



## CAERPHILLY HOMES TASK GROUP – 17TH OCTOBER 2013

**SUBJECT: WHQS SMALL LOTS CONTRACTS**

**REPORT BY: INTERIM CHIEF EXECUTIVE**

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### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to seek approval for the bidder selection and procurement process in relation to the Welsh Housing Quality Standard (WHQS) Small Lots Contracts.

### **2. LINKS TO STRATEGY**

- 2.1 The implementation of the WHQS Investment Strategy is dependant on a contract structure that maximises the use of the EU Small Lots Exemption.
- 2.2 The Council's Local Housing Strategy "People, Property, and Places" has the following aim:
- "To provide good quality, well managed houses in communities where people want to live, and offer people housing choices which meet their needs and aspirations."

### **3. THE REPORT**

- 3.1 Regulation 8(12) of The Public Contract Regulations 2006 (the Regulations) provides for what is termed the 'Small Lots Exemption'. The Small Lots Exemption allows in certain circumstances for the disaggregation of spend into small contracts up to the value of £869,670 for works so long as the total value of all such contracts does not exceed 20% of the value of the main contract or contracts tendered for the same requirements. The total value of all the internal and external work subject to external tender is £87.6m. Therefore the value of works contracts awarded under the Small Lots Exemption cannot exceed £17.52m.
- 3.2 The WHQS Investment Strategy endorsed by the Task Group and approved by the Cabinet Sub Committee on 12<sup>th</sup> September 2012 incorporated a contract structure that included the use of the Small Lots Exemption to procure a number of smaller packages of works for the WHQS programme. It is thought that through the use of the Small Lots Exemption Small and Medium Enterprises (SMEs) will receive a share of the WHQS investment by the Council. Therefore the Council's delivery of the WHQS will have a wider benefit in the local economy.
- 3.3 External legal advice has been sought regarding the procurement process required in relation to the Small Lots Exemption. It has been determined that the procurement process can be designed as desired, subject to it complying with EU Treaty Principles of fair, non-discriminatory and transparent procurement (the EU Treaty Principles) and the Council's Standing Orders for Contracts.

#### 4. PROCUREMENT STRATEGY

4.1 In accordance with the Council's current policies and procedures regarding the procurement of works contracts, Constructionline will be used as the source of information regarding potential bidders. Moreover all bidders will be required to be registered and active on Constructionline.

#### 4.2 Location Restriction

4.2.1 It is proposed that tendering for the Small Lots Contracts will be restricted to firms who have a branch office and location of work within the Caerphilly County Borough specified in their Constructionline profile. This restriction ensures the benefits of the contract spend are closely targeted to the Caerphilly County Borough.

4.2.2 Testing of the market through Constructionline has shown that there are at least 26 potential bidders with a branch office and location of work in the Caerphilly County Borough, which is sufficient to ensure adequate competition in the Small Lots tender processes. This number could also be increased when qualifying firms register on ConstructionLine following a Supplier Relationship event.

4.2.3 Such a restriction does not conflict with either the Council's Standing Orders for Contracts or the EU Principles. It will be clearly stated at any Supplier Event for Small Lots that such a location restriction is being used and potential bidders can thus arrange their affairs accordingly. Likewise the Council's Standing Orders for Contracts simply require 5 formal written quotations to be obtained.

#### 4.3 Contract Bands

4.3.1 The potential bidders should be placed into one of three bands according to their notational value detailed within Constructionline. Bidders will be able to choose their band to the extent that their notational value must be equal or greater than the lower limit of any band chosen. The proposed value bands are shown in the table below.

<b>Band</b>	<b>Notational Value Range</b>
A	£50,000 - £150,000
B	£150,001 - £250,000
C	£250,001 - £500,000

4.3.2 The bands have been designed around current market conditions and the range of notational values found when running trial reports in Constructionline. The division of the bands as stated will help to increase opportunities for a wide range of firms in the market.

4.3.3 A provisional assessment of the Small Lots Programme 2014/15 to 2018/19 applying these contract bands suggests that over the five year period around 48 contracts may be awarded. This is an increase on the original assessment of 30 contracts when the investment strategy was approved in September 2012. Based on the estimated expenditure in each community area derived from the Savills stock condition survey the breakdown between the bands is as follows:

Band A	8
Band B	12
Band C	28
Total	48

However the estimated expenditure for each community area is subject to change dependant on the outcome of surveys and it will be necessary to maintain flexibility to adjust the contracts accordingly.

#### 4.4 Tendering of Contracts

- 4.4.1 The Small Lots contracts will be tendered based on the estimated contract value determined through site surveys in accordance with the Contract Bands detailed. The small lots exemption allows for a maximum contract value of £869,670, however it is intended that no contract with an estimated value in excess of £500,000 will be let. Instead work will be kept in smaller packages of £500,000 or less in order to better support SMEs participation. However to ensure the selection process is fit for purpose over the life of the WHQS programme provision will be made for contracts in excess of £500,000 up to £869,670 to be let subject to the approval of the WHQS Project Board.
- 4.4.2 All bidders in the respective band will be invited to tender for the contracts with values falling in the Contract Band range, irrespective of firms' actual notational value. While this does create a potential risk that bidders could win contracts above their stated notational value, the actual risk is small. By awarding contracts in this way and accepting a limited amount of risk the Council is offering SMEs the opportunity to grow their business.
- 4.4.3 Should a bidder fail to deliver on a contract, the Council, in the first instance will meet with the bidder to discuss the problems that may be preventing them from fulfilling the contract. However as necessary the Council has the option to withhold payment and or appoint an alternative contractor to perform the work.
- 4.4.4 There is the potential for returned tenders to exceed the maximum contract value of the band range it was let within. This situation could increase the financial risks to the Council. In such circumstances approval by the WHQS Project Board will be required, in addition to the normal approvals required by the Council's Standing Orders For Contracts.
- 4.5 All Small Lots Contracts will be let as 'General Building'. Therefore, as part of the restrictions on potential bidders, in order to be considered for the Small Lots contracts, firms must have the Common Procurement Vocabulary Code (CPV Code) for 'General Building' marked on their Constructionline profile.
- 4.6 Prior to any procurement process taking place a supplier event will be held to inform the market of the contract opportunities available and how they can take part in the tender processes. All those firms registered on the Plaza system that have a location of work or branch office in Caerphilly will be invited to the supplier event.

