

CABINET

11 JUNE 2013

GATEWAY 3 CONTRACT AWARD: WAINSCOTT PRIMARY SCHOOL REFURBISHMENT WORKS

Portfolio Holder: Councillor Mike O'Brien, Children's Services

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Summary

This report seeks permission from the Cabinet to award a contract to the supplier as highlighted within 2.5.1 of the Exempt Appendix.

This is based upon the recently undertaken procurement process for refurbishment works to convert teaching space into a multiple use hall, create a larger staff room and undertake alterations to existing classrooms and toilets for use by younger pupils. These works will coincide with the new building for the schools expansion to 2 forms of entry. The Final Business Case for the new building was approved by Cabinet at Gateway 3 on 18 December 2012 (decision number 230/2012).

Procurement Board on 22 May 2013 has recommended that this procurement be approved by Cabinet as a Category B High Risk project at Gateway 3 for reasons of transparency. The Gateway 1 report was approved by Procurement Board, as a Category B Medium Risk project on 13 March 2013, in order to proceed to Gateway 2. This ensured the contract could be awarded for the works to be undertaken in the summer holiday period.

1. Budget and Policy Framework

1.1 Contract Award Decision

The decision to award a contract to the supplier as highlighted within 2.5.1 of the Exempt Appendix for this procurement requirement is within the Council's policy and budget framework and ties in with all the identified Core Values, Strategic Priorities, Strategic Council Obligations and Departmental/Directorate service plans as highlighted within the Procurement Gateway 1 Report.

1.2 Related decisions

This project supports the Council's School Organisation Plan 2011 – 2016, approved by Cabinet on 1 November 2011 (decision number 143/2011), which highlights the need for more pupil places in Wainscott. The Council has a statutory duty to ensure there are sufficient school places as set out in the Education & Inspections Act 2006.

2. Background

2.1.1 This Procurement Gateway 3 Report seeks permission from Cabinet following consideration by Procurement Board to award a contract to the supplier as highlighted within 2.5.1 of the Exempt Appendix.

2.1.2 This is based upon the recently undertaken procurement process of Refurbishment Works to convert teaching space into a multiple use hall, create a larger staff room and undertake alterations to existing classrooms and toilets for use by younger pupils.

2.1.3 Tender packages were issued to four contractors on 22 April 2013. The tender return deadline was 8 May 2013. Three of the four contractors submitted tenders before the deadline. One tender was received late on 10 May 2013. The design team fully specified the work requirements prior to inviting tenders. This enabled greater certainty on cost, and the design is not likely to vary post tender unless something unforeseen occurs and this will be managed via the formal contractual variation process.

2.2 Contract Details

2.2.1. The proposed award of the contract to the supplier as highlighted within 2.5.1 of the Exempt Appendix relates to: a Works/Construction procurement requirement.

2.2.2. Contract duration

This report seeks permission to commence a new construction procurement project with contract duration in two phases, totalling 9 weeks, with provision to extend only in such circumstances as described by the contract conditions. Scheduled phase details as follows:

- Phase 1 commencement - 24 July 2013
- Phase 1 completion - 30 August 2013
- Phase 2 commencement – 6 January 2014
- Phase 2 completion – 24 January 2014

2.2.3 The contract is proposed to commence on 24 July 2013 and conclude on 24 January 2014.

2.2.4 The total contract value is £185,710.00.

2.3 Procurement Tendering Process

2.3.1. In line with Medway Council's Contract Procedure Rules an Invitation To Tender document was issued to four companies of a comparable stature, using the Council's Invitation To Tender document on 22 April 2013.

This was due to the associated total contract value of this contract being below the EU Procurement Threshold for Works of £4,348,350.00 and was approved by the Monitoring Officer in consultation with the Procurement Board at Gateway 1.

The decision as to how it was determined that all companies invited to tender were of a comparable stature was based upon selection from the KCC select list.

The deadline for return of tenders was 12:00 on 8 May 2013. The Exempt Appendix highlights that three tenders were received by the prescribed time and date within the Invitation To Tender document.

After a compliance check against the instructions set out in the Invitation To Tender document, there were two compliant tenders and two non-compliant tenders.

- The evaluation criteria set within the tender package was 100% price. The quality aspect of these works is covered in the detailed specification and quality performance standards issued with the tender documents. The procurement of the contractor via the Kent County Council Select List framework means they have already been checked for financial viability, health and safety standards, quality and service

2.3.2. After a compliance check against the instructions set out in the Invitation To Tender document, the two compliant submissions were evaluated. The results of this evaluation process are set out in the Exempt Appendix.

3. Options

In arriving at the preferred option as identified within Section 4.1 'Preferred Option', the following options have been considered with their respective advantages and disadvantages.

