



London Borough of Hammersmith & Fulham

CABINET

22 JULY 2013

**INTERIM ARRANGEMENTS FOR HIGHWAYS AND TRANSPORT-RELATED PROFESSIONAL SERVICES**

**Report of the Cabinet Member for Transport and Technical Services : Councillor Victoria Brocklebank-Fowler**

**Open Report**

**Classification - For Decision**  
**Key Decision: - Yes**

**Wards Affected: All**

**Accountable Executive Director:** Nigel Pallace - Executive Director, Transport and Technical Services

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## **1. EXECUTIVE SUMMARY**

- 1.1. This report seeks approval to enter into an Access Agreement with the London Borough of Ealing under its Framework Contract for call-off contracts with Project Centre/Opus for the provision of seconded and ad-hoc highways and transport engineering services and with Appia Infrastructure Solutions for the provision of highway condition surveys. It also proposes continuing to use our existing consultants for routine bridge and rail advice and entering short-term contracts for any specialist works. These actions will provide best value and continuity of service and local specialist knowledge until we have our own long-term contracts in place for these and potentially other works and services, following the outcome of the Highways and Transport Service Reviews.

## **2. RECOMMENDATIONS**

- 2.1 That approval be given to Option Three in paragraph 6.3 of this report and that equivalent approvals are sought from the Royal Borough of Kensington and Chelsea
- 2.2 That once the Service Reviews are complete a further report be submitted on a strategy for procuring long-term Bi-Borough Highways and Transport consultant and contractor support reflecting the outcome.

## **3. REASONS FOR DECISION**

- 3.1. Consultant support is required because the Council does not have the capacity nor does it retain the specific specialised skills required to carry out all work in-house. Both Hammersmith and Fulham and the Royal Borough of Kensington and Chelsea use consultants to bring in skilled staff with wide ranging experience from the private sector when necessary.
- 3.2. A Key Decision is required because the proposals involve expenditure of more than £100,000.

## **4. INTRODUCTION AND BACKGROUND**

- 4.1. In 2009 the Royal Borough awarded a Bi-Borough Framework Contract for Highways and Transportation Consultancy Services across Kensington and Chelsea and Hammersmith and Fulham. This Framework gave access to skilled experienced staff that could be brought in to enhance the in-house design teams as required.
- 4.2. The Framework covers four areas of work or 'lots';

- Lot One            Seconded Staff
- Lot Two           Ad-Hoc General Project Services (off site)
- Lot Three         Specialist Bridge Services
- Lot Four          Specialist Rail Advice

- 4.3. The Framework will expire in September 2013 and there is no provision to simply extend it. Now is not a good time to retender because the Service Reviews are identifying areas where savings can be made through adopting the working practices of the other borough where appropriate.
- 4.4. The Bi-Borough department now gives access to a wider resource pool so there will be a reduced call for consultant support in the future. The Service Reviews will help identify those areas where we will continue to need external contractors and consultant support and whether we can consolidate any of the resulting Bi-Borough contracts and their procurement.
- 4.5. Officers are therefore looking for interim arrangements for approximately 18 months from 1 October 2013 to ensure that we do not lose the high quality, experienced consultant support and associated local knowledge that we require. In the case of the condition surveys contract we are looking to call off services from September 2013 for as long as necessary.
- 4.6. Over the past year, officers have explored the options available to ensure service continuity once our Framework expires as summarised below;
- Retender for a Bi-Borough contract
  - Let short-term contracts until the Service Reviews are complete
  - Transport for London (TfL) has awarded the London Highways Alliance Contract (LoHAC) which all boroughs have access to
  - Both boroughs are named in the Framework being let by Westminster City Council from April 2014
  - A number of other boroughs have let Framework contracts that both boroughs could use
- 4.7. The recommendations in this report give the best deal for both Councils in terms of continuity, quality, value and procurement costs.
- 4.8. Using Project Centre / Opus through the Ealing Framework for Lots One and Two allows us to retain our experienced seconded staff at our existing Framework rates. It will also give us access to any additional seconded staff and ad-hoc project work at significantly lower rates. Lots Three and Four are relatively low value contracts and letting short-term contracts with our existing Framework suppliers at current rates is the best interim option. Using the Ealing Framework for some highway condition survey work is also the most attractive offer until we decide on the future of the wider ROAD2010 contract.

