

Item No.:	Classification: Open	Date: 9 February 2010	Meeting name: Executive
Report title	Gateway 1 - Procurement Strategy Approval Architect and Lead Consultant Framework Agreement		
Ward(s) or groups affected	All		
From	Strategic Director of Environment and Housing		

RECOMMENDATION

1. That the Executive approve the procurement strategy outlined in this report for the procurement of the Architect and Lead Consultant Framework Agreement.

BACKGROUND INFORMATION

2. The estimated annual cost of the Framework is £3,200,000 for a period of four years making a total contract value of £12,800,000.
3. This contract will have no provision for extension.
4. European Union (EU) Regulations do not allow for the term of Framework Agreements to extend beyond forty-eight months. However programmed services ordered before the expiry of this term may be carried out beyond this period.
5. The existing Framework Agreement was originally set up by Southwark Building Design Service (SBDS) to complement the Council's in-house capacity.
6. The existing contract was awarded in September 2006 to six architectural firms namely; Architype Ltd, AMA Alexi Marmot Associates Ltd, De Rijke March Morgan Ltd, Eger Architects, Purcell Miller Triton and Weston Williamson Ltd.
7. The existing arrangement has proved efficient and economic, providing flexibility to meet client programmes when in-house resources are insufficient or specialist expertise is required.
8. The new Framework Agreement will be awarded to eight architectural firms with expertise in the following areas:
 - General Architecture (Building Extension, Annex, Refurbishment, Education Building, Community Development)
 - Master Planning and Urban Design,
 - Space Planning and;
 - Listed Buildings.
9. The eight firms will cut across all areas of expertise. As a benchmark all firms to be shortlisted would be required to have general architecture expertise plus at least one of the other categories. The appointment of eight consultancies will mitigate the risk of over stretching the financial threshold of the firms.

10. It is estimated that the average annual fee value of work required to be contracted to consultants will be up to £400,000 although this cannot be guaranteed. The financial threshold to the amount of work that can be ordered from each consultancy on an annual basis is currently £100,000. The contract panel (as described in paragraph 25) recommend an increase to £400,000 for the following reasons;

- The Regeneration and Neighbourhoods Department are one of the major users of this type of service and were not consulted when the existing Framework Agreement was procured. Their annual spend was not considered when determining the annual fee threshold per firm.
- The Regeneration and Neighbourhoods (Capital Project Division) on a single project is over the £100,000 threshold.
- The table below is a summary of the spend analysis exercise conducted on the consultancies. This reveals that the annual threshold of £100,000 per annum was exceeded by some of the firms, although, it is not clear if the fees were earned through call-offs from the Framework Agreement.

Firm / Year	06/07	07/08	08/09	01.04.09 - Date
Architype Ltd	101,917.30	398,890.07	144,719.39	132,966.45
AMA Alexi Marmot	11,267.58	0	81,966.82	33,979.20
De Rijke Marsh	351,862.81	0	47,110.36	0
Eger Architects	141,267.79	279,457.81	254,793.47	33,465.00
Purcell Miller	0	2,455.75	0	0
Weston Williamson	0	1,645.00	0	0

11. In the first instance this corporate contract will be managed and monitored by the Environment and Housing Procurement team on behalf of all council departments. This arrangement will be subject to further consideration as part of the ongoing shared services review. The necessary mechanisms will be in place to ensure that consultants do not exceed the spend limit. (See Appendix 3).
12. Contracts will be called-off on the basis of lowest price with preference given to firm's knowledge of a particular project, area of expertise, complexity and available resources.

Reasons for this procurement

13. This procurement will replace the existing contract which expires on 17th September 2010. The anticipated start date for this framework is 1st December 2010, clients requiring the services of an architect after the expiry date of the existing contract and before the commencement of this contract would have to select from the approved list if the value is below the EU threshold and for values above the EU threshold an Official Journal of European Union (OJEU) advert would be placed.

