

CABINET

23 OCTOBER 2018

GATEWAY 1 PROCUREMENT COMMENCEMENT: STREET SCENE ENFORCEMENT SERVICE

Portfolio Holder: Councillor Jane Chitty, Planning, Economic Growth
and Regulation

Report from: Richard Hicks, Director Regeneration, Culture,
Environment and Transformation and Deputy Chief
Executive

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SUMMARY

This report seeks approval to commence the procurement of Street Scene Enforcement Agent Services for littering, dog fouling and dog control orders. This Gateway 1 report has been approved for submission to the Cabinet after review and discussion at RCET Directorate Management Team Meeting on 16 August 2018 and the Procurement Board on 3 October 2018

The RCET Directorate Management Team has recommended that this project be approved as medium risk procurement. However, the Procurement Board decided that the decision to outsource this contract should be classified as high risk and therefore this is a matter for the Cabinet. Subject to Cabinet approval to outsource, the remainder of the procurement process will be undertaken in accordance with the Council's Contract Procedure Rules for medium risk procurements.

This would be a new way of delivering the service and will need careful management to ensure that the correct policies are in place in relation to levels of enforcement and to ensure we have a robust case if tickets are disputed.

1. BACKGROUND INFORMATION

1.1 Budget & Policy Framework

1.1.1 Medway is seeking to implement a nil cost street scene enforcement contract. The result will be a financial income to the Council which will heavily depend on the attraction of the area as well as the number of successful tickets issues and paid.

1.2 Service Background Information

1.2.1 Medway Council is seeking to implement a street scene enforcement contract. The Council has not historically had an enforcement contract of this nature in place and as such soft market research has been conducted to decide what options Medway can explore.

1.2.2 It is the intention of this contract to outsource all ticket issuing and money recovery for a fixed price element of the ticket issued. Soft market testing has indicated this could be between 60-90% of the ticket value (£90 if paid within 10 days; £150 thereafter). All remaining monies will come back to the Council.

1.3 Urgency of Report

1.3.1 The report is urgent on the assumption that the financial income is needed to start as soon as possible to offset budget deficits and that the outsourcing of this work aligns with planned service restructure.

1.4 Funding/Engagement From External Sources

1.4.1 This is a nil cost contract to Medway Council and therefore there will be no external funding required.

1.5 Parent Company Guarantee/Performance Bond Required

1.5.1 As this is a nil cost requirement and the recommendation is that 100% of the risk resides with the contractor, this is not applicable.

2. PROCUREMENT DEPENDENCIES & OBLIGATIONS

2.1 Project Dependency

2.1.1 This project is standalone and as such is not dependant upon the delivery of any other.

2.2 Statutory/Legal Obligations

2.2.1 Section 19 of the Clean Neighbourhood and Environment Act 2005 gives the Council the authority to issues fixed penalty notices for littering offences. The intention is to use delegated powers through this Act to deliver this outsourced service.

3. BUSINESS CASE

3.1 Procurement Project Outputs / Outcomes

3.1.1 As part of the successful delivery of this procurement requirement, the following procurement project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?
1. Value for money	Budgets, contract payments and income receipts	Environmental Services; Enforcement Manager	Monthly
2. Income Generation	Income receipts	Environmental Services; Enforcement Manager	Monthly
3. Fixed penalty notices issues	Number issued	Environmental Services; Enforcement Manager	Monthly
4. Fixed Penalty notices paid	Numbers paid	Environmental Services; Enforcement Manager	Monthly
5. Court proceedings	Percentage of incidents taken to court with successful outcome	Environmental Services; Enforcement Manager	Monthly
6. Street litter levels reducing	Tonnages of waste collected by street crews (barrows) reduced; litter bin tonnages increased; less litter evident on street litter surveys	Environmental Services, Waste Contract Monitoring Team	Annually
7. Complaint levels remain low	Low level of complaints upheld	Environmental Services; Enforcement Manager and Corporate Complaint Team	Monthly

3.2 Procurement Project Management

3.2.1 The procurement process will be managed by the Category Management team.

3.3 Post Procurement Contract Management

3.3.1 This contract will be managed by Environmental Service, Enforcement Manager as part of existing resources.

4. MARKET CONDITIONS & PROCUREMENT APPROACH

4.1 Market Conditions

4.1.1 Due to the nature of the service proposed, there are a healthy number of operators within the Kent region.

4.2 Procurement Options

4.2.1 Market Procurement options

Do nothing

Pros	Cons
	Will not capitalise on the potential income possible from this exercise
	Will not assist in meeting the income requirements of the Authority
	Issue may worsen as there will be no repercussions associated to littering
	May increase the cost of waste collection due to increased littering

Open Market

Pros	Cons
Most accessible opportunity for the market	More bids means more time evaluating
May obtain the best income for Medway due to increase competition	Contractors have not been pre-screened so anyone can apply

Existing framework

Pros	Cons
ESPO framework 509 can accommodate street scene enforcement agents	Limited number of contractors
Quicker route to the market	Street Scene Enforcement is a bolt on service so may not provide the level of specialities required
Pre tested and approved rates so there is a benchmark	May not be set up for 100% risk on the contractor and therefore may not work as intended

Collaborative Procurement

Pros	Cons
Could result in a more competitive return to Medway Council	Area of work is not transferable with one team as they need to be 'on the ground'
	Limited ability to create a shared administration resource due to varying needs
	Primitive stages and dialogue has not

	started with other local authorities – may take a long time to initiate and lose potential income this year
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4.2.2 Pricing options

Traditional pricing

Pros	Cons
Straight forward	Contractors only have a single 'blind' attempt at providing a price for the Council
	Does not take into account the competitive nature of an e-Auction
	May not yield the best possible income to Medway

E-Auction

Pros	Cons
New way of working	More technical driven but not necessarily an issue in this day and age of bidding
Drive competition in the prices submitted by all contractors	May result in a bidding war
Live environment – results are known immediately once the auction expires	
Method due to be tested on similar service contracts imminently(roundabout sponsorship and bus shelter advertising)	

4.3 Procurement Process Proposed

4.3.1 Based on the above options, the recommendation is to adopt an open market tender opportunity which includes an e-Auction as the pricing mechanism.