## **5. PROPOSAL AND ISSUES**

### **Lot One –Seconded Staff and Lot Two Ad-Hoc General Project Services (off site)**

- 5.1. There are currently eleven long-term staff seconded from Project Centre/Opus across the Transport and Highways Service and also commission ad-hoc general project services from Project Centre/Opus and other consultants through our existing Framework.
- 5.2. In June 2012 Project Centre won a four-year Framework Contract with the London Borough of Ealing for the provision of General Engineering Highways and Transport Services which includes the supply of seconded staff and ad-hoc project services. As members of the London Contracts and Supplies Group, Hammersmith and Fulham and the Royal Borough are entitled to call off services directly from Project Centre/Opus via an Access Agreement through the Ealing Framework. Ealing allows other boroughs to call off up to £1 million worth of work each via Access Agreements which would cover our interim needs.
- 5.3. The total annual cost of retaining our existing Project Centre/Opus seconded staff through the Ealing Framework would be the same as through our existing Framework. Rates for additional seconded staff and for ad-hoc services are commercially attractive and making use of them would result in significant savings.
- 5.4. The Councils could tender for a separate short-term contract for Lot One and Lot Two services. This would incur further procurement costs to both the Councils and interested consultants. There would also be a risk of losing existing experienced, high quality seconded staff and general consultancy support. Such a short-term contract is unlikely to be attractive to the market and could result in higher rates having to be paid than at present.
- 5.5. It is therefore proposed to enter into a call-off contract with Project Centre/Opus for the provision of existing seconded staff and ad-hoc services via the Ealing Framework from 1 October 2013 until the Council has its own long-term contract in place following the outcome of the Service Reviews. This would allow retention of a very strong seconded team and access to high quality ad-hoc support during the interim period whilst minimising any additional procurement costs. If the Access Agreement with Ealing is entered into immediately considerable savings will be made by using the lower rates for any additional seconded staff we require and for all new ad-hoc project services.
- 5.6. The resulting contracts would not be exclusive and there would still be the flexibility to tender for larger projects separately.

### **Lot Three – Specialist Bridge Services and Lot Four – Specialist Rail Advice**

- 5.7. There are three suppliers on the existing Framework for rail advice. Although there has not been much need to call on them in recent years, officers may well do in the future. There is no specific budget for rail advice but any support needed is charged to the appropriate project budget.
- 5.8. There are also three suppliers on the existing Framework for bridge services, though officers use the London Bridges Engineering Group Framework contract for routine bridge inspections and will continue to do so. Access to consultants for specialist bridge work will still be needed.
- 5.9. Separate short-term contracts for Lot Three and Four services could be tendered for. This would incur further procurement costs to both the Council and interested consultants. There would also be a risk of losing the local specialist background knowledge required for continued work on historic structures. Such short-term, low value contracts are unlikely to be attractive to the market and could result in higher rates having to be paid than at present.
- 5.10. It is therefore proposed that the Council enters separate short-term contracts with our three existing Framework suppliers for bridge services and for rail advice based on the current Framework rates. Officers would seek quotes from these firms for any 'new' specialist work in line with the Council's Contracts Standing Orders during the interim period. Again, the resulting contracts would not be exclusive and there would still be flexibility to tender for larger projects separately.

### **Highway Condition Surveys**

- 5.11. H&F are the lead borough on the ROAD2010 contract to carry out highway condition surveys for Transport for London (TfL) and other London Boroughs to help them prioritise their highway maintenance programmes.
- 5.12. Some elements of the ROAD2010 contract have recently been extended until the end of March 2014. However, the provider of a specific class of survey that we require, called 'SCANNER', has disbanded its set-up and is unable to continue to providing this service.
- 5.13. In June 2012 Appia Infrastructure Solutions won a four-year Framework Contract with the London Borough of Ealing for the provision of highway condition surveys. As explained in section 5.2 Hammersmith and Fulham is entitled to call off services directly from Appia Infrastructure Solutions via an Access Agreement through the Ealing Framework.
- 5.14. A separate short-term contract for 'SCANNER' surveys could be tendered for. This would incur further procurement costs to both the Council and interested consultants. Such a short-term, low value contract is unlikely to be attractive to

the market and could result in having to pay higher rates than through Ealing's existing framework.

- 5.15. It is therefore proposed that the Council enters into a call-off contract with Appia Infrastructure Solutions for highway condition surveys via the Ealing Framework from 1 September 2013 until the Council's own long-term contract is in place following the outcome of the Service Reviews. Whilst the most pressing need is for 'SCANNER' surveys it would also be useful to have access to the whole range of surveys available through the Ealing Framework as back-up to the Road 2010 contract.

## **6. OPTIONS AND ANALYSIS OF OPTIONS**

- 6.1. **Option One** - Do not sign an Access Agreement with Ealing Council or let short-term contracts for specialist rail and bridge advice. If no consultants are appointed the Work Programme would have to be considerably reduced. This would result in a substantial budgetary underspend and on TfL Local Implementation Plan allocations.
- 6.2. **Option Two** – Tender for separate contracts for all Lots for the interim period only. This would incur considerable procurement costs to both the Council and the market. There would also be a risk of losing the local specialist background knowledge required for continued work on historic structures. Such short-term and, for three of them, relatively low value contracts are unlikely to be attractive to the market and could result in having to pay higher rates than at present.
- 6.3. **Option Three** - Sign an Access Agreement with Ealing Council and enter into call-off contracts with Project Centre/Opus for Lots One and Two and with Appia Infrastructure Solutions for highway condition surveys and let individual short-term contracts for Lots Three and Four with the existing Framework suppliers. These companies would offer the best service to the Council to help deliver our Work Programme during the interim period in terms of an acceptable combination of experience, local knowledge, quality and price.