14. Due to the re-organisation of housing services and the disbandment of SBDS there is the need to complement the capacity of the in-house architects within the Environment & Housing Department and other directorates.
15. Although Framework Agreements must be established in accordance with EU Procurement Rules the individual call-offs made throughout the term of the agreement are not subject to these rules. As a result the pre-contract period for individual contracts is substantially reduced. There is no obligation on the Council to award any contract during the term of the Framework Agreement.

Market considerations

16. As a publicly advertised tender all organisations including Small Medium Enterprises (SMEs)/Black Minority Enterprises (BMEs) will be able to participate in expressing an interest and tendering. Although the value of the proposed framework may not attract some small firms due to their financial and resources constraints.
17. There is a high level of interest in the market for construction design consultancy firms wanting to be part of a Framework Agreement.
18. Architectural firms interested in tendering will be sought through advertisements in the OJEU, trade journals and local press. It is anticipated that there will be high volume of responses to the adverts.

Other Options

19. The option to use other Architectural Framework Agreements managed by accredited professional buying organisations such as the Buying Solutions and the Council's approved list, were considered but decided against for the following reasons:
 - Due to the national remit of the Buying Solutions framework. These are in most instances awarded on the basis of a more generalised specification and organisations wishing to use them undertake further mini tenders to identify who can deliver the specifics of certain projects etc. By having its own Framework Agreement the Council will have ensured that those companies selected are already capable of supporting the projects the Council are currently running, and those coming up in the near future etc.
 - Analysis of the newly procured Buying Solution framework agreement reveals that there are only five architectural firms out of the twelve consultancies under the Project Management and Full Design Team Services category.
 - Clarifications obtained from Buying Solutions by the Council's approved list team suggested that further assessment would be necessary for consultants chosen from Buying Solution framework as such firms will not have been vetted to the standard required for the Council's approved list.
 - The option to use the Approved list was also considered, but this could not be utilised owing to the total project value being above the European Procurement threshold for services consultancy.

- The option to use the existing Transport Planning and Street Consultancy Services contract with Mouchel (formerly Mouchel Parkman) was also considered. On review this could not be utilised owing to the contract's scope of services and areas of expertise which differs from that required for this framework.
20. Discussions with Regeneration and Neighbourhoods have shown that there are occasions where the total project Architect fees exceed the EU threshold over the term of the project and therefore would require a full EU tender to be undertaken. It is therefore proposed that where such fees are estimated below the EU threshold the approved list will continue to be utilised. For those projects with estimated fees over the EU threshold that can be facilitated within the £400k cap per annum per contractor, the Framework will be used.

Summary of the business case/justification for the procurement

21. The volume of work being undertaken by the Regeneration and Neighbourhood Department and other departments is significant and will be for a number of years. Some of the planned future programmes include;
- Local Services Delivery Project to 19 Spa Road, Walworth Town Hall, Peckham Town Hall etc.
 - Primary School Capital Programme
 - Major projects.
22. The Council does not have adequate in-house capacity to deliver the necessary architectural roles for these works. The total contract value of several individual projects will be over the OJEU threshold so would require the EU tendering rules to be used. To undertake an EU tendering exercise on a regular basis will be time consuming and could delay key delivery dates on projects. Procuring this Framework Agreement will shorten any procurement exercises requiring the services of architects in the four years following the letting of this agreement.
23. The Framework Agreement will provide medium-term partnership with all the design consultants appointed. The existing arrangement provides additional resources and / or expertise when needed and is more beneficial in terms of providing a consistent and high quality service which can be readily implemented as client programmes demand.

Identified risks and how they will be managed

24. The table below identifies a number of risks associated with this procurement the likelihood of occurrence and control in place to mitigate the risks.

