

Finance and Resources Committee

10.00 am, Thursday, 26 November 2015

Legal Services Framework Agreement – Award of Contract

Item number	7.6
Report number	
Executive/routine	
Wards	All

Executive summary

This report seeks Committee approval to award a multi-lot framework agreement to the most economically advantageous legal firms identified following a competitive tendering process. The framework consists of 5 lots, spanning the full range of the Council's legal requirements.

Links

Coalition pledges	
Council outcomes	CO25
Single Outcome Agreement	

Legal Services Framework Agreement – Award of Contract

Recommendations

It is recommended that Committee:

- 1.1 Approves the award of Lot 1 (Commercial) to Brodies LLP, Harper Macleod LLP, MacRoberts LLP, Morton Fraser LLP and Shepherd & Wedderburn LLP;
- 1.2 Approves the award of Lot 2 (Property & Planning) to Anderson Strathern LLP, Brodies LLP, Burness Paul LLP and Morton Fraser LLP;
- 1.3 Approves the award of Lot 3 (Litigation) to Morton Fraser LLP, Anderson Strathern LLP and TC Young Solicitors;
- 1.4 Approves the award of Lot 4 (Employment) to Simpson & Marwick trading as Clyde & Co, Harper Macleod LLP, Morton Fraser LLP, Anderson Strathern LLP, MacRoberts LLP and BTO Solicitors;
- 1.5 Approves the award of Lot 5 (Major Projects) to CMS Cameron McKenna LLP, Shepherd & Wedderburn LLP and Pinsent Masons LLP;
- 1.6 Notes that the Framework Agreement is available for use by Stirling Council and West Lothian Council.

Background

- 2.1 The Council's in-house legal team provides advice and support on all legal matters relating to the Council, encompassing commercial, employment, property, planning, litigation (including childcare) and licensing legal advice.
- 2.2 The Council's in-house legal team instructs external firms where the team has insufficient capacity or where particular specialist advice is required. The Council has an estimated spend of £3.1m per annum on the provision of external legal services.
- 2.3 The Council currently contracts with a number of legal firms through a four lot framework agreement (Commercial, Transport & Environmental, Childcare and Employment). The current framework was entered into in late 2012 following a competitive tendering process. The framework expires in mid December 2015.
- 2.4 Commercial and Procurement Services has undertaken a procurement strategy to re-tender this framework. The contract aims are to implement a new pricing model which allows for enhanced cost certainty and more cost control and to

support small and medium sized enterprises by allocating specific places on the framework to firms with smaller turnovers.

Main report

- 3.1 The Council wishes to appoint a number of suitably qualified and experienced firms to carry out legal services for the Council.
- 3.2 Legal services are a Part B service under the Public Contracts (Scotland) Regulations 2012, meaning they are subject to less stringent procurement requirements.
- 3.3 On 19 August 2015 the Council undertook a full tender exercise by placing a contract notice on the Public Contracts Scotland Portal. An advert was also placed in the Scottish Legal News, to ensure that the Scottish legal market was aware of the contract opportunity.
- 3.4 The lots advertised comprise the following:
 - Lot 1 Commercial;
 - Lot 2 Property & Planning;
 - Lot 3 Litigation;
 - Lot 4 Employment; and
 - Lot 5 Major Projects, encompassing the provision of strategic, multi-disciplinary advice including high value and/or complex matters falling under Lots 1 to 4 above.
- 3.5 The advert explained that the Council was seeking to support small and medium sized enterprises by allocating a set number of spaces on lots 1 to 4 to firms with an annual turnover below a certain threshold. This approach has been commended by the Scottish Government and welcomed by smaller firms, who responded positively to the tender opportunity.
- 3.6 The aim of the Pre-Qualification Questionnaire (PQQ) evaluation process was to allow the Council to identify suitably qualified and experienced bidders to be invited to tender.
- 3.7 Following tender returns in October 2015, tender submissions were evaluated by suitably qualified evaluation panels for each lot. This placed an emphasis on quality, as well as price, with the aim of selecting the most economically advantageous tenders for each of the 5 lots. The cost/quality ratio was set to reflect the need for firms to provide quality services at the most economical price.
- 3.8 The quality analysis was based on weighted award criteria questions, which were scored using a 0 to 10 matrix. Following completion of the quality analysis, tenders that passed the minimum threshold of 60% of the total weighted score were subject to cost analysis.
- 3.9 Tenderers were asked to provide a price for a range of hourly rates.

