

Subject:	Procurement of New Construction Strategic Partnership		
Date of Meeting:	21st March 2013		
Report of:	Strategic Director Place		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 On 29th November 2007, Policy & Resources Committee gave approval to procure a five year strategic construction partnership, known as Constructive Solutions Partnership, to provide a cost effective method of procuring capital construction projects within the Council. The Partnership was managed and overseen by Property & Design. The Contract made provision for an extension subject to key performance indicators being met.
- 1.2 The current Partnership is due to expire on 31st August 2014 and by that time it is anticipated that works to the value of £55million will have been completed
- 1.3 This report is to request that Policy & Resources Committee approve the procurement of a new strategic construction partnership which would commence in January 2014, for an initial contract term of five years with an option to extend for a further three years from 31st January 2019. This partnership would deliver construction projects, from various council client departments and possibly other external public bodies and would continue to be managed by Property & Design

2. RECOMMENDATIONS:

- 2.1 That Policy & Resources Committee authorises the Strategic Director, Place to undertake an OJEU procurement process for a new Strategic Construction Partnership with four 'lots' including; 1) a Constructor, 2) consultant Quantity Surveyor, 3) consultant Structural Engineer and 4) consultant 'Construction Design & Management' (CDM) Co-coordinator. The new Construction Partnership is to run for five years with an option to extend for a further three years, dependant upon meeting key performance indicators;
- 2.2 That Policy & Resources Committee authorises the Strategic Director, Place after consultation with the Director of Finance, to award the contract following the recommendations of the evaluation panel and the results of the tendering process.

3. RELEVANT BACKGROUND INFORMATION/

- 3.1 Since the publication of the national report *Rethinking Construction* in 1998 partnering has become an established and recognized form of procurement, which has been adopted by both the public and private sector. The benefits of partnering have now been proven and the objectives of the *Rethinking Construction* Report have been realized with more projects delivered on time and on budget, reduced financial risk to clients, improved client satisfaction with completed buildings, reduction in defects at handover and a non adversarial relationship.

4. How Partnering Works

- 4.1 The design team, including the constructor (contractor), work with the Client right from the start of the project. The constructor's involvement and commitment is acknowledged by the payment of a pre-construction fee, the percentage value of which forms part of the original partnership tender. The early involvement of the constructor and sub contractors therefore ensures that design risks are minimised and buildability improved, whilst construction risks are also reduced because by the time the project reaches site, the site agent and constructor are already familiar with the design, the site and the operations of the existing buildings, where new extensions are planned. Throughout the design process prices for each element are obtained and reviewed by the team and if necessary the design is amended to ensure that the budget is met.
- 4.2 The design team meet every four weeks and work together within the assigned budget to set the Agreed Maximum Price following on from which the Quantity Surveyor produces a review document for audit purposes which demonstrates that the project has achieved best value. This document benchmarks the square metre (m²) rates against previous partnered and non partnered schemes.
- 4.3 Two further mechanisms are in place: an independent partnering advisor is employed and also a Core Group meets every month, consisting of senior members of the key disciplines led by the council's Architecture & Design Manager. The Core group is empowered to make key decisions on the day to day workings of the partnership and takes a strategic view of each scheme, ensuring that key deadlines are met.

5. Brighton & Hove Councils' Partnering Record

- 5.1 A five year partnership (known as The Goldstone Partnership) was procured using the OJEU process in 2003. This partnership ended in 2008.

The Goldstone Partnership successfully delivered over £15million of capital projects in its five year lifespan and when this ended in 2008 approval was sought and received to procure a second partnership for a further five years plus a potential three year extension.

- 5.2 This second partnership which commenced on 1 September 2008, (Constructive Solutions Partnership) was set up on values and mutual objectives, which were agreed and signed by the team in the form of a Charter.

The values were:

Trust, openness, honesty, respect, collective responsibility, learning from other, long-term commitment and clarity in decision-making.

The team's mutual objectives were :

- To establish a long term relationship which profitably delivered the requirements of the stakeholders and partners
- Set an Agreed Maximum Price (AMP) within the budgetary constraints and which achieve best value
- To work as a team to produce high quality buildings with long life, low maintenance characteristics.
- To complete each project within the time constraints whilst continually striving for improvement
- Provide buildings that address environmental issues and consider the impact on the wider community
- Work together as a team and achieve a sense of pride and achievement in the completed buildings

It is expected that the new partnership will operate under the similar values and objectives

- 5.3 The percentage fees for consultants and the percentage of overheads and profit for the constructor and subcontractors were fixed for the duration of the five years. These percentages are applied to the final account figures, which guarantee the profitability of the partners, one of the key principles of partnering.
- 5.4 It is important that the partnership is not perceived as a 'cosy relationship' and the success of individual projects is a requirement for other projects to be undertaken. This is measured by key performance indicators, which are reviewed by the Core Group, to ensure that the performance of all team members is maintained. The Core Group has the authority to change a sub contract partner where they feel the performance is affecting the whole team. During the present partnership the Core Group changed two sub contract partners for this reason.
- 5.5 The partnership has to prove that it meets Best Value criteria, and so the external cost consultant produces a Best Value report, which benchmarks costs and rates not only against national criteria but also against previous projects within the partnership. This report has to be signed off by the Head of Property & Design.

