

Report of Chief Officer PPU and Procurement Unit

Report to Strategic Investment Board

Date: 20 September 2013

Subject: Extension of the Regional Construction Framework – YORbuild (West Area)

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| Are specific electoral Wards affected? If relevant, name(s) of Ward(s): | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 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 checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Summary of main issues

- The YORbuild Contractors Framework Agreement commenced in December 2009 for an initial duration of four years and included an option to extend the agreement by a further two years. Approval is now sought to grant this two year extension to maximise the benefits available from the framework. The framework has had 244 projects with a value of £229m procured by the public and voluntary sector in Yorkshire and Humber.
- The framework supports the integration of small and medium enterprises (SME's) into the supply chains of the framework contractors, and operates a programme of activities to a membership of around 300 organisations.
- The framework offers the ability for users to require contractors to deliver employment and skills outputs from their projects, this has resulted in significant benefits to the region.

Recommendations

SIB is asked to:

- endorse continued use of YORbuild as an Approved Framework for the purpose of new CPRs. This would require consideration by Directorates of use of YORbuild before procurement through a different route, but would not prevent use of other frameworks/individual procurements through a decision by the appropriate Chief Officer.

- endorse the recommendation that the framework be extended for a further two years
- discuss future client responsibility arrangements relating to formation and continuance of construction frameworks

1 Purpose of this report

- 1.1 The purpose of this report is to make Strategic Investment Board aware of the experience and benefits of the regional construction framework, YORbuild, and subsequently to give consideration to the use of the framework as the default mechanism for construction procurement for the council.
- 1.2 To act as a consultation document to support the Chief Officer, Procurement and PPPU in the decision to extend the YORbuild framework.
- 1.3 To stimulate discussion on the future governance structure and client responsibility for the Council's involvement in regional construction frameworks.

2 Background information

- 2.1 The YORbuild Framework commenced in December 2009. To date the value of construction projects commissioned through the YORbuild framework is c£229m, with £84 in the West area. The framework consists of 42 contractors, 83% of which are regionally based, 36% in West Yorkshire and 14 % in Leeds. YORbuild is a Yorkshire & Humber regional collaborative framework and is available to all public sector and third sector organisations in the region. The procurement process for YORbuild was partially funded by the Regional Investment and Efficiency Partnership to the value of £250,000.
- 2.2 The framework is currently managed in four sub regional wedges by officers from Scarborough District Council (North), East Riding of Yorkshire Council (East), Rotherham Borough Council (South) and Leeds City Council (West). The funding to support these resources is generated from fees charged to users of the framework which are calculated relative to the estimated cost of construction
- 2.3 Evidence from the Local Government Task Force, Transforming Local Government Construction, and National Improvement and Efficiency Partnerships is that frameworks can achieve procurement time and cost savings together with savings in outturn cost and time whilst achieving increased service quality and client satisfaction

This is supported by the Office of Government Commerce (OGC) in their 'Achieving Excellence in Construction' documents in which they identify that some of the savings come from the following:

- Speed of procurement
- Learning transferred from one project to another
- Sustained workflow

- Improved working relationships

2.4 Executive Board approved the procurement of a contractor framework for the delivery of building contracts in December 2005.

2.5 In late 2007 The Regional Centre of Excellence Yorkshire and Humber (the RCE), hosted by Leeds City Council, identified that the construction sector was the largest single category of spend to local authorities in the region with c. £1.2bn spent per annum, and proposed to run a project to create a construction framework for the procurement of building and civil engineering contracts. The framework, to be known as YORbuild, would be available to all 22 local authorities and other public and third sector organisations in the region, and was to be structured to compliment the geography and diversity of demand across the region. The objectives of the framework included :

- § Providing a procurement service to local authorities for construction services
- § Expenditure and process efficiencies
- § Improved time, cost and quality certainty
- § Acting as a platform for :

- Small, Medium Enterprise (SME) engagement,
- local training and employment programmes and
- sustainability initiatives.

