

Procurement of Fire Stopping and Passive Fire Protection Works (Civic Estate) 2023/24

Date: 22nd March 2023

Report of: Chief Officer, Sustainable Energy and Air Quality

Report to: Director of Resources

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

- The purpose of this report is to seek approval to undertake a competitive procurement exercise to appoint contractors to a framework agreement to undertake Fire Stopping and Passive Fire Protection surveys and works across the Council's Civic Estate in 2023/24. It is proposed that the exercise will be advertised and interested parties shortlisted after ensuring they meet pre-determined criteria for shortlisting
- It is proposed that the tender will be evaluated on a price/quality separated basis.
- It is proposed that that up to 5 contractors will be appointed to deliver these works. Works packages up to £100k will be allocated on a rotational basis. For works packages over £100k, contractors will be invited to participate in a price only mini-competition.
- The value of the work to be undertaken in 2023/24 is estimated to be around £2m.
- The contract will run for 1 year with the option to extend by two periods of 12 months.

Recommendations

The Director of Resources is requested to:-

- a) Approve the Authority to Procure for the procurement of up to 5 contractors to a framework through a competitive open procedure to deliver Fire Stopping and Passive Fire Protection Works (Civic Estate) for one year in 2023/24 for an estimated value of £2m with the option to extend by two periods of 12 months each.

What is this report about?

- 1 Fire safety legislation amalgamated within the Regulator Reform Order (Fire safety) 2005 requires that the Council is responsible for the management of fire safety in all civic buildings.

One of the significant duties placed upon organisations by the legislation is for fire risk assessments to be undertaken with any remedial work to be identified, prioritised, and completed within reasonable timescales.

- 2 The proposed £2m programme of works in 2023/24 (Appendix 1) will ensure continued compliance with fire safety legislation and will also help in meeting the protocol arrangements agreed both with the Council's insurers (Zurich Municipal) and the Fire Concordat with West Yorkshire Fire and Rescue Service. Completion of the works will also support the Council's ambitions of making Leeds a safer place to live, work and visit.
- 3 Following the completion of fire risk assessments, remedial works will be planned on properties forming part of the civic and heritage estate and these works will improve the levels of compartmentation (reducing the spread of fire in the building), protect the means of escape and, where necessary, upgrade fire alarms.
- 4 A Key Decision was originally taken by the Director of Resources on 21st December 2021, to approve the expenditure of £2m for capital Fire Risk Prevention works on the civic estate in 2022/23. This expenditure has now been moved to the 2023/24 Financial Year.
- 5 Following a procurement options appraisal in May 2022, contractors from across the Yorkshire and Humber region were shortlisted from Constructionline and invited to participate in an Expression of Interest (EOI) exercise to gauge the market appetite for these works. Of the 28 contractors contacted, 19 responded with 16 expressing an interest in bidding for these works.
- 6 Although the Council used Constructionline initially as a reference, the Council has since moved away from its use as a viable selection mechanism, therefore, although the EOI demonstrated reasonable market interest, in order to move forward with any procurement, the Council will undertake an open competitive procedure in order to attract the widest possible interest in the procurement.
- 7 The Council intends to appoint up to 5 contractors to the framework to ensure that these works are sufficiently resourced. Smaller works packages up to £100k will be allocated on a rotational basis with the first works package being allocated to the first ranked contractor and the second works package being allocated to the second ranked contractor and so on. For larger works packages over £100k, contractors will be invited to participate in a price only mini-competition between all the contractors on the framework, in line with CPR 3.17, to ensure value for money.
- 8 Tender submissions will be evaluated on a Quality / Price separated basis. Quality assessments will be carried out first and those bidders who meet the minimum overall score threshold of 60% will then be assessed. Therefore, contracts will be awarded to the tenderers who meet the minimum quality thresholds and submit the lowest prices.

What impact will this proposal have?

- 9 The approval of this procurement will help the Council meet regulatory compliance and provide a safer environment for staff and visitors across the Council's civic estate.
- 10 An Equality, Diversity, Cohesion and Integration (EDCI) screening was carried out for these works and can be found in the background documents. There are no equality, diversity, cohesion and integration issues related specifically to this procurement.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 11 The completion of the works will support the Council's Health and Wellbeing ambition by making our civic estate safer for visitors and staff.
- 12 This proposal supports inclusive growth through the implementation of Social Value requirements which the successful contractors will be expected to deliver. These include skills programmes, apprenticeships and employment support. Contractors will be measured on specific targets which will be monitored throughout the contract.

