AGENDA ITEM NO 10
REPORT NO 806/11

ANGUS COUNCIL

CORPORATE SERVICES COMMITTEE – 1 DECEMBER 2011
TERM CONTRACTS BASED UPON SCHEDULE OF RATES 2012/15 (EXTENSION TO 2017)
- PROCUREMENT AUTHORITY APPROVAL REQUEST

REPORT BY DIRECTOR OF CORPORATE SERVICES

ABSTRACT: Report seeking authority for the proposed procurement where the maximum value of the contract is above the Chief Officer’s delegated authority limit.

1 RECOMMENDATIONS
It is recommended that the Committee:

(i.) note the indicative estimated overall cost of £5,000,000 for the Schedule of Rates Term Contract for repair, maintenance and improvement works for the three year period 2012 to 2015 including provision for extensions to 2017 (at outturn prices);

(ii.) approve the procurement authority, as contained in this report, in accordance with the process stated in section 16.8 of the Financial Regulations;

(iii.) authorise the Head of Property to negotiate with and appoint contractors from other contract areas where a deficiency of contractors arises in a given trade category and contract area due to circumstances outwith the control of the Council, and to empower the Head of Property, where appropriate, to recover all additional costs incurred as a result of such action from any defaulting contractor who has contributed toward such a deficiency on the understanding that the outcome of all such negotiations are subsequently reported to Committee;

(iv.) note the financial implications included in Section 5 of this report.

2 INTRODUCTION
The current Schedule of Rates term contract commenced on the 1 September 2007 and is due to expire on the 31 August 2012. A new contract is required to continue the provision of a term contract for works that are repair, maintenance and improvement in nature up to £500,000 in value for each individual order (excluding works of an urgent repair and jobbing nature up to £20,000 in value).

This report details the funding arrangements and procurement process for the Schedule of Rates Term Contract – 2012 to 2015 (with provision for extensions to 2017) that fall within the procurement authority requirements contained in Financial Regulation (FR) 16.8. Approval of this report would mean that, subject to the overall costs following receipt of the tenders being value for money then, the contract and further extensions to the contract can be accepted without approval by the relevant Committees. This procurement is not considered to be a
“major procurement” in accordance with the new arrangements therefore tender evaluation and award information reports will be provided to the Head of Finance as required by FR 16.8.6.

3 SCOPE OF THE CONTRACT

The contracts will run from the 1 September 2012 to 31 August 2015 with provision for extensions up to the 31 August 2017. Contractors will be appointed on a trade and burgh basis and where possible reserve contractors will be put in place. Individual orders for works will be placed with the appropriate appointed contractor. The maximum value of any order is restricted to £500,000, in accordance with Appendix 1 - Procurement Arrangements & Delegated Authority contained in the Financial Regulations.

The contracts allow for revisions to the rates on an annual basis following the first year of the contract. The revisions to the rates shall be calculated based on the General Building Cost Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors. The contracts will include an option for extensions for periods of up to 2 years from the 1 September 2015 to 31 August 2017. The contracts will also incorporate a termination clause whereby the contractor’s employment can be determined after 12 months following receipt of notice by either party.

4 PROCUREMENT AUTHORITY

Objectives

The proposed Term Contracts based upon a Schedule of Rates are a continuation of existing contract practice which has been ongoing for many years and demonstrates the commitment to improving, maintaining and repairing the Council’s properties. The procurement of these contracts ensures that suitable repair; maintenance and improvement works can be arranged and carried out quickly by an appropriate contractor.

These contracts allow the Council to order works up to £500,000 in value in an efficient and flexible manor. The tender packages include in the region of 20 separate trades which are split into the Angus burghs and contractors can tender for one trade in a burgh, or any other combination, up to all trades in all burghs. This split ensures that a range of contractors from large firms to small to medium enterprises (SME’s) can be considered as part of the contractor selection and tendering process. The contract documents will incorporate amendments to fulfil the Council’s commitment to pay valid invoices within 30 days of receipt.

Programme

It is anticipated that the procurement process will begin in February 2012 with the placing of an advert for the proposed supply on the Public Contracts Scotland web portal. The subsequent tenderer selection process will be carried out in accordance with the Financial Regulations and appropriate EU Regulations as the estimated overall contract value is in excess of the EU Procurement threshold for construction works.

The Head of Property will additionally be taking action to notify local contractors, whether current and prospective, of the opportunities presented by these contracts, in accordance with FR 16.4 Community Benefit and Sustainability.

Following the finalisation of the list of tenderers, tender documents are to be issued in May 2012 and returned by June 2012. Once the tenders have been assessed, acceptances shall be issued by late July 2012 to the contractors who provide the lowest and second lowest figures once their tender rates are applied to the model account. The contract is anticipated to be in place from 1 September 2012. The contract period is three years and would be complete by 31 August 2015.
An option will be in place for extensions to the contracts up to the 31 August 2017.

**Procurement Options**

The council has a number of procurement options available to carry out repairs and maintenance type works. These range from producing individual tenders, issuing Schedule of Rates orders and requesting quotations.

The Term Contracts based upon a Schedule of Rates procurement process has evolved over a number of years and the Property division’s experience in operating this type of contract had led to the identification of trades which it is considered beneficial to procure on this basis. The Schedule of Rates documentation is based on a bespoke contract containing a specification and a schedule of rates section which allows orders to be issued for specific works efficiently and quickly. These orders are generally for repairs, maintenance and improvement items to the various types of properties which are the responsibility of Angus Council. These contracts incorporate standards of performance and performance assessment which are reviewed by the Property division; clients and contractors.