2.6 The framework is capable of delivering refurbishment and new build projects of any value either as one off projects or for a period of time, and has available five separate methods of selecting contractors from it utilising price and/or quality over one or two stages, and operates on the National Audit Office and Office of Government Commerce endorsed NEC3 suite of contracts.

2.7 This combines contract conditions with project management methodology to produce a contract which promotes collaboration between client and contractor and proactive methodology for dealing with change during the contract, thereby facilitating greater time and cost certainty.

2.8 SIB should note that Yorbuild is one of a suite of frameworks currently supported and delivered through 'YORhub', which coordinates and steers the frameworks.. The frameworks represented by YORhub are YORbuild, (for new build and refurbishment of the civic estate)YORcivils (for highways and civil engineering projects), YORconsult (construction and engineering related consultancy) and Efficiency North (elemental refurbishment and improvement of social housing). The council currently has representation for YORhub as a Board Member and in providing the role of Chair of Operations (West Area). Leeds City Council also provides a framework manager for YORbuild (West Area) and management of the regional Supply Chain Management _Programme (SCEP).

2.9 The YORhub governance and framework arrangements are currently under review to provide the most effective delivery model from early 2014.

3 Main issues

3.1 Benchmarking by East Riding of Yorkshire Council of overhead costs under the framework against those under their previous framework revealed reductions of 3.7%.

3.2 As the framework has been procured in compliance with Public Procurement Regulations there are significant time savings to be realised for call offs with a value in excess of the EU threshold this can result in a procurement duration of around 12 weeks as opposed to 36 weeks which can assist in the acceleration of council programmes.

3.3 The volumes that can be processed through a framework enable clients to maximise objectives such as those listed in 2.9 above, which would be far more difficult with the traditional project by project approach

3.4 To date, 244 projects with a value of £229m have been procured and completed through YORbuild across Yorkshire and Humber, 25 valued at £84m in the West Yorkshire area managed by Leeds City Council.

3.5 The commitment to create employment and training opportunities through the framework have generated the following outputs across Yorkshire and Humber;

- 302 NVQ's gained by existing staff
- 8146 school/college student site visits and workshops
- 3983 apprenticeship weeks created
- 463 work experience placements
- 450 new employees

3.6 To further SME engagement, the framework operates a Supply Chain Engagement programme now managed by Leeds City Council, providing details of tender opportunities with framework contractors and hosting 'Meet the Buyer' events for members. The programme currently has almost 300 regional SME members. As a result, the framework has been recognised by Leeds City Region Leaders Board as supporting local businesses, and as such they resolved in 2011 that it should be used wherever possible.

3.7 Use of the framework from Leeds has really only started in the last 12 months for 12 projects with a value of £49.8m (including Woodhouse Lane Car Park, the Basic Needs Programme schools, Eastmoor Secure Children's Home and Farnley Hall Coach House). It is also only right to recognise that there is limited experience within the Council in usage of the NEC forms of contract under which YORbuild operates (many commissioners experience is of use of JCT contracts), however training has been made available to address this.

