

CABINET

9 JULY 2013

GATEWAY 3 CONTRACT AWARD: MEDWAY LOCAL WELFARE PROVISION SCHEME

Portfolio Holder: Councillor David Brake, Adult Services

Report from: David Quirke-Thornton, Deputy Director, Children and Adults Services

Author: Paula Chakkar, Category Lead

Summary

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

This is based upon the recently undertaken procurement process for the Medway Local Welfare Provision (LWP) Scheme.

The Procurement Board and Cabinet approved the commencement and delivery of this service at Procurement Gateway 1 in April 2013.

The approved Procurement Gateway 1 Report relating to this Gateway 3 report is available upon request.

This Procurement Gateway 3 Report has been approved for submission to the Cabinet by the Children and Adults Directorate Management Team and the Procurement Board.

1. Budget and Policy Framework

1.1 Contract Award Decision

- 1.1.1 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 Statutory Requirements

- 1.2.1 There are no statutory requirements for the provision of the Medway Local Welfare Provision (LWP) Scheme.
- 1.2.2 However the service has implications and impacts on other statutory duties including:
- Impact on the lives of local vulnerable people in the event of an emergency or crisis
 - Pressure and strain on existing local services and local partners
- 1.2.3 A Diversity Impact Assessment has been undertaken for this service and is included as Appendix 1.

2. Background

2.1 Permission Required From the Cabinet

- 2.1.1 This Procurement Gateway 3 Report seeks permission from the Cabinet to award a contract to the supplier as highlighted within paragraph 2.5.1 of the Exempt Appendix.
- 2.1.2 This is based upon the OJEU procurement process recently undertaken for the Local Welfare Provision (LWP) Scheme.

2.2 Contract Details

2.2.1 Procurement type

The proposed award of the contract to the supplier as highlighted within paragraph 2.5.1 of the Exempt Appendix relates to a services procurement requirement.

2.2.2 Contract duration

The proposed contract duration for this procurement requirement is **from 01 Aug 2013 to 31 Mar 2015** with provisions to extend the contract for a period of **2 years** subject to availability of further funding from Central Government.

2.3 Procurement Tendering Process

- 2.3.1 In line with Medway Council's Contract Procedure Rules, this procurement requirement was subjected to a formal tender process in line with the EU Procurement Open process, whereby an OJEU notice was placed within the Official Journal of the European Union (OJEU) on 24 April 2013, the South East Portal and an advert was placed upon Medway Council's website.
- 2.3.2 This was due to the associated total contract value of this contract being above the EU Procurement Threshold for Services of £173,934.00 and was approved by the Cabinet.

- 2.3.3 It was agreed and decided with the procuring client to follow a formal EU Open tender process as the marketplace is in the early stages of development for this specific localised service.
- 2.3.4 The Exempt Appendix highlights that 37 expressions to be invited to tender were recorded and issued with the Invitation to Tender Document.
- 2.3.5 Subsequently, three companies returned the Invitation To Tender documentation within the prescribed deadline for completed submissions of 12:00 on 10 June 2013 as defined within the Invitation To Tender document.
- 2.3.6 The evaluation criteria set within the Invitation To Tender document was Most Economically Advantageous Tender (MEAT) based upon a composite mixture of quality and price, 80% for quality and 20% price, equating to 100% in total.
- 2.3.7 After a compliance check against the instructions set out in the Invitation To Tender document, all three 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 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 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 continuation of provision of the Medway Local Welfare Provision (LWP) Scheme service providing vital crisis services and support to those most in need.
- The provider's expertise and experience of delivering this service.
- The provider's existing well developed local network of supply chain for goods.
- The provider's existing links with referring agents and support agencies such as Job Centre Plus, Housing Providers, local charities and Prison Service.

- Robust monitoring and reporting tools.

Disadvantages

- Mobilisation and continuity of service.

3.1.3 Other alternative options –no other alternative options have been identified.

4. Advice and analysis

4.1 Preferred option

4.1.1 Further to an extensive review of procurement contract award options as highlighted within Section 3 ‘Options’ above, the following preferred procurement award option is recommended to the Cabinet including justification for this recommendation.

