

CABINET

29 OCTOBER 2013

GATEWAY 3 CONTRACT AWARD: NEW PRIMARY SCHOOL IN CHATHAM REFURBISHMENT AND REMODELING WORKS

Portfolio Holder: Councillor Mike O'Brien, Children's Services (Lead Member)

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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 works to establish a new primary school in buildings on the former site of Bishop of Rochester Academy – West Campus site. The site was vacant in August 2013.

The Cabinet approved the commencement and delivery of this procurement requirement at Procurement Gateway 1 on 11 June 2013.

This Procurement Gateway 3 Report has been approved for submission to the Cabinet after review and discussion at Children and Adults Directorate Management Team meeting on 1 October 2013 and the Procurement Board on 15 October 2013.

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 Statutory Requirements

The procurement of this requirement directly links into the following Strategic Council Obligations: The Council has a statutory duty to ensure there are sufficient school places available. The Council also has a duty to promote high standards and secure sufficient school places and ensure the sustainability of its schools throughout Medway (Education Act 2006 and 2011).

- Medway Council Plan

This requirement links into the Medway Council Plan by supporting the Council priority to give children and young people the best start in life.

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 2.5.1 of the Exempt Appendix.

2.1.2 This is based upon the recently undertaken procurement exercise for works using the KCC select list.

2.2 Contract Details

2.2.1 Procurement type

The proposed award of the contract to the supplier as highlighted within 2.5.1 of the Exempt Appendix relates to a works procurement exercise.

2.2.2 Contract duration

The contract duration for this requirement is 165 days and there are no provisions within the contract to extend. The contract commencement is detailed in the Exempt Appendix.

2.2.3 Contract value

The total contract value associated with this contract is outlined in the Exempt Appendix.

2.3 Procurement Tendering Process

2.3.1 In line with Medway Council's Contract Procedure Rules this requirement was subjected to:

An Invitation To Tender document that was issued to six companies of a comparable stature, using the Council's Invitation To Tender documents on 8 August 2013.

The deadline for return of tenders was 12:00 noon on 16 September 2013. The Exempt Appendix highlights that 4 bidders returned tenders by the prescribed time and date within the Invitation To Tender document.

The evaluation criteria set within the Invitation To Tender document was Most Economically Advantageous Tender (MEAT) based upon a composite mixture of quality (40%) and price (60%).

After a compliance check against the instructions set out in the Invitation To Tender document, there were 3 compliant tenders and 1 non-compliant tender received, recorded and opened by the Build & Design Team on 16 September 2013 at 13:00. 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 tendering process has resulted in the following 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 as highlighted in paragraph 3 Option above.

Advantages:

- Market driven pricing for building works is a feature and the procurement will provide competitive tenders.
- The design team will fully specify the employer's requirements prior to inviting tenders
- The Council will have greater cost certainty following the tender exercise
- Health & Safety Risks are transferred to the contractor
- The above Contractor will issue work packages post tender

Disadvantages:

- None

3.1.3 Other alternative options: Re-run the tender exercise

There may be justification if the market has changed since the exercise has been run but there is no evidence of this and this would lead to a delay in the project delivery.

4. Advice and analysis

4.1 Preferred option

Further to an extensive review of the contract award options as highlighted within Section 3 'Options' above, the following preferred award option is recommended to the Procurement Board including justification for this recommendation.

The recommended 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:

It is the best price and gives the best quality from the bidding Contractors. Please see Scoring Matrix in the Exempt Appendix.

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	The preferred contractor has experience of delivering within stipulated timescales and a budget allocated.

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	The preferred contractor has extensive experience of working within school environments, including successes within Medway.
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	The specification included in the tender includes the key objectives outlined for delivery, which will be undertaken by the contractor.

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 for the project. They will be supported by a project delivery design team of external consultants appointed by Building and Design Services and will be led by a Building & Design Services Project Manager. Category Management will support the procurement process

4.1.3 Post Contract Award Contract Management

The contract management will be managed and monitored by Building Design Services Project Manager and a full design team of external consultants. They will ensure the work is progressing on time and within budget and provide 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

TUPE does not apply to this procurement process. This is because there will be no reductions in current staffing as a result of this project. In the event that the proposed contract is amended or extended, or there is any change in contractor, however, then further legal advice needs to be sought from Legal Services as to applicability of TUPE.

