

CABINET

8 MARCH 2011

GATEWAY 3 PROCUREMENT TENDER PROCESS REVIEW AND CONTRACT AWARD: SIR JOSEPH WILLIAMSON'S MATHEMATICAL SCHOOL – NEW DESIGN/TECHNOLOGY BUILDING AND PLAYGROUND EXTENSION

Portfolio Holder: Councillor Les Wicks, Children's Services

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Summary

This report seeks permission from the Cabinet to award two contracts to the suppliers as highlighted within 2.5.1 and 2.5.2 of the Exempt Appendix.

This is based upon the recently undertaken procurement process for the construction of a new design/technology building. The DT/ Art building was conceived by the school with collaboration in mind, both with other secondary schools and primary schools, as well as providing a resource for community use. ICT qualifications are currently offered to members of the community and this service would be expanded to offer an increased range of practical qualifications, including Computer Aided Manufacturing and Digital Photography.

The building will allow the relocation of the current DT and Art classrooms and will also provide additional accommodation for Design Technology comprising Manufacturing Product and Design and practical Food preparation facilities. (The school currently has a shortfall of these rooms, which the building will address). Following the completion of the new DT building, the English department will move into the space vacated. The current English rooms, which are in temporary mobile buildings, will then be demolished.

An extension to the playground area at the rear of the existing school buildings is required, as the new DT building will be constructed on the existing playground at the front of the school. This will ensure the school has sufficient hard play area for pupils.

Cabinet approved the commencement and delivery of this procurement requirement at Procurement Gateway 1 on 30 November 2010.

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 3 February 2011 and Strategic Procurement Board on 16 February 2011.

The Children and Adults Directorate Management Team and Strategic Procurement Board have recommended that this procurement project be approved as a Category B High Risk procurement project at Procurement Gateway 1 by Cabinet. This is because although this procurement project is Works Category B Medium Risk procurement with a total contract value above £250,000.00, a new project appraisals process was agreed by Cabinet on 28 September 2010 (decision number: 142/2010) that all Children's Services Capital projects for schools over £500,000 would be considered by Cabinet.

1. Budget and Policy Framework

1.1 Contract Award Decision

1.1.1 The decision to award two contracts to the suppliers as highlighted within 2.5.1 and 2.5.2 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 to Cabinet on 30 November 2010.

1.2 Funding/Engagement From External Sources

1.2.1 As this recommended procurement contract award encompasses funding and engagement from the Sir Joseph Williamson's Mathematical School, authority to proceed with this procurement award has been reviewed and approved by the governors and senior management team at the school.

2. Background

2.1 Permission Required From the Cabinet

2.1.1 This Procurement Gateway 3 Report seeks permission from the Cabinet to award two contracts to the supplier as highlighted within 2.5.1 and 2.5.2 of the Exempt Appendix.

2.1.2 This is based upon the recent tender process of a tender with six contractors on the KCC's select list of approved contractors. The competition was established to procure a single stage tender on specification and drawings with a standard JCT contract. The design team fully specified the build solution prior to inviting tenders. This enabled greater certainty on cost, as

the design is not likely to vary post-tender unless something unforeseen occurs and this will be managed via the formal contractual variation process.

2.2 Contract Details

2.2.1 Procurement type

The proposed award of two contracts to the suppliers as highlighted within 2.5.1 and 2.5.2 of the Exempt Appendix relates to a Construction procurement requirement.

2.2.2 Contract duration

The contract duration for the playground extension procurement is 3 weeks and there are no provisions within the contract to extend. The contract is proposed to commence on 11 April 2011.

The contract duration for the DT building procurement is 36 weeks with provisions to extend the contract in accordance with the contract conditions. The contract is proposed to commence on 4 July 2011 or earlier should the schools examination period allow for this.

2.2.3 Contract value

The total contract values associated with the two contracts are set out in paragraphs 7.5 and 7.7 below.

2.3 Procurement Tendering Process

2.3.1 In line with Medway Council's Contract Procedure Rules this procurement requirement was subjected to option F – A formal mini-competition Tender.

2.3.2 Option F – a formal Mini-Competition Tender process in line with Medway's Contract Procedure Rules was undertaken via a Below EU threshold Select List.

2.3.3 This below EU threshold Select List is entitled Kent County Council Select List and was set up and managed by Kent County Council.

2.3.4 This below EU threshold select list is applicable for use by Medway Council as prescribed within the Original Select List Advertisement. The protocols of the below EU threshold Select List provider required Medway Council to complete requirements by selecting contractors on the following basis -

Cat 1: Two Contractors can be nominated by the Project Manager/Consultant/Client on the basis of proven previous good performance (must be from the Select List).

Cat 2: Two Contractors can be provided from the last similar tender i.e. the winner and second most competitive tenderers subject to a financial risk assessment.