Risk No.	Risk Identification	Likelihood	Risk Control
1	Gateway 1 approval delayed	3	Contingency plan for resubmitting report
2	Procurement process becomes delayed	5	Timetable needs to be realistic and able to accommodate changes, continuous review of the procurement process to

			ascertain whether on course for start date.
3	Deadline for advertising contract delayed	3	Re-assess and re-evaluate position, link into Risk Control 2 above
4	Challenges to outcome of procurement	3	Adhere to EU Regulations. Seek legal advice throughout procurement.
5	Award date delayed	3	- End users to either select from the approved list or place an OJEU advert. - Linked to risk 4 above.

Key-

1 = Extremely Unlikely to occur

10= Extremely likely to occur

KEY ISSUES FOR CONSIDERATION

Policy implications

25. There are no specific implications associated with this contract.
26. Procurement project plan. (See Appendix 1)

TUPE implications

27. The incumbent consultants have confirmed that TUPE would not apply should they not be successful in the tendering exercise.

Development of the tender documentation

28. The procurement will be led by a member of the Environment and Housing's Procurement Team with a contract panel comprising:
 - Representatives from Legal contracts section
 - Representatives from Regeneration and Neighbourhoods
29. The specification and contract documentation will be developed with the involvement of all key stakeholders and end users.
30. The specification of the Framework Agreement will be based on:
 - GC/Works/5 General Conditions for the appointment of consultants Framework Agreement
 - Consultation with the user group mentioned in paragraph 26
 - Lessons learned from existing Framework Agreement.

Advertising the contract

31. The Framework Agreement will be advertised in the notices that will be issued by OJEU, the local press and the relevant trade publication. The incumbent consultants will be made aware of the advert.

Evaluations

32. This procurement will follow the EU restricted procedure. In response to the framework notices, consultants interested in tendering will be required to formally express an interest in order to receive a Pre-Qualification Questionnaire (PQQ). The PQQs returned will be evaluated by both the contract panel and the Approved List Team.
33. The short listing process is an evaluation of each applicant's economic and financial standing, technical knowledge, experience, ability to deliver quality architectural services (with expertise in such areas as described in paragraph 10) and capacity to do the work. A quality threshold will be set by the contract panel, tenderers would be ranked and only the top scoring (or equal) twenty-four firms that meet or exceed the quality threshold would be invited to tender. The full details of the selection criteria and pass mark will be made known to all those that express an interest.
34. Overall Assessment of PQQ Short listing Criteria (see Appendix 2)
35. For the tender evaluation process price evaluation will be undertaken by members of the Contract Panel in conjunction with Regeneration and Neighbourhood finance team. Method statements will be used to determine quality. As part of the method statements tenderers will also be required to answer a model question on Project Execution to demonstrate what they have to offer in terms of service delivery, processes and procedures for quality control, managing works which falls outside of working hours etc. Answers to each question on the method statement will have a point range of 0-5 with weightings to be determined by the contract panel. Necessary clarifications will be carried out with legal and corporate procurement. In keeping with the EU procurement guidelines, the scoring matrix will be included in the tender document.
36. The award criteria will follow the Most Economically Advantageous Tender (MEAT) protocol. The assessment of the tenders will be based on quality (50%) and price (50%). The overall score for evaluation will be calculated by adding the scores for price and quality together. The highest score will be ranked highest.
37. Where there are joint scores for the eighth place the award will be based on the highest score achieved on price. This will be declared in the contract document.

Community Impact Statement

38. The use of this framework will enable client programmes and budgets to be met in the event that the in-house resources are insufficient thus benefiting the community.
39. Five out of the six current suppliers are local and have the capacity to apply for this work.

40. The consultants would be expected to be members of an accredited apprenticeship scheme that provides vocational trainings and job opportunities to residents; and also work with the Council in the operation of their Local Labour Scheme to support the training and employment of residents by providing early and regular information on job vacancies to the Local Labour Scheme so that local people can be considered for posts.
41. The Framework Agreement is open to use by all departments within the Council. Access details will follow in the award report.

