

## **CABINET**

**30 NOVEMBER 2010**

### **GATEWAY 3 CONTRACT AWARD: QUALITY PUBLIC TRANSPORT CORRIDORS ROAD IMPROVEMENT WORKS NORTH DANE WAY IMPROVEMENT SCHEME**

Portfolio Holder: Councillor Phil Filmer, Frontline Services

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

Author: David Bond, Implementation Manager QPTC

#### **Summary**

This report details the reasons for the engagement of the recommended contractor, Interserve for the completion of works for the North Dane Way Quality Public Transport Corridor QPTC improvement scheme. The preferred contractor has been procured through the Highways Agency East and South East Asset Management Framework.

#### **1. Budget and Policy Framework**

- 1.1 All the schemes and elements of the QPTC Project accord with Medway's Local Transport Plan (2006-11) and the Project is funded from the Government's Community Infrastructure Fund (CIF). The project has been designated high risk and is therefore a matter for Cabinet.

#### **2. DECISION ISSUES**

- 2.1 This report uses the same approach that has been applied for the procurement of the Rochester, Corporation Street and Strood Riverside schemes which started on-site on Monday 8 November and because we now have a relationship with the contractor who we have been working very closely with during the past 6 weeks.
- 2.2 In procuring this scheme it is hoped that savings can be made because of the Contractor's involvement in the schemes described above. Officer time will also be saved and there would of course be opportunities to move staff between sites if required to overcome any resource or technical pressures. The estimated scheme cost is £800,000 and is within the QPTC budget.

- 2.3 For works to be completed by 31 March 2011, and for funding, therefore to be retained, it is imperative that this report be presented to Cabinet on 30 November 2010.
- 2.4 This procurement is being conducted using the Highways Agency East and South East Asset Management Framework. Interserve has been chosen as the recommended contractor on the basis of a schedule of rates originally tendered for the framework contract. 16 Sample Schemes were priced for the framework (see 2.3 Exempt Appendix), 4 of which (SS4, 4a, 5 and 13) were considered accurately reflective in total of the elements contained within the two schemes relating to this report. Under the framework protocols the appointed contractor must provide at least 2 quotes for sub-contracting work and materials. All accounting on this framework is open book.
- 2.5 The processes used in this procurement fully comply with the Framework protocols. All evaluation has been scrutinised and passed by the Highways Agency East and South East Asset Management Framework Board.
- 2.6 As an exact tender price is not currently available, it is asked that Cabinet accept this report on the basis that the submission will not exceed the £800,000 budgeted for these two schemes, and that Interserve clearly offers the best price based on a schedule of rates derived from the original framework tender.
- 2.7 Although it is unlikely that prices have varied, it must be acknowledged that it is possible that prices may have dropped from those originally tendered for the framework contract, and therefore from the schedule of rates used in this case. It is felt that time constraints restrict the procurement route to that of a direct appointment only, and that any savings made by holding a mini competition will be vastly outweighed by the risk of losing funding. It is possible, as part of the chosen process for the Council to refine the design in order to ensure that the scheme is affordable.

### **3. RELATED DECISIONS**

- 3.1 A Gateway 3 report seeking the use of the Highways Agency East and South East Asset Management Framework for the procurement of the Rochester, Corporation Street and Strood Riverside schemes was passed by Procurement Board on 18 August 2010 and by Cabinet on 7 September 2010.
- 3.2 All QPTC schemes were subject to a Gateway 3 report which was passed by Procurement Board on 10 March 2010, and by Cabinet on 30 March 2010.
- 3.3 Following Divisional Management team approval on 2 April 2009 Medway Council entered into a procurement exercise to acquire real time passenger information displays as part of the Quality Public Transport Corridors Programme. Following approval by the Procurement Board on 16 December 2009 and Cabinet on 5 January 2010 the contract was awarded in January 2010.
- 3.4 On 24 June 2009, Procurement Board gave their approval for the QPTC Implementation Manager to tender for the supply of up to 60 new bus passenger shelters and for the maintenance of the whole of Medway Council's shelter stock,

totalling 149 units. This was endorsed by Cabinet on 14 July. Following approval by the Procurement Board on 9 September to award the contract to the preferred contractors and by Cabinet in 22 September contracts were awarded on 1 October 2009.

