

TitlCib	Levelling Up Procurement
Conse:	
Author:	Assistant Chief Executive and Head of Procurement
Status:	For decision

Purpose

To consider an extension of the current contract that has been awarded to AECOM to include preparing additional work for the Council's Round 2 levelling up bid and the UK Shared Prosperity Fund Investment plan bid.

Recommendation

That the Board approves the procurement approach as set out within this report to extend the current AECOM contract to include additional work on the Levelling Up Fund Round 2 bid and the UK Shared Prosperity Fund Investment plan bid and delegates authority to the Assistant Chief Executive and Head of Procurement in consultation with the Borough Solicitor and Chairman of the Policy & Organisation Board to approve any additional works and services in respect of these bids

1.0 Background

- 1.1 In January 2022 the Council ran a fully open and compliant tender opportunity for "Consultancy Services to develop the Round 2 Application to the Levelling Up Fund" (LUF). Gosport had been unsuccessful with the Round 1 application.
- 1.2 The Contract award was made on 10 March 2022 to AECOM to the value of £64K and the work is underway in preparing the Round 2 bid due to be submitted by 6th July 2022.
- 1.3 At the time of publication by Government of its Levelling Up White Paper on 2nd February 2022, pre-launch guidance regarding the UK Shared Prosperity Fund (UKSPF) was also made available.
- 1.4 Detailed Government guidance, (not received until after the award to AECOM) confirms the Government plans to award local authorities money from the LUF (capital) and the UKSPF (majority revenue). Although separate funds, both sets of guidance ask the Council to articulate how the funds will be used together. Both sets of guidance also ask the Council to provide baseline data setting out details of the challenges and opportunities facing Gosport and so it is logical to engage the same provider for both applications to ensure best value and efficiency and consistency to ensure the strongest bids.
- 1.5 The Round 2 application costs have been met through £125K of capacity funding from Government along with £20K received from

[Department for Levelling Up, Housing and Communities](#) for the costs of the UKSPF investment plan.

2.0 Report

- 2.1 The work so far undertaken by AECOM on the LUF bid has highlighted that further specific design works are needed to develop proposals to enhance the urban realm and interconnectivity with the waterfront which will add value and clarity and therefore enhance and strengthen the bid. This design work will cost an additional £9850.00. This figure falls well within the Council's CPRs to add as a direct award.
- 2.2 The work required for the UKSPF investment plan will prepare the application needed to unlock the funds of up to £1m for Gosport over a 2.5 year period due to be confirmed in September/October 2022. This work has been initially, separately valued at £17K but this figure is expected to reduce with negotiation regarding the works that will have already been undertaken for the tandem Levelling Up bid.
- 2.3 It is important to note that the timescales for applications for both Round 1 and 2 of the Levelling Up funds and the programme for the UKSPF bid now running in tandem with the latter have been very challenging, particularly when taking account of the recent sad loss of the key member of staff who was overseeing and co-ordinating this work. Officers worked proactively to procure a consultant for the initial consultancy works to allow the maximum possible lead in time for our bid to be prepared.
- 2.4 The current contract with AECOM is for £64,000.00, with the two additional contracts this will rise to IRO £91,000.
- 2.5 The Council is bound by its own Contract Procedure Rules (CPRs) and the Public Contracts Regulations 2015 (PCR) when the value of a procurement reaches the EU limit (now referred to as "above threshold"), currently £177,898 for services and goods and £4,447,448 for works.
- 2.6 The PCR allow modifications to contracts during the term in certain circumstance including:

Modification of contracts during their term

72.—(1) Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:—

(a) where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses—

(i)state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and

(ii)do not provide for modifications or options that would alter the overall nature of the contract or the framework agreement;

(b)for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor—

(i)cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or

(ii)would cause significant inconvenience or substantial duplication of costs for the contracting authority,

provided that any increase in price does not exceed 50% of the value of the original contract;

As stated, in this particular instance the Council is not bound by the PCR, however, in all procurement activities the Council strives to stay within the spirit of the legislation and the inherent principles of public procurement to be transparent, proportionate, ensure equal treatment and non-discrimination and be accountable.