Other implications or issues

42. The proposed contract will be based on the GC/Works/5 General Conditions for the Appointment of Consultants: Framework Agreement (1999). This form of contract identified and allocates responsibilities to the Employer's Representative who will act on behalf of the Employer in dealing with any matter concerning the Consultant's Appointment generally. The Employer's Representative will be the Environment and Housing Procurement Team.
43. The contract also identifies the role of the "client", named in each individual order (call-offs), who will act on behalf of the Employer in issuing instructions to the Consultants or in dealing with any other matter concerning the order. The identified client in each case will be the business manager requesting the service under the Framework Agreement.
44. In order to ensure that the roles and responsibilities of the Employer's Representative and Client are clearly understood by all parties, a protocol will be prepared and agreed by the prospective users of the Framework Agreement prior to the contract award.
45. Housing Investment will not be utilising the services of this framework category. The type of work being undertaking does not require the services of an architect. Moreover, housing investment will be moving to a partnering form of contract in which the contractors will be responsible for the redesign element.
46. Housing Investment would not be able to call-off from this framework should there be a need in future for the services of an architect as leaseholders consultation would be required which cannot be carried out retrospectively, the provision of this service would have to be tendered separately.

Sustainability considerations

47. Consultants will be required to demonstrate their understanding of sustainable design, challenges and opportunities specific to sustainability.
48. Consultants will ensure that specifications prepared for works specifically exclude the use of materials accepted as being deleterious at the time and subsequently ensure that such materials are not used in connection with the works.
49. Consultants will be asked to provide a method statement on the use of vehicles with low emissions, planning of journeys and the use of alternative travel methods, e.g. bus, tube etc, around the Borough during the contract period.

50. As part of the tendering process all bidders will be given a copy of the Council's current Environment Policy, to which they must adhere.

Resource implications

Staffing Implications

51. The Framework Agreement is to complement in-house resources; there will be no staffing implications.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance (KM122009)

52. This report seeks the Executive's approval to the procurement strategy for architect and lead consultants. As the value of the services to be provided exceeds £4 million, the approval of this procurement strategy is reserved to the Executive, as it is considered a Strategic procurement.
53. The nature of these services is such that any appointment in excess of £140,000 will be subject to the full application of the EU procurement Regulations. As the Council anticipates use of architects and lead consultants within the next four years, it is more efficient (both in terms of cost and process) for the council to procure a framework arrangement for providing these services, with a number of providers. Provided that the framework consultants are appointed in accordance with an EU compliant process, future call-offs from the framework will not be subject to the OJEU process, provided work is given to those consultants in accordance with the procured terms of use. The EU regulations do not permit framework arrangements to be let in excess of four years, unless there are exceptional reasons. There are no exceptional reasons relating to this procurement, and therefore the Strategic Director of Communities, Law & Governance advises that the contract period be limited to four years.'

Finance Director (PB122009)

54. The estimated annual cost for this Framework Agreement is £3.2 million per annum for a period of four years, taking the estimated total agreement cost to £12.8 million. No commitment is given through the agreement for any minimum or maximum level of Council expenditure.
55. This agreement is the continuation of a similar Framework Agreement that was awarded in 2006 from which contracts are awarded depending on business requirements. The maximum amount of work that can be contracted from any one of the identified consultants, the fee threshold, will £400K per annum per consultancy. This is an increase from the previous agreement threshold of £100K per annum per consultancy, in order to take account of expenditure requirements for Regeneration & Neighbourhoods projects. Any projects requiring annual expenditure in excess of the £400K fee threshold would need to be awarded outside of this agreement and in accordance with EU procurement rules. As outlined in this report, the agreement does not require any additional funding and should business units require work to be completed from within the agreement, then funding will need to be found from within the existing budgetary resources of each service for the full period of work.