6. Achievements of Constructive Solutions Partnership

- 6.1 During the four and a half year period from August 2008 to January 2012 a total of £41million of capital projects have been successfully designed and completed. These projects include:
- Major school expansions at the following sites: Longhill, Goldstone, Balfour, Davigdor, Peter Gladwin, Somerhill, Whitehawk, Westdene, Balfour, Hillside and Queens Park
 - Refurbishment of the listed Connaught building to create a new school
 - Workstyles Refurbishment works at Bartholomew House, Hove Town Hall, Moulsecoomb Campus including the two new customer service centres

- Refurbishment of Regency and Trafalgar Street Car parks
- Construction of the Whitehawk Hub including the new public library
- A new play group building at Hollingbury Park

The partnership is also currently undertaking the following schemes which will be completed in 2013/2014:

- Extension to Withdean Sports Complex
- School expansions at St Peters, St Nicolas, Aldrington and Portslade Schools

- 6.2 A key benefit of partnering is the speed at which projects are able to start on site. A good example of this was the £7.0 million Co-Location project at Whitehawk which was funded by a government grant. Funding for this project was being cut nationally but because Brighton & Hove were one of the first Authorities in the Country to physically start construction work on site the funding was not subsequently cut
- 6.3 In the previous Partnership, the successful Constructor employed a high percentage of local labour and sub-contractors. . Furthermore the partnership as a whole created 105 apprentices over the main disciplines i.e. electrical, mechanical, carpentry, site management, roofing and other construction related activities. Of these apprentices 93% are still employed in companies within the partnership
- 6.4 A further key performance indicator was to set a reduction in the amount of site waste sent to landfill by at least 50%. The average figure achieved over all the construction projects is 91.1% which supports One Planet Living targets. Furthermore the Contractor has been used by the City Planning Team as an example of good practice in relation to reduction of site waste sent to landfill, resulting in the Council receiving a national award. Brighton & Hove City Council was the first to enforce Site Waste Management Plans as part of the planning process.

7. Value for Money in the Constructive Solutions Partnership

- 7.1 In traditional procurement the tender price and the final account can vary widely because in many cases, contractors submit artificially low tenders and then try to recoup costs through contractual claims when on site. This is a particular risk to clients, particularly in the current economic climate. In partnering, one of the Key Performance Indicators is that final account should be on or under the Agreed Maximum Price (AMP) and that a lower contingency figure of 2.5% is used rather than the industry norm of 5%. In the current partnership for example 15 out of twenty schemes had final accounts agreed on or under the AMP and with the 2.5% contingency.
- 7.2 Overall, taking into account final account vs tender figures, it is estimated partnering produces savings of between 2% and 5% on traditional contracts prices, notwithstanding the savings on time.
- 7.3 The partnership has also proven to be a more efficient method of procuring projects resulting further in both cashable and non-cashable savings. An example of this is that construction time is generally less, resulting in more

economic preliminaries costs, because the contractor is involved with the design team right from the start of the project. This was demonstrated on the recently completed Connaught school which involved the conversion of a listed building. The £2.3million project was only instructed by the client in January 2011 and had to be completed and open for pupils by September 2011. Despite many unforeseen problems and challenges with the existing structure the project was completed on time.

- 7.4 Every project undertaken has a Best Value Review Report undertaken by the Quantity Surveyor, which benchmarks unit rates not only against previously completed projects within the Council but also using national data from the BCIS (Building Construction Indices Service)

8. Learning Points from Constructive Solutions Partnership

- 8.1 The partnership is reviewed annually to ensure the Key Performance Indicators are being met and key issues are discussed monthly at the Core group.
- 8.2 These are some key learning points from the Constructive Solutions Partnership
- The partnership is not economic on projects valued at £250,000 or under.
 - Managing risks outside the partnerships control is the biggest risk e.g. Poor performance of utility companies or unforeseen problems under the ground is difficult. Even more input is required from partners at the design stages to further improve build
 - A benchmarking exercise was undertaken by those participating in the Partnership with regards to payment of the living wage. This exercise demonstrated that all employees were on or above the living wage level, apart from apprentices and trainees.

9. Future Partnership

- 9.1 Although it is not possible to quantify the volume and nature of work the new partnership will undertake, the likely funding sources are as follows:
- Education works funded through the Council's annual Capital Investment Programme
 - Workstyles/Corporate Accommodation Projects
 - Capital and refurbishment schemes which will come under Corporate Landlord
 - Capital schemes which might result from future grants or external funding
 - Other capital schemes for external organisations
- 9.2 It is estimated that the value of work which could potentially be undertaken by the new partnership over the eight year period might be somewhere in the region of £60-£100 million. In addition these works would attract professional fees in the order of 10-12%. It should be noted that although the Council is required to set an overall value for the works that could potentially be undertaken by the Partnership, there is no commitment for the Council to undertake works to this value and each project will be subject to the usual approval process by each client department.