#### **4. BACKGROUND**

- 4.1 Medway Council’s third Local Transport Plan (LTP3) and the Council Plan both list improvements to Public Transport as a key priority.
- 4.2 Medway Council was recently successful in being awarded £13M from the Government’s Community Infrastructure Fund (CIF) for the implementation of the Quality Public Transport Corridor Project (QPTC) and Urban Traffic Management Control Project (UTMC) and this sum has been split between the two Projects, £5M and £8M, respectively.
- 4.3 Medway regularly suffers from high levels of peak time congestion, which affects the reliability of existing bus services, creating delays and reducing the attractiveness of services. Through improvements to local bus services the QPTC programme will reduce congestion across Medway and improve air quality. The reliability and attractiveness of bus services will be enhanced by the provision of bus priority measures at key locations, enhanced bus stop waiting facilities, high quality bus passenger information through real time displays. Efficiency will be greatly increased as journey times can be reliably predicted and timetables better adhered to. Operators will save money in the resultant avoidance of costly “back-up” measures previously used when congestion caused delays. The money saved can then be re-invested in the network.
- 4.4 The QPTC Project is made up of a number of separate but closely related schemes, which, together with UTMC, will combine to create a step change in the quality, reliability and attractiveness of local bus services in Medway. This report is concerned with the following individual scheme, which form part of the QPTC Programme;
  - North Dane Way – provision of a new northbound bus lane along North Dane Way to its junction with Capstone Road, by-passing the roundabout, improved pedestrian crossing facilities and cycle route enhancements.

#### **5. PERMISSIONS / CONSENTS**

- 5.1 None required.

#### **6. PRE-QUALIFICATION QUESTIONNAIRE (PQQ) AND TENDER PREPARATION**

6.1	Which Stakeholders were consulted in preparation of the tender?	<p>Detailed public consultation has been carried out in connection with the Transport for Medway Study (TfM) and Medway’s LTP3. As part of the TfM Study, various methods of engagement were used including workshops and presentations to key stakeholders, questionnaire surveys and exhibitions in town centres.</p> <p>A Member Task Group was set up to contribute to the development of LTP3 and to focus on issues associated with accessibility. The Task Group identified a number of interest</p>
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		<p>groups and organisations along with some individual representatives who were asked to supply written evidence.</p> <p>Consultation with statutory bodies in connection with the development of the LTP was undertaken as part of the document.</p> <p>The scheme has been through a consultation exercise with local councillors on 5 June 2009 and the public between 22 April and 14 May.</p> <p>A QPTC Officer Working Group meets approximately every 6 weeks to discuss Project progress, issues and opportunities and to seek guidance and advice.</p>
6.2	Does TUPE apply?	No
6.3	How was the tender list compiled?	This contract will be awarded using the Highway Agency East and South East Asset Management Framework.
6.4	What tender process was used	Award from the Framework in accordance with the protocols set out in the OJEU notice and all corresponding procurement documents.
6.5	How many PQQs were issued? How many were returned?	N/A
6.6	Which Officers were members of the Evaluation Team?	N/A
6.7	Were applicants shortlisted from PQQs using clear, relevant criteria? List the criteria used and enclose a copy of the results in an appendix to the report.	N/A
6.8	Were the tender documents approved by Procurement at Gateway 2?	N/A
6.9	When were tenders invited and returned? Were any returned late or disqualified?	A direct award tender was invited from Interserve on 18 October.

