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Award

Design Services New Maritime Museum & Archive ED-03-13

Derry City & Strabane District Council

F15: Voluntary ex ante transparency notice

Notice identifier: 2024/S 000-013638

Procurement identifier (OCID): ocids-h6vhtk-045589

Published 26 April 2024, 3:21pm

Section I: Contracting authority/entity

I.1) Name and addresses

Derry City & Strabane District Council

98 Strand Road

Derry

BT487NN

Contact

Colin Killeen

Email

Tenders@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 New Maritime Museum & Archive ED-03-13

II.1.2) Main CPV code

- 71220000 - Architectural design services

II.1.3) Type of contract

Services

II.1.4) Short description

The Maritime Museum and Archive Project is for a new museum to be located in existing listed buildings at Ebrington in Derry~Londonderry. Derry City and Strabane District Council is the Contracting Authority.

In 2015, following a Public Procurement Exercise under the Restricted Procedure for the Appointment of a Multi Disciplinary Consultant Team for the delivery of the Maritime Museum and Archive Project, Todd Architects were the successful Economic Operator and were duly appointed for, the sum of £490,400.00, for the provision of architectural led integrated consultancy team professional consultancy services. At the time of their appointment, it was expected that the project would be completed in 2019.

In 2018 the project was put on hold prior to the procurement of the Contractor, as the Contracting Authority was awaiting funding. At that time, the Integrated Consultant Team ("ICT") had completed RIBA Stages 1-3 and 85% of RIBA Stage 4.

The project was on hold from 2018 until late 2023 due to funding issues. Funding is now in place for the completion of the project and such is required to be utilised very urgently. The original project completion was due in 2019. Currently it is anticipated that completion will occur in 2026.

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: £812,906.34

II.2) Description

II.2.2) Additional CPV code(s)

- 71541000 - Construction project management services

II.2.3) Place of performance

NUTS codes

- UKN0A - Derry City and Strabane

Main site or place of performance

Ebrington, Derry ~ Londonderry

II.2.4) Description of the procurement

The Maritime Museum and Archive Project is for a new museum to be located in existing listed buildings at Ebrington in Derry~Londonderry. Derry City and Strabane District Council is the Contracting Authority.

In 2015, following a Public Procurement Exercise under the Restricted Procedure for the Appointment of a Multi Disciplinary Consultant Team for the delivery of the Maritime Museum and Archive Project, Todd Architects were selected as the successful Economic Operator and were duly appointed, for the sum of £490,400.00, for the provision of architectural led integrated consultancy team professional consultancy services. At the time of their appointment, it was expected that the project would be completed in 2019.

In 2018 the project was put on hold prior to the procurement of the Contractor, as the Contracting Authority was awaiting funding. At that time, the ICT had completed RIBA Stages 1-3 and 85% of RIBA Stage 4.

The project was on hold from 2018 until late 2023. Funding is now in place for the completion of the stated project.

The original project completion was due in 2019. Currently it is anticipated that the completion will occur in 2026.

Derry City and Strabane District Council, the Contracting Authority, intends that the ICT appointed in 2015, 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, there have been changes in legislation, in particular building control. Additionally, the statutory approvals for the project have lapsed 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 extremely high rate of construction inflation during recent years. Neither the high rate of construction 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 2015.

Derry City and Strabane District Council, the Contracting Authority, is minded to amend the contract with Todd Architects, by the introduction of the X1 clause to the NEC3 PSC to address the inflationary impact on fees for the remainder of the contract. The scope of the project and the work that Todd Architects is required to perform has not materially changed.

The original appointment was made using a NEC3 Option A Professional Services Contract that did not include an X1 Clause (Price Adjustment for inflation clause). At the time of appointment of Todd Architects, it was expected that the project would be complete by 2019. The anticipated completion date is currently 2026, some seven years later. During this time there have been unprecedented inflationary rises. In order to mitigate this significant increase, it is reasonable and necessary to apply the X1 clause 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 regard, it states that:

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:-

(e) where the modifications, irrespective of their value, are not substantial within the meaning of paragraph (8);

The Contracting Authority is of the opinion that had the X1 clause been included in the original tender, the tender selection would have remained unchanged. It would not have attracted additional participants to the tender process, 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 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 led by Todd Architects for the Maritime Museum Project in Derry~Londonderry.