- 9.3 As part of the new agreement, Partners will be required to commit to increasing the number of apprentices taken on during its lifetime. They will also be required to improve further the target figure for reduction of site waste taken to landfill
- 9.4 Evaluation criteria are yet to be set on a price/ technical, quality split based on principles to include employment of apprentices, local supply chain management, internal quality procedures and performance management, health and safety, sustainability (design and materials specified) and practices eg reduction of waste to landfill, use of local materials and labour, living wage, as well as an open book approach and fixed values for overhead and profit fees for the duration of the Partnership. The procurement will be undertaken in accordance with the council's WWF award winning Sustainable Procurement Guidance.

10 Timescales

- 10.1 If the recommendation to undertake an OJEU procurement process for a new Strategic Partnership is approved an indicative timescale is indicated below:

Activity	Date
Issue OJEU Notice & Pre Qualification Questionnaire (PQQ)	April 2013
PQQ Return	May 2013
PQQ Evaluation	June 2013
Issue Invitation to Tender (ITT)	July 2013
ITT Return	August 2013
ITT Evaluation	August – October 2013
Issue Award Letters	November 2013
Alcatel - Standstill Period	November 2013
Contract Start Date	1 st January 2014

11. COMMUNITY ENGAGEMENT AND CONSULTATION

- 11.1 All projects undertaken within the new partnership would be subject to consultation. The extent and nature of the consultation would be dependant upon the type and nature of scheme proposed.

12. FINANCIAL & OTHER IMPLICATIONS:

12.1 Financial Implications:

The contract will be effective from January 2014 and is estimated to provide a range of work between £60m to £100m over the 8-year period. In addition these works would attract professional fees in the order of 10-12%. The partnership will be designed to ensure that it provides best value and this will be addressed through the Core Group. Individual projects associated with the Strategic Partnership will be subject to separate approval and will be reported to Policy and Resources Committee as they arise

Finance Officer Consulted: Rob Allen

Date:07/02/13

12.2 Legal Implications:

Given the value of the proposed Partnership Agreement, the EU Procurement Rules will apply. The Contracts forming the Strategic Partnership will therefore be advertised in the OJEU will be awarded on the basis of the most economically advantageous tender, as prescribed by the EU rules.

Once the Partnership Agreement is in place, call off contracts for specific projects will be let in accordance with the Council's Contract Standing Orders (CSO's), but without the need for a further tendering process as value for money is achieved by the terms of the Partnership Agreement.

The Council's Contract Standing Orders (CSO's) require contracts of a value exceeding £75k to be in a form approved by the Monitoring Officer and to be given under the Council's Common Seal. This requirement will apply both to the Partnership Contract and any call off contracts where the project is valued at £75k or above.

Lawyer Consulted: Elizabeth Culbert Date: 07/02/13

12.3 Equalities Implications:

Equality Impact Assessments will be undertaken on projects where appropriate eg Workstyles. All projects will be designed to comply with the requirements of the Equalities Act and the latest Part M section of the building regulations

12.4 Sustainability Implications:

The successful constructor will be required to meet key performance indicators on reductions in Site Waste, monitored by Site Waste Management Plans. New projects undertaken within the new partnership will be required to meet the Council's One Planet Principles and where appropriate (dependant upon the size and nature of the project) subject to a BREEAM assessment and the Council's sustainability checklist

12.5 Crime & Disorder Implications:

Individual projects will be assessed to reduce vandalism and crime. Where planning consent, is required, the views of the Crime Prevention Officer will also be sought. Refurbishment projects will always include security alarm provision and where appropriate CCTV installations provided

12.6 Risk and Opportunity Management Implications:

Individual projects will have risk registers and dependant upon the size and length of the building contracts, CDM Regulations will also apply. The procurement of the new partnership includes a CDM Co-ordinator.

12.7 Public Health Implications:

Public Health & wellbeing and equalities issues would be addressed on an individual project by project basis within the partnership

12.8 Corporate / Citywide Implications:

Projects which will be carried out under this partnership will help address shortcomings in school places eg school expansions and assist in the modernisation of the Council eg Workstyles related projects.

13 EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 13.1 The partnership procurement route is just one option available to departments wishing to undertake Capital schemes. Alternatives include traditional competitive tendering or use of other frameworks such as the IESE managed by East Sussex County Council in partnership with Brighton & Hove City Council

14 REASONS FOR REPORT RECOMMENDATIONS

- 14.1 As set out above, the Strategic Construction Partnership has proved a useful value for money tool for the Council and it is considered therefore that a new Partnership agreement should be put in place to replace the current agreement when it comes to an end in 2014.

SUPPORTING DOCUMENTATION

Appendices:

1. NONE

Documents in Members' Rooms

1. NONE

Background Documents

1. NONE