## 7. TENDER EVALUATION

7.1	Name the evaluation criteria were used and the weighting applied to each?	<p>The original contract under the Framework was tendered on the basis of MEAT. Price was evaluated against 16 sample schemes that all 5 contractors quoted against. These schemes and their related compositions can be seen in the Exempt Appendix 2.3.</p> <p>For the purposes of this procurement, the contractor with the lowest prices in respect of the sample schemes (SS4, SS4a, SS5 and SS13) has been selected. All other qualitative requirements of the selected contractor will already have been assessed when considering the inclusion of contractors in the Framework Agreement.</p> <p>A breakdown of price against each of these schemes for each of the framework's contractors can be seen in the Exempt Appendix 2.4.</p>
7.2	Which Officers were Members of the Evaluation Team?	Ian Wilson. Head of Capital Projects, Road safety and Networks Andy Wilde. Principal Engineer, Capital Projects.
7.3	How are tenderers ranked using the quality assessment alone? Show overall marks ("Contractor A, B, C" etc – show actual names in Confidential Appendix 1)	N/A
7.4	Did the quality assessment use clear and relevant quality criteria? List the criteria and state the quality / price weighting ratio applied.	The quality assessment relied on the original criteria used in the tendering of the Framework.

7.5	Does the proposed award give best value for money? Summarise the evidence	<p>The HA ESE framework is a robustly procured and policed method of Procurement.</p> <p>This procurement evaluated the cost of 4 of the 16 original Sample Schemes used in the original tendering of the Framework. These 4 were judged to be most representative of the North Dane Way scheme referred to in this report.</p> <p>The lowest price for the 4 Sample Schemes used was provided by Interserve at £1m less than the nearest competitor, and over £6m less than the highest price.</p> <p>Interserve will now quote on the basis of the schedule of rates originally tendered in the framework, along with new quotations for any specialist materials.</p> <p>Both the Framework Manager and Medway Council's Strategic Procurement Manager have approved the method of evaluation used in this instance.</p>
7.6	Summarise the risks associated with the proposed award, and state the measures taken to control or avoid.	<ol style="list-style-type: none"> <li>1. A key risk is not being able to spend the money within the timescale, i.e., by the end of March 2011. This can be mitigated by working closely with Strategic Procurement to develop and deliver a robust and efficient procurement process.</li> <li>2. This could jeopardise future requests for Government funding.</li> <li>3. Failure to meet our own Local Transport Plan commitments to improve the quality and reliability of public transport services in Medway.</li> <li>4. Sustainable transport improvements are vital if Medway Council is to deliver successful regeneration whilst minimising traffic growth and congestion</li> </ol>
7.7	Has a bond or parent company guarantee been sought?	A parent company guarantee (PCG) was requested as part of the original framework tender exercise. A PCG in the form supplied by the contractor will be provided.
7.8	Are final costs within the identified budget estimate? (state % over or under where applicable) Where costs exceed the estimate state how balance will be funded.	<p>Final costs are yet to be submitted, though it is projected that costs will be well within the budgeted £800,000. Accurate costings will be given once the submitted prices have been received.</p> <p>Whilst the maintenance of these schemes will become the responsibility of this Authority, there will be the opportunity to fund extensions of the current scheme from future development proposals on Strood Riverside.</p>

7.9	What is the contract duration? Additionally, highlight any options to extend	This one off contract is to commence as soon as possible, and must commence by 4 January 2011. All works must be completed by 31 March 2011. Failure to do so will result in the loss of CIF funding.
7.10	Do government or Council KPIs apply to this service? If so, are these reflected in the specification and monitoring requirements?	This Procurement relates directly to goals set in the Council Plan and LTP3.

## 8. PREPARATION FOR CONTRACT MANAGEMENT

8.1	Who is the contract (service) manager responsible for day-to-day supplier relationships?	The supplier will provide a delivery programme to allow Medway Council to monitor the rate and quality of delivery. Project stages will be managed as follows;  Procurement and Implementation – Ian Wilson (Head of Capital Projects)
8.2	Do sufficient resources exist to manage the contract through implementation and throughout its contract term?	Yes
8.3	When does the contract start?	Beginning of January 2010
8.4	When is the contract due for its first formal review at Gateway 4?	Post completion. 31 March 2011

## 9. COMMENTS BY THE PORTFOLIO HOLDER FOR FRONTLINE SERVICES

- 9.1 I welcome opportunities to make it easier to get around by public transport, particularly for those who do not have access to a car and need local bus services to access jobs and services. A good reliable system should also improve travel choice.