3.1 Options Resultant From Procurement Tender Process

This procurement tendering process has resulted in the following procurement contract award options:

3.1.1 Do not award any contract and cancel procurement process:
The option of not awarding any contract and cancelling the procurement process has been considered: but there is no justification for not awarding this contract as it provides best value and has been delivered in accordance with the original advertisements and associated

procurement documentation and therefore this option has been discounted.

3.1.2 Award contract to the contractor as highlighted within the Exempt Appendix:

The option of awarding the contract to the contractor as highlighted within the Exempt Appendix has been considered and below are the advantages and disadvantages of this option.

Advantages

- The contractor will carry out the refurbishment works within the contract period, in order to ensure the accommodation is suitable for planning, teaching and learning.

Disadvantages

- None

3.1.3 Other alternative options

No alternative options have been identified.

4. Advice and Analysis

4.1 Preferred option

Further to an extensive review of procurement contract award options as highlighted within Section 3 'Options' above, the preferred option is recommended to Cabinet in 3.1.2.

This is the most viable option for contract award because the proposed contract award meets the requirements as set out in Section 2 'Business Case' within the Gateway 1 Report by supporting the aim to deliver a quality product which will meet the Client's requirements within the constraints of working in a school environment

4.1.1 Procurement Project Outputs / Outcomes

The following procurement outcomes/outputs identified as important at Gateway 1 to the delivery of this procurement requirement have been appraised in the table below to demonstrate how the recommended procurement contract award will deliver said outcomes/outputs.

| Outputs / Outcomes | How will success be measured? | Who will measure success of outputs/ outcomes | When will success be measured? | How will recommended procurement contract award option deliver outputs/outcomes |
|--|---|---|---|---|
| 1. Appointing a contractor for the works who will deliver a quality product within the timescales required and within the given budget | Successful completion of the building works within the timescales which will be measured through the tender process | Building & Design Services. | Monitored throughout the programme by monthly site visits and contractor reports. | Monitored throughout the programme by monthly site visits and contractor reports. |
| 2. Appointing a contractor for the building works who is able to work within the constraints of a school environment | Successful procurement of the contractor within the specifications contained within the tender process | Building & Design Services. | Monitored throughout the programme by monthly site visits and contractor reports. | Monitored throughout the programme by monthly site visits and contractor reports. |
| 3. Delivery of the key objectives for the project which is refurbishment | Completion of the building works meeting all the Client's requirements | Building & Design Services. | Assessed at the end of the project, and also monitored throughout the contract period | Assessed at the end of the project, and also monitored throughout the contract period |

4.1.2 Procurement Project Management

This procurement project will be taken through the remainder of the Gateway Procurement Process through the utilisation of the following project resources and skills:

The School Organisation Team has the resources in place to act as Client Project Manager for the project. They will be supported by a small

design team of external consultants appointed by Building and Design Services and will be led by a Building & Design Services Project Manager in order to prepare the specification and drawings. Category Management will support the procurement process.

4.1.3 Post Contract Award Contract Management

The contract management will be managed and monitored by a Building & Design Services Project Manager, who will also ensure the work is progressing on time and within budget and providing quality assurance for the process.

The School Organisation Team will monitor the work of the project team and complete the financial monitoring. Progress reports will be presented to Education Capital Programme Board at key milestones and reporting to Members will be through the capital monitoring reports to Cabinet

4.1.4 Other Issues

There are no other issues that could potentially impact the recommended procurement contract award.

4.1.5 TUPE Issues

Further to guidance from Legal Services, Human Resources and the Category Management Team, it was identified at Gateway 1 that TUPE does not apply to this recommended procurement contract award as this is a Works related procurement with no Services related implications.

5. Risk Management

5.1 Risk Categorisation

The following risk categories have been identified as having a linkage to this recommended procurement contract award:

| | | | |
|------------------------|-------------------------------------|--------------------------------|-------------------------------------|
| Procurement process | <input checked="" type="checkbox"/> | Equalities | <input type="checkbox"/> |
| Contractual delivery | <input checked="" type="checkbox"/> | Sustainability / Environmental | <input type="checkbox"/> |
| Service delivery | <input checked="" type="checkbox"/> | Legal | <input type="checkbox"/> |
| Reputation / political | <input checked="" type="checkbox"/> | Financial | <input checked="" type="checkbox"/> |
| Health & Safety | <input checked="" type="checkbox"/> | Other/ICT* | <input type="checkbox"/> |

For each of the risks identified, further information has been provided below.

| Risk Categories | Outline Description | Risk Likelihood A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible | Risk Impact I=Catastrophic II=Critical III=Marginal IV=negligible Impact | Plans To Mitigate Risk |
|---------------------------|---|--|---|---|
| a) Procurement process | Council decision making process affects programme, resulting in programme delays and cost increases | D | II | Projects are planned with Procurement and Cabinet dates in mind to minimise delays |
| b) Contractual delivery | Failure of contractor to deliver contractual arrangements | E | III | Inclusion of Contract monitoring procedures within the contract documents. Default clauses are part of the contract documentation. |
| c) Service delivery | Lack of specified performance | E | III | A detailed specification with key milestones and performance indicators. |
| d) Reputation / political | Negative publicity as a result of poor communication | C | III | Project specific communications plan has been developed |
| e) Health & Safety | Construction works in close proximity to pupils, staff and visitors, resulting in disruption, injury or worse | D | I | Contractor to provide clear & concise H&S procedures, with close liaison with the school. CDM Co-Coordinator to review measures taken |
| f) Financial | Possibility of unforeseen costs identified | D | II | Detailed investigative work prior to the tendering of works undertaken to highlight any issues. |

