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Award

Design Services for Strabane Public Realm - SCM ID: 082/13/SEC

Derry City And Strabane District Council

F15: Voluntary ex ante transparency notice

Notice identifier: 2025/S 000-007046

Procurement identifier (OCID): ocds-h6vhtk-04e782

Published 24 February 2025, 9:00am

Section I: Contracting authority/entity

I.1) Name and addresses

Derry City And Strabane District Council

98 Strand Road

Derry

BT487NN

Contact

Colin Killeen

Email

colin.killeen@derrystrabane.com

Telephone

+44 2871253253

Country

United Kingdom

Region code

UKN0A - Derry City and Strabane

Justification for not providing organisation identifier

Not on any register

Internet address(es)

Main address

www.derrystrabane.com

I.4) Type of the contracting authority

Regional or local authority

I.5) Main activity

General public services

Section II: Object**II.1) Scope of the procurement****II.1.1) Title**

Design Services for Strabane Public Realm - SCM ID: 082/13/SEC

II.1.2) Main CPV code

- 71000000 - Architectural, construction, engineering and inspection services

II.1.3) Type of contract

Services

II.1.4) Short description

The Strabane Public Realm project is for the implementation of a high public realm within the Strabane Town Centre. Derry City and Strabane District Council is the Contracting Authority.

The appointed Consultancy Team is required to:

- i. Prepare a comprehensive and detailed public realm strategy and outline proposals to concept design (RIBA Stage C), for Strabane Town Centre and the town's main entry points reflecting the ambition to build on what has already been achieved. The scheme should reflect the aspiration to achieve a stylish, unique and contemporary design which complements the town and its established status as the market town of the District.
- ii. Prepare an Economic Appraisal in accordance with the Northern Ireland Guide to Expenditure and Evaluation (NIGEAE) for the development of a public realm scheme for Strabane Town Centre, including the town's main entry points, in sufficient detail to support potential funding bids to various sources, including the Department for Social Development, Department for Regional Development, and Strabane District Council and/or its post RPA successor.
- iii. Undertake the detailed design (RIBA Stage D); submit the planning application for the public realm scheme for Strabane Town Centre and the town's main entry points, and obtain the appropriate consents
- iv. Undertake the Technical Design (RIBA Stage E) and outline the phasing of the scheme.
- v. Produce full design production information (RIBA stage F)
- vi. Work with Strabane District Council and its funders to procure the Integrated Supply Team (IST);
- vii. Appointment of the Integrated Supply Team.
- viii. Undertake the management and delivery of the approved public realm scheme for Strabanes Town Centre and main entry points in one or more phases.

II.1.6) Information about lots

This contract is divided into lots: No

II.1.7) Total value of the procurement (excluding VAT)

Value excluding VAT: £190,781.52

II.2) Description

II.2.2) Additional CPV code(s)

- 71200000 - Architectural and related services
- 71300000 - Engineering services

II.2.3) Place of performance

NUTS codes

- UKN0A - Derry City and Strabane

Main site or place of performance

Strabane, Co Tyrone

II.2.4) Description of the procurement

The Strabane Public Realm project is for the implementation of a high public realm within the Strabane Town Centre. Derry City and Strabane District Council is the Contracting Authority.

In November 2013, RPS were awarded the contract to deliver and manage the Strabane Public Realm contract from Department of Finance's (CPD) Pan Government Collaborative Framework Agreement for Integrated Consultant Teams Contract.

The contract value of this commission was £139,405.00 for provision of consultancy led professional services. It was anticipated at the time of tender works would be completed in March 2016.

In 2019 the project was put on hold following the completion of RIBA Stage D, as it was awaiting funding. At that time, the ICT had completed RIBA Stages A-D.

The project was on hold from 2019 until September 2024. Funding is now in place for the completion of the project. The original project completion was due in 2016. Currently it is anticipated that the completion will be in 2027.

Derry City and Strabane District Council, the Contracting Authority, intends that the Integrated Consultant Team appointed by Strabane District Council in 2013, complete the commission for which they were appointed.

There have been a number of consequences as a result of the prolonged stand still of the project. During this time, the statutory approvals for the project have lapsed such as the

planning approval needing to be resubmitted for renewal, and other changes have occurred that could not have been reasonably been foreseen, that have impacted the project.

Additionally, the project has been adversely affected by the high rates of inflation during recent years. Neither the high rates of inflation nor the protracted period of standstill of the project could have been reasonably foreseen by the appointed consultant at the time of tendering for the project in 2013.

Derry City and Strabane District Council, the Contracting Authority, is minded to amend the contract with RPS, by utilising the X1 clause which is currently in the Contract Data Part 1 of the commission to address the inflationary impact on fees for the remainder of the contract. The scope of the project has not materially changed.