- 3.8 The limited adoption of the framework has meant reduced benefit to date in terms of employment and skills and supply chain engagement outputs, however the 5 completed Leeds City Council projects have supported 3 research projects, 4 weeks work experience, 146 attendees to workshops and one apprentice.
- 3.9 In addition, dialogue has been had between PPPU and framework contractors to identify methods available under the framework which utilise early contractor involvement. This has resulted in the programmes for three Basic Needs Programme projects being commenced earlier than anticipated.
- 3.10 Additionally, in the case of Eastmoor Secure Children's Home (£1.3m) and Morley Newlands Primary School (£2.4m) significant savings have been achieved on tendered prices against budget estimates.
- 3.11 However, as part of the Council's Transforming Procurement Programme and the Category Management approach in particular, work has been undertaken to raise awareness of the existence and benefits of the framework with colleagues in City Development and Children's Services together with the Council's design partner, NPS Leeds. Processes have been established with these services to proactively consider procurement options, including use of the framework, at the feasibility stage of projects. This has already resulted in increased usage of the framework in those areas with a further 9 projects being prepared for procurement through the framework. This will ensure maximum benefit is gained from the procurement of these capital funded projects.
- 3.12 In order to ensure the benefits available from the framework continue to be maximised, and for the council and its advisors to become more familiar with the less traditional methods it offers, throughput of projects into it needs to increase. A further 5 projects valued at £5m which could be directed through the framework are evident in the current capital programme.
- 3.13 There has been £68m of capital allocations from Department for Education (DfE) to authorities in the sub region for Basic Needs provision by 2015, including £37m alone for Leeds City Council. The agile processes of the framework will be attractive to those authorities in meeting the challenging deadlines and cost ceilings set by DfE, and Leeds City Council has already benefitted from the framework's ability to deliver against them through pre tender engagement with framework contractors and use of two stage tendering processes in the Lane End and Little London projects.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 To inform the decision over whether to extend the framework or not, soundings were taken with a number of YORbuild Contractors over their levels of investment and returns to date. The views of the firms in their responses were that a two year extension will afford them the opportunity to consolidate and spread the cost of their increased investment and effort in bidding and participating in the framework.

- 4.1.2 Efforts to date have secured the support of a number of repeat users of the framework in the region, Wakefield and Bradford Council's, West Yorkshire Police and the Education Funding Agency are known to have future projects with a value of in excess of £100m, which they are likely to procure through the framework.
- 4.1.3 Additionally, authorities in the region have been allocated £68m from Department for Education (DfE) to deliver their Basic Needs programmes by 2015.
- 4.1.4 The work outlined in 3.20 above also indicated support from those services in use of the framework in the future.

4.2 **Equality and Diversity / Cohesion and Integration**

- 4.2.1 Equality, Diversity, Cohesion and integration screening reveals there are no direct Equality, Diversity, Cohesion and Integration issues relative to the decision to use YORbuild, these issues can be properly addressed in the preparation of individual capital projects.

4.3 **Council policies and City Priorities**

- 4.3.1 With consistent throughput through the framework, opportunities for development of the local supply chain intensify through the activities of the Supply Chain Engagement Programme
- 4.3.2 Whilst each project has the employment and skills outputs assessed relative its particular circumstances, by example it would be reasonable to expect nine person weeks of work experience for a project up to £100,000 in value and 13 person weeks of apprentice work, this would rise to 95 and 240 respectively for a project in excess of £10m. A wide range of opportunities, including school visits, work experience for 16-19 year olds, progression into employment and apprenticeships is available to deploy on all contracts.
- 4.3.3 Integration of these initiatives is well established in the framework processes and procedures, including those of the contractors. This cannot be said of alternative methods of procurement and therefore to introduce it would be slow to do, and therefore would delay the effect.
- 4.3.4 Projects undertaken and benefits realised from YORbuild support the following City Priorities

Children and Young Peoples Plan

Health and Wellbeing City Priority Plan

Sustainable Economy and Culture City Priority Plan;

Regeneration City Priority Plan

4.4 **Resources and value for money**

- 4.4.1 The cost of establishing regional frameworks can be significant. Based on the cost to create the original framework, renewal of the YORbuild framework is estimated to cost in the order of £250,000 and would tie up procurement staff for a

duration of 9-12 months. The procurement of the YORbuild framework benefited from RIEP funding. There is unlikely to be any significant regional funding to renew the YORbuild frameworks. The original intention was to build up a sum of money to replace YORbuild from a proportion of the fees charged to users. However this has not been possible due to the current economic situation and lower framework turnover. Extending the framework will provide more time to create self-financing to fund the renewal of the framework.