The trades which are procured on a Schedule of Rates basis have a number of ‘rates’ relating to the type of work they carry out and these can be easily selected by the contractor or contract administrator. The type of works where the use of the Schedule of Rates is beneficial are generally straightforward and non-specialist in nature and can contain levels of repetitive work that can be generically costed.

The use of other methods of procurement for works for these types of works would lead to the constant issuing of tendering/quotations documentation which would be an inefficient use of the staff resources available.

Previously the Term Contracts based upon a Schedule of Rates was awarded to one contractor for each burgh/trade but due to the number of trades and areas this lead to issues with workload and continuity of work if contracts were determined due to performance issues or receivership. To manage the risk to the Council, where appropriate based on value for money, a standby contractor will be appointed in each burgh/area. The standby contractor, who is more expensive, will only be used where the first contractor is unable to meet workload deadlines or their contract is determined.

Following previous experience a three year contract with the option for extensions, for periods up to two years, is the most beneficial to the Council in this case. It ensures a break in the contract where the decision can be taken to renew a contract based on a contractor’s performance. It also allows for a re-evaluation of the tender rates taking into account the impact of financial adjustments permitted by the conditions of contract.

As with the previous contracts Angus College have collaborated with Angus Council and the Property division administers the contracts on their behalf. Further Collaborative procurement opportunities are under continuous review with the Tayside Procurement Consortium. The recommended procurement process would be capable of accommodating the requirements of other public bodies provided they did not significantly affect the project programme. The opportunity could be taken to migrate to an alternative collaborative procurement process, if available, should any contract be determined or at the conclusion of the initial three year contract period.

It is the recommendation of the Head of Property that the most appropriate procurement option for delivering this project in the established timescales and to deliver the stated objectives is to utilise the approach detailed above.

This will ensure that Angus Council has complete control of the procurement process thereby obviating any delays; ensure that the project will fulfil client requirements and use the experienced resource already available within the Property division.
The Head of Finance is satisfied that the chosen procurement strategy will deliver these objectives and that this procurement is not considered to be a ‘major procurement’ within the meaning of FR 16.8.4.

Whole Life Costing

In accordance with standard practice the Property Division has integrated whole life costing within its best practice design approach to all projects. The type and extent of the works procured under this contract are not appropriate for the direct application of whole life costing techniques.

Due to the nature of these contracts it is not possible to identify sufficient materials with a high recycled content. Therefore the target of 10% by value of recycled content in property related construction projects valued over £1 million cannot be achieved on a measurable basis. The Property division will ensure that, where possible, any material specified includes an appropriate portion of recycled content.

The specification has also incorporated the Sustainable Timber Policy approved by the Corporate Services Committee on the 23 October 2008 (report 1040/08 refers) ensuring that all timber or timber materials required for this contract will be from sustainable sources.

Contract Award basis

The completed tenders returned to the Council will be evaluated and the contracts will be awarded on the basis of the lowest price weighting in each burgh/area once the contractors tendered rates have been applied to the model accounts, in accordance with the conditions of contract. Standby contracts will be evaluated on the same basis and awarded to the second lowest priced model account.

The model accounts which are used to calculate the lowest price weighting will contain an average figure for schedule of rates items based on typical orders raised under the previous term contract together with estimated day work cost figures for labour, materials, plant and non-productive overtime. The contractor will apply his percentage adjustments to these figures contained in the model account which will provide a tender price weighting factor which is used to evaluate and compare the various tender returns.

Risk Management

An assessment has been undertaken for this procurement and other than the normal risks inherent in tendering contracts of this size and complexity, no other significant risks have been identified. The Property division has extensive experience of procuring contracts of this nature in a timely manner and every measure will be taken to ensure that these contracts are effectively managed.

5 ALLOWANCE IN ESTIMATES AND FINANCIAL IMPLICATIONS

The estimated total cost for works carried out under the Term Contract based upon Schedule of Rates 2012 to 2017 including extensions is £5,000,000. This figure is based on the costs associated with orders issued under the previous contract by burgh/area and adjusted for possible future year costs.

As this contract does not relate directly to a project and is only used to ‘call-off’ orders for works when necessary no specific budget or allowance in estimates is identified. Works ordered under this contract are subject to the level of resources available to the Council but are usually funded from various sources including Planned Maintenance, Unplanned Maintenance, Insurance and Client Revenue budgets.
6 HUMAN RIGHTS ACT IMPLICATIONS
There are no Human Rights Act implications specific to this report.

7 EQUALITIES IMPLICATIONS
The issues dealt with in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

8 CONSULTATION
The Chief Executive, the Head of Law and Administration and the Head of Finance have been consulted in the preparation of this report.

9 CONCLUSION
The Committee is recommended to:

(i.) note the indicative estimated overall cost of £5,000,000 for the Schedule of Rates Term Contract for repair, maintenance and improvement works for the three year period 2012 to 2015 including provision for extensions to 2017 (at outturn prices);

(ii.) approve the procurement authority, as contained in this report, in accordance with the process stated in section 16.8 of the Financial Regulations and

(iii.) authorise the Head of Property to negotiate with and appoint contractors from other contract areas where a deficiency of contractors arises in a given trade category and contract area due to circumstances outwith the control of the Council, and to empower the Head of Property, where appropriate, to recover all additional costs incurred as a result of such action from any defaulting contractor who has contributed toward such a deficiency on the understanding that the outcome of all such negotiations are subsequently reported to Committee.

Colin McMahon
DIRECTOR OF CORPORATE SERVICES

BACKGROUND PAPERS
NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing the above report.

Property/JWP/DMH