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 above, 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	A– Council decision making process affects programme, resulting in programme delays and cost increases	I	A	Projects are planned with Procurement and Cabinet dates in mind to minimise delays
b) Contractual delivery	D – Failure of contractor to deliver contractual arrangements	III	D	Inclusion of Contract monitoring procedures within the contract documents. Default clauses are part of the contract documentation
c) Service delivery	E – Negative publicity as a result of poor communication	III	E	A detailed specification with key milestones and performance indicators
d) Reputation / political	E – Negative publicity as a result of poor communication	III	C	Project specific communications plan has been developed
e) Health & Safety	D – Construction works in close proximity to pupils, staff and visitors, resulting in disruption, injury or worse	I	D	Contractor to provide clear & concise H&S procedures, with close liaison with the school. CDM Co-Coordinator to review measures taken
f) Financial	D – Possibility of unforeseen costs identified	II	D	Detailed investigative work prior to the tendering of works undertaken to highlight any issues. Value engineer to keep within budget.

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 Before commencement of the procurement process in order to inform the specification, internal consultation with Medway Council Planning Department was required and was undertaken.

- 6.1.2 During the procurement process and in order to aid the evaluation, stakeholder consultation was required and was undertaken by Alan Godden from Huntley Cartwright and Stuart Collingwood from Bailey Partnership Ltd.
- 6.1.3 Post procurement/tender award in order to aid the contract management process as part of this procurement project, the following statutory internal stakeholder consultation with Medway Council Planning Department will be required and will be undertaken post procurement/tender award in order to aid the contract management process.

6.2 External Stakeholder Consultation

- 6.2.1 Before commencement of the procurement process in order to direct the specification

External stakeholder consultation with the RGS/AFS Thinking Schools Academy Trust representatives was undertaken.

- 6.2.2 During the procurement process in order to aid the evaluation process

External stakeholders were consulted RGS/AFS Thinking Schools Academy Trust representatives Huntley Cartwright, Cost Consultant Alan Godden.

- 6.2.3 Post procurement/tender award in order to aid the contract management process the following external stakeholders were consulted RGS/AFS Thinking Schools Academy Trust representatives Huntley Cartwright, Cost Consultant Alan Godden.

7. Procurement Board

- 7.1 The Procurement Board considered this report on 15 October 2013 and supported the recommendations 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, has the following financial implications which the Cabinet must consider. The full budget for the project will be covered by a Basic Need Grant and has been approved by the finance department.
- 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.

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.

8.2.2 The Chatham free school is to be constructed on land currently owned by the Council. The Chatham Grammar School for Boys Trust (an academy) occupies the adjoining site under a 125 year lease from the Council. Whilst the lease reserved rights of access to the free school site over a shared access way and rights to connect to services, such rights to connect must be exercised causing as little damage, disturbance or inconvenience as possible to the tenant or its business. Rights have also been reserved to enter the Grammar School's land, on giving reasonable notice for the purpose of inspecting and executing repairs, additions, alterations and other works to the Councils adjoining land. Thus, the Council will ensure that the Grammar School is made fully aware of the programme of works to minimise the risk of disruption to its business and that any consents to access its land, are sought in good time.

8.3 Procurement Implications

8.3.1 This recommended contract award, as per the preferred option highlighted at Section 4.1 'Preferred Option', and the recommendations at Section 9, have the following procurement implications which the Cabinet must consider. The Procurement process was carried out in line with the Council's Contract Rules and that best value for money has been delivered through this process.

8.4 ICT Implications

8.4.1 This procurement requirement does not have any ICT implications. The Bishop of Rochester Academy does not procure Medway Grid for Learning ICT services from Medway Council.

8.4.2 However, any building work planned should include consultation with the technical resources at the school to ensure ICT requirements are planned into the proposal and that no disruption to the existing ICT service occurs.

9. Recommendations

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

9.2 Cabinet is asked to approve the virement set out in paragraph 2.1.1 of the Exempt Appendix to cover design, enabling works, construction works, professional fees and all associated project costs.

10. Suggested reasons for decision(s)

10.1 The recommendations contained within Section 9 'Recommendations' above are provided on the following basis:

- The preferred contractor provided the lowest price and highest quality overall
- The urgency of remodelling this school is due to the shortage of primary school places within Medway Council.

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 and Outline Business Case	http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?Id=10537	11/06/13