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Award

Phoenix House Development

Torus62 Limited

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-036129

Procurement identifier (OCID): ocids-h6vhtk-042287

Published 7 December 2023, 4:05pm

Section I: Contracting authority/entity

I.1) Name and addresses

Torus62 Limited

Helena Central, 4 Corporation Street

St Helens

WA9 1LD

Contact

Procurement Manager

Email

procurementteam@torus.co.uk

Telephone

+44 7718707048

Country

United Kingdom

Region code

UKD - North West (England)

Internet address(es)

Main address

<https://www.torus.co.uk>

I.4) Type of the contracting authority

Body governed by public law

I.5) Main activity

Housing and community amenities

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Phoenix House Development

II.1.2) Main CPV code

- 45000000 - Construction work

II.1.3) Type of contract

Works

II.1.4) Short description

Intention to award a Public Works contract under Regulation 32(2) (b) (iii) of the Public Contract Regulations 2015 for the development of a single site at Phoenix House, Winsford. The Negotiated Procedure without Prior Publication is being followed and is justified under Regulation 32 (2) (b) (iii).

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: £19,624,440

II.2) Description

II.2.2) Additional CPV code(s)

- 45000000 - Construction work
- 45211100 - Construction work for houses

II.2.3) Place of performance

NUTS codes

- UKD - North West (England)

Main site or place of performance

NORTH WEST (ENGLAND)

II.2.4) Description of the procurement

This Notice sets out the contracting authority's intention to award a works contract using the negotiated procedure without prior publication, in accordance with Regulation 32 of the Public Contracts Regulations 2015.

The contracting authority is proposing to award a works contract to Equans Regeneration Limited Company Number 01738371 ("Equans").

The works contract will be in the form of a JCT Design and Build contract (2016 edition) with Schedule of Amendments and will provide for the development of 99 homes by Equans.

The works contract is intended to commence on or after January 2024 (subject to final agreement) and the works are intended to be completed in 2025. The contract value is estimated to be £19,624,440 excluding VAT.

The works can only be provided by a particular economic operator for the following reason: protection of exclusive rights under Regulation 32 (2) (b) (iii) of the Public Contracts Regulations 2015.

II.2.11) Information about options

Options: No

II.2.13) Information about European Union Funds

The procurement is related to a project and/or programme financed by European Union funds: No

II.2.14) Additional information

This VEAT notice demonstrates the intention to award a public works contract using the Negotiated Procedure without prior publication (Regulation 32 (2) (b) (iii)). The detailed explanation for the use of the negotiated procedure without prior publication is set out in Annex D. This contract has not yet been entered into and a contract award notice will be published following award.

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:

The works can only be provided by a particular economic operator for the following reason: protection of exclusive rights under Regulation 32(2)(b)(iii) of the Public Contracts Regulations 2015. The contracting authority has been approached by Cheshire West and Chester Borough Council ("the Council"), Cowest Services Limited ("Cowest") and Equans regarding the freehold sale of land and buildings at Phoenix House Depot, Weaver Street, Winsford, Cheshire, a site currently within the Council's ownership which it wishes to transfer for the development of 99 homes ("the Site"). The Council intends that the development of the Site will be carried out by Cowest, a joint venture company co-owned by the Council and Equans. Cowest has selected Equans as the contractor to carry out the development at the Site. The Council, Equans and Cowest approached the contracting authority as a registered provider of social housing, with the proposal that the contracting authority will take ownership of the Site and act as landlord in relation to the affordable homes once developed. The proposed structure of the transaction is as follows:

1. The Council agrees to transfer the Site to Cowest under its joint venture arrangement.
2. Cowest agrees to transfer the Site to Equans, (selected by Cowest as the contractor to carry out the works).
3. Equans agrees to transfer the Site to the contracting authority. A sale of land agreement will be entered into by all four parties. The sale of land agreement provides for the Council to transfer the Site to the contracting authority at the direction of Cowest and Equans. The transfer of the Site will therefore be directly from the Council to the contracting authority, in accordance with this direction. The value of the transfer is £1. This object of this element of the transaction is the transfer of land. It is a contractual condition in the sale of land agreement that Equans is appointed by the contracting authority to carry out the development works. The contracting authority therefore considers that the works can be supplied by only one economic operator, Equans, as it has exclusive rights in relation to the development and it is a condition of the sale that the contracting authority appoints Equans to carry out the works. The contracting authority further considers that the Council holds exclusive rights over the Site as the Site owner, which rights will pass to Cowest and Equans. This opportunity for the contracting authority to develop the Site exists solely as a result of those rights and the absence of competition is not a result of artificial narrowing down of the parameters of the procurement by the contracting authority. The contracting authority considers that no reasonable alternative or

substitute exists as this opportunity was presented to it by the Council, Cowest and Equans and there is no reasonable alternative route to purchase the Site without it being a condition of sale for the contracting authority to appoint Equans to undertake any development works.

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

The procurement is covered by the Government Procurement Agreement: Yes

Section V. Award of contract/concession

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

6 December 2023

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

Equans Regeneration Limited

First Floor, Neon, Q10, Qurorum Business Park, Benton Lane

Newcastle Upon Tyne

NE12 8BU

Country

United Kingdom

NUTS code

- UKD - North West (England)

National registration number

01738371

The contractor/concessionaire is an SME

No

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

Total value of the contract/lot/concession: £19,624,440

Section VI. Complementary information

VI.3) Additional information

This VEAT notice demonstrates the intention to award a public works contract using the Negotiated Procedure without prior publication (Regulation 32 (2) (b) (iii)). This contract has not yet been entered into and a contract award notice will be published following award.

To view this notice, please click here:

<https://www.delta-esourcing.com/delta/viewNotice.html?noticeId=765938797>

GO Reference: GO-2023127-PRO-24711958

VI.4) Procedures for review

VI.4.1) Review body

High Court of England of Wales

Royal Courts of Justice, The Strand

London

WC2A 2LL

Country

United Kingdom