

London Borough of Hammersmith & Fulham

Report to: Cabinet

Date: 07/12/2020

Subject: Procurement Strategy for Consultancy Services Framework

Report of: Councillor Lisa Homan, Cabinet Member for Housing

Report author: David McNulty, Assistant Director, Operations

Responsible Director: Tony Clements, Strategic Director for the Economy

Summary

Delivering the services carried out by the Economy, such as housing repairs, the capital programme, and Facilities Management (FM), requires extensive support from specialist external technical consultants and other professional services. Other Council departments carrying out construction or facilities management projects may also require such services.

The Economy therefore propose to set up a framework agreement with pre-vetted, high-quality technical consultants offering competitive rates to assist it in delivering these projects over the next four years. The technical consultant framework will be available to all Council departments and will be designed with the intention of delivering significant savings. There is potential to design the framework so it can be used by other organisations, thereby generating a revenue stream through fees.

Once the framework is in place officers would be able to 'call off' suppliers to support specific projects. The default method will be a mini-competition, whereby the four suppliers in the relevant lot will need to submit specific prices and answer specific quality questions related to the project. When the need for technical consultants/professional services is highly urgent and meets set predefined criteria (for example health and safety) then it will be possible to directly call off a supplier (the top scoring supplier depending on the value of the project). These direct call offs are called Direct Awards and will be permitted when the capital value of the project is under £6.5m.

Recommendations

1. Appendix 4 is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. To approve the Procurement Strategy for the Council to set up a series of 6 frameworks of technical consultants and professional services to aid the

delivery of capital projects to meet the Compliance, Housing Repairs and Capital functions, as set out in Appendix 1.

3. To delegate authority to the Strategic Director of the Economy, in consultation with the relevant Cabinet Member for Housing, to approve minor changes to the procurement process or to the evaluation methodology as set out in procurement strategy in Appendix 1 for operational reasons if required.
4. To approve the award of call off contracts under the Framework Agreements up to an aggregated value of £18 million over the four-year term across all six frameworks.
5. To note that once the frameworks are awarded, authority will be sought to amend the Contract Standing Orders so that a procurement strategy is not required when the framework is utilised.

Wards Affected: All

H&F Priorities

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	Prosperity is increased by having high performing, cost effective, capital project technical consultants and professional services working for the Council. Apart from the direct savings which can be achieved by the Council taking a commercially competitive attitude to procuring technical consultants, there are also savings which can be made by having high quality, highly motivated technical consultants working on any particular capital project.
Creating a compassionate council	<p>The HRA Business Plan allows for the on-going investment in the properties which directly support residents in living healthy and independent lives.</p> <p>Having a set of dynamic and cost-efficient technical consultants who are invested in the Council's ambitions will help the Council to achieve its aims in terms of repairs and capital works more compassionately.</p>
Doing things with local residents, not to them	Residents can be involved in the selection of these technical consultants through participation in the procurement exercise and

Our Values	Summary of how this report aligns to the H&F Values
	future mini-competitions. Resident involvement proved successful in the procurement of the new Housing Repairs and Maintenance contracts.
Being ruthlessly financially efficient	This initiative could save significant sums of money for the Council if the frameworks can deliver better value than what we currently get from 3 rd party frameworks. We will build our framework to feature a 'volume rebate based on the volume of work provided over the course of the framework.
Taking pride in H&F	This project will provide the Council with the ability to define, control and improve quality of cost and delivery for the repairs and capital programmes. It will also give the Council the ability to set and monitor contractual terms and insurance requirements which will protect the Council. Having high performing technical consultants will reflect well on the Council.
Rising to the challenge of the climate and ecological emergency	The Council will have more control over environmental issues if it procures its own frameworks rather than rely on the environmental criteria of other frameworks. Increased levels of sustainability will be examined as part of the process to procure technical consultants for the Council.

Financial Impact

The recommendations in this report do not have any direct financial implications as setting up the proposed framework will be resourced by existing staffing and budgets. Any call-off from the framework will be subject to confirmation of available budget within the HRA Asset Management and Compliance programme which has a budget of £154m for the period of 2020 to 2024¹. Furthermore, a minimum assessment of the financial stability and capacity of framework members will be required for which the minimum criteria is:

- a. A CreditSafe score greater than 50 (deemed as low risk)

¹ The stated budget is correct as at the first quarter of 2020/21 as set in the Capital Programme Monitor and Variations report as approved by Cabinet on 12 October 2020.

- b. An average turnover of the last two years of at least double the contract or maximum lot value.