Derry City and Strabane District Council, the Contracting Authority is therefore publishing this Voluntary Ex Ante Transparency Notice to cover a variation to the stated contract and

for additional tasks to be carried out necessary as a result of changes in legislation and lapses in statutory approvals. It should be noted that the scope of the original commission has not changed.

II.2.5) Award criteria

Quality criterion - Name: Methodology / Weighting: 21

Quality criterion - Name: Programme / Weighting: 7

Quality criterion - Name: Resources / Weighting: 17.5

Quality criterion - Name: Coordination with Interpretative Designer / Weighting: 17.5

Quality criterion - Name: Cost Management / Weighting: 7

Price - Weighting: 30

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 Public Procurement Regulations 72, a Voluntary Ex- Ante Transparency notice is required to cover a variation to the contract between Derry City & Strabane District Council, the Contracting Authority and the ICT led by Todd Architects for the Maritime Museum 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 changes in legislation and lapses in statutory approvals. The scope of the original commission has not changed.

In 2015, following a Public Procurement Exercise for the Appointment of a Multi Disciplinary Consultant Team for delivery of the Maritime Museum, Todd Architects were appointed for the sum of £490,400.00. At the time of appointment project completion was intended to be in 2019.

In 2018 the project was put on hold, awaiting funding. At that time, the ICT had completed RIBA Stages 1-3 and 85% RIBA Stage 4. The project was on hold until late 2023. Funding is now in place for the completion of the project but must be utilised urgently. Currently it is anticipated that completion will be 2026.

The Contracting Authority, intends that the ICT appointed in 2015, complete the commission for which it was appointed.

There have been a number of consequences as a result of the prolonged stand still of the project. During this time, there have been changes in legislation, in particular building control, the statutory approvals for the project have lapsed 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 extremely 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 in 2015.

The Contracting Authority, is minded to amend the contract, by the introduction of the X1 clause to the NEC3 PSC to address the inflationary impact on fees for the remainder of the contract.

The original appointment used a NEC3 Option A PSC that did not include an X1 Clause (Price Adjustment for inflation clause). At the time of appointment of the ICT, project completion was 2019. The anticipated completion date is currently 2026, some 7years later. During this time there have been unprecedented construction industry inflationary rises. In order to mitigate this significant increase, it is reasonable and necessary to apply the X1 clause 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 regard, it states that:

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:-

(e) where the modifications, irrespective of their value, are not substantial within the meaning of paragraph (8);

The Contracting Authority is of the opinion that had the X1 clause been included in the

original tender, the tender selection would have remained unchanged from that concluded in 2015.

Having considered all the issues the Contracting Authority is of the view that the introduction of the X1 clause does not render the contract materially different in character from the one initially concluded; the modification would not have attracted additional participants to the tender process, nor would it have changed the candidates selected, or the ultimate outcome of the tender selection. Further the modification does not change the economic balance of the contract in favour of the ICT and nor does the modification extend the scope of the contract considerably.

Consequently, having considered the matter the Contracting Authority is of the view that this matter comes within the scope of Regulation 72(1)(e) and the related Regulation 72(8).

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: [2014/S 238-419198](#)

Section V. Award of contract/concession

Title

Design Services New Maritime Museum & Archive ED-03-13

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

20 October 2015

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

Todd Architects

2nd Floor Titanic House, 6 Queens Road

Belfast

BT3 9DT

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: £812,906.34

Total value of the contract/lot/concession: £812,906.34

Section VI. Complementary information

VI.3) Additional information

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 Midnight 7th May 2024

VI.4) Procedures for review

VI.4.1) Review body

The Royal Courts of Justice NI

Belfast

Country

United Kingdom

VI.4.2) Body responsible for mediation procedures

The Royal Courts of Justice NI

Belfast

Country

United Kingdom

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures

As per 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