

CABINET

20 DECEMBER 2011

GATEWAY 1 PROCUREMENT COMMENCEMENT - BRADFIELDS SCHOOL ASD UNIT

Portfolio Holder: Councillor Les Wicks, Children's Services
Report from: Rose Collinson, Director of Children and Adults
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Summary

This report seeks permission to commence the procurement of the building works for Bradfields School Autistic Spectrum Disorder (ASD) unit. Following business case approval by Cabinet on 4 October 2011 (decision number 127/2011) detailed design has now been undertaken to provide refurbished and new accommodation for up to 40 pupils in an ASD unit.

A budget of £1,500,000 has been approved by Full Council to create this facility and a feasibility study has been undertaken that has identified the accommodation required for the ASD unit.

The proposed project will provide 7 classrooms, a therapy room, two sensory rooms, staff and office spaces, one to one rooms and calming and ancillary spaces. Externally there will be sensory gardens and a semi-enclosed walkway between the Upper and Lower Bradfields School buildings.

This Gateway 1 report has been approved for submission to the Cabinet review and discussion at Children and Adults Directorate Management Team meeting on 17 November 2011 and the Strategic Procurement Board on 30 November 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 a Works Category B Medium Risk procurement with a total contract value above £250,000.00, there are political implications and/or service sensitivities that Cabinet should be aware of. These service sensitivities refer to the new project approvals process agreed by Cabinet on 28 September 2010 (decision no. 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 Service Background Information

The project will support the council's Special Education Needs (SEN) Strategy in developing specialist provision in Medway to meet the needs of children who currently have to be placed out-of-area, due to a lack of Medway based provision.

1.2 Councils Strategic Priorities And Core Values

The procurement of this requirement directly links into the following Council Strategic Priorities and Core Values:

Core Values

- Putting our customers at the centre of everything we do.

This procurement requirement will deliver against the Core Value of 'Putting our customers at the centre of everything we do' through the delivery of school places in Medway for children with Autistic Spectrum Disorders. This means they will not have to travel to out of area provision.

- Giving value for money

This procurement requirement will deliver against the Core Value of 'Giving value for money' through a reduction in revenue and travel costs, as up to 40 children will no longer need to be placed in out of area provision.

Strategic Priorities

- Children and young people having the best start in life in Medway.

This procurement requirement will deliver against the Strategic Priority of 'Children and young people having the best start in life in Medway' through the delivery of investment in Medway School buildings to provide 21st Century accommodation in order to achieve and succeed in learning

- Everyone benefiting from the area's regeneration.

This procurement requirement will deliver against the Strategic Priority of 'Everyone benefiting from the area's regeneration' through provision of SEN places within Medway in purpose built accommodation to modern design standards.

1.3 Strategic Council Obligations

The procurement of this requirement directly links into the following Strategic Council Obligations: This project supports the council's SEN Strategy in developing specialist provision in Medway to meet the needs of children who currently have to be placed out-of-area, due to a lack of provision.

- Medway Council Plan

This procurement requirement links into the Medway Council Plan by supporting the Council priority to give children and young people the best start in life.

1.4 Departmental and Directorate Service Plans

This procurement requirement links into the Children & Adults Directorate Service Plan by supporting the development of 21st century education provision for children with special educational needs.

2. Background

2.1 Project Details

2.1.1 This procurement is a Works/Construction procurement requirement

2.1.2 This report seeks permission to commence a new construction procurement project with a contract duration of 12 weeks with provisions to extend for a contract duration only in such circumstances as described by the contract conditions.

2.1.3 The contract is proposed to commence on 30 April 2012 subject to the completion of the determination of the prescribed alterations at Bradfields, to increase the age range, increase pupil numbers and add to the range of special needs catered for. A report on this issue is set out elsewhere on this Cabinet agenda. Informal public consultation on these changes has been completed. The contract will conclude on 20 July 2012.

2.1.4 The total value of this new procurement contract is outlined in the exempt appendix.

The contract will be a single stage design and build contract.

2.1.5 This procurement requirement is a standalone project with no linkage to any other procurement projects or procurement programmes.

2.1.6 This procurement is required to support Medway's SEN strategy by reducing the reliance on independent and out of area placements for children with special educational needs.

