

## **CABINET**

**13 MAY 2014**

### **GATEWAY 3 CONTRACT AWARD: LOCAL AND YELLOW BUS CONTRACTS RETENDERING**

Portfolio Holder: Councillor Filmer, Front Line Services

Report from: Robin Cooper, Director of Regeneration, Community and Culture

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#### **Summary**

This reports seeks permission from the Cabinet to award the Yellow and Local Bus service contract to the suppliers identified in section 2 of the exempt appendix.

#### **1. Background**

- 1.1 In November 2013 a Gateway 1 paper was presented to the Procurement Board outlining the need to retender the Local and Yellow Bus Contracts. On this occasion, in contrast with previous practice, both the Yellow and Local bus Contracts were amalgamated and tendered together as one procurement exercise in order to maximise opportunities for economies.
- 1.2 The contract is made up of 48 individual local bus routes and 9 Yellow Bus routes and the outcome of the tender process can be viewed within the accompanying exempt appendix. The process was run through an OJEU open procedure in order to appeal to the largest market available with the understanding that there were a finite number of capable contractors.
- 1.3 It is also worth noting that Medway Council is one of the few Councils that has not only maintained their budget for the support of local bus services but has also improved them.

## **2. Procurement Process**

### **2.1 Procurement Process Undertaken**

2.1.1 The process undertaken for this process was OJEU Open; the reasoning behind this is that there are a finite number of suppliers capable of delivering this process. Due to the contract length (5 years plus an additional 3) and value, it was considered that this process was likely to deliver the best result.

2.1.2 The opportunity was published on the Kent Business Portal as an Open OJEU tender on 3 February 2014 to which 12 expressions of interest were recorded. Of the 12 expressions of interest there were 6 responses, 5 of which were compliant with the tender documents.

### **2.2 Evaluation Criteria**

2.2.1 The quality/cost evaluation criteria used for this procurement was 60%/40% respectively. It was agreed that for all the lots being tendered the same quality questions would be asked to establish the 60% and for price, each route was individually scored against the possible 40%.

2.2.2 Variant bids were also allowed and in order to be compliant, the tenderer had to submit a bid for each individual lot, if it were also to be subject to a variant bid. The variants, in this instance, provided Medway Council with a selection of combined bids, which have proved to be financially beneficial. Although the Council received a number of variant bids, two proved to offer best value for the Council. When variant bids were being evaluated the lowest individual bid of each were added together and compared to the value of the combined bids.

2.2.3 The exempt illustrates the outcome that forms the recommendation in Section 6 of this report.

### 3. BUSINESS CASE

#### 3.1 Delivery of 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.

<b>Outputs / Outcomes</b>	<b>How will success be measured?</b>	<b>Who will measure success of outputs/ outcomes</b>	<b>When will success be measured?</b>	<b>How will recommended procurement contract award deliver outputs/outcomes?</b>
1. Possible Cost Saving	Comparison with previous costs	Transport Operations Officers	Contract award stage	If awarded the savings in 1.1.1 of the exempt appendix can be achieved.
2. Possible introduction of new bus operators in Medway	Comparison against previous operators	Transport Operations Officers	Subject to evaluation stage being approved at Gateway 3	Although no new bus operators will be awarded contracts subject to the outcome of this tender opportunity, further opportunities have become available for the current suppliers.

## **4. SERVICE COMMENTS**

### **4.1 Financial Comments**

4.1.1 The procurement requirement and its associated delivery (as per the recommendations at Section 6), will be funded from existing revenue budgets. Savings have been achieved as a result of this process, If the combined value of the routes had exceeded the budget available then routes could have been discontinued to fall in line with budgetary restraints.

4.1.2 Further detail is contained within Section 1.1 Financial Analysis of the **Exempt Appendix** accompanying this report.

### **4.2 Legal Comments**

4.2.1 The value of the procurement exceeds the financial limits which require the use of the OJEU procedure in compliance with the Public Contracts Regulations 2006 (“the 2006 Regulations”).

4.2.2 The 2006 Regulations permit the use of the open procedure for procurement of goods and services of this nature, and so the procurement process complied with the 2006 Regulations.

4.2.3 The award details should be posted as a formal Award Notice in the OJEU and one other medium upon approval of this Gateway 3 report . Advertisement on the Kent Business Portal meets the requirement to advertise in one other medium in addition to the OJEU advertisement.

4.2.4 The Transport Act 1985 (as amended) and regulations made under it require that the service providers must give 56 days notice to the Transport Commissioner before changes to services can take place.

### **4.3 TUPE Comments**

4.3.1 It was highlighted at Gateway 1 that TUPE did apply to this procedure, since then it has been highlighted that 18 employees were affected, these are not Medway Council employees. The council is of the view that as the same service will be continuing by the new provider, it is likely that the TUPE regulations will apply to this award. The new and current providers would need to satisfy themselves independently of the applicability of TUPE and would be required to comply with their respective obligations under the TUPE regulations.

### **4.4 Procurement Comments**

4.4.1 The client service provided category management all of the technical specifications leading to an OJEU open procedure through the Kent Business Portal. The process resulted in an annual saving as highlighted in 1.1.1 of the exempt appendix and has seen an increase in Sunday services. There are no additional suppliers as a result of this procurement process but the smaller firms who have routes with

Medway at present have seen an increase in routes. The variant bids included provided Medway Council with the savings achieved.

#### 4.5 ICT Comments

4.5.1 There are no ICT implications.

#### 5. Procurement Board

5.1 The Procurement Board considered this report on 22 April 2014 and supported the recommendation set out in section 6.

#### 6. Recommendation

6.1 It is recommended that Cabinet notes the evaluation process and approves the award of the Lots as detailed within section 2.3 and 2.4 of the Exempt Appendix.

#### 7. Suggested Reasons for Decisions

7.1 The recommendation is due to the cost savings to the Council and the improved service that this would provide.

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#### BACKGROUND PAPER

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

Description of Document	Date
Gateway 1 Report	November 13