As the above indicators will change over time it is recommended that these checks are made ahead of setting up the framework and also as part of any mini competition/contract award.

As completion of framework will need to be resourced by existing staffing and budgets.

Legal Implications

The total potential value of the framework contracts to be let are above the threshold specified in the Public Contracts Regulations 2015 (as amended) (the “PCR”) for service contracts, which is currently £189,330, and must therefore be procured in accordance with the PCR. This means a new procurement competition. The Contract is classified as a high value contract under the Council’s Contract Standing Orders as it is above the EU threshold for services.

All high value contracts are required to:

- have a Service Review Team established to oversee the procurement (CSO 17);
- have a Procurement Strategy reviewed at the Contracts Assurance Board and approved by the relevant decision maker before the procurement process commences (CSO 18); and
- have a Tender Appraisal Panel established following approval of the procurement strategy (CSO 19.3).

This report fulfils the requirement for a procurement strategy. Further, under CSO 19 a high value contract requires either the use of an existing framework agreement (which is not applicable here) or a contract notice to be published in the Official Journal of the European Union (‘OJEU’) along with an opportunity listing on the Council’s e-tendering portal (capitalEsourcing) and publication of a contract notice on Contracts Finder.

This report is recommending the approval of the Procurement Strategy for the setting up of six separate frameworks with the appointment of up to four providers on to each framework.

The appropriate decision maker for procurement strategies for contracts over £5 million is Cabinet. Cabinet therefore needs to be satisfied that the recommended decision is in the best interests of the Council. The implementation of this decision will then be in accordance with the EU procurement rules concerning use of frameworks.

Tenders will be evaluated on the basis of the most economically advantageous tenderer to the Council. The top four tenderers for each lot will be appointed to the relevant framework. Evaluation methodology has been agreed by the project team and is set out in the procurement strategy. The split between quality and price is 50:50 which differs from the Council’s standard.

As this is a services contract, the Council is also under an obligation under the Public Services (Social Value) Act 2012 to consider how the letting of these contracts can benefit the social, economic and environmental well-being of their area. These are factors which will be considered and built into the contract and procurement documents. The Council has recently adopted a Social Value policy which requires that 10% of the total scoring is for social value, which will be subject to assessment by an external assessor, a company called Social Value Portal. The requirements of the assessor and the Council's policy will need to be built into the tender documents.

Implications completed by: Sally Stock, Partner at Sharpe Pritchard, sstock@sharpepritchard.co.uk, legal advisers on secondment to the Council.

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Background Papers Used in Preparing This Report

None.

DETAILED ANALYSIS – ISSUES AND PROPOSALS

1. Delivering the services carried out by the Economy, such as the housing repairs function, the capital programme, compliance, and Facilities Management, often requires support from specialist external technical consultants.
2. See exempt Appendix 4 paragraph 1 for details of current and future spend on technical consultants.
3. Any of the following can be required: structural engineers; property condition surveyors (commercial and residential); mechanical & electrical engineers; architects; fire safety engineers; CDM (health & safety) specialists; damp, mould and condensation specialists; HVAC engineers; electrical engineers; planning consultants; employer's agents; project managers or contract administrators. In recent years, the Economy department has required Quantity

Surveyors to assist with settling final accounts with contractors and resolving commercial disputes. Very large sums of money have been at stake.

4. There are also plans for extensive stock condition surveying. These will be high value contracts and there are extensive fire door replacement projects, currently on site, which require specialist project management support.
5. Sometimes technical consultant support is needed before we can procure the build contractor; for advice on contract form, for advice on how to structure the construction contract, or support with writing a specification. At other times the support is needed post procurement when ongoing specialist project management is required.
6. See exempt Appendix 4 paragraph 2 for other relevant factors.
7. Officers currently have the following two options to procure consultancy support:

A) Full procurement via the Council's e-tendering portal

8. This should provide the best route to a value for money provider because it provides an up-to-date test of the market and should result in the Council obtaining a keen, high quality and competitively priced contractor to carry out the work. However, this process is very labour intensive, often requires input from Central Procurement and takes several months to carry out.

B) Use a 3rd Party 'Approved List' (3rd Party Framework or DPS)

9. Officers are also able to turn to 3rd party frameworks. These frameworks have been competitively tendered in accordance with EU rules and thus offer a quicker and more simple way to satisfy external and internal rules than the full-scale procurement exercise as described above. Fees are often payable to the 3rd party framework owner.
10. This option can still save a great deal of time as it does not require a full procurement process to be carried out. It allows the project to be carried out more quickly.