2.2 Business Case

2.2.1 Procurement Project Outputs / Outcomes

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. 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. Bradfields School	Monitored throughout the programme by monthly site visits and contractor reports.
2.Appointing a contractor for the building works who is able to work within the constraints of a special school environment	Successful procurement of the contractor within the specifications contained within the tender process	School Organisation team. Building & Design Services. Bradfields School	Monitored throughout the programme by monthly site visits and contractor reports.
3.Delivery of the key objectives for the project which are: both refurbished and new accommodation	Completion of the building works meeting all the Client's requirements	School Organisation team. Building & Design Services. Bradfields School	Assessed at the end of the project, and also monitored throughout the contract period

2.2.2 Procurement Project Management

This procurement project will be resourced through the School Organisation Team, who have 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 by Building and Design Services.

2.2.3 Post Procurement Contract Management

The contract management of this procurement project post award will be resourced via the Client Project Manager in school organisation who, in collaboration with the design team, will undertake full management and monitoring of the project. This will ensure the work is progressing on time and within budget and provides quality assurance for the process. Outputs of this process will include regular meetings with the contractor,

project reporting, monthly valuations, strict change control processes and risk reviews with progress reports going to the Children & Adults Capital Programme Cabinet Advisory Group.

2.2.4 Other Issues

There are no other issues that could potentially impact both the procurement process and overall strategic aims as identified within Section 1 of this report.

2.2.5 TUPE Issues

Further to guidance from Legal Services, Human Resources and the Strategic Procurement Team, it has been identified that TUPE does not apply to this procurement process. This is because there will be no reductions in staffing as a result of this project.

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

3.1 Do nothing

The option of doing nothing is not a viable option because there are currently 100 pupils whose primary need is support for ASD being educated in schools outside of Medway due to a lack of SEN pupil places in the area. This procurement is an essential step in the process to secure locally based provision for children with ASD needs.

3.2 In-house service provision

The option of providing this requirement through in-house service provision has been considered but is not a viable option because Medway Council does not currently employ in-house contractors for construction.

3.3 Using another local authority to deliver procurement requirements

The option of using another local authority to deliver procurement requirements has been considered but is not a viable option because other local authorities do not currently employ contractors for these services.

3.4 Procurement via an EU compliant framework

No EU compliant frameworks have been identified from which Medway council's procurement requirements can be satisfactorily delivered.

3.5 Formal tender process in line with Contract Procedure Rules

The option of formally tendering this procurement requirement solely in line with Medway Council's Contract Procedure Rules has been

considered because this procurement requirement is a Category B Procurement that has a total contract value above £100,000.00 but below the EU Procurement Threshold for Works of £3,927,260.00, thus only requiring a competitive process in line with Contract Procedure Rules. Analysis of the options for formal tender via the various select list options is given in paragraph 3.10 below.

3.6 Formal tender process in line with EU Procurement Regulations.

The option of formally tendering this procurement requirement in line with EU Procurement Regulations has been considered but this is not a viable option because the value of the requirement is below the EU Procurement Threshold for Works of £3,927,260.00.

3.7 Internal Medway Council Collaboration between departments

The option of procuring requirements through internal collaboration between Medway Council departments in order to exploit economies of scale and synergies has been considered but no such opportunities exist.

3.8 External public sector collaboration (e.g. other Councils, Fire Service, PCT, Police)

The option of procuring requirements through external collaboration between Medway Council and other external public sector organisations in order to exploit economies of scale and synergies has been considered but no such opportunities exist.

3.9 Private sector collaboration e.g. Private Public Partnering/Private Finance Initiatives

The option of procuring requirements through private sector collaboration between Medway Council and other external private sector organisations has been considered but no such opportunities exist.

3.10 Procurement via a below EU Threshold Select List

The option of using a below EU Threshold compliant Select List to deliver procurement requirements has been considered and the following Select Lists have been identified from which Medway Council's procurement requirements can be satisfied.

1) Constructionline – the UK register of pre-qualified construction services

Advantages

- Reduces procurement time
- Contractors are already checked for financial viability, quality and service
- Building and Design Services have already paid to utilise this service

Disadvantages

- External fees paid to utilise the framework

2) Kent County Council Select List of contractors

Advantages

- Reduces procurement time
- Contractors are already checked for financial viability, quality and service
- Building and Design Services have already paid to utilise this service

Disadvantages

- External fees paid to utilise the framework

3) Tending directly to the marketplace

Advantages

- Potentially better value for money, as framework prices are usually fixed and do not always reflect market changes
- No additional fees to Medway for use of a framework

Disadvantages

- Medway would need to carry out additional checks for financial viability, quality and service, therefore impact on the project programme as it would increase procurement time

3.11 Other alternative options

No alternative options have been identified.

4. Advice and analysis

4.1 Preferred option

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

The preferred option is 3.5, **Formal tender process in line with Contract Procedure Rules** and 3.10, using the Kent County Council Select List, for **procurement via a below EU threshold Select List**.