3.10 A summary of the tender process is set out at Appendix 1. The tender results for each lot are as follows:

Lot 1 Commercial

Firms
Brodies LLP
Harper Macleod LLP
MacRoberts LLP
Morton Fraser LLP
Shepherd & Wedderburn LLP

The total scores achieved by the preferred tenderers were based on the published award criteria and ranged from 72.93 to 87.20.

Lot 2 Property & Planning

Firms
Anderson Strathern LLP
Brodies LLP
Burness LLP
Morton Fraser LLP

The total scores achieved by the preferred tenderers were based on the published award criteria and ranged from 76.97 to 84.00.

Lot 3 Litigation

Firm
Anderson Strathern LLP
Morton Fraser LLP
TC Young Solicitors

The total scores achieved by the preferred tenderers were based on the published award criteria and ranged from 73.76 to 89.05.

Lot 4 Employment

Firms
Anderson Strathern LLP
BTO Solicitors
Harper Macleod LLP
MacRoberts LLP
Morton Fraser LLP
Simpson & Marwick trading as Clyde & Co

The total scores achieved by the preferred tenderers were based on the published award criteria and ranged from 73.35 to 86.60.

Lot 5 Major Projects

Firms
CMS Cameron McKenna LLP
Shepherd & Wedderburn LLP
Pinsent Masons LLP

The total scores achieved by the preferred tenderers were based on the published award criteria and ranged from 75.37 to 82.39.

Measures of success

- 4.1 The measure of success will be to lower the legal risk profile of the Council in a cost effective manner.
- 4.2 Performance will be assessed against set objectives measured by Key Performance Indicators (KPIs). Performance monitoring KPIs assures the firms meet and exceed required service standards in managing:
 - Cost Compliance
 - Time Performance
 - Customer Complaints
 - Availability of Staff

Financial impact

- 5.1 The estimated contract value of each of the 5 lots is indicative of historical spend for these services over the previous financial year. Contract spend will be monitored on an ongoing basis.
- 5.2 The Council can seek fixed price quotes and use mini competitions to further drive additional value where it is deemed appropriate.
- 5.3 The costs associated with procuring this contract are estimated to be between £10,000 and £20,000.

Risk, policy, compliance and governance impact

- 6.1 It is essential that the Council continues to be supported in the long term by a range of external legal firms. Without the additional resource and expertise the Council is at risk of not being able to meet its statutory duties and agreed coalition pledges.

Equalities impact

- 7.1 There are no equalities impacts as a result of this procurement.

Sustainability impact

- 8.1 As part of the admission to the framework, each of the successful contractors will commit to undertaking Community Benefits.

Consultation and engagement

- 9.1 Engagement was carried out with Legal and Commercial & Procurement Services through a number of workshops.
- 9.2 The contract opportunity was advertised in the Scottish Legal News to generate increased volume of interest in the Framework.

Background reading/external references

Not applicable

Alastair Maclean

Deputy Chief Executive

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Links

Coalition pledges

Council outcomes

CO25 - The Council has efficient and effective services that deliver on objectives.

Single Outcome Agreement

Appendices

Appendix 1 – Tendering Summary

Appendix1 – Summary of Tendering and Tender Evaluation Processes.

Contract	Lot 1 Commercial
Contract Period (including any extensions)	2+1+1
Estimated Lot Value	£920,000 to £1,060,000
Standing Orders Observed	2.4 Requirement to advertise 5.1.b Selection of the most economically advantageous tender
Portal used to advertise	Public Contracts Scotland & www.edin-tend.co.uk
EU Procedure Chosen	A process equivalent to Restricted
Invitations to tender issued	8
Tenders returned	8
Tenders fully compliant	8
Recommended suppliers	Brodies LLP Harper Macleod LLP MacRoberts LLP Morton Fraser LLP Shepherd & Wedderburn LLP
Primary criterion	Most economically advantageous tender (MEAT)
Evaluation criteria and weightings and reasons for this approach	60% Quality, 40% Price Framework Delivery Team – 35% Service Delivery Methodology – 35% Added Value – 15% Quality Assurance, Complaints & Review Procedures – 10% Community Benefits– 5%
Evaluation Team	Principal Solicitor, Legal Solicitor, Legal

