

**REPORT TO: Policy and Resources Committee – 22 June 2009**

**REPORT ON: Construction Procurement Policy**

**REPORT BY: Chief Executive**

**REPORT NO: 356-2009**

## **1.0 PURPOSE OF REPORT**

To seek committee approval for the adoption of the policies and procedures set out within this report for the procurement of construction related works.

## **2.0 RECOMMENDATIONS**

2.1 Committee is asked to note the contents of this report and to:

- endorse the use of the principles of partnership working where appropriate and as established in the Council's published Partnering Guidelines for Construction Contracts;
- agree the principles established for the awarding of contracts for individual projects, major work programmes, responsive, cyclical and planned maintenance including minor works; and
- agree the procedures for monitoring and reporting on performance.

## **3.0 FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report however implementation of this policy will ensure that the council achieves value for money in the procurement of construction related works. Dundee Contract Services and Tayside Contracts generate surpluses on construction works undertaken, which are returned to the Council's General Fund. Rolling 3 year targets are set by the council and have been exceeded for the three year period to March 2009.

## **4.0 MAIN TEXT**

4.1 Construction works can be split up into three main categories:

- Individual projects both above and below the EU procurement thresholds;
- Major works programmes; and
- Responsive, cyclical and planned maintenance, including small works.

4.2 Reference is made to report number 148-2003 to the Policy and Resources Committee of 10 February 2003 when the council's Partnering Guidelines for Construction Contracts were approved. Having adopted the use of these principles for a number of years across a wide variety of construction related works including housing maintenance, road maintenance, street lighting maintenance, major housing refurbishment programmes, new build and property refurbishment projects, the council has demonstrated an overall improvement in value for money (VFM). The key benefits provided through partnership working have been:

- Increased cost certainty;
- Reduction in construction costs;
- Earlier start on site and improved delivery times;
- Efficiencies in procurement process;
- Reduction in numbers of defects;
- Improved performance; and
- Improved customer satisfaction.

4.3 There is strong evidence that the current rapid decline in demand within the construction industry is leading to some contractors 'buying' work to retain short term capacity. Whilst this will result in lower

tender prices in the short term, unsustainably low tenders can lead to a counterproductive claims culture and increased price volatility when the market recovers. It is important that the council continues to act as a 'Best Practice Client' in its procurement policy and to secure contracts based on best value rather than lowest price. To achieve this, the Council should, where appropriate, continue to adopt the principles established within the Council's Partnering Guidelines for Construction Contracts.

#### **4.4 Individual Projects**

##### **4.4.1 Awarding of Works**

The procurement of individual construction related projects, defined in broad terms as any works over £25,000, will generally be undertaken through tender in accordance with the council's tendering procedures. The council supports the adoption of the use of partnering arrangements where appropriate. Where this is to be adopted, reference should be made to the council's Partnering Guidelines for Construction Contracts.

Tendering may be undertaken on the basis of lowest cost however consideration should also be given to the adoption of Quality:Price tendering, particularly where the project is of a complex or specialist nature.

The council maintains its own Select Tender List from which appropriate contractors shall be selected for invitation to tender. In addition, where the value of works are above the threshold level, EU regulations will require to be followed in the advertising and award of such contracts.

There are a variety of special circumstances where competitive tendering may not be considered appropriate. In accordance with the council's Tender Procedures contained within Standing Orders, the Chief Executive's authority should be obtained for any such exceptions. Where competitive tendering is not to be adopted, appropriate measures should be taken to ensure that Value for Money is achieved in any negotiated offer.

##### **4.4.2 Monitoring and Reporting on Performance**

All such contracts to be awarded following competitive tender or negotiation, will be reported to the appropriate committee for approval, or by Chief Officers where delegated powers are given. Where the offer has been negotiated, justification of why it is considered that the offer represents Value for Money should be provided.

The monitoring of performance on such contracts shall be undertaken within the project teams and where appropriate shall be reported to the relevant committee.

#### **4.5 Major Work Programmes**

##### **4.5.1 Awarding of Works**

These major work programmes are generally associated with the delivery of the Scottish Housing Quality Standards and include works such as Heating, Kitchen and Bathroom Replacement, Kitchens, Bathrooms and Shower Replacement, Roof Renewal etc.

