

**RE-PROCUREMENT OF THE COLLABORATIVE SOUTH EAST
WALES CIVILS AND HIGHWAYS CONSTRUCTION
FRAMEWORK (SEWH3)**

**FINANCE, MODERNISATION AND PERFORMANCE
(COUNCILLOR CHRIS WEAVER)**

AGENDA ITEM: 8

Reason for this Report

1. The third iteration of the Cardiff Council hosted collaborative South East Wales Civils and Highways Construction (SEWH) Framework ends in June 2022. A new procurement is required to enable the City of Cardiff to maintain a compliant procurement route for Highways and Civils projects third party spend. In order to meet the needs of Cardiff and its South East Wales public sector partners there is a need to run a restricted tender process to appoint suitably qualified contractors onto a collaborative framework hosted by Cardiff Council's Commissioning and Procurement team.

Background

2. Cardiff Council's Commissioning and Procurement team took over the hosting of SEWH2 from Rhondda Cynon Taf Borough Council (RCT) in 2016/17. The first framework iterations were procured in 2013 being initially set up to provide participating South East Wales Authorities with a swift selection and procurement process for Highways, Civil Engineering, Maintenance and Surfacing works.
3. The framework has been supported by Welsh Government's Value Wales and Construction Excellence in Wales (CEW) as well as the Civil Engineers Contractors Association (CECA.) Collaborative frameworks benefit user organisations through the development of longer-term client/contractor relationships that improve value for money through lessons learnt, removing duplication of processes, development of common standards, and sharing of best practise with reduced time taken to get to market.
4. The SEWH framework has been used by the 10 original member authorities since 2013. Its membership has since grown and is currently open for use by the Fire Service and Further Education Organisations with Welsh Government being a recent new user.

5. The SEWH framework supports collaboration through a joint approach to best practice for civils construction and highways projects with clients, stakeholders, contractors and across local authority boundaries. The framework incorporates Fair Payment Practices for subcontractors and suppliers as well as options for utilising 'Project Bank Accounts' whereby suppliers can obtain swifter payment as soon as clients approve payments to main contractors.
6. Cardiff Council is the largest user by spend in terms of value and number of projects as it meets the ongoing requirements of its civil construction and highway schemes largely from within the Planning, Transport and Environment Directorate. The total spend to date on the framework as at April 2021 is in excess of £52 million (with current 2021/22 pipeline £91.1 million) with Cardiff Council equating to 58% of spend value and 57% of projects.

Authority Breakdown (Awarded)			
Authority Breakdown (Awarded)	Awarded Value	Projects	%
Cardiff Council	£30,620,401	79	58.32%
Bridgend	£8,641,630	12	16.46%
Torfaen	£5,754,952	2	10.96%
RCT	£4,494,416	34	8.56%
Monmouthshire	£1,326,377	5	2.53%
Newport	£1,102,962	2	2.10%
Blaenau Gwent	£372,850	2	0.71%
University of South Wales	£120,725	1	0.23%
Powys Teaching Health Board	£71,361	1	0.14%
Caerphilly	£0	0	0.00%
Vale of Glamorgan	£0	0	0.00%
Welsh Government	£0	0	0.00%
	£52,505,678	138	100.00%

Issues

Governance

7. A core group of 10 member authorities make the SEWH Governance board which meets quarterly covering framework pipeline, performance, social value delivery and task and finish subjects such as retentions, use of PBA's, SUDs, NEC4 / JCT contract management. The board members work under agreed Terms of Reference that ensure governance and provide leadership for the operation of the framework agreement. The board ensure participating authorities and contractors work within the principles of the framework :
 - To work together with framework stakeholders in good faith and in a spirit of mutual trust and co-operation.

- To act in a co-operative and collaborative manner to achieve and advance the efficiency and effectiveness of civils / highways projects.
 - To share information honestly and openly; and
 - To highlight any difficulties at the earliest possible opportunity.
8. The framework governance board is chaired by a member authority with representation from the contractor market through the Civil Engineering Contractors Association (CECA.)

