Culture and Sport is requested to approve the proposed evaluation weighting of 60% of marks for the price, and 40% for quality criteria for the appointment of the contractor. Due to the level of detail already achieved in the design and specification, and the non-specialist nature of the materials and construction methods, it is proposed that cost should be the principal consideration.
- 3.7 It is recognised that the building is in a prime city centre location, is a grade 1 listed building and is Leeds' most recognisable historic building. There will be also be significant interfaces with the staff and public. The quality criteria will focus on these elements and 40% is proposed as an appropriate weighting. The project team will

use minimum quality thresholds both for relevant individual quality criteria as well as over the whole quality evaluation.

- 3.8 The detailed evaluation criteria will be subject to approval by the Chief Officer Culture and Sport in accordance with CPR 15.1 as an administrative decision.

4 Corporate Considerations

4.1 Programme

The current indicative programme is as follows;

June 2017 – Commence design to RIBA stage 4

August 2017 – Listed Building/Planning application submitted

October 2017 – publication in OJEU

October 2017 – Listed Building/planning application determined

December 2017 – tenders issued

February 2018 – contractor appointed

March 2018 – start on site

December 2019 – completion

4.2 Consultation and Engagement

- 4.2.1 The Executive Members for Regeneration Transport and Planning, Economy and Culture, and Communities have been previously informed about the roof maintenance works required to all of the Civic Buildings on the Headrow. Further consultation will be undertaken with the relevant portfolio holders and ward members following the appointment of a contractor and prior to work commencing on the Town Hall.
- 4.2.2 The Council's Procurement Unit has been consulted and has advised that under Contract Procedure Rules 3.1.8, the delegated decision to undertake a procurement approach will be taken at the point that the procurement route is chosen and, subject to any project specific issues, this will normally be the main decision that all subsequent decisions flow from.

4.3 Equality and Diversity / Cohesion and Integration

- 4.3.1 There is no expected impact on the protected equality characteristics relating to the recommendation contained in this report and, therefore, it is not applicable for an EIA or screening form to be completed.

4.4 Council Policies and City Priorities

- 4.4.1 The proposed roof maintenance work to Leeds Town Hall is consistent with the Best Council Plan 2017/18 in terms of its contribution to the break through project of “creating world class events and a vibrant city centre that all can benefit from”. The project also contributes to the Council's bid for European Capital of Culture 2023, hosting world class events.

4.5 Resources and Value for Money

- 4.5.1 The Chief Officer Culture and Sport should note that the proposed evaluation model of 60% of the marks for cost places the achievement of value for money as the principal component of the procurement strategy, noting that the bidders will also be subject to a quality evaluation.

4.6 Legal Implications, Access to Information and Call In

- 4.6.1 The Council's Procurement Governance and Regulations Officer has advised that the delegated decision to determine the procurement approach and the evaluation criteria for the appointment of the contractor to undertake works at Leeds Town Hall, should be taken in compliance with Contract Procedure Rules 3.1.8.
- 4.6.2 The proposals contained in this report constitute a significant operational decision and are not subject to call in.
- 4.6.3 The information contained in Appendix 1 is exempt under Access to Information Rule 10.4 (3) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that the public interest in maintaining the content of Appendix 1 as exempt outweighs the public interest in disclosing the information. This report relates to a tendering process and as such release of financial information at this time would prejudice the council's position.

4.7 Risk Management

- 4.7.1 A risk register will be developed as part of the framework agreement. This will highlight all risks and register how contract risks will be managed. The risk register will also form part of the Contract Management Plan.
- 4.7.2 The risks identified with this procurement are:
- Insufficient tenders – this will be managed through the use of the OJEU restricted tender process
 - Uncompetitive pricing - this will be managed through the competitive tender process as well as indicating to the market value for money aspirations
 - Failure to meet minimum quality thresholds – this will be managed through detailed instructions to the market as well as utilising thresholds that are proportionate and achievable
 - Poor contract management – this will be managed through the use of a proportionate contract management plan and by utilising an experienced NEC3 Project Manager.
 - Challenge – will be mitigated through following best procurement practice, ensuring fairness and transparency, and consultation with PPPU commercial team to ensure robustness
 - Reputational damage – will be mitigated through market engagement, clear documentation and instructions and effective contract management.

- Commercial risk to Leeds Town Hall if works are delayed – mitigated through use of sectional completion and inclusion in the contract of damages for delays where appropriate.

5 Recommendation

5.1 In accordance with CPR 3.1.8 the Chief Officer Culture and Sport is requested to;

- i) provide authority to procure a contractor, to undertake the proposed roof maintenance works on Leeds Town Hall, through the OJEU restricted procurement process
- ii) approve the proposed procurement route including the evaluation weighting of 60% price and 40% quality for the selection of a contractor, at an estimated contract value of £4.2m.

6 Background documents¹

6.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.