The original appointment was made using a NEC3 Option A Professional Services Contract included an X1 Clause (Price Adjustment for inflation clause), however this had not been applied to any of the rates or activities within the contract to date. At the time of appointment of RPS, it was anticipated that the project would be complete by 2016. The anticipated completion date is now currently 2027, some nine years later. During this time there have been unprecedented inflationary rises. In order to mitigate this significant increase, it seems reasonable to apply the X1 clause going forward for the remainder of the project.

The Contracting Authority is minded that the proposed change to the contract is in accordance with regulation 72 of the Public Procurement Regulations Contracts. In this, it states that:

'Contracts may be modified without a new procurement procedure where the modifications , irrespective of their value , are not substantial in that (a) the modifications do not render the contract materially different from the one initially concluded, (b) the modification does not introduce conditions which had they been part of the initial procurement procedure , would have -

- (i) allowed for the admission of other candidates than those initially selected,
- (ii) allowed for the acceptance of a tender other than that originally accepted, or
- (iii) attracted additional participants in the procurement procedure;'

Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:-

(c) where all of the following conditions are fulfilled:-

- (i) the need for modification has been brought about by circumstances which a diligent

contracting authority could not have foreseen;

(ii) the modification does not alter the overall nature of the contract;

(iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.

The Contracting Authority is of the opinion as the X1 clause has been included in the original tender, the tender selection would have remained unchanged. It would not have attracted additional participants to the tender process, especially as the appointment was from a framework, nor would it have changed the candidates selected, nor the outcome of the tender selection.

Under the terms of the Public Procurement Regulations 72, a Voluntary Ex- Ante Transparency EAT notice is required to cover a variation to the contract between Derry City and Strabane District Council, the Contracting Authority and the Integrated Consultant Team led by RPS for the Strabane Public Realm Project.

Derry City and Strabane District Council, the Contracting Authority is therefore publishing this Voluntary Ex Ante Transparency Notice to cover a variation to the contract and for additional tasks to be carried out necessary as a result of changes in legislation, lapses in statutory approvals. It should be noted that the scope of the original commission is not deemed to have changed.

II.2.5) Award criteria

Quality criterion - Name: Quality / Weighting: 80

Price - Weighting: 20

II.2.11) Information about options

Options: No

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

Under PCR Reg 72, a Voluntary Ex- Ante Transparency VEAT notice is required to cover a variation to the contract between Derry City & Strabane District Council, the Contracting Authority and the Integrated Consultant Team (ICT) led by RPS for the Strabane Public Realm Project.

This VEAT Notice to cover variation to the contract & for additional tasks to be carried as a result of lapses in statutory approvals. It should be noted that the scope of the original commission is not deemed to have changed.

In November 2013, RPS were awarded the contract to deliver & manage Strabane Public Realm contract from Department of Finance's Pan Government Collaborative Framework Agreement for Integrated Consultant Teams Contract.

The contract value of this commission was £139,405.00 for provision of consultancy led professional services. With a completion date of March 2016.

In 2019 the project was put on hold following the completion of RIBA Stage D, awaiting funding.

In Sept2024 Funding is in place. Currently it is anticipated that the completion will be in 2027.

CA intends that the ICT appointed by Strabane District Council in 2013, complete the commission.

There have been a number of consequences as a result of the prolonged stand still of the project. During this time, the statutory approvals for the project have lapsed ie planning approval needing to be resubmitted for renewal, and other changes have occurred that could not have been reasonably been foreseen, have impacted the project.

Additionally, the project has been adversely affected by the high rates of inflation during recent years. Neither the high inflation nor the protracted standstill of the project could have been reasonably foreseen in 2013.

CA is minded to amend the contract with RPS, by utilising the X1 clause which is currently in the Contract Data Part 1 of the commission to address the inflationary impact on fees for the remainder of the contract.

The original appointment was made using a NEC3 Option A Professional Services Contract included an X1 Clause (Price Adjustment for inflation clause), however this had not been applied to any of the rates or activities within the contract to date. During this time there have been unprecedented inflationary rises. In order to mitigate this significant increase, it seems reasonable to apply the X1 clause going forward for the remainder of the project.

The CA is minded that the proposed change to the contract is in accordance with regulation 72 of the PCR. In this, it states that:

'Contracts may be modified without a new procurement procedure where the modifications , irrespective of their value , are not substantial in that (a) the modifications do not render the contract materially different from the one initially concluded, (b) the modification does not introduce conditions which had they been part of the initial procurement procedure , would have -

- (i) allowed for the admission of other candidates than those initially selected,
- (ii) allowed for the acceptance of a tender other than that originally accepted, or
- (iii) attracted additional participants in the procurement procedure;'

Contracts & framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:-

(c) where all of the following conditions are fulfilled:-

- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
- (ii) the modification does not alter the overall nature of the contract;
- (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.

