

REPORT TO: CABINET

DATE: 25 MARCH 2021

TITLE: FRAMEWORK AGREEMENT FOR LEGAL SERVICES IN SUPPORT OF SPECIAL PROJECTS

PORTFOLIO HOLDER: COUNCILLOR NANCY WATSON, PORTFOLIO HOLDER FOR GOVERNANCE EQUALITY AND DIVERSITY

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This is a Key Decision
It is on the Forward Plan as Decision Number I00721
Call-in procedures may apply
This decision will affect all Wards.

RECOMMENDED that:

- A** A Framework Agreement is entered into with Legal Advisors 1-5.
- B** Officers provide processes to support ease of access to the framework and implement processes to report on use and value.

REASON FOR DECISION

- A** To secure continued support to the Council and its framework partners and provide access to timely and accurate specialist legal advice for major projects or those projects or requirements that are high profile, high risk or of strategic importance.
- B** To drive efficiencies and encourage best practice across the five local authority framework users.

BACKGROUND

1. In 2015 the Council entered into a four year framework agreement with four full service law firms. This framework supported the Council when delivering strategic projects including the creation of the HTS Group, regeneration projects, corporate arrangements around the Council exiting Kier Harlow, and supporting

Officers when implementing bespoke contracts and processes in support of business case award to HTS (Property and Environment) Limited.

2. Officers utilised the value add offering during the life time of the framework, resulting in excess of 20 free to attend training sessions/conference sessions over a four year period including Brexit, contract management, commercial property litigation, and regeneration schemes. This training was attended by over 14 different local authority partners, and HTS colleagues. In addition a full legal risk management process was implemented to assist with the HTS transition at no charge, and officers have enjoyed short term secondment placements with private practice lawyers when engaged in project work.
3. In 2020 Officers reviewed the requirements from the (now expired) 2015 framework, and revisited lessons learnt from the 2015 arrangements. On discussing the procurement plans, four other authorities Tendring, Brentwood, Chelmsford and Maldon registered an interest in being able to access the framework. To meet requirements and facilitate choice a four year framework of five full service law firms was sought.
4. Taking into account the five framework users, and the planned implementation of mandatory social value requirements for above threshold procurement processes from January 2021, a brief was drafted for advertising to the market, and a quality/price threshold of 80/20 was applied. Officers utilised the open procedure with a two stage process for bidder selection.
5. The brief given to bidders was wide ranging, and for Harlow included Public Health England plans, the Enterprise Zone, and covered social housing needs, commercial portfolio demands, long leaseholder requirements and commitment to art, cultural and leisure activity. Links to the corporate plans for all five partner authorities were provided to the bidders. Overall framework objectives included access to high quality legal advice and support by all framework partner internal legal teams in relation to corporate objectives and unforeseen events, to the extent that this may be required.
6. The quality submission called on bidders to demonstrate depth and range in skills. Quality question 1 required the demonstration of collaborative working, seeking detail and assurance in respect of value for money and service improvement when supporting the delivery of strategic projects and high level procurement. This question had a quality floor score applied, whereby if a bidder failed to meet a minimum score, they were automatically disqualified from the process.
7. Ten percent weighting was applied to additional services and value, reflecting the importance that the framework partners placed on social value and commercial value drivers.

ISSUES/PROPOSALS

The Process

8. Following publication of a two stage process the Council noted 24 expressions of interest. Throughout the process Officers responded to in excess of 30 questions from the market, and reviewed and tailored contract terms (applying equal treatment) following feedback. Twelve compliant bids were submitted via the electronic tender portal.

Quality Stage 1

9. Resource was allocated to undertake comprehensive due diligence. This included consideration of the bidders' representations around the payment of the living wage, support of apprentices, accreditations held, and review of any mandatory or discretionary grounds for exclusion (e.g. human trafficking, policy and modern slavery act requirements and breach of labour laws).
10. In parallel to the due diligence, Officers scored the technical and professional ability of the bidders, requiring examples of three engagements where bidders had previously acted for local authorities when delivering urban regeneration projects, addressing construction disputes or housing development schemes.
11. Following careful consideration two bidders did not proceed beyond stage one of the process.

Quality Stage 2

12. The panel applied the published evaluation criteria to the bids against a completed tender response document submitted by each bidder. Question one of the quality bid had a quality floor imposed, requiring bidders to achieve a score of four or more to proceed (scoring 0-5). Following careful consideration against the criteria, and moderation of the scores, three bidders failed to meet the quality threshold set.
13. Continuing with stage two, the remaining seven quality submissions were reviewed by the panel, with a view to appointing the top five scoring to the framework. Quality submissions were tested on matters including the mitigation of contract disputes and the re-gearing of contracts, the delivery of regeneration projects, planning support, procurement process support, anti-social behaviour and fly tipping enforcement, together with pervasive matters such as business continuity, Covid and Brexit impact, GDPR principals, equalities duties, client care and transparency around billing and fee notes.

