

Process for member involvement in the procurement of a developer partner for Brimscombe Port

Introduction

1. The procurement process for the selection of a developer partner for Brimscombe Port is to follow the OJEU compliant competitive dialogue route. Competitive dialogue is a public-sector tendering option that allows for bidders to develop alternative proposals in response to a client's outline requirements. Only when their proposals are developed to sufficient detail are tenderers invited to submit competitive bids. The aims are to increase value by encouraging innovation and to maintain competitive pressure in bidding for complex contracts.
2. The rules for the process are set out in the Public Contracts Regulations 2015 and need to be adhered to closely as any divergence could leave the Council open to legal challenge, which can be very expensive and time consuming to respond to. The process must adhere to the core principles of fairness, transparency, non-discrimination and proportionality.
3. As we are procuring a partner to work with over a number of years on a key corporate project for the Council, members need to have confidence that the right partner has been selected. The information set out below details the proposed process for the involvement of members in the selection.

Process for involvement by members

4. The main principle is that members approve the tender documentation and set the evaluation criteria, which are weighted to reflect the Council's priorities. Officers and the Council's consultants then score the criteria, which is a technical process. Each question needs to be scored objectively against the set criteria by the specialists in that area in order that the final decision can be clearly justified. Feedback must be made available to all bidders in their respective bids and the full scoring documentation made available should there be a legal challenge.
5. The governance of the project has enabled members to be involved from the outset via a project board, comprised of officers and members, receiving briefings from officers on progress, and regular updates provided to Investment and Development Panel with approvals granted by Strategy and Resources Committee. Officers will continue to keep members up to date on progress throughout the process by providing regular verbal reporting to project board on a confidential basis, to avoid the risk of leakage between bidders, and using this forum to provide oversight of the bidding process.
6. The process follows three key stages; SQ stage, competitive dialogue and final submission of tenders.

SQ stage – Initial short listing

- The opportunity to bid to be a developer partner will be published and interested parties can express their interest by completing the Selection Questionnaire which includes pass and fail questions and specific questions around past relevant experience and will have been approved by members at Strategy and Resources Committee.
- Officers who specialise in the subject areas and the Council's consultants will then score the responses based on the set criteria to create a shortlist of bidders to take through to the next stage.

- This shortlist will be presented to members of the project board, who are able to audit the scores based on the objective evaluation criteria set by reviewing the full scoring documentation prepared by the specialist. Scores can be adjusted if there is clearly an error in the evaluation process. However, the overriding say on the final scores rests with the specialist carrying out the evaluation for each question.
- The shortlist will be confirmed to Investment and Development Panel.

Competitive Dialogue Process

- The shortlisted bidders will then be taken through a competitive dialogue process where officers and the Council's consultants will hold a series of individual meetings with each bidder across various topics to enable their proposals to be developed prior to the final submission of their tenders.
- A bidder and the Council can establish through the dialogue process that their visions are not aligned and can agree to not continue further with the process and the Council would then continue the dialogue with the remaining shortlisted bidders.
- Project board will receive regular verbal updates with any information anonymised at this stage. It will be used as a sounding board for any issues that are raised in the dialogue meetings that need further consideration by the Council, taking into account the publicised timetable for the dialogue process and the need to respond within set timescales to any requests.

Final tender submission

- Once the bids have been developed to sufficient detail, tenderers will be invited to submit competitive bids by providing responses to the Council's tender evaluation criteria. Again these will be scored by officers with specialist knowledge in those topic areas together with the Council's consultants. This will result in a preferred bidder.
- As with the SQ stage, the scores will be presented to members of the project board who are able to audit the scores based on the objective evaluation criteria set. Scores can be adjusted if there is clearly an error in the evaluation process. However, the overriding say on the final scores rests with the specialist carrying out the evaluation for each question.
- A report will then be prepared for Strategy and Resources Committee and presented by the Chair of the Project Board to confirm the process taken, the outcome of that process, details of the preferred bid and its recommendation of that bidder for approval.
- In addition there will be a presentation by the preferred bidder to Strategy and Resources Committee so that members can be introduced to the Council's proposed partner prior to them approving the appointment.
- Should members not be supportive of the selected partner the only option available would be to not approve the award of a contract. The whole process would have to be started again with a significant risk of not being able to attract bidders next time.