

CABINET

17 APRIL 2012

GATEWAY 3 PROCUREMENT TENDER PROCESS REVIEW AND CONTRACT AWARD: FAMILY GROUP CONFERENCE

Portfolio Holders: Councillor David Wildey, Children's Social Care
Councillor David Brake, Adult Services

Report from: Rose Collinson, Director of Children and Adults

Author: Marilyn Roe, Commissioning Manager

Summary

This report seeks permission from the Cabinet to award a contract to the supplier as highlighted within Section 8 of the Exempt Appendix.

This is based upon the recently undertaken procurement process for a Family Group Conference (FGC) service to meet the needs of children on the edge of care and vulnerable adults in need of safeguarding.

Within a clear structure laid down by safeguarding professionals, Family Group Conferences enable a child's or vulnerable adult's family and support network to establish a plan to keep the child or adult safe and deal with a range of issues that may be affecting them adversely.

The procurement also includes the provision of advocacy to support vulnerable adults to participate in an FGC, and conflict resolution services where this may be needed urgently to prevent family breakdown and where young persons' FGC is not considered appropriate and/or families need to resolve a conflict in order to be ready to take part in the FGC.

The Cabinet approved the commencement and delivery of this procurement requirement at Procurement Gateway 1 on 4 October 2011.

The approved Procurement Gateway 1 Report relating to this Gateway 3 report is available upon request.

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 1 March 2012 and Strategic Procurement Board.

1. Budget and Policy Framework

1.1 Contract Award Decision

The decision to award a contract to the supplier as highlighted within 2.5.1 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.

1.2 Funding

The funding for the procurement of the Family Group Conference service is provided from the Children's Social Care budget and the Adult Social Care disability budget.

Further information is included within the exempt appendix.

1.3 Urgency Report

Not applicable

1.4 Other Information

Not applicable

2. Background

2.1 Permission Required From the Cabinet

2.1.1 This Procurement Gateway 3 Report seeks permission from the Cabinet to award a contract to the supplier as highlighted within section 8 of the Exempt Appendix.

2.1.2 This is based upon the recently undertaken procurement process for a Family Group Conference (FGC) service to meet the needs of children on the edge of care and vulnerable adults in need of safeguarding.

2.1.3 Within a clear structure laid down by safeguarding professionals, Family Group Conferences enable a child or vulnerable adult's family and support network to establish a plan to keep the child or adult safe and deal with a range of issues that may be affecting them adversely.

2.1.4 The procurement also includes the provision of advocacy to support vulnerable adults to participate in an FGC, and conflict resolution services where this may be needed urgently to prevent family breakdown. Conflict resolution services may be needed when a FGC is not considered appropriate for a child or young person and/or families need to resolve a conflict in order to be ready to take part in an FGC.

2.2 Contract Details

2.2.1 Procurement type

The proposed award of the contract to the supplier as highlighted within Section 8 of the Exempt Appendix relates to a Part B services procurement requirement.

2.3 Contract duration

2.3.1 The proposed contract duration for this procurement requirement is 3 years with provisions to extend the contract for a period of 2 years. The contract is proposed to commence on 1 July 2012 and conclude on 30 June 2015.

2.4 Contract value

2.4.1 The total contract value associated with this contract is set out in the exempt appendix.

2.5 Procurement Tendering Process

2.5.1 The Children and Adults Directorate Management Team had recommended that this procurement project be approved as a Category B Medium Risk procurement project at Procurement Gateway 1. Subsequently, the Strategic Procurement Board reclassified this procurement project as a services Category B High Risk procurement with a total contract value above £250,000.00 and potential political implications and/or service sensitivities that Cabinet should be aware of.

2.5.2 Cabinet approved the commencement of the procurement on 4 October 2011.

2.5.3 In line with Medway Council's Contract Procedure Rules this procurement requirement was subjected to a formal tender process mirroring the EU Procurement Restricted process, together with an internal Medway Council collaboration between departments.

2.5.4 A Voluntary Transparency Notice (non-OJEU) was placed within the Official Journal of the European Union (OJEU) and an advert was placed on Medway Council's website 30 November 2011. The opportunity was also advertised through the Children's Trust partnerships, Medway Council for Voluntary Service and Medway Voice.