4.4 Evaluation Criteria

4.4.1 The tender will be formed of 60% price and 40% quality (non-price).

4.4.2 A minimum quality threshold will be set; this will be on the basis of tenderers scoring a minimum of 2 out of 4 as per the below scoring methodology. All successful bidders will then be invited to the e-Auction. The highest returning contractor (as a financial income) will be awarded the full 60% and subsequently lower bids will be calculated on a pro-rate basis. The quality and price scores will then be combined and the highest scoring bidder will be recommended for contract award at gateway 3.

4.4.3 Tender Scoring Methodology:

Assessment	Description	Score
Deficient	Response to the question (or an implicit requirement) significantly deficient or no response received	0
Limited	Limited information provided, or a response that is inadequate or only partially addresses the question	1
Acceptable	An acceptable response submitted in terms of the level of detail, accuracy and relevance	2
Comprehensive	A comprehensive response submitted in terms of detail and relevance.	3
Superior	As Comprehensive, but to a significantly better degree, or likely to result in increased quality provision (including improvement through innovation)	4

5. RISK MANAGEMENT

5.1 Risk Categorisation

1. Risk Category: Supply Chain	Likelihood: D	Impact: III
Outline Description: Risk of lack of interest in the Medway area for this type of work		
Plans to Mitigate: Soft testing has been undertaken and there are at least two service providers currently operating in Kent that would be very interested in working with Medway.		
2. Risk Category: Income Generation	Likelihood: D	Impact: IV
Outline Description: Risk that the service does not deliver the expected levels of income		
Plans to Mitigate: As part of the soft market testing the levels of expected ticket generation and the issues faced within Medway have been discussed. Additionally discussions with neighbouring local authorities have been undertaken and they have indicated, based on their experience, that the level of income detailed in the exempt appendix would be reasonable.		
3. Risk Category: Reputational	Likelihood: D	Impact: III
Outline Description: Risk of over zealous ticketing by on the street officers		
Plans to Mitigate: Clear rules and procedures to be set out from the start on the types of items we would/would not expect to be ticketed.		
4. Risk Category: Environmental	Likelihood: D	Impact: III
Outline Description: Enforcement on littering does not lead to the behavioural change that is required to reduce the impact of litter on our town centres		
Plans to Mitigate: The introduction of this scheme will be linked with a strong pre education campaign and results will be heavily promoted on social media to ensure the messages about zero tolerance of littering is spread across Medway.		

6. CONSULTATION

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 Internal Stakeholder consultation has yet to take place due to the sensitivities of this decision. HR advice has been consulted to ensure TUPE issues do not apply. The Portfolio Holder for Planning, Economic Growth and Regulation (whose remit covers enforcement) has been consulted and is in agreement with the service being outsourced.

6.2 External Stakeholder Consultation

6.2.1 Due to the sensitivities of the contract Medway does not intend to be engaging with other external bodies until the service is operational.

7. Procurement Board

7.1 The Procurement Board considered this report on 3 October 2018 and supported the recommendation as set out in section 10 below. In doing so, the Procurement Board decided that the decision to outsource this contract should be classified as high risk and therefore this is a matter for the Cabinet. Subject to Cabinet approval to outsource, the remainder of the procurement process will be undertaken in accordance with the Council's Contract Procedure Rules for medium risk procurements.

8. SERVICE IMPLICATIONS

8.1 Financial Implications

8.1.1 The procurement, as per recommendation in section 9, will be for an income generating service with zero direct operating costs on the Authority.

8.1.2 Further detail is contained within Section 2.1 Finance Analysis of the Exempt Appendix.

8.2 Legal Implications

8.2.1 The Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.

8.2.2 The process described in this report complies with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.

8.2.3 Should new laws be implemented through legislation during the lifetime of a new contract, there are variation provisions within the Medway standard contract that will allow the Council to vary the way services are being delivered to meet any new legal requirements (including a reduction in

services). The Council can also be protected from an automatic price increase as result of changes in the law.

8.3 TUPE Implications

8.3.1 Although there is a grouping of staff who carry out this task, this forms a small part of a wider role. TUPE does not therefore apply.

8.4 Procurement Implications

8.4.1 This is a new service provision for Medway. As such, and as outlined within this report, it is imperative that a sufficient level of market testing and engagement is undertaken prior to approaching the market for quotes. From exercises held to date, there is clear competition within the market and, although we are yet to obtain competitive quotes, early indications illustrate this will be an income generating project for Medway Council.

8.5 ICT Implications

8.5.1 There will be no direct ICT implications as the successful bidder will be required to manage and store all the relevant data. Medway will gain access to this via web link.

9. OTHER CONSIDERATIONS

9.1 Social, Economic & Environmental Considerations

9.1.1 This service is being procured to ensure a better quality environment for all residents and visitors to Medway.

10. RECOMMENDATION

10.1 The Cabinet is asked to approve the procurement of a street scene enforcement agency contract as set out in paragraph 4.3.1.

11. SUGGESTED REASONS FOR DECISION

11.1 Outsourcing this service will result in a financial income to Medway Council and promote cleaner streets for residents.

LEAD OFFICER CONTACT

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APPENDICES

Exempt Appendix – Financial Analysis

BACKGROUND PAPERS

None