

ITEM No ...10.....

REPORT TO: CITY GOVERNANCE COMMITTEE – 25 SEPTEMBER 2023
REPORT ON: SITE INVESTIGATION AND CONTAMINATED LAND FRAMEWORK
REPORT BY: EXECUTIVE DIRECTOR OF CITY DEVELOPMENT
REPORT NO: 249-2023

1 PURPOSE OF REPORT

1.1 The purpose of this report is to provide an update on the development of a sourcing strategy for the tender process for the carrying out of site investigations and contaminated land remediation and to seek approval to commence a compliant tender process.

2 RECOMMENDATION

2.1 It is recommended that the Committee:

- a approves the commencing of a procurement exercise in respect of the project described, based on the sourcing strategy, summarised in this report; and
- b notes that any contract awards to be made from this framework, that are not covered by delegation provided to officers within Council Standing Orders and Financial Regulations will be brought back to members for consideration in due course.

3 FINANCIAL IMPLICATIONS

3.1 There are no direct financial implications associated with this report. From previous experience and market testing carried out, the total cost of the contracts awarded is anticipated to be £800,000. Where required to do so, officers will bring any further requests for approval to award contracts from this framework to elected members in due course.

4 DETAILS OF THE PROJECT BEING COMMISSIONED

4.1 This framework will identify the suitably experienced Contractors who can deliver Site Investigation and Contaminated Land site investigation and testing. In addition, it will reduce the contractual burden by covering all overarching contract terms at the framework level leaving just the work order specifics to be addressed at the call-off stage. Another benefit will be a secured costing matrix for an annual term which will aide in the Council's budgeting needs. It is intended that this framework will be in place for a period of up to 4 years.

4.2 This is a relatively specialized market. However, the Council had a previous framework with a number of companies participating and will aim to widen the pool of operators interested in participating in this new framework through an open notice on Public Contracts Scotland.

4.3 Community Benefits will be a scored element in the award onto the framework. Each supplier who reaches an annual spend threshold of £100k will be required to deliver Awareness Raising or Circular Support Activities or Work Experience Placements for School, Colleges and Universities or Employability Candidates or a Community Project or Wish. Fair working practices will also be scored within the framework, including addressing the living wage and the delivery of works under the framework.

5 SOURCING STRATEGY SUMMARY

5.1 There are no national frameworks that use the construction works contracts for this site testing and investigation work. All existing frameworks are consult based which means the actual work will be subcontracted and the Council would pay more for the services due to the mark up incurred with the middle layer of consultancy. Therefore, the Council will advertise this contract

using the open procedure on Public Contract Scotland. Bidding organisations will be required to meet defined selection criteria before being considered for award to the framework on a competitive basis.

- 5.2 This framework will help facilitate the investigation of potentially contaminated land, allowing for proper identification of areas that require remediation.

6 RISK ANALYSIS

- 6.1 There are four standard risks in any procurement and for public sector regulated procurements, a fifth is added, that of the procurement exercise itself breaching the public contract regulations and leaving the Council open to a legal challenge:

Description of Risk	Actions To Be Taken To Manage Risk
Commercial Risk – that either the price objectives are not achieved up front or there are other costs that arise during the contract and diminish the overall benefits.	Ensure specification is comprehensive and encourage competition through tender.
Technical Risk – this concerns the difficulty in being able to specify the desired outcome and on the market being unable to deliver to the specification.	Specification is well established.
Performance Risk – this concerns the ability of suppliers to perform consistently over the life of the contract to deliver the planned benefits.	Multiple suppliers on framework and active contract management on each commission.
Contractual Risk – being able to remedy the shortcomings in the contractor's performance without severely damaging the contract and about avoiding reliance on the contracted supplier as the contract develops.	Multi-supplier framework allows Council to avoid relying on any one contractor.
Procurement Risk – where a procurement is found unsound in law, through the public procurement rules.	Procurement involved in tender process and legal advice sought.

7 CONCLUSION

- 7.1 This framework contract will create a pool of suppliers who have been assessed in terms of their capability to carry out this work for Dundee City Council. The contractors will also have been assessed on a competitive basis on their quality and pricing model. Individual commissions through the framework will be subject to further assessment through mini-competitions.

8 POLICY IMPLICATIONS

- 8.1 This report has been subject to the Pre-IIA Screening Tool and does not make any recommendations for change to strategy, policy, procedures, services or funding and so has not been subject to an Integrated Impact Assessment. An appropriate Senior Manager has reviewed and agreed with this assessment.

9 CONSULTATIONS

- 9.1 The Council Leadership Team have been consulted in the preparation of this report and are in agreement with its content.

10 BACKGROUND PAPERS

10.1 None.

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