

To seek authority to extend the YORbuild3 Major Works framework by two years

Date: 16th January 2024

Report of: Procurement Category Manager

Report to: Director of City Development

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

- The YORbuild3 Major Works Framework Agreement commenced on 29th April 2020 for an initial contractual term of four years, with an option to extend the agreement by a further two years. Approval is now sought to grant this two-year extension of the framework contractual term to maximise the benefits available from the framework.
- This framework supports the Best City Ambition by ensuring quality and accessible homes by building mutual respect and understanding through co-production and co-design, improving housing stock which leads to an overall improvement to housing in the area around Leeds. This framework also supports inclusive growth by ensuring our businesses and social enterprises are being innovative, creative, ambitious and connected to the local community they are in, with access to the skills they need to boost productivity and succeed.

Recommendations

- a) The Director of City Development is recommended to approve the extension of the YORbuild3 Major Works Framework Agreement by two years to expire on the 28th April 2026 by extending the contracts awarded to the contractors listed at Appendix A of the Extension report.
- b) The Director of City Development is asked to note that recommendation has already been approved by the YORhub Board.

What is this report about?

- 1 YORhub is a collaborative group of frameworks for construction, civil engineering and related consultancy services. The four lead authorities involved are Leeds City Council, Sheffield City Council, East Riding of Yorkshire Council and North Yorkshire Council.

- 2 Leeds City Council act as the contracting authority for YORbuild3 Major Works framework agreement on behalf of YORhub. It is due to expire on 28th April 2024 and there is the option to extend for a further two years. This report seeks authority to implement that two-year extension option.
- 3 The YORbuild3 Major Works framework was procured as a competition exercise and awarded in accordance with the Public Contracts Regulations (PCR) 2015. These regulations restrict frameworks to a four-year duration unless there are exceptional circumstances. When the YORbuild3 Major Works framework was established, it was considered that exceptional circumstances did exist, and the appropriate wording was included within the advertisement for each of the frameworks placed in the Official Journal of the European Union.
- 4 Leeds City Council's Procurement and Commercial Services (PACS) will continue to manage the West Yorkshire region of the framework which generates an income of approximately £80,000 per annum.

What impact will this proposal have?

- 5 The YORbuild3 Major Works framework agreement is part of the YORhub suite of framework agreements which also includes YORbuild3 Medium Works and Minor Works framework agreements, YORcivil Major Works and YORcivil3 framework agreements and YORconsult2 Consultants framework agreement.
- 6 YORbuild3 Major Works framework agreement helps local authorities, other public bodies and third sector organisations procure construction projects efficiently and collaboratively. It comprises of two lots; Lot 1 is for works over £10m up to £30m and Lot 2 is for works over £30m. Eight contractors were appointed to Lot 1 and six contractors were appointed to Lot 2. The framework covers the North-East, Yorkshire and Humber, Lincolnshire, Nottinghamshire, Derbyshire and parts of Leicestershire.
- 7 The OJEU notice for the YORbuild Major Works framework estimated the anticipated expenditure / turnover at £1,500,000,000. Currently, the framework has been live for circa 3 years and at the 3rd anniversary of the framework at end April 2023 there was circa £300m of work on the YORbuild Major Works framework agreement pipeline. Taking into account the estimated 4- and 6-year values from the pipeline, this demonstrates that the overall total estimated spend over the 6-year timeframe is c£614.4m which is well below the framework advertised value. There has been inadequate turnover in the initial 4-year period for appointed contractors to recoup their investment in both these lots. The framework got off to a slow start since covid impacted the launch/start, seeing a number of projects delayed or cancelled. Inflation has also had an impact in this respect.
- 8 The Council's Contract Procedure Rules (CPR) at 3.1.6 state that the YORhub suite of framework agreements should be used whenever a procurement contains, or is likely to contain, a construction, civil engineering or professional services component.

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

Health and Wellbeing Inclusive Growth Zero Carbon

- 9 The continuation of the framework agreement will continue to work with organisations who can support the council's 3 Key Pillars. An example is how contracts awarded from this framework support health and wellbeing through ensuring quality and accessible homes, support inclusive growth by improving the housing stock.
- 10 The framework agreement will continue to support Employment and Skills on all projects, and it is mandatory for contractors to agree and carry out the employment and skills submission, creating employment growth and opportunity for training and development.