## **10. PROCUREMENT BOARD**

- 10.1 On 10 November 2010 the Procurement Board considered and recommended this report to Cabinet.

## **11. FINANCIAL, PROCUREMENT AND LEGAL COMMENTS**

### 11.1 Comments of the Chief Finance Officer

The suite of schemes that constitute the QPTC programme have attracted funding from the Community Infrastructure Fund. As this funding will expire in 31 March 2011 it is vital that any contractor engaged commences work as soon as is possible.

Although a final tender value will not be available by the time Cabinet reviews this report, it has been indicated by Interserve that the tendered price will be within the £800,000 budget. In the unlikely event that a tender exceeds this budget, it is possible, as part of the chosen process for the Council to amend the design in order to ensure that the scheme is affordable.

### 11.2 Comments of the Head of Procurement

The Highways Agency East and South East Asset Management Framework is a compliant EU framework, which is accessible to public sector organisations such as Medway Council. The client department must satisfy itself and confirm with the Highways Agency East and South East Asset Management Framework providers that all protocols have been complied with so as to ensure that the Council is not exposed to risk of challenge. Such conformance must include how the framework has been used to call off requirements including tendering procedures and evaluation methodologies. The evaluation process and proposal for direct award is supported by Strategic Procurement in light of the pressing need for delivery and quality assurance has been provided in accordance. However, the responsibility to ensure that this methodology does not infringe upon the framework protocols remains the responsibility of the client department. The client department is proposing that gateway 3 be approved without final contract prices but on the premise that the value will not exceed £800,000.

### 11.3 Comments of the Monitoring Officer

As the overall contract value is below the EU procurement threshold for works, the procurement of the Project schemes was primarily subject to the Council's Contract Rules. The procurement procedures used will also have been subject to the general principles of the EU Directives to treat all operators equally and to act in a non-discriminatory and transparent manner. The Highways Agency East and South East Asset Management Framework was the medium through which the contract is to be awarded. On the basis that the relevant protocols for the use of this Framework have been observed, the procurement will have been compliant with both the Council's Contract Rules and EU procurement principles, and should also have secured a contract providing value for money to the Council.



## 10. RECOMMENDATIONS

- 10.1 The Cabinet is recommended to agree that the contractor Interserve be engaged for works in relation to Quality Public Transport Corridors improvement works as follows: North Dane Way bus priority measures provided their price is within the budget envelope of £800,000.

## 11. SUGGESTED REASONS FOR DECISION(S)

- 11.1 For works to be completed by 31 March 2011, and for funding, therefore to be retained, it is imperative that this report be presented to Cabinet on 30 November 2010.

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Head of Procurement or deputy:	<b>Gurpreet Anand</b>	☎ 01643 332450

### Background papers

The following documents have been relied upon in the preparation of this report and are available from the report author:

<b>Description of document</b>
<i>QPTC Business Case</i>
<i>DMT Report (2 April) – request to enter into a collaborative procurement exercise with Kent County Council for the purchase of electronic ticket machines and real time passenger information displays</i>
<i>Gateway 1 report – Procurement and maintenance of bus passenger shelters, 24 June 2009</i>
<i>Gateway 3 report – Procurement and maintenance of bus passenger shelters, 22 September 2009</i>
<i>Gateway 1 report – Procurement of Electronic Ticket Machines and Real Time Passenger Information displays, 16 September 2009</i>
<i>Gateway 3 report – Procurement and maintenance of Real Time Passenger Information display screens, 16 December 2009</i>
<i>O&amp;S Scrutiny report – Quality Public Transport Corridors Project, 2 December 2009</i>
<i>Scheme drawings</i>
<i>Gateway 1 Report – Quality Public Transport Corridors Project; Chatham Hill, Rochester Corporation Street, North Dane Way and Strood Riverside, 4 March 2010</i>
<i>Cabinet Report, Options Appraisal Quality Public Transport Corridors Project; Chatham Hill, Rochester Corporation Street, North Dane Way, Strood Riverside, 30 March 2010</i>