What consultation and engagement has taken place?

Wards affected: N/A

Have ward members been consulted?

Yes

No

- 13 Legal and Procurement colleagues have been consulted in the development of this report.
- 14 The Executive Member for Resources has been briefed.

What are the resource implications?

- 15 The resources for the delivery of these works, with an estimated value of £2m, will be funded from the 2023/24 contingency in the capital programme.
- 16 The procurement will be competitively tendered through an open procedure to attract the widest possible interest. This will allow the Council to enter into call off contracts with providers from the framework and is anticipated to provide the most cost-effective approach.

What are the key risks and how are they being managed?

- 17 Current market conditions and inflation are bringing significant challenges to our procurements with contractors becoming increasingly risk averse and showing less appetite to bid for works. This is being mitigated through better market engagement and the inclusion of Open Days to ensure that potential bidders are informed of our tender opportunities and have the appetite to bid for our works programme.
- 18 Due to current market conditions, there are further challenges with supply chains and materials. To mitigate these risks, we will work closely with contractors to ensure that our works programme is sufficiently resourced and that alternative supply chains can be sourced if necessary.
- 19 There is a risk in the current economic climate that contractors could experience financial distress and be unable to discharge their obligations under the contract. This will be mitigated by undertaking due diligence checks with contractors being asked to complete a PAS91 pre-qualification questionnaire as part of their tender response. Financial checks and receipt of technical references will be carried out on the proposed successful contractors prior to award, ensuring we are contracting with financially sound organisations and limiting the risk of works not being completed.
- 20 There is risk that contractors may underperform on the contract. This risk will be mitigated through the inclusion of several Key Performance Indicators (KPIs) which contractors will be measured against on a quarterly basis to ensure that quality standards are maintained throughout the duration of the contract.

What are the legal implications?

- 21 The proposed procurement exercise will be through a competitive open procurement procedure, which is a compliant procurement procedure under the Public Contracts Regulations 2015. It is paramount that procurement within the Council ensures openness, transparency and fairness. As such this framework will be procured in line with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 22 The recommendations set out in this report are a direct consequence of a previous Key Decision ref D54707 taken on 21st December 2021 and is, therefore, a Significant Operational Decision which is not subject to call in.
- 23 A separate tender evaluation report and proposal to award contracts will be brought for approval following the completion of this tendering exercise. This will be a significant operational decision.

Options, timescales and measuring success

What other options were considered?

- 24 Other procurement options which were considered were as follows:
- Appoint the works to Leeds Building Service (LBS) as the Internal Service Provider in line with CPR 3.1.4. This option was discounted as LBS do not have the sufficient capacity or the technical proficiency to undertake this specialist work.
 - Appoint a contractor via a suitable and approved external framework agreement such as YORbuild, Efficiency North, Fusion 21 etc. This option was discounted as it was deemed to be unlikely to provide the appropriate size, scale or access to the right contractors to deliver these works in Leeds.
 - Create a long-term LCC framework agreement. This option was discounted as current funding has only been approved for 1 year and work cannot be guaranteed for future years.
 - Individual procurements via separate tenders on an as-and-when basis. This was discounted as the Council intends to appoint a number of contractors, to deliver a common and regular work programme and it is felt that the competition needs to be extended to the open market to ensure we attract sufficient interest to maintain healthy competition.

How will success be measured?

- 25 By the successful completion of the programme of works and regulatory compliance.

What is the timetable and who will be responsible for implementation?

- 26 The Building Services Assistant Manager will be responsible for implementation.
- 27 The timetable for implementation is as follows:

Task/Milestone	Date
Tenderers invited to tender and issued with tender documents	April 2023

Last date for tenderers to submit tender clarification queries	Early May 2023
Tender submission date (Appendices 1 and 2)	May 2023
Assessment and evaluation	Early June 2023
Tenderers notified of outcome	Mid-June 2023
Contract awarded	Late June 2023
Mobilisation period to contract start date	Late June / Early July 2023
Contract start date	July 2023
Contract end date (excluding extensions)	July 2024

Appendices

- EDCI assessment.

Background papers

[Council and democracy \(leeds.gov.uk\)](https://leeds.gov.uk/council-and-democracy)