

CABINET

10 JUNE 2014

GATEWAY 3 CONTRACT AWARD: CORPORATE SCHOOL MEAL PROVISION

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

Report from: Barbara Peacock, Director of Children and Adult Services

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Summary

This report seeks permission to award a contract to the supplier(s) as highlighted within Section 2.4 of the Exempt Appendix.

The Cabinet approved the commencement of this requirement at Gateway 1 on 1 October 2013.

This Gateway 3 Report has been approved for submission to the Cabinet after review and discussion at Children and Adults Directorate Management Team Meeting on 29 April 2014 and the Procurement Board on 20 May 2014.

1. Budget and Policy Framework

1.1 Background Information

1.1.1 The aim of the procurement was to procure a school meal contract to deliver a sustainable, quality, value for money service to students within Medway, and which meet nutritional standards for school meals as set by Government.

1.1.2 In preparation for the new contract start and the introduction of Universal Infant Free School Meals for KS1 pupils in September 2014, the corporate catering specification has undergone changes to adhere to changes in Government guidelines surrounding food standards for school meals. All changes have been undertaken in consultation with the Public Health Team.

- 1.1.3 The contract will be let as one lot with the contract being made between the Contractor and Medway Council. The funding for the contracts will be via the individual schools' budgets.
- 1.1.4 The School Contracts Team, which is part of the Children and Adults Directorate, has a service level agreement with each of the 47 participating schools, under which the School Contracts Team has been engaged to commission a service provider for the catering services and to monitor provision of the service provision.
- 1.1.5 The contract is to be let for a 5 year period commencing 1 August 2014. The contract will be structured as a 3 year contract with the option to extend for up to 24 months.

1.2 Funding/Engagement from External Sources

- 1.2.1 As this recommended procurement contract award encompasses funding from external sources, authority to proceed with this procurement direction has been reviewed and approved by each individual Medway school.
- 1.2.2 The responsibility and budget provision for the school meals service is delegated to Medway schools. The free meal element of the contract is a Government requirement and an allowance has been made in each school's delegated budget to cover the free meal element.

2. Procurement Process

2.1 Procurement Process Undertaken

- 2.1.1 In line with Medway Council's Contract Procedure Rules, this procurement requirement was subjected to a formal tender process in line with EU procurement restricted process, whereby an OJEU notice was placed within the Official Journal of the European Union (OJEU) on 06.01.14 and on the Kent Business Portal on 07.01.14 in conjunction with the Category Management Team.
- 2.1.2 This was approved by the Cabinet at Gateway 1 stage.
- 2.1.3 It was decided to follow the EU Restricted tender process as the current market for catering is strong and this procurement will provide a competitive tender process, which will as a whole give a favourable outcome for the schools.
- 2.1.4 The deadline for expressions to request and submit a pre-qualification questionnaire was 12:00 noon on 07.02.14. There were 14 pre-qualification questionnaires downloaded by all those applicants that had registered and expressed an interest by the aforementioned deadline date. 7 pre-qualification questionnaires expressions were received by the prescribed time and date within the OJEU notice and the Kent Business Portal's website. Subsequently, post evaluation of the pre-qualification questionnaires, all 7 applicants were shortlisted

from the pre-qualification applicant pool and invited to tender in line with the defined evaluation approach as set out in the Council's pre-qualification questionnaire.

- 2.1.5 Shortlisted applicants from the pre-qualification questionnaire stage were issued with the Invitation to Tender documents simultaneously on 17.02.14 with the instruction to return tenders by 12:00 on 28.03.14. Subsequently, 4 companies returned the Invitation to Tender documents within the prescribed deadline for completed submissions.
- 2.1.6 After a compliance check against the instructions set out in the Invitation to Tender documentation, 4 compliant submissions were evaluated. The results of this evaluation process are set out in the Exempt Appendix.

