

Departure from Standing Orders for tender for Heritage Quest Centre

Council, item 11

Committee: Full Council

Agenda Item

Date: 21 April 2009

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Title: To consider a recommendation to depart from the provisions of Standing Orders relating to Contracts for the purposes of inviting tenders for the Museum Heritage Quest Centre project.

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Item for decision?

Summary

Permission is requested to depart from the Council's Standing Orders relating to Contracts to invite tenders for the construction of the Heritage Quest Centre. Due to the specialised nature of the project, and the limited number of suitable contractors, it is recommended that a shortlist of appropriate contractors compiled by an independent consultant should be used. This would avoid additional delays and costs being incurred by the project for no advantage, if current provisions were adhered to.

Recommendations

1. Invitations to tender for the construction of the Heritage Quest Centre, by design & build contract, will be restricted to the shortlist of not less than five contractors compiled by the independent consultant (quantity surveyor).

Background Papers

Financial Regulations, Uttlesford District Council June 2005, Appendix K Standing Orders relating to Contracts

Impact

| | |
|----------------------------|--|
| Communication/Consultation | |
| Community Safety | |
| Equalities | |
| Finance | |
| Human Rights | |

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| Legal implications | |
| Sustainability | |
| Ward-specific impacts | None |
| Workforce/Workplace | |

Background

1. Following the award of a major grant from the Heritage Lottery Fund (HLF) last year, and completion of fund-raising targets, the Museum Service was given permission to start the Heritage Quest Centre Project at the end of November 2008. Cowper Griffith Architects were appointed in January 2009 to oversee the construction of the Heritage Quest Centre, which will be by design & build contract.
2. The contract will have a value of just over £1 million and is therefore subject to tender procedures under the Council's Financial Regulations, Appendix K, Standing Orders relating to Contracts. It is well below the threshold for European Union Procurement Regulations.
3. The Heritage Lottery Fund requires that for service contracts over £50,000 there must be a competitive tendering procedure (unless otherwise agreed in advance with the HLF in writing).
4. The Heritage Quest Centre is a new purpose-built resource centre designed to accommodate a variety of museum collections to appropriate standards of security and environmental control, and to be a low-energy, cost-efficient building. It also includes areas and facilities for staff and volunteers to work with collections and for the public who will visit for a range of services and activities. The site includes a conservation landscaping scheme (returning waste ground to chalk grassland habitat), a geology 'time line' trail in the grounds and car park. There will be very precise specifications and standards for construction and fit-out for the Centre, in line with approved standards for museum buildings. It is therefore not a suitable project for open public tender, as there will be relatively few contractors in the area with the capacity and appropriate experience to undertake this project.
5. The Council does not use an Approved List of contractors for building work but requires contractors to be registered with Construction Line, a national register of approved contractors in the construction industry.
6. A Quantity Surveyor and cost controller, Henry Riley, was appointed for the project in February, and with Cowper Griffith Architects, is researching suitably-qualified contractors.
7. Meanwhile, work is progress on the detailed specification, contract documents and assessment of costs. At present it is anticipated that tender documents will be ready to go out in mid-May. It is important to the running of the project

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and budgetary control that the timetable is adhered to as far as possible and slippage is kept to a minimum.

Situation

8. Financial Regulations, Appendix K, state that for contracts over £150,000 tenders shall be invited in accordance with one of the following methods:
 1. Selective tendering from approved contractors under KK3
 2. Selective tendering by advertisement under Standing Order Relating to Contracts KK8
 3. Open competitive tendering under Standing Order KK6
9. Of these, option 1) KK3 does not apply as there is no relevant Approved List for this type of project.
10. Option 3) KK6 requires open tendering by public advertisement, which would be unsuitable for this type of specialised project. The architect and quantity surveyor advise that in the current market, there could be responses from hundreds of applicants (many unsuitable), and the time delay, costs and workload generated in processing these would adversely affect the tender programme and project to no gain.
11. Option 2) KK8, Ad Hoc Approved List would still require advertisement in at least one local newspaper and one industry journal, specifying details of the contract and inviting expressions of interest. Even if the number of applicants were less than the open tender process KK3, the architect and quantity surveyor advise that the timetable for the process would take a minimum of 9 weeks and there would be additional costs to be met for producing the extra documents required and processing the large number of applications anticipated.
12. The Quantity Surveyor has approached ten potentially suitable contractors, all registered with Construction Line, with a view to producing a short list of not less than five contractors who could be asked to tender. This is in effect an ad hoc approved list, compiled by an independent expert adviser to meet the project's requirements. Use of this list would ensure adequate competition among contractors most suitable for the project, while avoiding significant delays and additional costs which would be detrimental to the project, without any compensatory public benefit. It would satisfy the requirements of HLF for a competitive tendering process.
13. There are no other options in the Standing Orders relating to Contracts which are applicable in this case.
14. To pursue this preferred option, permission by the Council is required to depart from the provision of Standing Orders.

Risk Analysis

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| Risk | Likelihood | Impact | Mitigating actions |
|--|-------------------|---------------|--|
| Additional project costs arising from processing the very large number of expressions of interest anticipated from public advertisement. And further delays this would incur, if existing Standing Orders are followed | High | High | Permission to restrict tendering to shortlist of suitable contractors compiled by independent consultant will allow tender process to proceed efficiently while ensuring competition |