Corporate Procurement (JM122009)

56. With an advised value of £12.8m, this procurement meets the criteria of a Part A EU services strategic protocol requiring that all reasonable steps are taken to obtain at least five tenders following a publicly advertised competitive tender. This report confirms the intention to comply with both CSOs and EU procurement legislation.
57. The report advises the service delivery options that have been considered and the reasons for the recommendation for the Council to once again seek to put its own framework in place. It is also noted that the service review has resulted in the raising of the annual fee value from £100k to £400k for the reasons stated.
58. It is intended that a total of eight organisations will be awarded contracts under the framework. Award will be based on MEAT (most economically advantageous tender) using the EU restricted procedure and applying a quality/price ration of 50:50. The report confirms that the evaluation panel will agree a minimum quality threshold and all applicants will be advised of the evaluation methodology to be used accordingly.
59. The assigned resources would appear to support the proposed project timetable to ensure that the new framework is in place before the current arrangement expires.

Regeneration and Neighbourhoods (JN122009)

60. As this is the renewal of a historical SBDS architect and lead consultant framework agreement, the related costs will only be incurred by business units and departments if and when they place an official order under the framework agreement. There are therefore no immediate financial implications.

KEY POINT SUMMARY

- This procurement will follow a general protocol.
- This contract is for services and is replacing an existing provision.
- EU Regulations will be followed during the procurement of this framework agreement.
- Restricted procurement route will be used for this framework agreement.

APPENDICES

No	Title
1	Procurement Project Plan
2	Overall Assessment of PQQ Short listing Criteria
3	Architect and Lead Consultant Framework Contract - Contract Management & Operational Procedures

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing		
Report Author	Mike Green, Head of Environment and Housing Procurement		
Version	Final		
Dated	9 February 2010		
Key Decision?	Yes	If yes, date appeared on forward plan	October 2009
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Communities Law & Governance.	Yes	Yes	
Finance Director	Yes	Yes	
Corporate Procurement	Yes	Yes	
Strategic Director of Regeneration and Neighbourhoods	Yes	Yes	
Executive Member	Yes	No	
Date final report sent to Constitutional Support Officer			1 February 2010

**Gateway 1 - Procurement Strategy Approval
Architect and Lead Consultant Framework Agreement**

Appendix 1

Procurement Project Plan

Activity	Complete by:
Gateway 1: Procurement strategy for approval report (this report)	
DCRB Approval	Sept 2009
CCRB Approval	Nov. 2009
Executive Approval	Feb. 2010
Call-in period (8 days)	Feb. 2010
Completion of tender documentation	11 Dec. 2009
Advertise the contract	25 Feb. 2010
Closing date for expressions of interest	2 April 2010
Completion of short-listing of applicants	2 June 2010
Invitation to tenders	9 June 2010
Closing date for return of tenders	23 July 2010
Tender Opening (Tooley Street)	27 July 2010
Completion of evaluation of tenders	13 Sept 2010
Completion of any post-tender clarification meetings	8 Sept. 2010
Gateway 2: Contract award for approval report	
DCRB Review	21 Sept. 2010
CCRB / CMT Review	30 Sept. 2010
Executive Approval	Oct. 2010
Call-in period (10 days)	Oct. 2010
Alcatel Period	2 Nov – 12 Nov. 2010
Contract award	19 Nov. 2010
Contract start	1 Dec. 2010
Contract completion date	30 Nov. 2014

**Gateway 1 - Procurement Strategy Approval
Architect and Lead Consultant Framework Agreement**

Appendix 2

Overall Assessment of PQQ Short listing Criteria

Criteria	Score Breakdown	Max Available Points	Min Pass Threshold
Preliminary Financial Evaluation	PQQ SECTION B		Pass/Fail
	Financial Evaluation		
	Suitable Levels of Insurance		
Technical ability to Demonstrate Capability and Capacity to Deliver the Service	PQQ SECTION C	70	40
	Administrative Capability (20)		
	I.T. Capability (5)		
	Customer Services Capability (5)		
	Experience of Similar Contracts in other Local Authorities (40)		
Quality Assurance	Management of contractors (30)	30	20
Health & Safety	PQQ Section D		Pass/Fail
Equalities	PQQ Section F		Pass/Fail
Short listing Questions		100	70
TOTAL		200	130

Gateway 1 - Procurement Strategy Approval Architect and Lead Consultant Framework Agreement

Appendix 3

Architect and Lead Consultant framework contract – contract management and operational procedures

Introduction

The successful companies for the architect and lead consultant framework contract will be ranked according to the prices they submitted during the tendering process with the cheapest consultancy being ranked the highest.

