

ABERDEEN CITY COUNCIL

COMMITTEE	Enterprise, Planning and Infrastructure
DATE	26 November 2009
CORPORATE DIRECTOR	Gordon McIntosh
TITLE OF REPORT	Aberdeen Western Peripheral Route – Acceptance of Tenders
REPORT NUMBER	EPI/09/123

1. PURPOSE OF REPORT

This report discusses the arrangements for acceptance of tenders for on-going works and services required for the Aberdeen Western Peripheral Route in advance of the main construction works.

2. RECOMMENDATIONS

It is recommended that the committee

- (a) approves the suspension of Standing Orders 75 & 76 to the extent necessary to permit the delegation of powers;
- (b) delegate the power to accept the most economically advantageous tenders for various advanced works and services required for the Aberdeen Western Peripheral Route to the Corporate Directors of Enterprise, Planning & Infrastructure and Corporate Governance, with the consent of the City Solicitor and City Chamberlain and in consultation with the Conveners of the Enterprise, Planning & Infrastructure and Finance and Resources Committees, subject to the receipt of approvals from other funding partners; and
- (c) delegates power to the Corporate Directors of Enterprise, Planning & Infrastructure and Corporate Governance, with the consent of the City Solicitor and City Chamberlain to utilise Framework Agreements where appropriate, subject to consultation with the Conveners of the Enterprise, Planning & Infrastructure and Finance and Resources Committees, and to the receipt of approvals from other funding partners.

3. FINANCIAL IMPLICATIONS

Funding for the Aberdeen Western Peripheral Route has been the subject of agreement between Aberdeen City Council, Aberdeenshire Council and the Scottish Government with a signed Memorandum of Understanding. The works and services required for the Aberdeen Western Peripheral Route will be paid for through this ongoing joint funding agreement.

4. SERVICE & COMMUNITY IMPACT

Procurement of services and advanced works will facilitate the delivery of the Aberdeen Western Peripheral Route thus achieving some of the objectives and policies listed in Aberdeen City Council's vision of being Vibrant, Dynamic & Forward Looking and also the Single Outcome Agreement.

5. OTHER IMPLICATIONS

None

6. REPORT

The Public Local Inquiry into the Aberdeen Western Peripheral Route (AWPR) heard objections lodged against the published Orders. The appointed Reporters have now submitted their recommendations to Ministers for their consideration. The Scottish Ministers are currently considering the Reporters' Report prior to making an announcement on the proposed scheme. An outcome in favour of the preferred route would allow the Scottish Ministers to make the Orders which would then be laid before the Scottish Parliament for final approval.

In April 2003 the Scottish Ministers announced that the AWPR would be promoted by the Scottish Executive (now Scottish Government) as a Trunk Road within a funding partnership of the Scottish Executive, Aberdeen City Council and Aberdeenshire Council. Under the terms of Section 4 of the Roads (Scotland) Act 1984, Aberdeen City Council is the Appointed Agent for the Scottish Ministers. The Agency Agreement requires Aberdeen City Council to procure all necessary contracts and services required to deliver the AWPR in cooperation and consultation with Aberdeenshire Council.

Previously the award of all contracts and services related to the design process of the AWPR was subject to the dispensation approved by Council on 9th March 2004. As the AWPR moves towards the next phase of project development there will be a need to procure further services and advance works in preparation for the main construction contract. These can be considered as advanced works and services related to the main construction (rather than the design process), and accordingly there is a need to have an appropriate approval system in place.

To avoid delays in the procurement process it is recommended that powers are delegated to the Corporate Directors of Enterprise, Planning & Infrastructure and Corporate Governance, with the consent of the City Solicitor and City Chamberlain and in consultation with the Conveners of the Enterprise, Planning & Infrastructure and Finance and Resources Committees, to accept the most economically advantageous tenders for various advanced works and services required for the Aberdeen Western Peripheral Route, subject to the receipt of approvals from other funding partners. Delegation of these powers as recommended will require the suspension of Standing Orders 75 & 76 to the extent necessary to permit the delegation of powers.

In addition to the above, Members are asked to authorise the use of external Framework Agreements, if appropriate, by delegating powers to the same officers to award a contract via a Framework Agreement. This recommendation is subject to the caveat that the use of a Framework would require to be preceded by an assessment of its suitability, the robustness of the procurement process undertaken by the procuring organisation and a full due diligence of the standard contractual terms and conditions applicable to the Framework by the City Solicitor. This will ensure that the Council is not exposed to any legal risk arising from the procurement process or contractual terms, or alternatively will identify any such risks thereby enabling an informed decision to be made in terms of whether the risk can be managed.

The reason for these recommendations is that the project is being developed within a delivery timescale to meet the stated aim of the Scottish Ministers. To achieve this timetable, officers will strive to ensure, where possible within the constraints in which they operate, that the potential for delays to the project is minimised. The standard procedure of reporting each contract to the appropriate Committee would invariably lead to delays in the approval process which could then impact upon the overall project programme.

Where the estimated value of the works or services exceeds the EU procurement threshold for Local Authorities, the works or services will be procured in accordance with the Public Contracts (Scotland) Regulations 2006, with advertisement in the Official Journal of the European Union (OJEU). Works or services with an estimated value below the EU procurement threshold will be procured in accordance with Aberdeen City Council's Standing Orders, however due regard will be had to the requirements of the Public Contracts (Scotland) Regulations 2006, particularly in relation to aggregation and the general over-arching treaty obligations. The anticipated works and services are listed below:

<u>Works or services</u>	<u>Indicative value</u>
Financial consultancy services	£1,000,000
Legal consultancy services	£500,000
Non-invasive archaeological advanced works	£150,000
Main archaeological advanced works	£2,850,000
Advanced landscaping works	£150,000
Supplementary ground investigation	£500,000
Hydrological monitoring	£150,000

Different arrangements will be necessary for the procurement and award of the main construction contract and this will be the subject of further reports to the relevant committee.

7. REPORT AUTHOR DETAILS

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8. BACKGROUND PAPERS

None