

MAIDSTONE BOROUGH COUNCIL

CABINET 9th November 2011

REPORT OF THE DIRECTOR OF REGENERATION & COMMUNITIES

Report prepared by John Littlemore

1. FUTURE PROVISION OF THE CCTV MONITORING SERVICE

1.1 Key Issue for Decision

1.1.1 To approve the outcome of the procurement process and award the contract for the provision of the CCTV monitoring service to Tenderer C.

1.2 Recommendation of the Director of Regeneration & Communities

1.2.1 That Cabinet approves the award of the contract for the CCTV monitoring service to Tenderer C.

1.3 Background

1.3.1 In March 2011 the Cabinet Member decided to enter into a procurement process in order to secure a partnership arrangement that will provide a 24 hour, 7 days a week CCTV monitoring service. This procedure would enable the process to be transparent, open and fair whilst also achieving best value.

1.3.2 In response to concerns raised by some stakeholders' at the public meetings the council held a further meeting with representatives from Maidstone's community. A specification was drawn up following this meeting incorporating both the views expressed by stakeholders and in accordance with EU procedure rules.

1.3.3 Exempt Appendix A of this report sets out the process the council followed in order to reach its recommendation. The process adopted was fully compliant with the council's rules and followed the standard procedure for such matters in order to conform with the regulatory and statutory framework for procurement.

1.4 Reasons for Recommendation

- 1.4.1 The Tender Report & Client Acceptance Memo which is attached as Exempt Appendix A explains in more detail how the recommendation was reached. The report describes the tender process from the initial Pre-Qualification Questionnaire through to the final assessment. Initially fourteen organisations from both the public and private sectors expressed an interest in the contract. The evaluation of the expressions of interest reduced the number to seven organisations, of which three submitted tenders for the final stage of the process.
- 1.4.2 The report goes onto to demonstrate how the Invitation to Tender (ITT) documents together with the on-site visits and interviews were assessed. To assist the officers undertaking the evaluation, a CCTV consultant, recommended by Kent Police, was appointed to provide technical expertise.
- 1.4.3 Each of the final three tender submissions provided a solution that could provide the service required. However, for two submissions they could not be recommended for the following reasons.
- 1.4.4 Tenderer A's bid was scored most highly by all three assessors in terms of quality. The determining factor in not recommending the submission is the cost of the proposal. The bid was the most expensive of the three and would not achieve the savings identified in the medium term financial strategy. In addition the capital costs exceeded the amount of budget available, which would require the re-prioritisation of existing capital resources or borrowing in order to fund the proposal.
- 1.4.5 Tenderer B's proposal was more expensive than Tenderer C's over the contract period of 5 years. Like Tenderer A, the bid would exceed the overall budget allowed for the service. In addition Tenderer B's submission scored the lowest mark when assessed against the various quality factors. For these reasons and following the procurement process Tenderer B's bid cannot be recommended as an alternative.
- 1.4.6 The bids were evaluated against quality and cost in equal measure. There was a clear margin between the successful tender and the other two tender submissions. A range of questions were set for all bidders and these varied from the technical feasibility of the bid to stakeholder liaison. Tenderer C was able to demonstrate on both cost and quality that their proposal offers a CCTV monitoring service that meets the council's requirements and within the budget allowed for the contract.

1.5 Alternative Action and why not Recommended

- 1.5.1 The Cabinet could choose to terminate the tender process without awarding the contract. However, the reasons for this would need to be genuine and substantial, and any subsequent actions that were non

compliant or that contradicted the non-award decision could lead to a legal challenge. Although no reason has to be given for terminating a process, bidders are entitled to ask for a debrief and a non-award notification would be required to be placed in OJEU. The reasons for the decisions will therefore become known. If there are no good reasons to do this, to do so would undermine the original reasons for the decision to go out to tender. These included providing a modern, fit for purpose working environment, achieving the savings required by the medium-term financial strategy, and enabling a future proof service that provides 24/7 coverage. In addition a failure to do so would require the re-prioritisation of existing capital resources or borrowing in order to balance the capital budget.

- 1.5.2 The Cabinet could choose to ignore the recommendation and to award the contract to a tenderer who did not submit the most economically advantageous tender. However, this would be a breach of the procurement regulations and would leave the council open to legal challenge. The likelihood of a successful legal challenge is considered to be high.