Cat 3: Two Contractors will be provided from the Work Category List by rotation (further Contractors will be provided from the list if less than four Contractors).

- 2.3.5 The Invitation To Quote document was issued to six tenderers simultaneously on 8 December 2010 with instructions to return tenders by 12.00 on 19 January 2010 for the playground extension and 25 January 2010 for the DT building.
- 2.3.6 **Playground Extension** - Subsequently, five companies returned the Invitation To Quote document within the prescribed deadline for completed submissions of 12:00 on 19 January 2011 for the playground extension as defined within the Framework Provider's tender documentation.
- 2.3.7 The evaluation criteria set within the Invitation To Quote document was 100% price.
- 2.3.8 After a compliance check against the instructions set out in Invitation To Quote document five compliant submissions were evaluated. The results of this evaluation process are set out in the Exempt Appendix.
- 2.3.9 **DT Building** - Subsequently, six companies returned Invitation To Quote document within the prescribed deadline for completed submissions of 12:00 on 25 January 2011 as defined within the Invitation To Quote document.
- 2.3.10 The evaluation criteria set within the Invitation To Quote document was Most Economically Advantageous Tender (MEAT) based upon a composite mixture of quality and price; 20% for quality and 80% price equating to 100% in total.
- 2.3.11 After a compliance check against the instructions set out in Invitation To Quote document six compliant submissions were evaluated. 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.

- Proceed with playground extension contract followed by the DT building contract

This option will provide good value for money on both contracts, which have been tendered separately with specialist landscaping companies being used for the playground extension.

The contract for the DT building is below the pre-tender cost estimate provided by the quantity surveyor. This ensures the new DT building scheme will not require value engineering and will be constructed to the specification and quality developed by the design team.

Advantages

- Provides best value for money on both contracts
- Supports the improved teaching and learning facilities for Design Technology and Art required in the business case

Disadvantages

- None

3.1 Options Resultant From Procurement Tender Process

This procurement tendering process has resulted in the following procurement 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 two contractors as highlighted within the Exempt Appendix

The option of awarding the contract to two contractors as highlighted within the Exempt Appendix has been considered and below are the advantages and disadvantages of this option:

Advantages

- Specialist companies have tendered for the playground extension, which has provided more competitive prices for this aspect of the works.
- Additional overheads will not be payable to the main DT building contractor to oversee the playground works, as the contract will be with a landscape company.

Disdvantages

- None

3.1.3 Other alternative options

No alternative options have been identified.

4. Advice and analysis

4.1 Preferred option

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

The preferred option for this procurement is option 3.1.2 above – to award contracts to two contractors, the first for the playground extension and the second for the DT building.

The recommended preferred option is the most viable option for contract award because the proposed contract award meets the requirements as set out in Section 5.1 'Business Case' within the Gateway 1 Report in the following ways:

- To provide better quality accommodation for English, Science, DT and Art
- To replace undersized classrooms
- To give improved adjacencies for English with Music and Drama
- To provide additional existing space to expand Science in the future
- To demolish the mobiles/temporary buildings.

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	School Organisation team. Building & Design Services. Staff and governors of Sir Joseph Williamson's Math School	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.

<p>2.Appointing a contractor for the building works who is able to work within the constraints of a school environment</p>	<p>Successful procurement of the contractor within the specifications contained within the tender process</p>	<p>School Organisation team. Building & Design Services. Staff and governors of Sir Joseph Williamson's Math School</p>	<p>Monitored throughout the programme by monthly site visits and contractor reports.</p>	<p>The preferred contractor has extensive experience of working within school environments, including successes within Medway.</p>
<p>3. Delivery of the key objectives for the project which are: Completion of the playground extension; construction of the new DT building; refurbishment of the existing building for English dept; demolition of the mobile buildings</p>	<p>Completion of the building works meeting all the Client's requirements</p>	<p>School Organisation team. Building & Design Services. Staff and governors of Sir Joseph Williamson's Math School</p>	<p>Assessed at the end of the project, and also monitored throughout the contract period</p>	<p>The specification included in the tender includes the key objectives outlined for delivery, which will be undertaken by the contractor.</p>
<p>4. Improvements to the teaching and learning at the School.</p>	<p>Measured through GCSE/ AS/A level results, Ofsted ratings and National Indicators</p>	<p>School Organisation Team Staff and governors of Sir Joseph Williamson's Math School Ofsted</p>	<p>Through the school results produced following the opening of the new building in Spring 2012</p>	<p>Improved facilities and environment will enhance the delivery of the curriculum.</p>
<p>5. The development of collaborative and community use of the facilities</p>	<p>Development of SLA for use of facility for community and other users</p>	<p>School Organisation Team. Staff and governors of Sir Joseph Williamson's Math School</p>	<p>Following the opening of the new building in Spring 2012</p>	<p>Improved facilities and environment will allow the development of additional uses</p>

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 Project Manager for the project. They will be supported by a full design team of external consultants lead by the Project Manager, who were all appointed via Building and Design Services.