Funding

9. The SEWH framework operates through a Levy recovery model, where each call-off project generates a Levy as a percentage of its value. The levy once collected by the hosting authority is used to develop social value initiatives nominated by the governance board with any resulting surplus paid back to the membership after costs. The net effect will be cost neutral for Cardiff Council acting as contracting authority, whilst providing the relevant resources to administer develop and promote the use of the framework going forward.
10. The SEWH framework Levy recovery process works in the following way;
- The result of all call-off contracts and direct awards are notified to the Framework team by the Framework users
 - Within 14 days of entering into each Contract awarded under this agreement, the Authority invoices the contractor the sum of 0.75 percent (across all lots) of the Anticipated Contract Value.
11. The current framework (2018/19-To date) has in total generated income to cover the administration of the framework broken down as follows :-

Awarded Project/Spend per year based on date awarded			
Fin Year	Projects	Tender Price	Fee
18/19	7	£899,256	£6,744
19/20	84	£33,646,310	£252,347
20/21	47	£17,960,110	£134,700
21/22	0	£0.00	£0.00
	138/0	£52,505,678	£393,792

Social Value

12. During the re-tender of the third iteration of the framework, the commissioning and procurement team introduced the council's socially responsible procurement policy as the lense through which contractors would deliver social value on a South East Wales regional basis. The policy aims to ensure that from a framework perspective clients maximise the social, economic, environmental and cultural wellbeing benefits are being delivered to the respective communities in which these schemes are delivered and links back to WG legislation including the Wellbeing of

Future Generations Act, Wales Procurement Policy Statement and Code of Practise: Ethical employment in Supply Chains.

13. Due to the maturity of the civils contractor base a social value levy was introduced for the smaller lots (1-7 up to project value of 0-£150k & £150k-£500k.) The typical schemes at this value would not allow contractors to invest in targeted recruitment and training initiatives due to the low value, therefore the ability to pay into a levy pot to be used exclusively for social value delivery in the LA region the scheme was commissioned has proved to be very successful.
14. To date the social value levy pot has created £150k's of value, with initiatives undertaken to date with social enterprises such as Street Games, School of Hard Knocks working with local school children during Covid helping to keep active and hard to reach young people looking for support through sport in order to learn about and understand options for careers in civils construction. Additionally the fund has also been used to up-skill the client base with NEC4 Project Managers training courses in order to allow LA client directorates to more effectively manage contract delivery. For a full breakdown of social value delivery see appendix A.
15. For the larger lots (project value £500-£2m & £2m-£5m & £5-£10m) the expectation is for clients authorities to incorporate social value requirements at mini comp stage in-line with the framework social value policy guidance.
16. The construction industry is currently experiencing a skill shortage nationally, with the annual recruitment rate in Wales sitting at approximately 1310 individuals a year. The Construction Industry Training Board (CITB) invited bids for projects to create flexible onsite learning hubs which will increase the talent pool for job-ready construction workers in South East, South West and North Wales. A collaborative grant application was submitted by the councils commissioning and procurement team, into works employer liaison service and Cardiff living team which has been successful.
17. The Onsite Construction Academy South East Wales will see a mobile onsite training hub being set up on the former Eastern High site in Llanrumney to run from March 2021 to March 2024, serving the South East Wales region. The scheme aims to provide 750 unemployed individuals to become site ready also to provide 750 students with site experience ultimately culminating in creating 225 site ready individuals with sustainable employment or apprenticeships with 65 of these jobs to be from underrepresented groups. The civils construction sector and project pipeline will be signposted towards the hub as a resource to support contractors in delivering against tendered recruitment and training social value contractual commitments.