Issues

11. Clearly full procurement is the best route to a value for money provider, but it is difficult to execute when so many of the projects that require technical consultants/professional services are safety related and time pressured. It is possible to obtain an urgent decision in an emergency. It is not surprising therefore that the department tends to use 3rd party frameworks for technical consultants/professional services.

Issues with 3rd Party Frameworks

12. See exempt Appendix 4 paragraph 3 for the disadvantages of using 3rd party frameworks.

Proposals

13. Being 'ruthlessly financially efficient' means making sure that Hammersmith & Fulham uses the leverage of its cumulative spend to achieve best value for its residents. For each contract but also across the whole programme of its commissions. To that end the Economy Department would like to set up a series of frameworks with pre-vetted, high-quality consultancy / professional services practices offering competitive rates to assist it in delivering capital projects over the next four years. Officers feel this is what a commercially savvy Housing Association would do.
14. Having good, high quality suppliers who are keen to work with a framework owner and who are signed up to the Council's own terms and conditions, should mean better quality and better value, both on a contract by contract but also on a cumulative basis.
15. The framework would not just be used for housing repairs, capital programme and growth projects, it would be available for the Facilities Management and Schools maintenance services to use too.
16. Setting up a framework such as this will provide numerous advantages to Hammersmith & Fulham. Advantages such as:
 - The potential to make significant financial savings for the Council by encouraging suppliers to provide discounts for aggregated work volumes upfront together with volume rebates based on volume of work over time. Currently each contract from a 3rd party framework is awarded in isolation, as a one off and the Council pays the full rate. With its own framework the Council can offer repeat work and suppliers will be asked for discounts for repeat commissions.
 - The ability to form good commercial relationships so that quality of outcome can be improved on a project by project basis as mutual expectations are better understood.
 - Increasing the leverage of the Council over suppliers on its framework which decreases the risk of underperformance. Suppliers are less interested in performing well for framework users, who may use them on a one-off basis, than they are for framework owners, who are likely to use the suppliers repeatedly. This is one of the reasons why so many organisations set up their own frameworks.
 - Providing simple templates to encourage officers to put contracts in place post Call Off, reducing risk to the Council.

- The ability to set in stone and control the Council's contractual terms and insurance requirements via the drafting of the initial framework and Call Off agreements.
- Knowing how much work a supplier receives reduces the risk of the supplier becoming overstretched and underperforming.
- Reducing the risk of procurement challenge to the Council which is inherent in the use of unapproved 3rd party frameworks.

Potential to generate savings

17. Over the four years, from 2020 to 2024, the HRA Capital Programme has a value of £154m. See exempt Appendix 4 paragraph 4 for details of future spend on technical consultants.
18. All of the suppliers on our framework will have proven their value for money, and via mini-competitions within the framework, we can further test for best value. If our framework is able to deliver percentages lower than would be available from using 3rd party frameworks, there is potential for significant savings. If the Council can achieve rates through this procurement that are 1% (of the total project costs) lower than 3rd party frameworks can offer, then based on the total capital programme value of c£120m, savings to the Council could be up to £1.2m (assuming all consultancy/professional services requirements of the Capital Programme are fulfilled through the framework).²
19. One way to seek savings is through taking account of repeat usage and total annual spend. Most 3rd party frameworks are set up with a view to many organisations making single call offs from the framework. There is no expectation of repeat usage or any reward for that. This means that if an organisation uses a 3rd party framework 3 times in a year for £1m each time then it will pay fees on all of the work at the rate for a £1m project, which is higher, rather than at the rate of £3m which would be lower. This has the effect of raising the fee percentage for the whole programme (assuming all contracts are packaged and procured in this way).
20. We have scope to design a framework whereby the Council gets a rebate if we end up giving a supplier multiple commissions and a total level of spend that exceeds certain thresholds. A mechanism will be put in place to allow the Council to achieve the low fee percentages offered for larger projects by aggregating the value of its projects on an annual basis. This would mean, for example, that three projects of £1m which were placed 4 months apart would

² This is probably the peak of the savings potential and it is reliant on all technical consultant/professional services spend for the entire capital programme going through the proposed framework, and then a universal 1% discount being achieved. There is ultimately no guarantee that the bespoke framework will be able to achieve better rates than 3rd party frameworks. It is also possible that the Council will continue to use 3rd party frameworks for some services. The repeat usage mechanism might provide a surer route to savings but again this will depend on how much work is put through the bespoke framework.

attract the fee percentage attributed to a single £3m project rather than the rates which would have existed for three projects at £1m rates. This will create savings for the Council.