- 2.7 The original AECOM contract was a fully advertised public tender and the additional works of £9850.00 fall within that contract as a legitimate addition. Under the above threshold rules an additional 50% of the value of a contract can be added post contract when either allowed for in the original tender or having arisen due to change in requirements.
- 2.8 If work relating to the UKSPF is also awarded to AECOM this will bring the cumulative spend to around £91K.
- 2.9 Cumulative spend was an issue raised last year in the internal audit report and more recently within the external report to the extent that the Council must ensure that cumulative spend is considered when procuring goods and applying the correct procurement process.
- 2.10 Therefore to ensure the Council is acting within the above requirements, with full transparency, the Board is asked to approve the two additional contracts at 2.1 and 2.2 for the reasons set out above.
- 2.11 Due to the fast paced and evolving nature of the LUF and UKSPF bid requirements, there is a possibility that further services will also be needed to ensure the best quality applications are submitted. It is also therefore requested that the Board provide delegated authority to the Assistant Chief Executive and Head of Procurement in consultation with the Borough Solicitor and the Chairman of the Policy and Organisation Board, for further

direct awards to AECOM prior to the submission of the bids. These awards would not exceed the funds that have been received for the works and would not exceed the PCR threshold under the legislation.

- 2.12 When issuing a procurement opportunity it is possible to pre-empt possible additional works that may arise and this is especially useful when there is not complete certainty or if requirements or priorities change once the project is awarded and has commenced. This is not appropriate in most procurements when there is a finite service or procurement of goods.
- 2.13 However in future for appropriate procurements specific wording will be developed to negate the need to seek further Board approval for small additional works such as described in this report. It is a requirement of the Regulations that any amendments must not exceed 50% of the original works. All such requests will be fully documented and will need to be authorised by the relevant budget holder and approved by the Head of Procurement or Borough Solicitor to ensure all legal tests have been met.

3.0 Financial Implications

- 3.1 The original AECOM contract is being funded from £125K capacity funding received from central government which will also fund the additional £9850 for the LUF project. A further grant has been received from [Department for Levelling Up, Housing and Communities](#) for £20,000 which is to be utilised for the preparation of the UKSPF investment plan.

4.0 Risk Assessment

- 4.1 The time limits for submission of the two bids are extremely tight. Approval of the additional direct awards will reduce the risk in terms of available time to undertake the necessary work to prepare the bids.
- 4.2 Awarding the two additional contracts directly to AECOM is good efficiency as it reduces the likely duplication of work, will ensure consistency and enhance the robustness of the two bids which otherwise could have a detrimental impact on the Council's chances of successful bids.
- 4.3 Procurement is a highly litigated area of the law. By setting out the rationale for the direct awards and seeking approval from the Board the risk of challenge is mitigated and full transparency demonstrated.

5.0 Conclusion

- 5.1 The deadlines for these two crucial bids are 6th July (LUF) and 1st August 2022 (UKSPF) and the work required is complex and involved. The baseline information required for the UKSPF is largely the same as that being assimilated by AECOM for the LUF bid and will help the investment plan that needs to be prepared. The design and urban realm work with further

strengthen the LUF bid. There is a clear benefit in terms of value for money and avoiding duplication.

5.2 By approving the two additional direct awards and any further awards needed within the parameters as set out in 2.11 the Council will place itself in the best position to submit high quality bids within the above timeframe.

5.3 The Board is asked to approve the recommendation as set out in this report.

Financial Services comments:	N/A
Legal Services comments:	Contained within the report.
Climate Change:	N/A
Crime and Disorder:	N/A
Equality and Diversity:	N/A
Service Improvement Plan implications:	
Corporate Plan:	Deliver Effective Services – use a commercial approach to ensure our services deliver what they need to in the most effective way possible, providing value for money Develop the Economy Enhance the Environment Raise Aspirations
Risk Assessment:	See paragraph 4.
Background papers:	
Appendices/Enclosures:	
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