## **7. CONSULTATION**

- 7.1. As the various proposals in this report affect the whole of the borough, officers do not propose to consult ward Councillors or any other stakeholders.

## **8. EQUALITY IMPLICATIONS**

- 8.1. There are no direct equalities implications arising from this report.

## **9. LEGAL IMPLICATIONS**

### **Lot One – Seconded Staff and Lot Two Ad-Hoc General Project Services (off site) and Condition Surveys**

- 9.1. The Bi-Borough Director of Law comments that the Ealing Framework has been let in accordance with European Union (EU) procurement law and Ealing Council's Contract Regulations. It is open to all members of the London Contracts and Supplies Group, which includes Hammersmith and Fulham and the Royal Borough, via standard Access Agreements.
- 9.2. In order to participate in the Framework Agreement, the Council must sign an Access Agreement with the London Borough of Ealing. By entering into the Framework Agreement, the Council may procure services in accordance with a "call off protocol" contained in the Framework Agreement. Contracts must be let either by direct award or by mini-competition. Direct awards may be made to Project Centre/Opus and Appia Infrastructure Solutions as no changes are being sought to the terms of the Framework contract, specifications or price for the services.

### **Lot Three – Specialist Bridge Services and Lot Four – Specialist Rail Advice**

- 9.3. These services also fall within part A of EU Procurement rules and must be procured in accordance with detailed statutory requirements. EU rules apply to services with an estimated value of £173,934. Assuming contracts are let for a maximum of 18 months following expiry, the estimated values of the rail and bridge advice services agreements fall below the relevant EU thresholds. In spite of this, the Council's Contracts Standing Orders require services over £5,000 to be exposed to competition unless there is a sound value for money reason for not doing so. Contracts between £20,000 and under £100,000 in value require Cabinet Member approval.
- 9.4. Framework Agreements let under the Public Contracts Regulations 2006 (as amended) cannot be more than 4 years in duration. However, the framework agreements can be constructed in such a way that call-off contracts can be for longer periods than the term of the framework. Extending the term of our existing Framework would be a breach of the Regulations; however variations may be made to contracts providing that such variations do not make a material change to the contract.
- 9.5. Steve Mariani, Bi-Borough Solicitor - 020 7361 3074.

## **10. FINANCIAL AND RESOURCES IMPLICATIONS**

- 10.1. The demand for seconded staff and consultant support on ad hoc projects fluctuates throughout the year. They are financed from the salaries budget with draw down from the appropriate project funding stream.
- 10.2. There are no specific bridge and rail consultancy budgets as any support required is charged to the appropriate project budget.
- 10.3. The Council spends approximately £130,000 per year on 'SCANNER' road condition surveys, all of which is recoverable, including fees, from TfL and the boroughs.
- 10.4. The value of work outside of these core functions will vary dependent on the size of the Work Programme and the funding available.
- 10.5. The rates for work across all Lots would be comparable to existing Framework rates. Rates for any additional Lot One seconded staff and all Lot Two ad-hoc services under the Ealing Framework are commercially attractive and making use of them would result in significant savings.
- 10.6. Gary Hannaway, Head of Finance - 020 8753 607.

## **11. RISK MANAGEMENT**

- 11.1. Should any of these companies not be able to provide the services for any reason in the short term, officers could make use of other Framework contracts, such as TfL's or use existing agency arrangements to secure alternatives quickly. This would need to be reflected in the Divisional Resilience Plan. In the case of Lots One and Two, there are two other consultants on the Ealing Framework from whom officers could also call off services quickly via Access Agreements if required.
- 11.2. All other threats and opportunities identified to the proposals in this report have been considered and risk mitigation actions addressed where appropriate. All the consultants will have appropriate professional indemnity insurance for the tasks we require them to perform.
- 11.3. Michael Sloniowski, Principal Risk Management Consultant - 020 8753 2587.

## **12. PROCUREMENT AND IT STRATEGY IMPLICATIONS**

- 12.1. The Corporate Procurement Team is involved on the Service Review Team and the Director agrees with the recommendations in this report.
- 12.2. There are no IT Strategy implications associated with this report.



12.3. Alan Parry, Bi-Borough Procurement Consultant (TTS) 020 8753 2581

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

None

**LIST OF APPENDICES:**

Appendix A - Other Implications

**Other Implications**

1. Business Plan- none
2. Risk Management - see Section 11 of the report
3. Health and Wellbeing, including Health and Safety Implications - We require all consultants to comply with all relevant Health and Safety and Construction Design and Management legislation.
4. Crime and Disorder - none
5. Staffing - none
6. Human Rights - none
7. Impact on the Environment - We require all consultants to observe good environmental practice and comply with all relevant statutes, codes of practice and industry guidance.
8. Energy measure issues - none
9. Sustainability - see 7 above.
10. Communications - none