

Report to CABINET

Construction Framework Delivery and Management Partner Concession Contract

Portfolio Holder:

Councillor Abdul Jabbar, Deputy Leader

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Reason for Decision

A decision to award a Concession Contract to Procure Partnerships Limited following a fully compliant procurement process will enable them to commence working with the Council to procure a Construction Works Framework. A decision to delegate authority to the Director of Economy in consultation with the Director of Finance and Director of Legal Services to award the planned Framework on behalf of the Council, and authorise the Director of Legal Services to sign the contractual documentation and any incidental and ancillary documentation to enable the required deadlines to be achieved.

Executive Summary

The purpose of the report is to request a decision to award the five year Concession Contract to Procure Partnerships Limited (the “Concessionaire”) following a fully compliant procurement process to enable the Council and the Concessionaire to commence working together to procure a Construction Works Framework which will facilitate the award of contracts from the Council’s own projected pipeline of works requirements. By virtue of procuring the Framework in a manner which enables it to also be used by other Public Sector Bodies, the planned Framework is also expected to generate a monetary income for the Council and the Concessionaire which will contribute to the Council’s challenging savings targets.

Recommendations

The Cabinet is recommended to:-

1. Approve the award of a Concession Contract to Procure Partnerships Limited.
2. Delegate authority to the Director of Economy, in consultation with the Director of Finance and Director of Legal Services, to award the Framework contract on behalf of the Council.
3. Authorise the Director of Legal Services or his nominated representatives to sign and/or affix the Common Seal of the Council to all contractual documentation and associated or ancillary documentation required to give effect to the above authorisations, delegations and recommendations in this report.

Construction Framework Delivery and Management Partner Concession Contract

1 Background

- 1.1 A procurement exercise was undertaken to implement a new procurement initiative; to appoint a Construction Framework Delivery and Management Partner pursuant to the Concession Contracts Regulations 2016 (the “Concessionaire”) for a five year term, to work in partnership with the Council to procure, let and manage a Construction Works Framework. The Framework will facilitate the award of the Council’s own projected pipeline of works requirements and will be made accessible to other North West Public Sector Bodies (Local Authorities, Universities, NHS Trusts etc.).

The Concessionaire is to make all necessary commitments and investments; resources, financial or otherwise, to work in partnership with the Council to establish the Framework and will not receive any consideration or payment from the Council for the whole of the services to be delivered under the Concession Contract. The Council and the Concessionaire will generate a monetary income when call-offs/contract awards are made by the other Public Sector Bodies.

The monetary income is to be generated through a percentage levy being inbuilt into the cost model of the Framework which is then applied to/calculated on the value of the contract the end-user/other Public Sector Body awards under the Framework. The precise detail of the Framework’s cost model will not be established until the Concessionaire is appointed and works in partnership with the Council to agree the full procurement strategy and commercial model for the Framework.

- 1.2 On 16th November 2020 the Council’s Commercial Procurement Unit dispatched an OJEU Prior Information Notice to support its research and survey market interest. Two organisations responded. The market was found to be small and the services relatively niche. A limited number of tender returns were therefore anticipated. A Concession Notice was dispatched, and on 18th December 2020 the open tender documents were released in full compliance with the Concession Contracts Regulations 2016 and Council’s Contract Procedure Rules. The tender deadline was 19th January 2021.
- 1.3 The tender documents stipulated the evaluation criteria: 60% of marks were assigned to technical criteria including business planning and marketing, resourcing and delivery, social value, framework management, mobilization and action planning. 40% of marks were assigned to the commercial model, forecast and guaranteed monetary income amounts. It was mandatory that any tenderer accepted the Council’s bespoke concession contract terms and conditions published with the tender documents.

2 Current Position

- 2.1 One response was received from Procure Partnerships Limited by the deadline.
- 2.2 The response was evaluated by the Commercial Procurement Unit to be compliant and favourable; passing all due diligence assessments including but not limited to those in

respect of financial standing, insurances, and grounds for mandatory and discretionary exclusion. They accepted the Councils concession contract terms and conditions in full.

- 2.3 Procure Partnerships Limited have a demonstrable track record in contracting and working in partnership with Public Sector Bodies, to deliver and manage construction frameworks which generate a monetary income.
- 2.4 Income would be collected by the Council at regular intervals across the four year term of the Framework. In addition to the planned Framework bringing efficiency benefits to the Council for the award of its own pipeline of works, this income would contribute significantly towards the Council's savings targets.
- 2.5 The Council is not required to make any financial investment.
- 2.6 In addition to the monetary income, Procure Partnerships Limited would also contractually commit to delivering over £200,000 of social value (calculated using the National TOMS) during the five year term of the concession contract in the form of:
- More Local People in Employment
 - More Opportunities for Disadvantaged People
 - Improved Employability of Young People
 - Improved Skills for Local People
- 2.7 The procurement evaluation process is complete. Should the decision to award to Procure Partnerships Limited be made, the Concession Contract will be executed, and work towards procuring the Framework will begin immediately.