4.1.3 Post Contract Award Contract Management

The contract management of this recommended procurement contract award will be resourced post award through the following contract management strategy

The contract will be managed and monitored via Building & Design Services, in association with a project manager from the Bailey Partnership. The Client Project Manager in collaboration with the design team will undertake full management and monitoring of the project to ensure the work is progressing on time and within budget and providing quality assurance for the process. The financial monitoring will be completed by the School Organisation Team, progress reports will be presented to Education 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

Further to guidance from Legal Services, Human Resources and the Strategic Procurement Team, it was identified at Gateway 1 that TUPE does not apply to this recommended procurement contract award as this is a Works related procurement with no Services related implications.

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	X	Equalities	<input type="checkbox"/>
Contractual delivery	X	Sustainability / Environmental	<input type="checkbox"/>
Service delivery	X	Legal	X
Reputation / political	X	Financial	
Health & Safety	X	Other	<input type="checkbox"/>

Risk Categories	Outline Description	Risk Impact I=Catastrophic II=Critical III=Marginal IV=negligible Impact	Risk Likelihood A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible	Plans To Mitigate Risk
a) Procurement process	Council decision making process affects programme, resulting in programme delays and cost increases	II	D	Projects are planned with Procurement and Cabinet dates in mind to minimise delays
b) Contractual delivery	Failure of contractor to deliver contractual arrangements	II	D	Inclusion of Contract monitoring procedures within the contract documents. Default clauses are part of the contract documentation.

c) Service delivery	Lack of specified performance	III	C	Through a detailed specification with key milestones and performance indicators.
d) Reputation / political	Negative publicity as a result of poor communication	III	C	Advise via the Communication Strategy regarding the works to be carried out
e) Health & Safety	Construction works in close proximity to pupils, staff, visitors and other site occupants	I	D	Contractor to provide clear and concise health & safety procedures / measures, with close liaison with the school. CDM-C to ensure reasonable measures have been taken by all.
f) Financial	Possibility of unforeseen costs identified	III	D	Detailed investigative work prior to the tendering of works undertaken to highlight any issues.

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 Before commencement of the procurement process in order to direct the specification.

As part of this procurement project, statutory internal stakeholder consultation with Medway Council Planning Department was required and was undertaken before the commencement of the procurement project in order to direct the specification.

6.1.2 During the procurement process in order to aid the evaluation process

As part of this procurement project, consultation with the Section 151 Officer, Strategic Procurement and the Monitoring Officer was required and was undertaken during the procurement process in order to aid the evaluation process.

6.1.3 Post procurement/tender award in order to aid the contract management process

As part of this procurement project, continued internal 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.

External Stakeholder Consultation

6.1.4 Before commencement of the procurement process in order to direct the specification

As part of this procurement project, external stakeholder consultation with the headteacher and governors and students at Sir Joseph Williamson's Mathematical School was required and was undertaken before the commencement of the procurement project in order to direct the specification. Consultation with the local community and STG Building Control was also undertaken.

6.1.5 During the procurement process in order to aid the evaluation process

As part of this procurement project, external stakeholder consultation with the headteacher and governors at Sir Joseph Williamson's Mathematical School was required during the procurement process in order to aid the evaluation process.

6.1.6 Post procurement/tender award in order to aid the contract management process

As part of this procurement project, external stakeholder consultation with the headteacher and governors at Sir Joseph Williamson's Mathematical School will be required and will be undertaken post procurement/tender award in order to aid the contract management process.

7. Detailed procurement process tender evaluation information

7.1 Tenders for the playground extension have been evaluated 100% on price. The financial evaluation has been carried out by the project quantity surveyors, Faithful & Gould.

7.2 Tenders for the DT building have been evaluated 20% on quality and 80% on price.

- 7.3 The quality evaluation has been carried out by Building and Design Services and the financial evaluation by the project quantity surveyors, Faithful & Gould.
- 7.4 Quality has been assessed on the following criteria
- Health & Safety – pass or fail
 - Company Profile and Experience including workloads and resourcing, details of recent projects including local authority work and reference details
 - Project Execution including management, planning and programming and key personnel
 - Medway employment and skills including apprenticeships (This area is not scored).