The CA is of the opinion as the X1 clause has been included , the tender selection would have remained unchanged. It would not have attracted additional participants to the tender

process, especially as the appointment was from a framework, nor would it have changed the candidates selected, nor the outcome of the tender selection.

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: Yes

IV.2) Administrative information

IV.2.1) Previous publication concerning this procedure

Notice number: [2009/S 057-082235](#)

Section V. Award of contract/concession

Title

Design Services for Strabane Public Realm - SCM ID: 082/13/SEC

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

18 November 2013

V.2.2) Information about tenders

The contract has been awarded to a group of economic operators: No

V.2.3) Name and address of the contractor/concessionaire

RPS Consulting Engineers

74 Boucher Road

Belfast

Country

United Kingdom

NUTS code

- UKN06 - Belfast

Companies House

NI021213

The contractor/concessionaire is an SME

Yes

V.2.4) Information on value of contract/lot/concession (excluding VAT)

Initial estimated total value of the contract/lot/concession: £190,781.52

Total value of the contract/lot/concession: £190,781.52

Section VI. Complementary information

VI.3) Additional information

Under Public Procurement Regulations 72, a Voluntary Ex- Ante Transparency VEAT notice is required to cover a variation to the contract between Derry City and Strabane District Council, the Contracting Authority and the Integrated Consultant Team (ICT) led by RPS for the Strabane Public Realm Project.

The Contracting Authority is publishing this VEAT Notice to cover variation to the contract and for additional tasks to be carried out necessary as a result of lapses in statutory approvals. It should be noted that the scope of the original commission is not deemed to have changed.

In November 2013, RPS were awarded the contract to deliver and manage the Strabane Public Realm contract from Department of Finance's Pan Government Collaborative Framework Agreement for Integrated Consultant Teams Contract.

The contract value of this commission was £139,405.00 for provision of consultancy led professional services. It was anticipated at the time of tender works would be completed in March 2016.

In 2019 the project was put on hold following the completion of RIBA Stage D, as it was awaiting funding. At that time, the ICT had completed RIBA Stages A-D.

The project was on hold from 2019 until September 2024. Funding is now in place for the completion of the project. The original project completion was due in 2016. Currently it is anticipated that the completion will be in 2027.

Derry City and Strabane District Council, the Contracting Authority, intends that the Integrated Consultant Team appointed by Strabane District Council in 2013, complete the commission for which they were appointed.

There have been a number of consequences as a result of the prolonged stand still of the project. During this time, the statutory approvals for the project have lapsed such as the planning approval needing to be resubmitted for renewal, and other changes have occurred that could not have been reasonably been foreseen, that have impacted the project.

Additionally, the project has been adversely affected by the high rates of inflation during recent years. Neither the high rates of inflation nor the protracted period of standstill of the project could have been reasonably foreseen by the appointed consultant at the time of tendering for the project in 2013.

Derry City and Strabane District Council, the Contracting Authority, is minded to amend the contract with RPS, by utilising the X1 clause which is currently in the Contract Data Part 1 of the commission to address the inflationary impact on fees for the remainder of the contract. The scope of the project has not materially changed.

The original appointment was made using a NEC3 Option A Professional Services Contract included an X1 Clause (Price Adjustment for inflation clause), however this had not been applied to any of the rates or activities within the contract to date. At the time of appointment of RPS, it was anticipated that the project would be complete by 2016. The anticipated completion date is now currently 2027, some nine years later. During this time there have been unprecedented inflationary rises. In order to mitigate this significant increase, it seems reasonable to apply the X1 clause going forward for the remainder of the project.

The Contracting Authority is minded that the proposed change to the contract is in accordance with regulation 72 of the Public Procurement Regulations Contracts. In this, it states that:

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The Contracting Authority is of the opinion as the X1 clause has been included in the original tender, the tender selection would have remained unchanged. It would not have attracted additional participants to the tender process, especially as the appointment was from a framework, nor would it have changed the candidates selected, nor the outcome of the tender selection.

Derry City & Strabane District Council will incorporate a standstill period at the point information on the award of the contract is communicated to suppliers by means of this VEAT notice. The Standstill period will be for a period of 10 calendar days expiring 12 Midnight 10th March 2025.

VI.4) Procedures for review

VI.4.1) Review body

The Royal Courts of Justice

Belfast

Country

United Kingdom

VI.4.2) Body responsible for mediation procedures

The Royal Courts of Justice

Belfast

Country

United Kingdom

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures

As per PCR 2006 /PCR2015

VI.4.4) Service from which information about the review procedure may be obtained

The Royal Courts of Justice NI

Belfast

Country

United Kingdom