1.6 Impact on Corporate Objectives

- 1.6.1 The preservation of a 24/7 CCTV service supports the council's Strategic Plan priority 'For Maidstone to be a decent place to live' and will contribute to "Maidstone continues to be a place where people want to live and where the economy is supported through being a safer place to do business".

1.7 Risk Management

- 1.7.1 Council's officers have followed the adopted procurement framework throughout the process. Officers are satisfied that the tender from Tenderer C is overall the most economically advantageous to the Council and that the process has been followed properly and fairly, in accordance with the expressed objectives of the Council. It is not believed that there are any grounds on which the integrity of the process can be challenged.
- 1.7.2 If the Cabinet chooses not to follow the recommendation there is a substantial risk in reputational, political and financial terms. If a decision is made other than in accordance with the recommendation this decision will need to be supported by genuine and substantial reasons, which could need to be defended in court and in the public arena generally.
- 1.7.3 A legal challenge under the procurement regime, if successful, could result in the cancellation of the contract, a fine which must be

“effective, proportionate and dissuasive” and the award of costs and loss of profit.

1.7.4 The council and/or members of the Cabinet would be open to legal challenge from any of the organisations who tendered or from a third party. They would also be open to challenge from the Council’s external auditors.

1.7.5 Moving to a new service brings with it the inherent risk there will possibly be an adverse impact in service delivery either in the short or long term. This risk has been mitigated through:

- The procurement process that assessed quality equally with price;
- The engagement of a CCTV specialist who has provided expert advice on the robustness of each proposal;
- The partnership agreement and the council’s continued direct role on the CCTV Partnership Board.
- A dedicated project manager within the Housing & Community Services to ensure the smooth and successful transition from the current service provider to the new provider.
- Ensuring that stakeholder liaison remains a core activity and services such as Maid-Safe continue to be delivered effectively.

1.8 Other Implications

1.8.1

1.	Financial	X
2.	Staffing	X
3.	Legal	X
4.	Equality Impact Needs Assessment	X
5.	Environmental/Sustainable Development	
6.	Community Safety	X
7.	Human Rights Act	
8.	Procurement	X
9.	Asset Management	

- 1.8.2 Financial The financial implications are contained within the exempt report.
- 1.8.3 It is proposed to utilise part of the additional saving achieved through the successful bid to provide a dedicated project manager to ensure the smooth and effective transition of the CCTV monitoring service through the initial 12 months of going live with the new service provider.
- 1.8.4 Staffing – On transfer of the service the CCTV manager and contracted staff would be under a Transfer of Undertaking Protection of Employment Regulations (TUPE) arrangement. The TUPE arrangement and associated costs were factored into the ITT.
- 1.8.5 Legal – Once the contract has been awarded a legal partnership agreement will be drafted setting out the responsibilities of the partners and the governance arrangements. This will ensure the council continues to have direct input via the Partnership Board.
- 1.8.6 Equality Impact Assessment – An assessment will be carried out as part of the next stage of the process to ensure any equality issues are identified and addressed.
- 1.8.7 Community Safety – Whilst the provision of a CCTV service is not a statutory requirement of a local authority the recommendation in this report will ensure the continuance of a resilient CCTV service and contribute towards the reduction of crime and anti-social behaviour in Maidstone.
- 1.8.8 Procurement – Following the Cabinet Member’s decision in March 2011 the council entered into the procurement process for the CCTV monitoring service. The published notice stated that the award would be on the basis of the most economically advantageous tender. The assessment of the tender bids was carried out on this basis and the tender report outlining the procedure followed and the outcome is attached as Appendix A to the exempt report. The recommendation of the Tender Report & Client Acceptance Memo is to award the contract to Tenderer C as it had submitted the most economically advantageous bid.

1.9 Relevant Documents

1.9.1 Exempt report and Appendix

Exempt Cabinet Report

Exempt Appendix A – Tender Report & Client Acceptance Memo

Background Documents

EU Procedure rules

Report of the Director of Regeneration & Communities December 2010

Report of the Director of Regeneration & Communities March 2011

CCTV Code of Practice – Information Commissioner

IS THIS A KEY DECISION REPORT?

Yes

No

If yes, when did it first appear in the Forward Plan?

September 2011

This is a Key Decision because: The value of the contract exceeds £250,000. The decision affects more than one Ward

Wards/Parishes affected: Town Centre Wards & Parishes with CCTV cover