2.2 Evaluation Criteria

- 2.2.1 The evaluation criteria used within the Invitation to Tender document was the Most Economically Advantageous Tender (MEAT), based upon a composite mixture of quality (60%) and price (40%), equating to 100% in total. The greater weighting was given on quality to ensure that the catering provision was of the highest quality and to mitigate any risks associated with health and safety, food hygiene and nutritional quality.
- 2.2.2 The method statements were weighted according to their relevance, with greater percentage of the allocated 60% being based on meeting the specification and service outcomes, the main service proposal and the formal company presentation, including food sampling. The Public Health Team attended presentations by the companies and were involved in the process of evaluating the food and quality from a nutritional point of view and to ensure adherence to nutritional guidelines and food quality.

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.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?	How will recommended contract award option deliver outputs/outcomes?
1. Appointing a provider for the catering service	Successful procurement of catering service within the timescales	The School Contracts Team via service level buy-in from Medway schools and each individual school	On-going over the life of the contract	The successful contractor has a proven track record of delivering the specified specification within the pricing structure

4. Service comments

4.1 Financial Comments

- 4.1.1 The procurement requirement and its associated delivery (as per the recommendations at Section 7, will be funded from existing revenue budgets.
- 4.1.2 Further detail is contained within Section 2.1 Financial Analysis of the Exempt Appendix.

4.2 Legal Comments

- 4.2.1 The services which are under consideration in this report are Part B services, and so the requirement to comply with the formal publication procedures set out in the Public Contracts Regulations 2006 (“the 2006 Regulations”) does not strictly apply.
- 4.2.2 However, the 2006 Regulations do require that procurement exercises to which the formal procedures do not apply should still follow the principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality, and so as a matter of good practice, Medway Council follows the procedures set out in the 2006 Regulations even where this is not strictly necessary.
- 4.2.3 Use of OJEU procedures gives a high degree of confidence that these obligations are met.
- 4.2.4 The 2006 Regulations permit the use of the restricted procedure for procurement of goods and services of this nature, and so the procurement process complies the principles set out in 4.2.2 above.
- 4.2.5 The procedure followed ensures that the Council’s primary objectives for procurement are met (Rule 1.2.1 of the Council’s Contract Procedure Rules).
- 4.2.6 In addition, advertising the procurement via an OJEU notice and on the Kent Business Portal ensure compliance with rule 3.3 of the Council’s Contract Procedure Rules which sets out the advertising requirements for procurements of this type.

4.3 TUPE Comments

- 4.3.1 There is the likelihood that the Transfer of Undertaking Protection of Employment regulations will apply to this procurement on the grounds of a Service Provision Change in the event that the same or similar services are to be continued by the new contractor.
- 4.3.2 The outgoing and incoming contractors are required to comply with their respective obligations under the TUPE Regulations to minimise the risks of successful legal challenges.

4.4 Procurement Comments

- 4.4.1 This tender process has been conducted following the OJEU Restricted Procedure via the Councils e-tendering system (with the relevant advertisements via the Kent Business Portal & OJEU).
- 4.4.2 The Schools Contracts Team will conduct a standstill period prior to the award of this contract (despite not being mandatory as a Part B Service) as this reflects best practice.

4.5 ICT Comments

- 4.5.1 Not applicable.

5. Other information

- 5.1 Not applicable.

6. Procurement Board

- 6.1 The Procurement Board considered this report on 20 May 2014 and supported the recommendation set out below.

7. Recommendation

- 7.1 The Cabinet is requested to approve the procurement contract award to the Contractor outlined in the Exempt Appendix.

8. Suggested reasons for decision

- 8.1 The recommendation is provided on the basis that the successful contractor meets the criteria set out in the Invitation to Tender most closely. In addition, the current contract term at the 47 schools is due to end on 31 July 2014 so to allow sufficient time for planning and mobilisation to prepare for the Universal Free School Meals introduction in September 2014.

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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	http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?lId=11472	1 October 2013