#### **5. PROCUREMENT PROCESS**

- 5.1 On an annual basis starting in Autumn 2013 an advert will be placed in the local media and on the Council's website giving details of the intended Pre-Qualification Questionnaire (PQQ) Process and a supplier event will also be held. The market will be advised of how the Council will put together a list of firms to be invited to take part in the PQQ Process.
- 5.2 Constructionline will be used to produce a list of potential bidders who meet the location and CPV Code restriction and fall within the notation value bands shown above.
- 5.3 All of the firms contained with the list produced will then be offered the opportunity to take part in a PQQ process. Included in the PQQ process will be a set of robust quality questions.
- 5.4 As part of the PQQ firms will be given information about the Contract Band they will be placed in and offered the opportunity to select an alternative Contract Band subject to their Constructionline notational value being sufficient.
- 5.5 The completed PQQs will then be evaluated and all the responses to the quality questions given scores. Firms will be expected to achieve a minimum score to pass the PQQ process. Those firms passing the PQQ process will then be put into lists according to their allocated band.

- 5.6 The Contract Band lists will be put in place for one financial year starting in the April following the completion of the PQQ process. Every twelve months in the autumn the PQQ process will be re-run and new Contract Band lists drawn up for the following financial year. This annual re-run of the PQQ process is intended to ensure changes in the market are reflected in the Contract Band lists.
- 5.7 Within each financial year the Small Lots Contracts Invitation To Tender documents issued will be sent to all firms contained on the Contract Band list relevant to the proposed contract value being tendered. Tenders will be evaluated according to price only and a post completion quality assessment will be carried out. A contractor who is successfully awarded work will not be invited to tender for a further Small Lot until the first package of work has been completed.
- 5.8 Any firms failing the post completion quality assessment will be referred to the WHQS Project Board to agree the removal of the firm from the Contract Band list for the remainder of the financial year. However, firms will have the opportunity to reapply to the Contract Band list during the next PQQ process.
- 5.9 Relevant Health and Safety and Insurance checks will be carried out on potential contractors during the PQQ process outlined above.
- 5.10 During the period of validity of the Contract Band lists where necessary updated insurance documents will be requested from the relevant firms.

## **6. EQUALITIES IMPLICATIONS**

- 6.1 An EqIA screening has been completed in accordance with the Council's Equalities Consultation and Monitoring Guidance and no potential for unlawful discrimination and for low level or minor negative impact have been identified, therefore a full EqIA has not been carried out.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 It has been determined that part of the WHQS investment programme will be implemented via the small lots and the necessary funding is incorporated within the business plan.
- 7.2 All financial considerations related to the contracts for small packages of work will be dealt with during the relevant procurement process.

## **8. PERSONNEL IMPLICATIONS**

- 8.1 There are no personnel implications for this proposal.

## **9. CONSULTATION**

- 9.1 An officer working group has met on a number of occasions to develop the proposals in the report.

## **10. RECOMMENDATIONS**

- 10.1 The procurement process for the Small Lots to support the WHQS Investment Programme outlined in the report is endorsed by the Task Group and recommended to the Cabinet Sub Committee for approval.

- 10.2 The Cabinet Sub Committee authorise the WHQS Project Board to make necessary adjustments to the number of contract works packages within the respective value bands in light of survey information and to approve contracts in excess of £500,000 up to the overall Small Lots maximum cap of £869,870 where this is a practical necessity to maintain progress and ensure effective contract management.
- 10.3 The Cabinet Sub Committee authorise the WHQS Project Board to remove firms from the Contract Band list who fail the post completion quality assessment.

## **11. REASONS FOR RECOMMENDATION**

- 11.1 To agree proposals for taking forward the Small Lots contract with the Investment Strategy to achieve the WHQS by 2019/20

## **12. STATUTORY POWER**

- 12.1 Housing Acts 1985, 1996 and 2004  
Public Contract Regulations 2006  
This is a Cabinet Sub Committee function

Author: Nick Abbott – Procurement Officer, Procurement Services  
(01443 864702) – E.mail: abbotn@caerphilly.gov.uk)

Consultees: Elizabeth Lucas, Head of Procurement  
Phil Davy, Head of Programmes  
Jemma Ford, Supplier Relationship Officer Procurement Services  
Cllr. Gerald Jones, Deputy Leader & Cabinet Member for Housing  
Cllr. Keith Services Reynolds, Deputy Leader and Cabinet Member for Corporate Services  
Shaun Couzens, Chief Housing Officer  
Nicole Scammell, Acting Director of Corporate Services and S151 Officer  
Dan Perkins, Head of Legal & Democratic Services  
Steve Greedy, WHQS Project Implementation Manager  
Richard Harris, Internal Audit Manager