

EPPING FOREST SHOPPING PARK
PROCUREMENT OF A CONTRACTOR TO UNDERTAKE DESIGN AND BUILD WORKS ("THE WORKS")

We have been asked by Epping Forest District Council ("the Council") to set out in brief detail the procurement process undertaken to appoint a contractor to undertake the Works.

The team involved in the procurement process for the Works consisted of professionals from:

- the Council;
- WYG (as Project Managers);
- Ridge and Partners (as Cost Consultants);
- PRC Architecture and Planning (as Architects);
- Pinnacle Consulting Engineers (as M&E Engineers); and
- DAC Beachcroft LLP (as legal advisors).

As the estimated value of the works was £10,000,000, the Council was required by virtue of the Public Contracts Regulations 2015 ("the Regulations") to undertake a procurement process in full compliance with the Regulations.

In December 2015, a decision was made to commence a procurement process using the restricted procedure. The restricted procedure is a two stage procurement process. At the first stage of the process, interested contractors are invited to complete a pre-qualification questionnaire ("PQQ") which assesses the contractor and its previous experience. Following assessment, a number of qualified contractors are invited to submit a response to the Invitation to Tender ("ITT"). This assesses a contractor's proposal for the project. One bidder is then selected as the winner.

Stage 1 – pre-qualification

The project team created a suite of documents for the procurement and these were placed on a publically available website in order to comply with Regulation 53 of the Regulations. The opportunity went live on 19 January 2016 with the publication of a Contract Notice in the Official Journal of the European Union. This invited the market to participate in the procurement. An advertisement on the UK government website Contracts Finder was published shortly afterwards.

The Regulations require that contracting authorities use the Crown Commercial Service ("CCS") standard PQQ and any deviations are reported to the CCS. Guidance from CCS states that contracting authorities may use the specialist construction PQQ, PAS 91, for works procurements. As PAS 91 is a considerably long document with numerous questions, it was decided to create a PQQ using the CCS standard PQQ with relevant parts of PAS 91 included. The Council informed CCS that it had done this and no complaint was received.

The Council specified that it would invite 5 bidders to ITT Stage. In order to shortlist, the PQQ contained a number of "pass/fail" questions, on matters such as health and safety compliance and financial stability, as well as 3 questions which tested past experience on similar projects.

The Council received 8 responses to the PQQ. These responses were evaluated by 5 members of the project team individually, prior to a moderation meeting on 26 February 2016. The purpose of the moderation meeting was to agree a single consensus score for each question evaluated and then rank

bidders in numerical order by score. The 5 highest ranked bidders were (1) Bowmer & Kirkland Limited (2) McLaughlin and Harvey Construction Limited; (3) RG Carter Southern Limited; (4) RG Group Limited; and (5) Higgins Construction Limited.

Notification letters were sent to bidders on 29 February 2016.

Stage 2 – ITT Stage

The 5 shortlisted bidders were invited to prepare a response to the Council's ITT. The ITT tested a bidder's proposal for the Works. Bidders were asked to detail:

- their price for the Works;
- their proposed programme;
- the methodology and resources for delivery of the Works, including how they would deal with sub-contracting and contaminants on the site;
- their approach to risk; and
- how they would deal with stakeholders.

The Council received 3 completed tenders for the Works. This was because prior to the deadline for ITT submissions, both Bowmer & Kirkland Limited and RG Group Limited informed the Council that they would not be submitting a response to the ITT.

Issues encountered

The ITT was clear that bidders were not permitted to include any qualifications or exclusions in their bids. Bidders were also not permitted to amend any of the Provisional Sums contained within the pricing schedule. Any bidder including qualifications, exclusions and/or amendments to the Provisional Sums would be excluded. All the bids received contained either qualifications, exclusions, or amendments, and as such were liable for exclusion. In order to keep the procurement process moving forward the Council took legal advice and elected to approach each bidder and ask for removal of the qualification, exclusion or provisional sum change together with an updated proposal if the bidder considered it necessary.

Evaluation process

Tenders were evaluated by 6 individual evaluators drawn from the project team. 6 evaluators were selected in order to achieve a good mix of experience and expertise. Evaluators were instructed to evaluate submissions alone and feedback their scores and comments to DAC Beachcroft LLP by 25 May 2016.

The 3 bidders then attended a clarification interview with the evaluation panel on 26 May 2016. This occurred at North Weald Airfield. At the interview, bidders explained their programme and answered any questions evaluators had. Each evaluator then had the opportunity to amend their scores, after which they informed DAC Beachcroft LLP if there had been any change.

A telephone conference then took place on 3 June 2016 during which the evaluators discussed the scores they had awarded and agreed a consensus score for each question for each bidder, together with an agreed rationale.

Results

Following evaluation McLaughlin and Harvey Construction Limited were identified as the Council's preferred bidder having achieved the highest score. The final scores in the procurement are included in Annex A.

Despite Higgins Construction Limited being given the opportunity to amend their bid, it was necessary to exclude them as they refused to remove a number of Provisional Sums relating to ground contaminants and the retaining wall structure. Their bid was therefore not considered at the meeting on 3 June 2016.

Notification letters in compliance with the Regulations were issued on 10 June 2015 to the 3 bidders. The Council then observed the required 10 day standstill period. The Council received no complaint from either of the unsuccessful bidders during this period and has therefore commenced pre-contract discussions with McLaughlin and Harvey.

DAC Beachcroft LLP
24 June 2016

ANNEX A

McLaughlin and Harvey Construction

Question	Score achieved	Maximum score	Weighting	Weighted score	
1	4	4		13.5	13.5
2a	3	4		8.75	6.5625
2b	3	4		6.75	5.0625
2c	3	4		4.5	3.375
2d	3	4		2.25	1.6875
3a	3	4		2.25	1.6875
3b	3	4		2.25	1.6875
3c	3	4		2.25	1.6875
3d	3	4		1.15	0.8625
4	3	4		1.35	1.0125
				Quality total from 45%	37.125
Price	£9,950,690.73			55	55
				TOTAL	92.125

RG Carter

Question	Score achieved	Maximum score	Weighting	Weighted score	
1	2	4		13.5	6.75
2a	3	4		8.75	6.5625
2b	3	4		6.75	5.0625
2c	3	4		4.5	3.375
2d	3	4		2.25	1.6875
3a	3	4		2.25	1.6875
3b	3	4		2.25	1.6875
3c	3	4		2.25	1.6875
3d	3	4		1.15	0.8625
4	3	4		1.35	1.0125
				Quality total from 45%	30.375
Price	£13,337,351			55	41.03423462
				TOTAL	71.40923462