4.1.2 The recommended preferred option 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 in the following ways:

4.1.3 The contract award is compliant with EU Procurement Directives and will provide the Council with a local service provision to support people in Medway who are in a crisis situation and require timely assistance and support through a local supply chain network which encompasses local businesses and the voluntary sector.

4.1.4 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?
Advertising and signposting	Applicants routed to service from other partners such as DWP.	Commissioner	Quarterly
Application process, eligibility and decision process	Applications and awards monitoring	Commissioner	Monthly
Rejected applications	Number of rejected applications and reason	Commissioner	Monthly
Appeals	Appeals/outcomes	Commissioner	Monthly

Access to grants	Data on people accessing the service, including equalities data	Commissioner	Monthly
Develop local networks with retailers for provision of service e.g. furniture	Data from provider on purchases and payments	Commissioner	Monthly

4.1.5 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.

4.1.6 Post Contract Award Contract Management

The contract management of this recommended procurement contract award will be resourced post award through the Partnership Commissioning Team.

The Partnership Commissioning Team will undertake full management and monitoring of the contract to ensure the service is delivered in accordance specification and within the budget.

4.1.7 Other Issues

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

4.1.8 TUPE Issues

It was identified that as this is a Services related procurement contract award, TUPE does apply to this procurement process.

The recommended contract award will result in 3 employees being affected by TUPE as a result of the incumbent provider not being successful as part of this procurement tender process.

5. Risk Management

5.1 Risk Categorisation

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

- Contractual delivery
- Service delivery
- Reputation / political
- Equalities

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
Contractual delivery	Failure of provider to deliver contractual arrangements	E	II	Contract monitoring.
Service delivery	Failure of provider to meet the required service delivery requirements	D	II	Robust contract monitoring and reporting arrangements with clearly defined objectives and KPI's
Reputation / political	Impact on the lives of local vulnerable people in the event of an emergency or crisis and pressure and strain on existing local services and local partners	D	II	Manage the transfer of interim arrangement to new provider. Robust contract monitoring process identifying any issues and seeking prompt resolutions.
Equalities	Failure to ensure this service is accessible to all communities and people in Medway	E	II	Ensure service is adequately advertised and signposted across all agencies and community groups. Monitor and review protected characteristics against applications, awards, rejections, appeals and complaints.

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 Before commencement of the procurement process in order to direct the specification as part of this procurement project no internal stakeholder consultation was neither required nor undertaken.

6.1.2 During the procurement process, in order to aid the evaluation process as part of this procurement project no internal stakeholder consultation required or undertaken.

6.1.3 Post procurement/tender award in order to aid the contract management process as part of this procurement project no internal stakeholder consultation will be required nor undertaken.

6.2 External Stakeholder Consultation

6.2.1 Before commencement of the procurement process in order to direct the specification as part of this procurement project no external stakeholder consultation was neither required nor undertaken.

6.2.2 During the procurement process in order to aid the evaluation process as part of this procurement project no external stakeholder consultation was required or undertaken.

6.2.3 Post procurement/tender award in order to aid the contract management process as part of this procurement project no external stakeholder consultation will be neither required nor undertaken.

7. Procurement Board

7.1 The Procurement Board considered this report on 26 June 2013 and supported the recommendation set out in paragraph 9 below.

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 will be met by funding which has been received from Central Government for the local provision of this service.

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 as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following legal implications which the Procurement Board must consider:

8.2.2 There is the risk of potential legal challenge under TUPE (The Transfer of Undertaking Regulations 2006) by employees of the unsuccessful provider. Whilst the council will not be liable as an employer in any future challenge, as it will be neither the "transferor" nor "transferee" of the service based on the proposed recommendations, the council may be joined as a party to future proceedings on the basis of being a commissioner of the service.

8.2.3 It is important that in the award of this contract the council complies with its Contracts Procedure rules and Public Contracts regulations 2006 and

the EU procurement rules to minimise the risks of a successful legal challenge.

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 Procurement Board must consider:
- 8.3.2 The value of the proposed contract is above the EU procurement threshold for services currently set at £173,934 and therefore subject to EU Procurement Rules and accordingly a compliant open procurement exercise has been conducted.
- 8.3.3 The TUPE (The Transfer of Undertaking Regulations 2006) have been taken into consideration by the recommended service provider which addresses the risk identified above by Legal.