Advantages:

- Market driven pricing for building works is a feature and the procurement will provide competitive tenders.
- The design team will fully specify the employer's requirements prior to inviting tenders
- The Council will have greater cost certainty following the tender exercise

- Sustainable systems will be installed providing the schools with more energy efficient systems and thereby reducing running costs.
- Health & Safety Risks are transferred to the contractor

Disadvantages:

- None

4.2 Equality Act 2010

A review of tenders Equality policy will form part of the quality assessment of the tender documentation. The review will check for compliance to the Equality Act 2010 and to Medway Council's equality policy. This must also be accompanied by a statement that there are no past or pending prosecutions against the Equality Act 2010.

4.3 Corporate Sustainability Plan

There will be no adverse environmental impact through the delivery of these projects. The school organisation service is applying the principles of the Waste & Resources Action Programme to all its projects to ensure that materials are sustainably resourced and that any waste is recycled responsibly, with waste to landfill at a minimum. The projects are being delivered in line with the Corporate Sustainability Plan. The aim is to achieve a BREEAM rating of very good in all new buildings wherever possible and within the constraints of the budget. The procurement of the projects will be in accordance with all relevant health and safety legislation and will make improvements as required by current sustainability targets.

4.4 Carbon Reduction Commitment Energy Efficiency Scheme (CRC)

The Carbon Reduction Commitment Energy Efficiency Scheme (CRC), which started in April 2010, is a mandatory carbon emissions scheme that aims to increase energy efficiency in the UK. It will have financial and legal implications for local authorities and most schools in the UK, so gives an additional incentive for schools to reduce their energy use. As part of the Council's response to the new scheme, all designs for capital programme schemes require that works are undertaken to make schools more energy efficient whilst ensuring that overall schemes provide the best value for money. Reduced energy use will enable the Council to meet the CRC requirements and also reduce the cost of energy bills for schools. Measures to ensure the most efficient scheme at each school will be detailed as the design progresses.

5. Risk Management

5.1 Risk Categorisation

The following risk categories have been identified as having a linkage to this procurement project:

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

For each of the risks identified above in OPTION B, further information has been provided below

Risk Categories	Outline Description A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible	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	2	D	Projects are planned with Procurement and Cabinet dates in mind to minimise delays
b) Contractual delivery	Failure of contractor to deliver contractual arrangements	3	E	Inclusion of Contract monitoring procedures within the contract documents. Default clauses are part of the contract documentation.
c) Service delivery	Lack of specified performance	3	E	A detailed specification with key milestones and performance indicators.
d) Reputation / political	Negative publicity as a result of poor communication	3	C	Advise via the Communication Strategy regarding the works to be carried out
e) Health & Safety	Construction works in close proximity to pupils, staff and visitors, resulting	1	D	Contractor to provide clear & concise H&S procedures, with close liaison with

	in disruption, injury or worse			the school. CDM Co-Ordinator to review measures taken
f) Financial	Possibility of unforeseen costs identified	2	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:

Internal stakeholder engagement has been undertaken with the Educational Psychology team to establish the needs of the children who will attend the ASD unit and this has been used to develop the specification for both the internal layout of the accommodation and the specialist equipment, which will be purchased.

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 Officer and Monitoring Officer will be undertaken 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 no internal stakeholder consultation is required post procurement/tender award in order to aid the contract management

6.2 External Stakeholder Consultation

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

As part of this procurement, the following statutory external stakeholder consultation is required before the commencement of the procurement project in order to direct the specification:

- School staff, parents, pupils and Governing Body
- Medway Council SEN team
- Medway Council Planning Department
- Local community consultation
- STG Building Control

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

As part of this procurement, the following statutory external stakeholder consultation is required during the procurement process in order to aid the evaluation process:

Schools staff and Governing Bodies to review the scheme, to ensure quality and best value for money.

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

As part of this procurement, the following mandatory/statutory/legal external stakeholder consultation is required post procurement/tender award in order to aid the contract management process:

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. Outputs of this process will include regular meetings with the contractor, project reporting, monthly valuations and strict change control processes, along with regular progress reporting to Children & Adults Capital Programme Cabinet Advisory Group.

Regular consultation with staff at the schools will ensure any issues are managed efficiently and with little impact to the programmes, budgets and quality.

7. Strategic Procurement Board

7.1 The Strategic Procurement Board considered this report on 30 November 2011 and supported the recommendations set out in paragraph 9 below.