In 2001 the Council was allocated funding under the Scottish Executive's Central Heating Initiative which included bringing forward houses from future years. This was approved by the Housing Committee on 20 August 2001, report number 497-2001. Within the report there were proposals to partner with a number of contractors to ensure delivery of the project. This arrangement was extremely successful and forms the basis of the partnering contracts for heating, kitchens, bathrooms and showers which have been part of the SHQS programme since 2005. At the inception, a meeting was held with all contractors likely to be interested in SHQS contracts. At this meeting the scale of the programme to meet the Standard was outlined and the need for Value for Money was emphasised if the Council was to meet the SHQS by 2015. Those contractors who expressed a desire to contribute to this aim were considered for partnering and five contractors were selected.

Contractors have been added and removed from the original list due to changing circumstances and performance. Contractors who are currently engaged in these works are considered to be consistently delivering the projects in accordance with the necessary time, cost and quality

requirements of the Director of Housing. It is recognised and accepted that the contractor base may require to expand or contract in accordance with the workload programme and requirements at the appropriate time. The Council will, however, seek to ensure that its partnering contractors remain engaged to reflect the Council's Partnering Guidelines for Construction Contracts.

It is necessary for the Council to ensure that these works continue to be awarded in a way that ensures competitive and market value rates are achieved and that Value for Money (VfM) can be clearly demonstrated. In order to achieve this, a level of competitive tendering will be maintained in parallel with the partnership awards of the various work elements. This tendering of selected and repetitive elements will be maintained on a regular basis as a form of Market Testing.

In determining the award of partnership contracts, the Council will seek to determine VfM by establishing a series of "unit cost" rates. These "unit cost" rates will be determined from, and measured against, the Market Testing achieved through the regular tendering comparisons, as well as cost returns from partnership awards. Information from final account reconciliations will also be used in determining the "unit cost" rates.

Under Standing Order 3.6 the Council will continue to call upon its in-house contracting department to deliver works where competitive advantage can be demonstrated. Historically this has seen Dundee Contract Services procure work in the order of 30% of the combined Housing and General Services estimates and, in turn, has seen the regular return of surpluses back into the Council. It is intended to maintain this level of work to be awarded to Dundee Contract Services with the opportunity to increase this amount if required to maintain efficiency and to deal with short-term work flow problems.

#### **4.5.2 Monitoring and Reporting on Performance**

At present all projects arising from the Major Work Programmes which are to be awarded are reported to committee for approval. Such reports differentiate between contracts being awarded through competitive tender and those which are negotiated or won in tender as partnership contracts.

This practice should continue however in addition, it is proposed that in future an annual report will be prepared for the appropriate committee. This report will advise on all contracts awarded through either negotiation or through competitive tender and the outcomes achieved. Such reports will reflect on performance achieved in delivering value for money by reviewing actual out-turn costs, quality measures including the achievement of programme and tenant satisfaction levels. Within such reports recommendations will be made on matters such as the future level of market testing, the continuation or removal of approved partnering contractors for the various work programmes and the addition of any new partnering contractors.

#### **4.6 Responsive, Cyclical and Planned Maintenance**

##### **4.6.1 Awarding of Works**

There are four major construction related work streams where the council currently lets construction related responsive, cyclical and planned maintenance works, these are:

- Housing Repairs Partnership Housing - for repairs and maintenance, including cyclical maintenance to housing stock;
- Property Maintenance and Small Works Partnership - for non-housing property repairs and Maintenance and carrying out small projects up to the value of £25,000;
- Street Lighting Maintenance; and
- Roads Maintenance.

Each of these programmes are currently delivered through a long term partnership arrangement with either Dundee Contract Services or Tayside Contracts. The development of these long term partnering arrangements has led to an improvement in the quality and cost of the service delivered. Because each of these organisations are effectively "in-house" contractors, the council further benefits in that the work is either undertaken "at cost" or a financial return is made to the council through the surpluses generated.

## **Housing Repairs and Maintenance**

The Best Value Sub Committee of 12 November 2003 and the Housing Committee of 17 November 2003 approved report number 774-2003 entitled Best Value Option Appraisal on Repairs Service which set out the options and recommended the setting up of a partnership agreement for housing repairs. In evaluating the establishment of the Housing Repairs Partnership 2004-2009 a rigorous option appraisal identified partnership between the Housing and Contract Services Departments as offering Value for Money. There have been demonstrable improvements in measures of cost, time and quality since the introduction of the Partnership Agreement in 2004 and there are favourable comparisons of these measures with both private and public sector providers to other local authorities.