Lessons Leant

18. A lessons learnt exercise has been conducted with recommendations from contactors and local authority users in order to make improvements to the new framework across the following areas:-
- Current lotting structure to remain with the current regional splits and value ranges.
 - Restriction of lots – Allow bidders to apply for as many as they wish but they need to provide a preference, and only award to 3 lots to allow more SME access.
 - However where not enough bid for a lot allow those bidders who expressed a preference (above initial 3 lots) to be appointed. Thereby ensuring min 5 contractors per lot (higher value lots) and 8 contractors across the lower level regional lots.
 - Current scope remaining with review of line items and specifications for the removal of obsolete and updating of information where required.
 - Framework scheme cap to remain at £10m.
 - Introduction of specialist lots for Flood Defence, SuDs related work, such as rain gardens, Ground investigation, Lining, wider scope of Surfacing and Surface Preservation and potentially Signage supply and install.
 - Further embed standardisation and call-off documents and procedures including use of existing templates.
 - Full review of the existing Schedule of Rates to ensure meet current needs of client base.
 - Review the applicability of including use of the Social Value TOM's (Targets, Outcomes, and Measures) in respect of providing clients with a standardised, repeatable way of measuring social value delivery.

Evaluation Structure

19. Following on from the lessons learnt undertaken with the SEWH Governance and key stakeholder users, has recommended continuing with the existing lotting structure (can be viewed at [Suppliers \(sewh.co.uk\)](http://sewh.co.uk)) The proposed lotting structure is as follows:-
- Regional lots 1-3 up to £150k Minor works (renewals.)
 - Regional Lots 4-6 £150k-£500k Projects (Improvements.)
 - Lot 7 ALL Regions, £500k-£2m Projects (Improvements.)
 - Lot 8 ALL Regions, £2m-£5m Projects (Improvements.)
 - Lot 9 ALL Regions, £5m-£10m Projects (Improvements.)
 - Lot 10 ALL Regions, £5m-£10m Surfacing.
 - Lot 11 All Regions, £5m-£10m Surface Preservation
 - Lot 12-15 New Lots (TBC) based on lessons learnt (i.e. Flood Defences, GI, Signage)
20. The call off procedure will largely remain the same as the current framework with two options, direct award to lowest contractor (based on

their schedule of rates submitted at framework tender stage) and running a further mini competition to all contractors in the appropriate lot.

21. After reviewing the current framework schedule of rates and prices received from mini-competitions consideration has been given to utilisation of a 50/50 cost / quality evaluation weighting with 10% of the quality marks set aside specifically for social value. Clients will have the ability to flex weightings up to 80% quality 20% Price in order to drive innovation, quality and social value rather than lowest price and resultant race to the bottom – a common criticism with framework arrangements.
22. At Framework award contractors will bid against the Ripac (civil construction standard) Schedule of Rates (SoR) and are ranked accordingly for the lower value minor works, repair lots. For the larger scheme lots the option to call off via a further competition exists, bidders will also bid against overheads and profit and typical schemes achieving a combined commercial score in order to achieve their ranking against those lots.
23. A flexible approach for contracting bodies will continue through the use and promotion of either NEC4 (New Engineering Construction Contract) Professional Service Contract (PSC) and JCT (Joint Contracts, Tribunal) forms of contract. This approach will provide users with the ability to use a menu of contracting forms to enable them to construct fit for purpose commercial arrangements that suit the nature of the contract e.g. risk allocation and options chosen. Greater clarity and simplicity is achieved from clear roles and responsibilities together with definitions for compensation events. Greater stimulus for good project management is promoted with contracting parties due to the use of standardised documents with obligations clearly understood by the contracting market.
24. A full review of the current framework KPI's are under consideration, particular attention is currently focused on contractor obligations to participate once on the framework (failure to bid in mini - competitions) and potential for suspension. In order to drive customer satisfaction and promote usage it is planned to introduce a post project review where users are asked to compare the initial project objectives against the final project achievements and the consultants' contribution in achieving this. The following factors through both framework KPI's and post project reviews will be recorded:
 - Time Predictability
 - Cost (Budget versus Outturn, Claims / Added value)
 - Target of Defects
 - Compensation Events
 - Agreement of Final Accounts
 - Time taken to submit health and safety file
25. The following tender timeline is proposed in order to achieve the commencement of the new framework from 1st January 2023.