	Solicitor, Legal
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Contract	Lot 2 Property & Planning
Contract Period (including any extensions)	2+1+1
Estimated Lot Value	£530,000 to £610,000
Standing Orders Observed	2.4 Requirement to advertise 5.1.b Selection of the most economically advantageous tender
Portal used to advertise	Public Contracts Scotland & www.edin-tend.co.uk
EU Procedure Chosen	A process equivalent to Restricted
Invitations to tender issued	6
Tenders returned	6
Tenders fully compliant	6
Recommended suppliers	Anderson Strathern LLP Brodies LLP Burness Paul LLP Morton Fraser LLP
Primary criterion	Most economically advantageous tender (MEAT)
Evaluation criteria and weightings and reasons for this approach	60% Quality, 40% Price Framework Delivery Team – 35% Service Delivery Methodology – 35% Added Value – 15% Quality Assurance, Complaints & Review Procedures – 10% Community Benefits– 5%
Evaluation Team	Principal Solicitor, Legal Senior Solicitor, Legal Senior Manager, Planning

Contract	Lot 3 Litigation
Contract Period (including any extensions)	2+1+1
Estimated Lot Value	£270,000 to £300,000
Standing Orders Observed	2.4 Requirement to advertise 5.1.b Selection of the most economically advantageous tender
Portal used to advertise	Public Contracts Scotland & www.edin-tend.co.uk
EU Procedure Chosen	A process equivalent to Restricted
Invitations to tender issued	7
Tenders returned	7
Tenders fully compliant	7
Recommended suppliers	Anderson Strathern LLP Morton Fraser LLP TC Young Solicitors
Primary criterion	Most economically advantageous tender (MEAT)
Evaluation criteria and weightings and reasons for this approach	60% Quality, 40% Price Framework Delivery Team – 35% Service Delivery Methodology – 35% Added Value – 15% Quality Assurance, Complaints & Review Procedures – 10% Community Benefits– 5%
Evaluation Team	Senior Manager, Legal Principal Solicitor, Legal Senior Solicitor, Legal

Contract	Lot 4 Employment
Contract Period (including any extensions)	2+1+1
Estimated Lot Value	£170,000 to £190,000
Standing Orders Observed	2.4 Requirement to advertise 5.1.b Selection of the most economically advantageous tender
Portal used to advertise	Public Contracts Scotland & www.edin-tend.co.uk
EU Procedure Chosen	A process equivalent to Restricted
Invitations to tender issued	8
Tenders returned	8
Tenders fully compliant	8
Recommended suppliers	Anderson Strathern LLP BTO Solicitors Harper Macleod LLP MacRoberts LLP Morton Fraser LLP Simpson & Marwick trading as Clyde & Co
Primary criterion	Most economically advantageous tender (MEAT)
Evaluation criteria and weightings and reasons for this approach	60% Quality, 40% Price Framework Delivery Team – 35% Service Delivery Methodology – 35% Added Value – 15% Quality Assurance, Complaints & Review Procedures – 10% Community Benefits– 5%
Evaluation Team	Senior Manager, Organisational Development Senior Manager, Legal

	Principal Solicitor, Legal
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Contract	Lot 5 Major Projects
Contract Period (including any extensions)	2+1+1
Estimated Lot Value	£640,000 to £740,000
Standing Orders Observed	2.4 Requirement to advertise 5.1.b Selection of the most economically advantageous tender
Portal used to advertise	Public Contracts Scotland & www.edin-tend.co.uk
EU Procedure Chosen	A process equivalent to Restricted
Invitations to tender issued	5
Tenders returned	5
Tenders fully compliant	5
Recommended suppliers	CMS Cameron McKenna LLP Shepherd & Wedderburn LLP Pinsent Masons LLP
Primary criterion	Most economically advantageous tender (MEAT)
Evaluation criteria and weightings and reasons for this approach	70% Quality, 30% Price Framework Delivery Team – 35% Service Delivery Methodology – 35% Added Value – 15% Quality Assurance, Complaints & Review Procedures – 10% Community Benefits– 5%
Evaluation Team	Senior Manager, Legal Principal Solicitor, Legal Principal Solicitor, Legal