## **Non-Housing Repairs and Maintenance**

The Best Value Sub-Committee of 12 November 2003 approved report number 173-2005 on Non Housing and Maintenance Repairs Service which incorporated the Partnership Agreement with Dundee Contract Services. Implementation of a repairs and works service through the Property Maintenance and Smalls Works Partnership Agreement provides a framework to implement a maintenance and repairs service and placement of orders for works. It aims to deliver the maintenance and works service to the specification, budget, timetable and agreed standards of quality. This contract is currently being reviewed to ensure these aims have been met.

## **Street Lighting Maintenance**

Reference is made to Article 2 of the Best Value Sub-Committee of 13 November 1999 where a Best Value evaluation carried out on the Street Lighting service was reported. The Best Value evaluation considered the options of providing the service through continued competitive tendering or through a partnership agreement with Tayside Contracts. The Best Value review recommended that the service be provided through a partnership agreement with Tayside Contracts and this was agreed by the Sub-Committee.

It was considered that as Tayside Contracts had won every street lighting maintenance service contract in competition over the period of Compulsory Competitive Tendering, a partnership with Tayside Contracts would provide better opportunities to improve the service whilst reducing costs from a known competitive price. Partnership working would allow the integration of staff and processes and procedures thereby reducing duplication of effort and providing opportunities for efficiencies and reduced staff costs for both the Council and Tayside Contracts.

The performance of the street lighting service in terms of outputs and costs has been monitored continuously and is reported to Committee on an annual basis. The service has performed consistently well against its various objectives and its key service performance indicators and the Partnership is considered to be one of the leading authorities in street lighting. The partnership was recently extended by 3 years to 31 March 2012, Article V of the Planning and Transportation Committee of 9 March 2009 refers.

## **Roads Maintenance**

Reference is made to Article IX of the Planning and Transport Committee of 20 June 2005 where the arrangements at that time for the delivery of the road maintenance service were reviewed and Committee agreed to the development of a Partnering Agreement between Dundee City Council and Tayside Contracts.

One of the critical aspects of the overall road maintenance service to be considered is the provision of the Winter Maintenance function. In order for Tayside Contracts to be able to sufficiently resource the Winter Maintenance requirement, it is important that they maintain a sufficient turnover of other road construction related work throughout the remainder of the year. Equally important is the need to be competitive. At that time, Tayside Contracts either won in competition or were awarded approximately 80% of the revenue and capital budget for road maintenance. As in the street lighting service it was considered that a partnership with Tayside Contracts would provide better opportunities to improve the service, whilst reducing costs from a known competitive price. Also, with the success of the Street Lighting Partnership it was considered that by applying a similar approach to the road maintenance service, similar benefits could be realised.

The performance of the roads maintenance service is monitored regularly and is reported to Committee on an annual basis. The service has performed well against its various objectives and its key service performance indicators and the Partnership has aspirations to be considered one of the leading authorities in roads maintenance. The partnership was recently formally extended by 3 years to 31 March 2012, Article VI of the Planning and transport Committee of 9 March 2009 refers.

#### **4.6.2 Monitoring and Reporting on Performance**

Each of the above Partnerships has its own partnership management reporting structure at which performance is regularly reported and reviewed. Each of the partnerships is different in the make up of its management structure and the frequency within which it meets to review performance.

It is proposed that in future an annual report for each of the Partnerships will be submitted to the appropriate Committee which will advise on:

- Operational performance;
- Attainment of Partnership objectives; and
- Benchmarking data to demonstrate ongoing Value for Money.

#### **4.7 Transparency**

**4.7.1** The procurement of all construction related contracts are managed on behalf of client departments via the City Architectural Services Officer or the City Engineer. Both of these departments operate an accredited Quality Management System to ISO:9001 which covers the procurement process. These quality management systems are subject to regular internal and external audit.

**4.7.2** The Council are aware of the Construction Sector Transparency Initiative (CoST) which is currently being piloted within the UK and is partly funded by the UK government. The aims of this scheme are to enhance the accountability of procuring entities by improving transparency. Whilst this scheme was developed to address corruption within the international construction industry, there are potential lessons to be drawn from the pilot in applicability to the domestic scene. The outcome of the UK pilot of this scheme will be monitored for relevance.

**4.7.3** This policy and the outcomes achieved will continue to be monitored on a regular basis, and an annual report submitted to the Policy and Resources committee.

#### **5.0 POLICY IMPLICATIONS**

This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

#### **6.0 CONSULTATIONS**

The Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Head of Finance, Director of Housing, Director of Planning and Transportation, Director of Economic Development, City Architectural Services Officer, City Engineer and Director of Contract Services have been consulted in the preparation of this report.

#### **7.0 BACKGROUND PAPERS**

None

**Chief Executive**

DATE: 10 June 2009