During tendering it was stated that there would be set criteria used when choosing the architect for any particular project. This paper describes the operational procedure and details how and when the criteria should be used.

Placing an order

All orders will be placed via the Environment and Housing procurement team. Architects will be instructed not to accept any work (that is being ordered (as part of this framework) unless members of that team have placed the order. This procurement structure arrangement via Environment and Housing procurement will stay in place until such time as any council wide changes are made.

Exemptions

Each time work is allocated to an architect, the E & H procurement team will apply the criteria unless appropriate justification is provided by the client.

APPROPRIATE JUSTIFICATION

Situations may arise where there is adequate and appropriate justification not to follow the criteria set out in this document. Specific issues may arise that would suggest that one practice would be more suited to a particular project than another architect. This may relate to knowledge of a particular project where a contractor has previous experience from working on the project before. In such cases a request should be made to the E & H procurement team and subject to financial situation and resources available an order may be placed direct with a preferred architect regardless of the price.

Allocation of work

The allocation of work will occur once the necessary set criteria has been applied. The criteria should be applied in stages.

STAGE 1 - HIGHEST RANKED CONTRACTOR

To ensure value for money is achieved, given that all architectural practices have demonstrated the ability to deliver the services covered by the framework agreement category, the highest ranked contractor (lowest price available) will always be considered for the allocation of work in the first instance.

STAGE 2 - ANNUAL FINANCIAL CAPACITY

A review of the annual financial capacity will take place. The value of the order should be added to the annual spend to date with that architect. If the combined value falls within the annual financial limitation then Stage 2 can be completed satisfactorily and Stage 3 applied. If however there is not enough financial capacity left for the current year then the criteria should be applied to the next highest-ranking architect.

STAGE 3 – PERFORMANCE

A review of performance on current and completed work assignments will be carried out. All contractors receiving work through the framework arrangement will have their performance monitored. The Environment and Housing procurement team will gather regular feedback from clients and instances of poor performance will be investigated. Provided there are no issues with performance then stage 3 can be completed satisfactorily and stage 4 applied.

STAGE 4 – RESOURCE AVAILABILITY

The architect will be contacted to ascertain whether relevant resources are available for the work assignment. If resources are available then the order will be placed. If, however, the necessary resources are not available then the criteria should be applied (starting with Stage 2) to the next highest-ranking contractor.

Once the architect has been identified for allocation of work and the price agreed (if this is only an estimate then the department will wish to ensure that there are appropriate gateways in place to restrict unauthorised spend) a purchase order should be placed on SAP. This order will reflect the account to which the order relates and sufficient budget should be available against which payment will be made. The purchase order must be accessible both by the client department and by the team who will monitor spend and authorise payment.

Monitoring

The Environment and Housing procurement team will ensure that all information required to apply the criteria detailed above is up to date and readily available. This will include tracking the annual spend with each consultancy and gathering performance monitoring information.

Annual checks will be carried out on all consultancies appearing on the framework category list. This will include financial checks, insurance etc.

Payments

All invoices relating to the work ordered through the framework agreements should be sent to the Environment and Housing procurement section. On receipt of invoice the relevant client department will be asked to verify the payment and confirmation that payment should be made.

Performance

The client department will be responsible for monitoring and managing the contractors' work. The Environment and Housing Procurement team will gather performance monitoring information from departments. It is vital that departments complete the necessary monitoring forms as this will be the only mechanism used to assess performance.

OPERATIONAL FLOWCHART