Playground Extension Contract

- 7.5 Following the price evaluation process on the playground extension tender, please see below the rank order table –

Rank based on score	Company Details	Price	Score
1	Tender 5	£61,306.89	100%
2	Tender 4	£61,876.00	90%
3	Tender 3	£63,397.00	70%
4	Tender 1	£68,187.00	50%
5	Tender 2	£69,271.81	40%

- 7.6 Following the evaluation process, the winning tender is from tender 5. The tender for this company provides the best value for money and a high level of detail for analysis purposes. Checks via the KCC select list database have confirmed that all financial and health and safety records are up to date and compliant. The company for Tender 5 has a good reputation for carrying out this type of work.

DT Building Contract

- 7.7 Following the price and quality evaluation process on the DT building tender, please see below the rank order table

Rank based on score	Company Details	Quality points out of 20	Score out of 20%	Price	Score out of 80%	Total Score
1	Tender 1	19	19%	£2,221,332.50	80%	99.00%
2	Tender 6	17	17%	£2,289,284.34	71.78%	88.78%
3	Tender 4	17	17%	£2,404,515.00	69.58%	86.58%
4	Tender 2	17	17%	£2,500,108.39	68.07%	85.07%

5	Tender 3	16	16%	£2,344,850.00	65.69%	81.69%
6	Tender 5	16	16%	£2,364,774.00	45.32%	61.32%

7.8 Following the evaluation process, the winning tender is from tender 1. This contractor has provided the tender offering the best value, both on price and quality.

8. Strategic Procurement Board

8.1 The Strategic Procurement Board considered this report on 16 February 2011 and recommended it to Cabinet for approval.

9. Financial, legal and procurement implications

9.1 Financial Implications

9.1.1 This recommended procurement contract award as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 10 will be funded from the 2010-11 approved capital programme and the 2011-12 basic needs programme agreed by Council on 24 February 2011.

9.1.2 Detailed finance and whole-life costing information is contained within the Exempt Appendix at the end of this report.

9.2 Legal Implications

9.2.1 This recommended procurement contract award per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 10, has the following legal implications which the Cabinet must consider:

9.2.2 As the contract values are both below the EU procurement threshold for works, the procurement of these two projects were primarily subject to the Council's Contract Rules. Generally speaking these Rules require a competitive tendering process to be undertaken and the EU Directives requires that under such a process the Council should treat all the parties involved equally and act in a non-discriminatory and transparent manner.

9.2.3 These procurement exercises have been undertaken by inviting contractors on KCC's select list of approved contractors to submit tenders. The contractors on this list would have been selected after advertisements in the appropriate trade journals and following a process of evaluation that would have considered the financial stability and technical competence of contractors applying to be included in the list.

9.2.4 The procurement processes had been subject to the appropriate safeguards to ensure that they were open, fair and transparent and the invitation to tender stated that the contract awards would be on the basis of the most economically advantageous tenders. This will not only have resulted in a

competitive process but also the award of contracts that will deliver value for money.

9.3 Procurement Implications

- 9.3.1 This recommended procurement contract award as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 10, has the following procurement implications which the Cabinet must consider:
- 9.3.2 The proposed procurement projects are below the EU procurement threshold for works of £3,927,260 and are therefore subject to the Council's Contract Procedure Rules, which require either, a formal tender process via advertisement or a tender process using an appropriate and compliant select list or EU Compliant Framework. Strategic Procurement is satisfied that the use of the KCC select list of approved contractors should deliver best value as it will save officer time and costs without subjecting this requirement to a formal tender process via advertisement.
- 9.3.3 The client department is expected to comply with the protocol of the select list as prescribed by KCC. Although this is a below threshold requirement, the client department must ensure that the treaty principles of fairness, transparency and equal treatment are upheld as these apply to both above and below threshold procurements.
- 9.3.4 Overall Strategic Procurement is satisfied that a robust and transparent procurement process has been adhered to which affords appropriate protection to the Council and should deliver value for money.

10. Recommendations

- 10.1 The Cabinet is asked to award to two contractors, as outlined within Section 2.5 'Procurement Contract Award Recommendation' of the Exempt Appendix, for the provision of the new Design/Technology building and playground extension.

11. Suggested reasons for decision(s)

- 11.1 The recommendations contained above are provided on the basis that the procurement will deliver the objectives outlined in the business case, to provide accommodation to enable the school to deliver the quality curriculum offer for all key subjects.

Lead officer contact

Name Title
Department Directorate
Extension Email

Background papers

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

Description of document	Location	Date
Gateway 1 Options Appraisal Report: Sir Joseph Williamson's Mathematical School New Design/Technology Building	W:\School_Services\Planning_Review\Live Projects\9X828 Sir Joseph Williamson\DT Project including food tech\Procurement	30 November 2010
Sir Joseph Williamson's Mathematical School New DT/Art Building – Business Case	W:\School_Services\Planning_Review\Live Projects\9X828 Sir Joseph Williamson\DT Project including food tech\Business Case	13 May 2010