Activity	Target Date
OJEU notice published with PQQ made available to Potential Providers.	June 2021
PQQ session	4 th week of June 2021
PQQ Return Date	Mid-July 2021
Evaluation of PQQs completed	July 2021
Invitation to tender issued to qualified Potential Providers	Mid-September 2021
Tender Return Date	December 2021
Evaluation of tenders completed.	Feb/ March 2022
Standstill period	May/ June 2022
Contract Award	June 2022
Implementation / Mobilisation	6 months
Framework Start Date	1 st January 2023

Local Member consultation

26. Full member consultation will be undertaken as part of re-procurement timeline through engagement with scrutiny committee and market engagement via contractor days, meet the buyer events and current attendance at industry forums i.e. CEW Frameworks and Best Practice events

Reason for Recommendations

27. Cardiff Council currently makes up nearly 50% of the spend going through the existing SEWH3 collaborative highways and civils framework. To date this framework has provided a compliant efficient procurement vehicle and therefore its re-procurement is critical for continuity based against existing capacity constraints and the value for money efficiency its continued use and promotion provides.

Financial Implications

28. A levy at the rate of 0.75% (un-changed over the last 4 year framework) would be payable on expenditure incurred through the arrangements. This would generate an income stream for the Council, to support associated workload requirements. The income stream has the potential to vary. Whilst this could represent a degree of risk to the Council, based on current levels of framework spend, it is not considered significant. Any risk is further mitigated by the intention to cover workload through

existing posts in the first instance, before reviewing the potential creation of additional posts in line with ongoing framework spend.

Legal Implications

29. As set out in the report, the recommendation is to commence a procurement to set up a framework on behalf of Cardiff and other bodies. It is understood that the value of such framework is over the EU procurement threshold and accordingly, the full ambit of the Public Contracts Regulations apply. To that end it is noted that the Directorate intends to follow a full blown competitive tender exercise. Ongoing legal advice should be sought in relation to the procurement.

Equality Duty

30. The Council has to satisfy its public sector duties under the Equality Act 2010 (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of ‘protected characteristics’. The ‘Protected characteristics’ are: • Age • Gender reassignment • Sex • Race – including ethnic or national origin, colour or nationality • Disability • Pregnancy and maternity • Marriage and civil partnership • Sexual orientation • Religion or belief – including lack of belief.

Well Being of Future Generations (Wales) Act 2015 - Standard legal imps

31. The Well-Being of Future Generations (Wales) Act 2015 (‘the Act’) places a ‘well-being duty’ on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
32. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff’s Corporate Plan 2021-24. When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
33. The well being duty also requires the Council to act in accordance with a ‘sustainable development principle’. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
34. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

General

35. The decision maker should be satisfied that the procurement is in accordance within the financial and budgetary policy and represents value for money for the council.
36. The decision maker should also have regard, when making its decision, to the Council's wider obligations under the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

HR Implications

37. There are no HR implications for this report

Property Implications

38. There are no HR implications for this report

RECOMMENDATIONS

Cabinet is recommend to:-

1. Agree in principal to the commencement of the re-procurement of the current South East Wales Collaborative Civils Engineering and Highways Construction Framework and
2. Delegate authority to the Corporate Director Resources, in consultation with the Cabinet Member for Finance, Performance and Modernisation, to carry out all aspects of the procurement, (including setting the evaluation methodology, commencing procurement and award of successful contractors to the framework) and thereafter to host and deal with the operation of the framework arrangements, including any ancillary matters relating thereto.

SENIOR RESPONSIBLE OFFICER	Chris Lee Corporate Director Resources
	11 June 2021

The following appendices are attached:

Appendix A : SEWH Social Value Levy Delivery

The following background papers have been taken into account :-

SEWH Procurement Plan