2.5.5 It was decided to follow a formal Restricted Tender Process mirroring the EU Procurement Restricted Process as the marketplace is growing and it was difficult to assess the potential interest in Medway Council's advertised requirements. The procuring client department was therefore happy to invite applicants to restricted tender and shortlist a select list of applicants from a larger Pre-Qualification applicant pool to invite to tender. This also ensured that all companies invited to tender were of a comparable stature.

2.5.6 The deadline to request and submit a Pre-Qualification Questionnaire was 12:00 on 20 December 2011.

- 2.5.7 Six Pre-Qualification Questionnaires were issued to all those applicants that expressed an interest by the published deadline.
- 2.5.8 Four Pre-Qualification Questionnaire expressions were received by the prescribed time and date within the advertisements detailed above.
- 2.5.9 Subsequently, post evaluation of Pre-Qualification Questionnaires, three applicants were short listed 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.
- 2.5.10 Short listed applicants from the Pre-Qualification stage were issued with the Invitation To Tender Documents simultaneously on 4 January 2012 and three companies returned the Invitation To Tender documentation within the prescribed deadline for completed submissions (24 January 2012) as defined within the Invitation To Tender document.
- 2.5.11 The evaluation criteria set within the Invitation To Tender document was Most Economically Advantageous Tender (MEAT) based upon a composite mixture of quality and price, 80% for quality and 20% price, equating to 100% in total.
- 2.5.12 After a compliance check against the instructions set out in the Invitation To Tender document, three compliant submissions were evaluated. The results of this evaluation process are set out in the Exempt Appendix.

3. Options

- 3.1 Please refer to the Exempt Appendix.

4. Advice and analysis

4.1 Preferred option

Award contract to the contractor as highlighted within the Exempt Appendix Section 8.

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 2 'Business Case' within the Gateway 1 Report in the following ways:

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?
1. Where safe to do so, to reduce the number of children coming into the care of Medway Council.	Reduction of the number of children coming into the care of Medway Council	Children's Social Care	The measurement will be an ongoing process.
2. Where safe to do so, children remain within the family and friends network	The outcome of the conference will be a child remaining within the family and friends network	Children's Social Care	At the outcome of the FGC and then ongoing.
3 The Vulnerable adult protected as part of a FGC feels safer	Provider reports, client surveys and feedback	Adult Social Care	At the outcome of the FGC and then ongoing.
4. Provide a prompt mediation service to families in crisis - to enable parents to find solutions within the family network.	Timeliness of service provided following request from Children's Care.	Children's Social Care	From the date of referral to the date a service is offered.

4.1.2 Procurement Project Management

This procurement project will be taken through the remainder of the Gateway Procurement Process by the Commissioning and Strategy Division.

4.1.3 Post Contract Award Contract Management

The performance management of this procurement project post award will be resourced and managed via the Children's Social Care Team for the children's element (supported by Children's Services Commissioning and Strategy), and the Safeguarding Adults Service for the adults element. Contract management will be led by Children's Services Commissioning and Strategy. A robust service level agreement will be developed to clarify roles and responsibilities.

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 that as this is a Services related procurement contract award, TUPE does apply to this procurement process.

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	<input type="checkbox"/>	Equalities	<input checked="" type="checkbox"/>
Contractual delivery	<input type="checkbox"/>	Sustainability / Environmental	<input type="checkbox"/>
Service delivery	<input checked="" type="checkbox"/>	Legal	<input checked="" type="checkbox"/>
Reputation / political	<input type="checkbox"/>	Financial	<input checked="" type="checkbox"/>
Health & Safety	<input type="checkbox"/>	Other/ICT*	<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) Service delivery	Delays in access to confidential data could cause service delivery problems.	II	C	Data sharing protocols need to be put in place to alleviate the positional risk.
b) Finance	The need for additional FGCs will cause a pressure on the budget.	II	C	Cases will be prioritised in order to remain within budget.
c) Finance	Internal funding pressures lead to the need to reduce or terminate the funding	II	C	The contract documents will state that the contract is subject to

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
				funding availability
d) Finance	Funding for the adult element of the contract is reduced or unavailable	III	C	As (c) Delivery of the children's element of the contract would not be affected by withdrawal of adult funding
e) Finance	Increased numbers of children coming into care	II	D	FGCs used in early intervention have been successful in preventing children being placed in the care of the authority, saving costs
f) Legal	Delay in being granted court orders increased legal costs, and care costs of the child along with the risk of the authority being challenged by the courts.	II	D	To follow the PLO (Public Law Outline), there is a requirement to carry out 'kinship assessment' prior to a court order being granted. Taking account of this requirement should pre-empt this risk.
g) Equalities	FGC delivery is not culturally sensitive	II	D	Robust contractual requirements and monitoring.