21. Officers will aim to incorporate into the framework design the ability to enable other organisations (other Councils, public sector bodies, or housing associations) to use the framework. This has the potential to generate a revenue stream for the Council through fees.

Governance Arrangements

22. The advantage for the Council of having its own framework is that it can be sure that it has procured suppliers through a compliant process. Officers will become familiar with the use of the framework which will in turn lead to swifter call offs. Further, the form of contracts will be standard for the call offs which should assist in contract management.
23. The contract standing orders require officers to prepare and seek approval of a procurement strategy for all contracts above £189,330³. Once the frameworks are in place it is proposed that the Contract Standing Orders are amended so as not to require a procurement strategy where the frameworks are utilised.
24. Officers will not be compelled to use the framework if there is a better value procurement route available to them (although it is envisaged that this framework will in most cases be the best value route). Officers would be required to produce a procurement strategy and seek approval for any alternative procurement route.

The proposed framework

25. The framework agreement itself is a contract with no guarantee of work. The agreement sets out the terms and conditions which will govern any contract let under that agreement. There will be a separate framework for each lot, each of which will be for a different function or the same function but for projects in different price bands.
26. We are proposing to set up six frameworks – see Appendix 3. There would be 6 separate frameworks (procured as separate lots) each with 4 suppliers. These will be the suppliers who offer the best quality and value in their tenders. Four of the frameworks will be for multi-disciplinary suppliers, with the only difference between the frameworks being the range of capital project values that the consultancy work would support: one for projects worth £0-500k, another for projects worth £500k-3.5m, and so forth as set out in the procurement strategy. (Note that the technical consultant/services spend that is being commissioned

³ This is the current threshold for Service contracts under the Public Contracts Regulations 2015

through the framework would be a fraction of these project values, e.g. 5%, and the actual capital work would be procured entirely separately from this framework). There will also be two specialist frameworks for specialist services.

27. The lowest value lot will also be available for ad hoc resourcing e.g. if a quantity surveyor is required for a few days or weeks then the framework suppliers on Lot 1 will be invited to propose a QS at the suitable grade for the project who is available to commence work within the Council's timeframes. This can be procured as a mini-competition or as a direct award depending on the urgency of the award.
28. To be as financially efficient as possible it is proposed that the contractors on the framework be selected on a 50% price and 50% quality basis. The framework is for professional services, which are often highly regulated, with less scope for wide variance in quality. It is important that the framework provides competitive prices, because mini-competitions within the framework (see section 32 below) provide an opportunity to introduce quality criteria into each specific project's use of the framework. More about the lots and their value bands is set out at Appendix 1 and Appendix 3.

Call Offs

29. Work assignments, with a financial value, are commissioned from the framework agreement via contracts known as 'Call Offs'. Making a call off means creating a smaller contract on the back of the main framework agreement. This process sees a supplier from the relevant lot being chosen to carry out that work. Call Offs are generally awarded either by Direct Award or by Mini Competition.
30. In the case of a Direct Award, a supplier is appointed from the framework without any further competition. Direct Awards will only be used for predefined circumstances such as for emergencies where the urgent nature of the work demands it. See exempt Appendix 4 paragraph 5 for details of the commercial threshold for Direct Awards.
31. Any supplier on our framework will have passed certain generic quality thresholds at the framework procurement stage. This will mean that every supplier on the Council's framework will have achieved a level of quality which is acceptable, enabling Direct Awards to take place if required.
32. The alternative is a 'Mini-Competition'. In effect this means putting the project out to competition amongst the four suppliers in the lot. The competition can be based simply on price or it can be based on price and quality, depending on what the Council feels is relevant for the project. Mini-competitions are a further way to achieve value for money – it is further competition amongst the four contractors who scored highest at the point the framework was established. It enables Council officers to apply quality questions that are relevant to the specific project but weren't covered in the initial evaluation when the framework was established. The initial criteria have to be somewhat generic whereas the

per-project mini-competition criteria can reflect the specific needs of the project. Any of the four contractors in each lot's 'list' could win the mini-competition.

33. Mini-competition will therefore be the default, expected method for calling off suppliers from this framework, because they are the best way of achieving value for money. Processes will be put in place by the Economy's Governance and Commissioning Team to support officers to run mini-competitions, and training will be provided. Direct Awards will only be used in the circumstances described above in section 30.
34. To provide assurance that the framework is being used as intended, with mini-competition as the default method of call-off and Direct Awards only in special circumstances, the Economy department will bring a report to Contract Assurance Board every six months, detailing the call offs made and the method used.

