

Taunton Deane Borough Council

Executive – 16 November 2011

Proposal for exemption to Contract Standing Order 13 for the procurement of development, construction and related services from the partner panel set up by the Homes and Community Agency

Report of Strategic Director (Joy Wishlade)

(This matter is the responsibility of Executive Councillor Norman Cavill)

1. BACKGROUND

- 1.1 In 2005 Full Council endorsement was given to the use of the South West Regional Development Agency's (SWERDA) consultant's list by Project Taunton for the reasons given below in Section 3. This agreement ran for a 3 year period when a further report was brought to Full Council in December 2009 for a further period to run up until 2012. SWERDA will cease to exist in March 2012. However the Homes and Communities Agency (HCA) has a similar list of contractors who have been through the European Procurement process and are available for Local Authorities to use. This report requests permission to do so.
- 1.2 Given the size of the contracts handled by Project Taunton some of the commissions issued are in excess of TDBC Standing Orders threshold 2 (when full tender procedures apply) and threshold 3 (when EU procurement rules apply).
- 1.3 It was proposed and agreed by Full Council that the consultants were drawn from the framework agreements already held by SWRDA and that this be considered as being compliant with Contract Standing Orders. The same request is now made of the HCA Partner Panel for a period of 3 years from the time of this decision until December 2014. The HCA Partner Panel has been procured to act as a "one stop shop" to enable procurement of development management services, physical development and constructions and is available for use by Local Authorities.

2. CONTRACT STANDING ORDERS

- 2.3 Ordinarily, all contracts that fall under paragraph 13 (c) and (d) in the Contract Standing Orders must comply with the process laid down. However for contracts under 13 c there is an exemption at paragraph 14 (e) which reads as follows:-

"14 (e) the contract to be entered into is to be dealt with in a prescribed manner under agency arrangements entered into by the Council with another authority"

Unfortunately this exemption does not cover 13 (d) the Committee are therefore requested to recommend to the Executive for this exemption to be extended to cover 13 (d) as the HCA will already have carried out this stage.

3. ADVANTAGES

- 3.1.1 The request to use this exemption has been made because of the advantages that this will bring.
- 3.2 The HCA has already complied with EU Regulations and therefore we do not have to consider an OJEU notice at any time thus saving the necessary officer and lead-time to advertise plus associated costs in tendering. It will also allow us to commission work during this project as and when it is required without repeating this exercise. We can therefore demonstrate that the procurement has gone through a suitable process for both Standing Orders under 13 and European law. Usual timescales to procure works through an OJEU process are between 6 – 12 months,
- 3.3 HCA's framework agreement is for 3 years (2010 – 2013 with an option to extend by a year. The rates tendered through the HCA selection process represent the maximum rates that businesses on the panel can apply. This will provide known maximum costs for budgeting purposes and will protect the partnership from inflationary pressures in later years. Clearly any final tender process will potentially drive costs down from the maximum.
- 3.4 The HCA Panel has been procured through a two stage fully OJEU compliant process. Following publication of the OJEU notice, initial Pre Qualification Questionnaires (PQQs) were received and marked to establish the capabilities of prospective delivery partners. Shortlisted firms were then invited to tender for the second stage when a case study and detailed questions related to Schedule of Services were asked.
- 3.5 The attraction of entering into a framework agreement for 3 years should have given businesses maximum incentive to offer suitable rates for their engagement given that this is a larger and longer opportunity.
- 3.6 In deciding to proceed with an exception by use of an agency with other authorities we are obliged to consider the achievement of best value in our procurement. The advantages are as listed above. A large number of organisations in the public sector have taken advantage of similar arrangements.

4. DISADVANTAGES

- 4.1 The only possible disadvantage would be that we could be seen to be limiting our external consultancy to those on the framework. However, this agreement does not limit the Council to the framework agreement. We can choose to go through the full procurement process ourselves and we can use the South West One procurement as outlined in Para 5.

5. SOUTH WEST ONE PROCUREMENT PROCEDURES

- 5.1 South West One set up new procurement procedures in 2009. The requirements of Project Taunton were discussed with them and they were supportive of Project Taunton continuing to use the SWRDA framework contracts and added these to the relevant category plans so that the South West One procurement routes could be utilised. South West One have been informed of this as a similar approach. Consultants outside the HCA framework will also be on these category plans so Project Taunton will be able to use these if, for any reason, the HCA list is not satisfactory.

6. RECOMMENDATION

The Executive is requested to recommend to Full Council the approval of the exemption to Standing Orders as described above and to approve the use of the HCA framework as outlined above under exemption 14 (e), this exemption to cover the 3 year period (2011 - 2014).

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