3 Options/Alternatives

- 3.1 Option A – Do not award the Concession Contract to Procure Partnerships Limited. The Council would not be able to procure, let, manage and market to other Public Sector Bodies a construction works framework of scale independently, and would therefore not benefit from the Framework efficiency gains when awarding its own works projects, nor generate any monetary income to contribute towards its challenging savings targets, nor deliver the social value benefits.
- 3.2 Option B - Award the Concession Contract to Procure Partnerships Limited, delegate authority to the Director of Economy in consultation with the Director of Finance and Director of Legal Services to award the planned Framework on behalf of the Council, and authorise the Director of Legal Services to sign the contractual documentation and any incidental and ancillary documentation to enable the required deadlines to be achieved. This will enable the Council to commence working with Procure Partnerships Limited without delay so as to make it possible to procure, let and mobilize the planned Framework for the start of the Councils 2022/23 financial year, benefit from the Framework social value add and efficiency gains when awarding its own works projects under the Framework, generate a monetary income to contribute towards its challenging savings targets, and enable the Concessionaire's delivery of over £200,000 of social value to commence in the form of employment and work placements for local people.

4 Preferred Option

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- 4.1 Option B is preferred. The decision to award the Concession Contract would enable the Council to proceed to work in partnership with Procure Partnerships Limited, making it possible to achieve mobilizing the planned Framework for the start of the Councils 2022/23 financial year. This would enable the Council to start benefitting from social value add, efficiency gains when awarding its own works projects under the Framework, and from year on year monetary income to contribute towards savings targets.

The subsequent letting of the planned Framework does not involve the commitment of any expenditure by the Council. Each and every Oldham Council works project which may be awarded under the Framework in future, and which would require commitment of expenditure, would be reported on separately under the Council's scheme of delegation and governance process.

5 **Consultation**

- 5.1 The nature of the decision does not require external consultations from community groups or otherwise.

6 **Financial Implications**

- 6.1 It is not intended that the Concessionaire will receive any consideration or payment from the Council for any of the services to be delivered under the Concession Contract. The Concessionaire will generate revenues for itself (and the Council) by charging a fee, based on a percentage of the value of works contracted through the Framework/Concession.
- 6.2 The total amount of income generated will be dependent on the value of works commissioned via the new Framework by other Public Bodies. The Council's Commercial Procurement Unit have confirmed that no fees will be paid (directly or indirectly) on any works commissioned by the Council as the Council will be the legal owner of the Framework.
- 6.3 The Council itself will not guarantee to award construction projects under the Framework, but where it is appropriate to do so any award will be undertaken in line with current Council procedures, and will be reported separately under the Council's scheme of delegation and governance processes. (James Postle)

7 **Legal Services Comments**

- 7.1 The Council has followed an open tender process in accordance with the Council's Contract Procedure Rules to procure a concessionaire to work with the Council to achieve its ambition to develop a public works framework agreement which can be used by the Council and other named contracting authorities in the north west region. Legal Services procured external legal advice to support the delivery of this project including advice regarding the legal structure, the contract notice and a bespoke concession agreement. Under a concession contract the concessionaire bears the risk with regard to the projected income generation. (Elizabeth Cunningham Doyle)

8. **Co-operative Agenda**

- 8.1 The Concession Contract supports the Council's commitment to developing a co-operative future by maximising the benefits the Council is able to deliver for our communities and the North West Public Sector Bodies with limited resources. In addition to monetary income to support budgets, the Concession Contract will deliver over

£200,000 of social value in the form of employment and work placements for local people. The planned Framework itself will then be enabled as a vehicle for implementing a dedicated programme of social value activities within Oldham, in addition to supporting delivery of the social, economic and environmental aims of the Council's individual regeneration projects let thereunder. The Framework procurement process will seek to engage local contractors which may have the potential to be awarded a place on the Framework providing a gateway to public sector works opportunities in the North West.

9 Human Resources Comments

9.1 Not applicable.

10 Risk Assessments

10.1 The risk to the Council is that the proposed Concession Contract does not generate the income stream envisaged as the Framework does not attract the external interest from other organisations. (Mark Stenson)

11 IT Implications

11.1 None

12 Property Implications

12.1 None

13 Procurement Implications

13.1 The Council dispatched an OJEU Prior Information Notice (PIN) in November 2020 to support its market research and inform this procurement initiative and strategy. The procurement process was conducted in full compliance with the Concession Contracts Regulations 2016 and the Council's Contract Procedure Rules. The tender submission from Procure Partnerships has been fully and rigorously evaluated, and the commercial proposition is considered to be financially viable and sustainable for both the Council and the Concessionaire. This initiative will raise the profile of the Council within the North West and will create much needed income into The Authority as well as supporting our Social Value responsibilities.

Steve Boyd, Interim Head of Procurement

14 Environmental and Health & Safety Implications

14.1 None

15 Equality, community cohesion and crime implications

15.1 None

16 Implications for Children and Young People

16.1 None

17 Equality Impact Assessment Completed?

17.1 No. Not applicable.

18 **Key Decision**

18.1 Yes

19 **Key Decision Reference**

19.1 The reference number of the item which gives notice of the intention to make this decision is FG-03-21.

20 **Background Papers**

20.1 Not applicable.

21 **Appendices**

21.1 Not applicable.