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

As part of this procurement project, the following mandatory internal stakeholder consultation was required before the commencement of the procurement project in order to direct the specification:

- Consultation with Adult Social care
- Children's Social Care Operational Team
- Children's and Adults DMT.

As part of this procurement project, the following mandatory internal stakeholder consultation was required during the procurement process in order to aid the evaluation process:

- Consultation with Adult Social Care
- Children's Social Care Operational Team.

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

- Consultation with Adult Social Care
- Children's Social Care Operational Team.

6.2 External Stakeholder Consultation

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

As part of this procurement project no external stakeholder consultation was required before the commencement of the procurement project in order to direct the specification.

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

As part of this procurement project no external stakeholder consultation was required during the procurement process in order to aid the evaluation process

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

As part of this procurement project external stakeholder consultation will be built in to the performance management framework post procurement/tender award in order to aid contract management.

7. Strategic Procurement Board

7.1 The Strategic Procurement Board considered this report on 14 March 2012 and supported the recommendations set out in section 9 below.

8. Financial, legal, procurement and ICT implications

8.1 Financial Implications

8.1.1 This recommended procurement contract award as per the preferred option highlighted at Exempt Appendix Section 9 would be funded from existing revenue budgets within the Children's Care and Adult Social Care divisions.

8.1.2 Detailed finance and whole-life costing information is contained within Section 3.1 Finance and Whole-Life Costing of the Exempt Appendix.

8.2 Legal Implications

8.2.1 This recommended procurement contract award as per the preferred option highlighted at Exempt Appendix Section 9 has the following legal implications which the Cabinet must consider:

8.2.2 Although the estimated value of the proposed contract is in excess of the EU threshold for service contracts, these services are Part B services under the Public Contracts Regulations 2006 (as amended) which means that only some of the EU procurement rules apply – namely, obligations relating to technical specifications (i.e. non-discriminatory specification requirements) and post-award information (i.e. a requirement to send a Contract Award Notice to the Office of Publication of the OJEU).

8.2.3 It is established case law that the award procedures for contracts must also comply with the general principles derived from the Treaty on the functioning of the European Union, in particular the principle of equal treatment and the consequent obligation of transparency. The degree of advertising given to the procurement and the evaluation methodology has ensured that these requirements are met.

8.3 Procurement Implications

8.3.1 This recommended procurement contract award as per the preferred option highlighted at Exempt Appendix Section 9 has the following financial implications which the Cabinet must consider:

8.3.2 The aggregate value of the proposed contract is above the EU threshold for Services, currently set at £173,934.00.

8.3.3 Thus, as a "Part B" service, healthcare and social services are not subject to the full rigour of procurement law.

8.3.4 There is however a minimum requirement to comply with the requirements of the Treaty on the Functioning of the European Union such as transparency which will be satisfied by engaging in a sufficient degree of advertising.

8.3.5 The client department is advised of the need to observe a voluntary 10 day standstill period (Alcatel period) as a matter of good practise, which will take effect after the cabinet call in period. After this, Client department is required to liaise, with Legal Services for guidance with regard to issuing successful/unsuccessful letters to candidates of the tendering process to satisfy debrief requirements.

8.3.6 Following the successful completion of the voluntary 10 day standstill period, the client department is further advised to liaise with Legal Services to formalise preparation of the contract documentation and any related performance bond/parent company guarantee documentation.

8.4 ICT Implications

8.4.1 This procurement requirement does not have any ICT implications.

9. Recommendations

9.1 The Cabinet is asked to approve the procurement contract award to the contractor as outlined within Section 8 'Procurement Contract Award Recommendation' of the Exempt Appendix.

10. Suggested reasons for decision(s)

10.1 The recommendations contained within Section 9 above are provided on the basis of the information gathered during the procurement process. This contractor meets the requirements of the specification and would give best value.

Lead officer contact

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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/mgConvert2PDF.aspx?ID=2334&T=10	4 October 2011