Quality Evaluation Review

14. During review and moderation meetings, panel members noted strengths in the bids included depth in the multi-disciplinary teams and the scale of experience available from Local Authority Trading Company support, complex planning processes, residential long leaseholders to large scale urban regeneration

projects and a real desire to work collaboratively with local authority project teams. The responses gave confidence to the panel that technical specialist legal support could be accessed easily and the appointed providers were fully cognisant of external pressures, including funding, public law, equalities duties, Brexit and post Covid recovery.

15. As referred to in paragraph 7 above, the panel noted and welcomed a wider range of offers in respect of value add and social value. Bidders expressly noted the requirement to record and quantify savings and social value.

16. Examples of free to use or significantly reduced price offerings:

a) Framework Users

- i) Mentoring, Law Training, Director Duties/Corporate Governance training
- ii) Secondments
- iii) Corporate Equalities training

b) Community Wide initiatives

- i) Work placements
- ii) Apprenticeship support
- iii) Annual workshops for School Leavers (CV's etc), training and support with public speaking and "career stories Q&A"
- iv) Legal support programmes exclusively for business start-ups (e.g. idea protection, business start-up assistance))
- v) Support (financial or volunteer days) for local charities

c) Other

- i) Value add pricing in respect of planning agreements.

Quality Scores

17. The quality score was calculated by allocating 100 points to the highest scoring quality bid. The remaining bids were then allocated scores expressed as an inverse proportion of the highest score multiplied by 100. Those scores were then multiplied by the 80 percent weighting and added to the matrix.

Pricing Evaluation

18. Pricing was evaluated using a prescribed basket of works of hours spent from Partner, through senior and more junior solicitors to hourly rates for paralegals.

Discounts were encouraged for spend over the four year period. The price score was calculated by allocating 100 points to the lowest priced basket of works. The remaining bids were then allocated scores expressed as an inverse proportion of the highest score multiplied by 100. Those scores were then multiplied by the 20 percent weighting and added to the matrix. The same basket of works was market tested as that in 2015. In 2015 the lowest price submitted was £54,400, and the lowest price for 2020 is £39,250. The same quality weighting of 80 percent was applied to both processes.

Final Scores

| | Quality Score / 500 points | Weighted Quality Score/8000 points | Basket of Works | Adjusted Price Score | Total Weighted Score/10000 points | Ranking |
|------------------------|----------------------------|------------------------------------|-----------------|----------------------|-----------------------------------|----------|
| Not appointed | 413 | 6640 | £77,000.00 | 51 | 7660 | - |
| Legal Advisor 1 | 470 | 7600 | £39,250.00 | 100 | 9600 | 1 |
| Legal Advisor 2 | 495 | 8000 | £72,450.00 | 54 | 9080 | 2 |
| Legal Advisor 5 | 366 | 5920 | £44,425.00 | 88 | 7680 | 5 |
| Not appointed | 404 | 6560 | £108,955.00 | 36 | 7280 | - |
| Legal Advisor 4 | 434 | 7040 | £81,200.00 | 48 | 8000 | 4 |
| Legal Advisor 3 | 465 | 7520 | £63,262.00 | 62 | 8760 | 3 |

Implementation

19. Should Cabinet agree the recommendations above, Officers will prepare and release a brief and information to internal Harlow Officers, and wider framework partners to assist with accessing the framework, by way of direct award for works, or using mini competition processes to drive further value. Each legal advisor has provided a comprehensive written portfolio detailing services, skills and relevant experience to assist partner authorities when considering utilising the framework for direct award.
20. Use, pricing and furnishing of social value additions will be monitored by the Harlow legal services team and reported to Head of Governance and framework partners on not less than a quarterly basis.
21. Whilst the Framework Agreement will be in place for a maximum period of four years, Services called-off under the Framework Agreement may, where appropriate, continue beyond the four year term. During this period the Harlow and its partner authorities will retain the ability to procure similar services from

outside the Framework Agreement and/or with Legal Advisors who may not be party to the Framework Agreement.

22. All Services called-off under this Framework Agreement shall be awarded in compliance with the Council's Contracts Standing Orders.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

This framework is welcomed since it will enable legal advice to be secured quickly, without causing delay to developments, whilst still ensuring value for money for the Council.

Author: Andrew Bramidge, Head of Environment and Planning

Finance (Includes ICT, and Property and Facilities)

The procurement process as outlined within the report demonstrates that financial considerations have been included within the evaluation process and underpin the recommendations as set out within the report. Call off from the contract will be at the requirements of services and within the approved budget at the time.

Author: Simon Freeman, Head of Finance and Property and Deputy to the Chief Executive

Housing

The need for effective, responsive and value for money specialist legal services are essential for support and delivery of the Housing Services. A transition arrangement needs to be established to ensure a "seamless" transfer of support.

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

Timely and up to date legal advice is required for many regeneration and other council initiatives and projects. This framework will ensure legal advice and other benefits are received in an effective and efficient manner.

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

The Council by complying with the procurement requirements throughout any procurement process will significantly reduce the risk of legal challenges. The ability to call-off services by direct award or mini competition via this Framework Agreement will reduce the time engaged in appointing specialist legal support and assist in ensuring value for money whilst complying with Contract Standing Orders.

Author: Simon Hill, Head of Governance

Appendices

None.

Background papers

None.

Glossary of terms/abbreviations used

None.