- 4.4.2 If the YORbuild framework is not extended then a procurement exercise to replace may have to commence. This would tie up the resources of many SME construction firms in at a time when many of them are struggling to stay afloat. The cost to a contractor of pre-qualifying and tendering for a framework is estimated to range from £20,000 - £40,000, based upon figures provided by YORbuild contractors as part of the sounding exercise referred to above. Extending the framework would defer this expenditure and effort.
- 4.4.3 Both the YORhub board and YORbuild Framework Management Team favour a two year extension to all four regional YORbuild frameworks, and the other three have formally taken the decision to extend.
- 4.4.4 It should be noted that use of the framework by individual Directorates will depend on the nature of the procurement and suitability of the framework. Other options can also be considered and used, provided that where YORbuild is not the proposed route to procurement the alternative is approved by the relevant Chief Officer.
- 4.4.5 Although use of YORbuild attracts a fee, these average at around £750 per £m of construction cost and are nonetheless felt to be offset by the benefits that can be achieved.
- 4.4.6 Alternatively, the Council could revert to conducting tenders on a one off basis through the open market or use of the Constructionline service, however in many cases, particularly those involving larger value projects, this would be slower and therefore more costly. In addition, less integrated working with contractors than is enjoyed under the framework would be likely resulting in increased costs.
- 4.4.7 Savings of up to 30% have been achieved on projects already procured by Leeds City Council, and other efficiencies are possible through full use of the framework's extensive processes, and strict application of the provisions of the NEC form of contract.

4.5 **Legal Implications, Access to Information and Call In**

- 4.5.1 The YORbuild framework was set up in accordance with the Public Contracts Regulations 2006. These regulations restrict frameworks to a four year duration unless there are exceptional circumstances. When the YORbuild framework was established it was considered that exceptional circumstances did exist and the following wording was included within an advertisement for the framework placed in the Official Journal of the European Union notice: -

“A 2 year extension to the framework may be required to allow the appointed contractors adequate time to recoup their significant initial investment in establishing integrated supply chains and the processes and procedures that will deliver the improvements that the clients are seeking through this framework. These include local regeneration, training and employment initiatives. In addition there will be significant investment required from clients in undertaking the selection and evaluation process, and in particular the training of their staff and consultants to new ways of working. The partnering objectives that will form part of this framework may only be capable of achievement over longer periods of time than 4 years, not least because a number of local authorities may only start using this framework after their existing arrangements expire and as their funding for the Building Schools for the Future funding and Primary School Capital Programme becomes available”.

- 4.5.2 In view of the above, it is felt that there would be limited procurement risk in extending the framework.
- 4.5.3 A decision to extend the framework would be a Key decision under the provisions of new CPRs effective October 2013.
- 4.5.4 It is proposed that (pending decisions on Chief Officer decision-making responsibility for these key frameworks), the Chief Officer Procurement and PPPU approves the DDN for extension, but SIB are asked to endorse this approach.

4.6 Risk Management

- 4.6.1 The performance levels of the contractors currently on the framework is adequate to recommend their continuation on the framework, and project and contract management processes are clearly defined in the NEC form of contract under which they operate to enable users to manage risk for individual projects.

5 Conclusions

- 5.1 The use and management of the YORbuild framework presents an opportunity for Leeds to benefit from:
- Savings in time and cost on its construction projects
 - Managed and structured development of local supply chains locally and in the region
 - Creation of training and job opportunities on all projects irrespective of size
- 5.2 Evidence in operation of the framework so far is that all of those benefits are being achieved, and with further throughput can be intensified for the benefit of Leeds City Council.

6 Recommendations

- 6.1 SIB is asked to endorse continued use of YORbuild as an Approved Framework for the purpose of new CPRs. This would require consideration by Directorates of use of YORbuild before procurement through a different route, but would not

prevent use of other frameworks/individual procurements through a decision by the appropriate Chief Officer.

6.2 SIB is asked to endorse the recommendation that the framework be extended for a further two years.

7 Background documents

7.1 None