Options analysis

Option 1 – Do nothing

35. Continuing as usual, using 3rd party frameworks which have been procured to suit other organisation's needs. There are certainly disadvantages associated with this course of action, as set out at section 12 in the main body above, but it is one quick way to comply with internal and external rules. It is the status quo and it is what will continue if nothing else is done.

Option 2 – Procure each appointment individually

36. Should in most cases provide good assurance of value for money because it provides an up-to-date test of the market and should result in the Council obtaining a keen, high quality and competitively priced contractor to carry out the work. However, this process is very labour intensive, often requires input from central procurement and usually takes several months to carry out.

Option 3 – The Council procures its own framework (The preferred option)

37. Being 'ruthlessly financially efficient' means making sure that Hammersmith & Fulham uses the leverage of its cumulative spend to achieve best value for its residents, for each contract but also across the whole programme of its commissions. Setting up a framework of pre-vetted, high-quality consultancy / professional services practices offering competitive rates to assist it in delivering capital projects is what a commercially-savvy Housing Association would do.
38. Having good, high quality suppliers who are keen to work with a framework owner and who are signed up to the Council's own terms and conditions, should mean better quality and better value, both on a contract by contract but also on a cumulative basis.

Reasons for Decision

39. To Council has an ongoing need for technical consultants to support our capital projects, and some of the functions of the housing repairs and facilities management services. Establishing a bespoke framework is intended to enable the Council to secure high quality, value for money providers of technical consultant services – so that the projects and services they support can fully deliver for residents.
40. The framework will be designed around the Council's requirements (contract terms, financial pre-requisites, health and safety regime) and will give the Council greater control and influence over the providers on the framework. This should result in highly reliable providers.
41. There are opportunities to generate savings through 'repeat usage' discounts when the same providers are used multiple times (such discounts are not available to the Council through 3rd party frameworks).
42. A bespoke framework enables the Council to embed an effective process for using it (with templates, process guides and training), and to build officer familiarity in using it. This should lead to quicker and more effective procurement of technical consultants – enabling capital project to start delivering for residents quicker.

Equality Implications

43. There are no anticipated negative implications for groups with protected characteristics, under the Equality Act 2010, associated with these proposals.
44. *Implications verified by: Fawad Bhatti, Policy & Strategy Officer, Resources, Tel: 07500 103617*

Risk Management Implications

45. Proposals are in accordance with the Council's approach to Being Ruthlessly Financially Efficient during a time when finances are stretched due to years of austerity and the impact of Covid on the local economy. Quality, value and accessibility are the key drivers to ensure that Residents continue to receive the best service at the best price possible. By creating a framework, suppliers will have established their capacity, experience and capability to undertake works to the standards required by the Council. Additionally, access, by other Council Services, to the framework would be in accordance with the management of our corporate asset objectives and reduce administrative requirements by having pre-qualified providers in place.
46. *Implications verified/completed by: Michael Sloniowski, Risk Manager, Tel: 020 8753 2587, Mobile: 07768 252703*

IT Implications

47. IT Implications: No IT implications are considered to arise from the proposal in this report. However, if the implementation of the framework or subsequent

procurement activity results in a requirement for new systems to be procured, existing systems to be modified, or IT enhancements to be considered, Digital Services should be consulted.

48. IM implications: A Privacy Impact Assessment needs to be completed followed by a discussion with the Digital Services Information Management team to ensure all potential data protection and security risks resulting from this proposal are properly assessed with mitigating actions agreed and implemented.
49. *Implications completed by: Karen Barry, Strategic Relationship Manager, Tel: 020 8753 3481*

Implications for Local Businesses

50. Consultants appointed on the framework will be encouraged to use local businesses where possible. They will be made aware of the Council's business support programme, HF Brill Bizz Supply Chain, which assists local small and medium-sized firms to win contracts for works, supplies and services in the borough.
41. *Implications completed by: Dominic D'Souza, Commercial Manager, Tel: 07769 197655*

Leasehold Consultation

42. As a landlord the Council is required to comply with the Service Charges (Consultation Requirements) Regulations.
43. Leaseholders are required to contribute towards any costs the Council incurs in maintaining the common and structural parts of their building and estate. These includes any associated costs for professional services.
44. When individual contributions towards a long-term agreement are expected to exceed £100 in any one year, there is a need to go through a formal consultation process. This consists of two distinct stages that sit either side of the procurement process. This allows homeowners to comment on the procurement methodology and the rationale for the framework during the first phase and the tender returns during the second. As this agreement will be subject to Public Notice, recipients will not have nomination rights.
45. The stage one consultation will commence after Political Cabinet in early November so that it can be completed shortly after Cabinet in early December and the procurement exercise can commence in line with the timeline featured in Appendix 2.