8. Financial and legal implications

8.1 Financial Implications

8.1.1 This procurement requirement and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, is funded from the Capital Programme Special Education Needs budget, where funds have been allocated to the project following approval at Full Council on 24 February 2011.

8.1.2 Detailed finance and whole-life costing information is contained within Section 2.1 Finance and Whole-Life Costing of the Exempt Appendix.

8.2 Legal Implications

8.2.1 This procurement requirement and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following legal implications which the Strategic Procurement Board should consider:

8.2.2 The contract value is below the EU procurement threshold for works and so the procurement of the project will primarily be subject to the Council's Contract Rules. Where the contract value is below the EU procurement threshold it may be appropriate to use an approved or select list of contractors from which a tender list can be drawn. The proposal to use KCC's select list of approved contractors was approved at Gateway 1. The contractors on this list will have been selected after advertisements in the appropriate trade journals and a process of evaluation that would have considered the financial stability and technical competence of contractors applying to be included in the list. The selection from the KCC select list has been undertaken in accordance with the requirements of participation in the select list.

8.3 Procurement Implications

8.3.1 This procurement requirement and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following procurement implications which the Strategic Procurement Board should consider:

8.3.2 The proposed delivery methodology as outlined within this procurement report is supported by Strategic Procurement. As the value of this works contract is below the EU Works Threshold of £3,927,260, in line with Medway's Contract Procedure Rules, this contract is to be managed solely in conjunction with said rules, but in adherence to the EU Treaty Principles of fairness, equal treatment and transparency of process.

8.3.3 The client department must subject these requirements to formal tender and the proposed combination of formal tender via an below EU select list such as KCC is considered by Strategic Procurement to be a compliant mechanism to procure these requirements.

8.3.4 It is the client department's responsibility at Gateway 2 to ensure compliance with the protocols of the KCC select list, including tendering, call-offs, use of procurement tendering/contract documents and appropriate evaluation criteria. Where such tendering protocols are not prescribed, the client department must revert to the Council's Contract Procedure Rules for guidance and use the appropriate procurement tender documents available on the procurement connections site.

8.3.5 In line with the Council's Gateway Procurement Process, this contract is a Category B Medium Risk procurement. This is because the maximum proposed contract value of £1,500,000 falls in the Category B Medium Risk bracket of above £250,000.

8.3.6 The client department in conjunction with the Children & Adults DMT has recommended to the Strategic Procurement Board that this contract be upgraded to a Category B High Risk procurement process and presented post Strategic Procurement Board review to Cabinet in order to make an informed decision. Strategic Procurement supports both this recommendation and the contents of this report.

8.3.7 Strategic Procurement also advises the client department at Gateway 2 to consider tendering on the basis of a normal scheme design and an enhanced energy efficient scheme design, which although may carry more upfront capital costs, will result in reduced revenue costs through whole-life costing appraisal. This will allow the Strategic Procurement Board and Cabinet to make an informed contract award decision at Gateway 2 and could potentially aid the Council in reducing its CRCEES carbon tax liability and carbon footprint.

8.4 ICT Implications

8.4.1 This procurement requirement, and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9 'Recommendations', has the following ICT implications which the Strategic Procurement Board should consider:

- a) The ICT requirements have not yet been defined, but they are expected to be in line with the existing ICT infrastructure within the school. Any ICT infrastructure will be funded from the project budget.
- b) Consultation with corporate ICT will take place before any commitment relating to the design of the ICT infrastructure and associated equipment is made. A project manager is assigned to school organisation projects by the ICT team.
- c) All additional revenue costs will be funded as part of the school's normal budget process to meet annual rental, maintenance and service charges. Ongoing management of ICT infrastructure is the responsibility of the school.

9. Recommendations

9.1 The Cabinet is asked to approve progress to Gateway 2 of the procurement process and invite tenders for the building works, on the basis set out in paragraph 4.1 of the report.

10. Suggested reasons for decision(s)

10.1 The recommendations contained within Section 9 'Recommendations' above are provided on the basis that the project supports the delivery of additional ASD pupil places within Medway, thereby contributing to a reduction in overall revenue cost of provision of ASD places for Medway as well as improved quality of ASD services for those pupils requiring them.

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
Full Council Meeting minutes	Council website	24 February 2011
Cabinet Report on prescribed alterations for Bradfields Community Special School	W:drive 9X476 Bradfields School - New ASD Unit\Approval Reports and Council website	2 August 2011
Bradfields School – ASD Unit Business Case	W:drive 9X476 Bradfields School - New ASD Unit\Cabinet Reports	4 October 2011