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 Before commencement of the procurement process in order to direct the specification, consultation with the Section 151 Officer, Category Management and Monitoring Officer will be undertaken in order to aid the evaluation process.

6.1.2 During the procurement process in order to aid the evaluation process

The following statutory external stakeholder consultation is required before the commencement of the procurement project in order to direct the specification:

- STG Building Control

In addition, and in order to aid the evaluation process school staff and the Governing Body will review the proposed schemes to ensure quality and best value for money as we as a scheme that supports the curriculum. Parents and pupils will also be consulted as appropriate.

6.1.3 Post procurement/tender award in order to aid the contract management process

As part of this procurement project, the following mandatory internal stakeholder consultation will be required and will be undertaken post procurement/tender award in order to aid the contract management process.

The Building and Design Services Project Manager, in collaboration with the Client Project Manager and design team, will undertake full management and monitoring of the project to ensure the work is progressing on time and within budget and providing quality assurance for the process. Outputs of this process will include regular meetings with the contractor, project reporting, monthly valuations and strict change control processes, along with regular progress reporting to Children & Adults Capital Programme Cabinet Advisory Group.

Regular consultation with staff at the school will ensure any issues are managed efficiently and with little impact to the programmes, budgets and quality.

6.2 External Stakeholder Consultation

6.2.1 Before commencement of the procurement process in order to direct the specification, consultation took place as follows:-

- School staff, parents, pupils and Governing Body
- STG Building Control

- 6.2.2 During the procurement process in order to aid the evaluation process, external stakeholder consultation was undertaken with the headteacher and governors at Wainscott Primary School.
- 6.2.3 Post procurement/tender award in order to aid the contract management process, external stakeholder consultation will continue with the headteacher and governors at Wainscott Primary School.

7 Procurement Board

- 7.1 The Procurement Board considered this report on 22 May 2013 and supported the recommendations set out in section 9 of this report.

8 Financial and Legal Implications

8.1 Financial Implications

- 8.1.1 This recommended procurement contract award as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following financial implications, which the Cabinet must consider.

This recommended contract award, as per the preferred option highlighted at Section 4.1, and the recommendations at the Exempt Appendix forms part of the overall £3.9m scheme within the 2013/14 Capital Programme, and the costs can be met in full

- 8.1.2 Detailed finance and whole-life costing information is contained within **Section 2.1 Finance and Whole-Life Costing of the Exempt Appendix** at the end of this report.

8.2 Legal Implications

- 8.2.1 This recommended procurement contract award per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following legal implications which the Cabinet must consider.

This award is via the KCC Select list for works under the EU Threshold. The select list has been used in line with its instructions and therefore the award is in line with Contract Rules so there are no legal implications.

The client department is reminded that upon approval of this report all documentation relating to this award must be issued to Legal Services so that the formal contract award can be completed and a Deed of Agreement issued for completion.

8.3 Procurement Implications

- 8.3.1 This recommended procurement contract award as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following procurement implications which the Cabinet must consider

The project was tendered at 100% cost as the quality aspect was written into the specification for the works as part of the JCT contract. The returned tenders were then subject to a value engineering exercise to ensure the best outcome from the returns within the available budget.

The contract award request requires approval at Cabinet to allow for Phase 1, the main body of the refurbishment works, to start on site on 24 July and complete by 30 August i.e. during the school summer holidays. The remaining kitchen works making up Phase 2 will then be completed during January.

8.4 ICT Implications

8.4.1. This procurement requirement does not have any ICT implications.

9. Recommendations

9.1 Cabinet is requested to approve the procurement contract award to the contractor as outlined within Section 2.5 'Procurement Contract Award Recommendation' of the Exempt Appendix.

10. Suggested Reason for Decision

10.1 The recommendations contained within Section 9 'Recommendations' above are provided on the basis that the procurement will deliver the objectives outlined in the business case and summarised in Section 2.1, to enable the refurbishment works in the existing building as part of the overall expansion of the school to two forms of entry as described in the business case section of the Gateway 1 report.

Lead officer contact

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Background papers

The following documents have been relied upon in the preparation of this report:

| Description of document | Location | Date |
|--------------------------------|--|---------------|
| Gateway 1 Report | Held by Category Management | 13 March 2013 |
| Tender Report | Exempt as it contains commercially sensitive information | 10 May 2013 |