- 11 The framework agreement will continue to have a Supply Chain Engagement Programme focussed on utilising, promote and develop SME's and local suppliers, as well as creating opportunities for the local supply chain.
- 12 To support the Council's stated ambition of working towards a carbon neutral city by 2030, the impact on the climate should be considered across all officer work. Carbon and sustainability are key themes of the YORhub suite of frameworks.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

- 13 Consultation has already taken place with the users of the framework agreement throughout and across the region via the YORhub Board.
- 14 Consultation has also taken place with the relevant Executive Member, Director and Senior Officers in City Development. PACS and housing colleagues have also been consulted where relevant.

What are the resource implications?

- 15 PACS will manage the extension of the framework and involved in the governance process.

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

- 16 If approval is not given to proceed then there will be no framework in place which means that the YORhub would not have a full suite of frameworks. Although there are other frameworks approved for use, they are managed externally to the council and typically the framework fees are higher. The fees are effectively returned to the council through its involvement in YORhub.
- 17 Performance of contractors appointed to YORbuild Major Works is very good as evidenced by project managers performance reports collected to date and continued use of this framework will allow further gains from the framework collaboration and partnership.
- 18 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. RAG reports are collected on a monthly basis to collect scores out of 10 against 4 categories: cost, time, quality and overall performance. To date 19 RAG reports have been returned for on-going YORbuild Major Works framework projects. The average scores for each of the sections, out of 10, are 7.7 for cost, 7.9 for time, 8.2 for quality and 8 for overall performance.

What are the legal implications?

- 19 This report is a Significant Operational Decision since it is the consequence of a previous Key Decision; Council and democracy (leeds.gov.uk) and a link is provided below. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.

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

- 20 The assessed financial value of the works being call off under the framework agreement is over UK Public Procurement Threshold for works, therefore the framework agreement is subject to the PCR 2015. Moreover, Regulation 33 (3) PCR 2015 states "*The term of a framework agreement shall not exceed 4 years, save in exceptional cases duly justified, in*

particular by the subject-matter of the framework agreement.” Justification had been provided on the original OJEU notice. Government Guidance on Framework Agreements states that longer durations can be justified in order to ensure effective competition if four years would not be sufficient to provide a return on investment. Precedents in the form of extensions granted to YORbuild, YORcivils and YORconsult have also been established.

- 21 A further consideration over whether to extend the framework or not relates to the risk of challenge from an aggrieved organisation. It is difficult to see how a firm could challenge the decision to extend the framework agreement as provision for this was included within the original OJEU advert. Any aggrieved organisation had an opportunity to challenge the award decision during the standstill period before the framework was awarded. No formal challenges were lodged. We are not aware of any grounds that would enable an organisation to mount a challenge if an extension was awarded, therefore the risk of challenge is identified as deemed low.
- 22 These comments should be noted by the Director of City Development and in making the final decision should be satisfied that doing so represents best value and an opportunity for income generation for the Council.

Options, timescales and measuring success

a) What other options were considered?

- 23 The YORhub suite of frameworks have been successful to date and there is the appetite in the region to continue with them, so any other options about not continuing with the extension were soon discounted. Should the framework not be extended then the Appointed Contractors and users don't recoup their investments and lose out from the benefits of the current collaborations established over the last 4 years. YORhub would need to start resourcing to replace the framework at a time when YORconsult3 framework is being procured so the resources will not be available until late 2024.
- 24 There are other frameworks available for public sector organisations such as Efficiency North, Fusion21, SCAPE, Northern Housing Consortium and Procurement for Housing which are always available for use. These are still options if an expression of interest from the YORbuild Major Works framework or others in the YORbuild suite of frameworks does not generate enough interest and/or does not cater for a more specialist requirement.
- 25 Extending the framework would mean that the benefits of long-term relationships would continue to be enjoyed. The cost of renewing the framework would also be deferred, and contractors have further opportunity to tender over the remaining period including extension and to recoup their investments.

b) How will success be measured?

- 26 Performance of contractors appointed to YORbuild Major Works is very good as evidenced by project managers performance reports collected to date and continued use of this framework will allow further gains from the framework collaboration and partnership.
- 27 The framework will continue to be performance managed and RAG reports will continue to be compiled and completed by both the clients and framework contractors.

c) What is the timetable for implementation?

- 28 The current YORbuild Major Works contract expires on 28th April 2024 and if approved this proposed extension will be in place well in advance of this time. This needs to happen so that the confidence is not lost, and users know that there is a framework that they can utilise.

Appendices

Appendix A: List of Contractors

Appendix B: Equality, Diversity, Cohesion and Integration Screening (EDCI)