46. *Implications completed by: Ciaran Maguire, Major Works Manager, Tel: 020 8753 7502*

List of Appendices:

Sr.	Particulars
Appendix 1:	Procurement Strategy for a Consultancy Services Framework
Appendix 2:	Timeline
Appendix 3:	Framework Design
Appendix 4:	Exempt Appendix

Appendix 1: Procurement Strategy for a Consultancy Services Framework

1. Procurement Scope - Why the procurement is needed

- 1.1 To keep its 17,000 homes safe, secure, warm, and weathertight the council needs to undertake £154m of capital works and £34m of repairs to its housing stock over the next four years. The Council also needs to carry out various fire safety projects as part of its Fire Safety Plus programme. Facilities Management also has need for technical consultants on some projects.
- 1.2 The council needs to have a clear route to market to secure technical consultants and support services to ensure the works are delivered efficiently and effectively. Technical consultants such as: structural engineers; property condition surveyors (commercial and residential); mechanical & electrical engineers; architects; fire safety engineers; CDM (health & safety) specialists; damp, mould and condensation specialists; HVAC engineers; electrical engineers; planning consultants; employer's agents; project managers or contract administrators.
- 1.3 See exempt Appendix 4 paragraph 1 for details of current and future spend on technical consultants.

2. Framework design and range of services

- 2.1 Stakeholders throughout the Economy Department have been consulted in order to put together a list of technical consultant and professional services that should be included in an H&F framework. A diagram showing the full range of requirements together with the proposed approach to procurement is set out as Appendix 3 to this report.
- 2.2 There are consultancies who are specialists who only provide very specific services, such as structural engineering and architecture but there are other, multi-disciplinary practices who offer a wider range of services. For the types of projects which the Economy Department generally carries out it is felt that consultancies providing multi-disciplinary services will be the most appropriate. To reduce overreliance on any single supplier and encourage ongoing competition beyond the point the framework is established, a range of suppliers is recommended. Multi-disciplinary services have therefore been split into four identical lots, differentiated by price band. There is one lot for capital projects worth £0-500k, another for projects worth £500k-3.5m, and so forth. This has the advantage of providing a greater range of suppliers for the Council, offering more choice in the multi-disciplinary field which also provides resilience and increases competition.
- 2.3 The four multi-disciplinary lots, being identical, will be easier to procure because many of the technical questions will be the same. Only the project values will differentiate the work.

- 2.4 Areas aimed to be covered by the multi-disciplinary lots will be: architects, quantity surveyors, structural engineers, mechanical & electrical, commercial consultancy, acoustic / rights of light, planning consultants, employer's agents / project managers, CDM expertise, cost consultancy, contract administration, quantity surveying, stock condition surveys, building surveying (damp, mould and condensation), commercial property condition surveys and general property condition surveys.
- 2.5 The use of different price bands, with the lowest being £0-500k, where the consultancy/professional service fee would end up being c.5% ie £25k, may have the effect of discouraging large consultancies from bidding for the lower value lots where the projects are likely to be small. This will hopefully provide a lot made up of smaller SME firms, enabling the Council to appoint SMEs to carry out smaller projects. This encourages SMEs to apply and will hopefully give them the opportunity to gain valuable experience and to grow.
- 2.6 There will also be two specialist lots. These will cover general engineering and site security. General engineering will cover structural engineering, civil engineering, HVAC engineering, fire safety engineering, electrical engineering and specialist engineering services such as acoustics. Site security will cover fire watch services, manned security guarding, mobile patrol security, CCTV, access control, intruder alarms, fire detection monitoring and response services and alarm receiving and monitoring. These are high risk areas and potentially high cost.
- 2.7 Each lot will be deliberately designed to cover the widest possible range of consultancy services for the Council. Very specialist services can still be procured separately or may be found on 3rd party frameworks.
- 2.8 It is proposed that each lot contains 4 suppliers. This is to ensure that reasonable competition can occur when a mini competition process is run. Three suppliers would have been sufficient for this purpose, but four are suggested to ensure that a mini competition is still viable even if one of them goes into administration or decides not to continue being part of the framework.
- 2.9 Direct Award mechanism
- 2.10 The most common direct award mechanism sees the supplier who got onto the framework with the highest score for a combination of price and quality (the 'number one' on the 'list'), in any particular lot, being appointed directly without any further competition.
- 2.11 On a framework of six lots, this means direct award would only be open to the six lead suppliers. One from each lot. If there are a great number of projects it is possible that these six suppliers may become overloaded and start to underperform. This may not be noticed until after the event when the damage has already occurred. As the 'go to' supplier, in any particular lot, complacency may set in and performance may suffer.