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 reasons for decision(s)

- 10.1 The recommendations contained within Section 8 'Recommendations' above are provided on the basis of most economically advantageous tender be awarded the contract.

Lead officer contact

Name: Paula Chakkar
Title: Category Lead People
Department: Category Management
Directorate: Legal & Corporate Services
Extension: 7842
Email: paula.chakkar@medway.gov.uk

Background papers

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

Description of document	Location	Date
Gateway 1 Report	http://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?Id=10577	16 April 2013

Appendix 1 - Diversity Impact Assessment: Screening Form

Directorate Children & Adults	Name of Function or Policy or Major Service Change		
	Local Welfare Provision		
Officer responsible for assessment	Date of assessment	New or existing?	
Chris Gell	22 nd April 2013	New	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	Local Welfare Provision is funding received from the DWP to ensure that people living in the Medway area who are in crisis or during an emergency have access to a facility to ensure that they have food, heating, basic furniture etc to help them get through the crisis. Further support is given to try to ensure that they do not go into crisis again.		
2. Who is intended to benefit, and in what way?	Local residents receiving welfare benefits who are in crisis or during an emergency who have no access to any other funds or assistance		
3. What outcomes are wanted?	That all vulnerable adults and children in Medway are not at risk due to lack of basic necessities.		
4. What factors/forces could contribute/detract from the outcomes?	Contribute The economic situation which could see more people claiming state benefits and therefore meeting the criteria of being able to apply for assistance from the LWP	Detract Withdrawal of funding from the DWP	
5. Who are the main stakeholders?	Medway Council Residents of Medway Agency delivering the service on behalf of Medway Council		
6. Who implements this and who is responsible?	The service will be implemented by an external agency and overseen and monitored by Commissioners.		

Assessing impact		
7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial/ethnic groups</i>?		Brief statement of main issue The criteria is that the applicant must be on state benefits, providing they are there will be no differential impact due to race or ethnicity.
	NO	
What evidence exists for this?	Service is open to anyone receiving state benefits	
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?		Brief statement of main issue The criteria is that the applicant must be on state benefits, providing they are there will be no differential impact due to disability.
	NO	
What evidence exists for this?	Service is open to anyone receiving state benefits	
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?		Brief statement of main issue The criteria is that the applicant must be on state benefits, providing they are there will be no differential impact due to gender
	NO	
What evidence exists for this?	Figures from year 2011/2012	
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?		Brief statement of main issue The criteria is that the applicant must be on state benefits, providing they are there will be no differential impact due to sexual orientation
	NO	
What evidence exists for this?	Service is open to anyone receiving state benefits	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?		Brief statement of main issue The criteria is that the applicant must be on state benefits, providing they are there will be no differential impact due to religion or belief
	NO	
What evidence exists for this?	Service is open to anyone receiving state benefits	
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i>?		Brief statement of main issue The criteria is that the applicant must be on state benefits, providing they are there will be no differential impact due to peoples age.
	NO	
What evidence exists for this?	Figures from year 2011/2012	

13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgender or transsexual</i>?		Brief statement of main issue The criteria is that the applicant must be on state benefits, providing they are there will be no differential impact due to transgender or transsexual
	NO	
What evidence exists for this?	Service is open to anyone receiving state benefits	
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. speakers of other languages; people with caring responsibilities or dependants; those with an offending past; or people living in rural areas)?		If yes, which group(s)? The criteria is that the applicant must be on state benefits, providing they are there will be no differential impact. Translators are available through Medway Council. Transport will be supplied for people who cannot access the service.
	NO	
What evidence exists for this?	Service is open to anyone receiving state benefits	
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?		Brief statement of main issue
	NO	
What evidence exists for this?	Service is open to anyone receiving state benefits	

Conclusions & recommendation

16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?		Brief statement of main issue Each case is assessed separately
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	Please explain
	NO	N/a
Recommendation to proceed to a full impact assessment?		
NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.	

Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible

Planning ahead: Reminders for the next review		
Date of next review		
Areas to check at next review (e.g. new census information, new legislation due)		
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?		
Signed (completing officer/service manager) Chris Gell	Date	22 nd April 2013
Signed (service manager/Assistant Director) David Quirke-Thornton	Date	22 nd April 2013