- 2.12 Competition to be part of the Council's framework may be greater if the chance of obtaining work is increased. Conversely, consultancies may be discouraged from bidding if the direct award mechanism only favours the highest scoring bidder in each lot.
- 2.13 The greatest guarantor of competition is to insist on mini-competitions being run for each project – so that each of the four suppliers in the given lot have the opportunity to win.
- 2.14 In addition, the framework will seek fee percentages for a wider range of project values within each lot. For example, in the £0-500k lot, rather than just asking for one price, we will ask for prices for projects valued at £0-100k, £100-200k, £200-300k and so on. The direct award will then be made to the supplier who provides the most competitive fee percentage for the specific project value within the lot.
- 2.15 This would increase the likelihood of more of the suppliers in each of the six lots obtaining some work throughout the course of the framework, even if the Council used a lot of direct awards. This will give some assurance to any bidders who are sceptical that the Council will carry out mini-competitions as the default option. Ultimately though, mini-competition is the best route to best value and there are controls in place (see section 33 in the main report) to ensure that it is the default way of using this framework.
- 2.16 Contract Management
- 2.17 Lack of effective contract management may result in poor technical consultant performance. It is recommended that a range of simple key performance indicators (KPIs) are put in place to monitor functions such as communications, timeliness, quality of work completed, average fee percentage per project and final cost.
- 2.18 Poor performance, occurring on more than one occasion, will mean a technical consultant being suspended from the framework for 6 months. The consultancy will then lose out on work which will be placed with other technical consultants. A second offence within the same set period will result in suspension for 12 months and a third offence will mean permanent removal from the framework.

3. Procurement Strategy – procuring suppliers onto the framework

3.1 Framework Value

- 3.2 See exempt Appendix 4 paragraph 1 for details of current and future spend on technical consultants.
- 3.3 As above.
- 3.4 See exempt Appendix 4 paragraph 6 for the proposed framework value.

3.5 Framework Duration

3.6 Framework agreements have a legal maximum duration of four years. Contracts may run beyond the four-year duration, but care needs to be taken not to be seen to be deliberately extending the duration of the framework. The framework agreement will therefore be for four years where individual call offs may run slightly beyond that period.

3.7 Framework Selection and Award Criteria: Price Quality Ratio

3.8 Each place on the framework will be awarded to the top four bidders who in rank order provide the top four Most Economically Advantageous Tenders (MEAT) based on a combination of price and quality. For the reasons laid out in section 28 of the main report, a ratio of 50% Price and 50% Quality is recommended.

3.9 Tenderers for each place on the framework will be evaluated based on their Quality (Technical) submission and Price (Commercial) submission.

3.10 Breakdown of Evaluation Criteria and Weightings

3.11 In relation to Commercial, (Cost / Price) the submissions will be evaluated in relation to the lowest priced submission. The lowest priced submission will score a maximum allocation and other bidders will be expressed as a % of that price. i.e. a bid of twice the price will score 50%.

3.12 In relation to Technical (Quality), the weightings will be assessed through a series of relevant method statements as set out in draft below. The total of which will be 100% of the Quality score.

Sr.	Technical Award Sub-Criteria	Weighting
1	Resources	(10%)
2	Cost Effectiveness and Efficiencies	(15%)
3	Managing Projects	(20%)
4	Service Delivery	(15%)
5	Quality of Work	(15%)
6	Sustainability	(5%)
7	Social Value	(20%)

3.13 Procurement Procedure

3.14 An explanation of the four main procurement routes has been provided by the Council's solicitors as part of the pre-procurement due diligence and discussions. This explanation is provided below as background to the recommendation set out below. There are essentially four options:

- Open
- Restricted
- Competitive with negotiation

- Competitive dialogue

- 3.15 Under the **open procedure** any company which is interested may submit a tender in response to a contract notice. There is therefore no process of shortlisting in this procedure and it does not allow the authority to undertake any process of negotiation with the contractor. There are two potential disadvantages to this procedure. First, in a field of activity where there are a large number of potential providers (which is the case here), there is a danger that the Council will receive an unmanageably large number of bids. These would all need to be evaluated in accordance with the published criteria. This could be a demanding task and require considerable resources to undertake it. An open procedure could have adverse consequences in terms of the quality of the bids. If a contractor knows that it is only one of a relatively small number of companies invited to submit a tender it will be incentivised to put in a high quality and competitive bid. This incentive is less likely to apply with the open procedure.
- 3.16 The **restricted procedure** allows the Council to restrict the number of companies invited to submit a tender. This has the advantage that the Council can decide the number of bids it needs to provide reasonable competition. The participants know that they are competing with a relatively small number of competitors and therefore have an incentive to devote a reasonable level of resource to their bid and to be competitive. There is no power under the restricted procedure to engage in any negotiation in relation to the bid. However, it is possible to provide explanations and clarifications so that all potential bidders are clear about what they are applying for and how their bids should be structured.
- 3.17 Under the **competitive procedure with negotiation** the authority must, in the tender documents provide a description of their needs and the characteristics required of the works/services to be procured. The authority can limit the number of participants. Negotiations take place to improve the contents of the bids. However, authorities can award on the basis of the submitted tenders only (meaning without negotiations) provided they have reserved the right to do this.
- 3.18 The **competitive dialogue procedure** requires the authority to define their needs and requirements in a descriptive document. There is then a dialogue to identify and define the means best suited to satisfying their needs. There is no option of simply accepting a tender without dialogue. If this procedure is chosen, the authority is committing itself to a dialogue. There is usually a process of successive stages of dialogue with the number of participants reduced at each stage. Once the dialogue is concluded the remaining participants are invited to submit final tenders based on their solutions.
- 3.19 The open and restricted procedures can be used for any procurement exercise taking place under the Public Contracts Regulations. The competitive procedure with negotiation and the competitive dialogue procedure can only be used in the situations specified in regulation 26(3). In the case of this procurement it would be because of “specific circumstances related to the

nature, the complexity or the legal or financial makeup or because of risks attaching to them”.

3.20 There are clear disadvantages for this procurement in using the open or competitive dialogue procedures. The open procedure may result in an unmanageably large number of bids without sufficient incentive to ensure these are of a high quality. The competitive dialogue is likely to be demanding in terms of resources and may commit the authority to negotiations which are unnecessary.

3.21 Whether the restricted procedure or the competitive procedure with negotiation is preferable will depend on (1) whether the Council regards the procurement as sufficiently complex for this to be a situation where the competitive procedure with negotiation can be used and (2) whether there is in fact likely to be a need for negotiations

3.22 Procedure: Recommendation

3.23 In this instance it is believed that the procurement is not sufficiently complex to require negotiation and that, therefore, the restricted procedure is the most appropriate route.

3.24 Timeline

3.25 The timeline for this project is as set out in Appendix 2

4. Social Value, Local Economic and Community Benefits

4.1 In addition to requirements under the Public Contracts Regulations (2015) LBHF has its own values, vision and policies in relation to how services are to be procured and how contracts are to provide value for money along with practices in line with Council values.

4.2 The procurement process will ensure that the Council's values are embedded in the resulting contracts by a combination of specifying requirements, including outlining the contribution expected from contractors to targets set by LBHF, evaluating bids in line with these requirements and ensuring key performance indicators are enshrined in contract documentation with successful bidders to facilitate performance management throughout the contract term.

4.3 Specific areas to be worked on include seeking social value from the contracts. This is an area that can provide benefits to the Borough which are in addition to the service provision and price agreed with the contractors. This is an area which is developing in public sector procurement, balancing the requirements of fairness in the process with securing benefits tailored to the Council's ambition. Examples of social value in contracts across the UK include local employment, apprenticeships and training programmes, developing new enterprises and co-operatives.

- 4.4 The successful bidder's financial contribution is, by necessity, calculated in a slightly different way from many of the Council's normal procurements. Because no work is guaranteed under a framework, it is not possible for a bidder to put a financial value on their likely contribution. Instead, bidders will be asked to supply a percentage which will be levied on the value of any call off contract which they actually receive. This percentage, submitted as part of getting onto the framework, will be competitively scored to achieve maximum social value for the Council.
- 4.5 The successful bidder's financial contribution to social value will therefore be via a percentage which will be part of the bid and which will be levied and audited as part of each project undertaken by the technical consultant.

5. Sustainability

- 5.1 Environmental performance will also be considered through the procurement process, including examining transportation options, use and recycling of materials, waste management, service delivery practices, as well as seeking to stimulate technological innovation to enable environmental advances in the performance of Council in its heating, lighting and fabric of its housing stock.