

By: Mike Austerberry – Executive Director Environment, Highways & Waste

To: Mr Nick Chard, Cabinet Member, Environment, Highways & Waste

Subject: Countywide Improvement – Market Testing, Highways Maintenance Works 2010-11

Classification: Unrestricted

Summary:

Purpose of Report

1. (1) Countywide Improvements has identified a package of highway maintenance works to be market tested against the current Term Maintenance Contract (TMC). Tenders for these schemes were returned on 11 June 2010 and this report sets out the results of that tender process.

Process

2. (1) A decision to Market Test a package of highway maintenance works for 2010/11 was made by Kent County Council and Countywide Improvements has identified the specific schemes. A team from Kent Highway Services (KHS) and KCC procurement have been overseeing and managing the process.

(2) The Council's intention to issue a contract for a package of maintenance schemes was published on the SE Business Portal and in the Official Journal of the European Union. The selection of tenderers was made from the information submitted as part of the Pre Qualification Questionnaire in response to those notices. Only five contractors met the financial and quality requirements.

(3) Tenders using the New Engineering Contract (NEC) Option B contract were invited from the five contractors but subsequently two declined to submit a tender due to TUPE issues. The tenders are analysed on a price only basis and that is explained in section 3 below.

Tender Assessment

3. (1) The Tender Assessment consists of a review of the documents returned with the tender and an assessment based on price as adjusted by Annex A. No quality element was included within the tender documentation as the quality requirement was deemed to have been completed at tenderer selection.

Tenders were received from:

- Contractor A
- Contractor B
- Contractor C

Documents Returned

(2) All submitted tenders complied with the documents to be returned with tender requirements and no alternative tenders were received.

(3) The covering letter from Contractor C stated that their bid did not include any obligation associated with TUPE. This is in direct contravention of the Instructions for Tendering to reflect the financial implications of such a transfer in the tender.

Financial Assessment

(4) A full financial appraisal of the tenders was undertaken and apart from point of clarification, there were no issues that subsequently needed further investigation on any of the tenderers to allow the financial assessment to be undertaken.

Tender Assessment

(5) Contractor A have submitted the lowest price as adjusted by Annex A.

Discussion & Interview

4. (1) Contractor C have submitted a tender with a qualification that their bid did not include any obligation associated with TUPE, therefore their submission should be rejected.

(2) Contractor A have submitted the most economically advantageous offer, so it is recommended that they are called to interview to confirm their position on TUPE and to clarify the following Bill of Quantity rates:

- All ironwork adjustment items show zero rate;
- Bill 09, 30, 41 & 46 have low rates for milling in coal tar contamination;
- Bill 39 Traffic Management item shows zero rate.

Interview with Contractor A 18 June 2010

TUPE

(3) Contractor A confirmed that they accepted that TUPE was likely to apply to the proposed contract and they have reflected the financial implication of such a transfer in their tender.

Bill of Quantity Rates

(4) Contractor A confirmed that the ironwork adjustment rates were priced at zero as Contractor A have made allowance where necessary in Preliminaries. They consider most of the ironwork is unlikely to require adjustment. Contractor A also confirmed that they were satisfied with the milling in coal tar rates and the missing traffic management rate was an error but they would stand by the rate of zero.

Conclusion

5. (1) The undertaking of this tendering scheme has been in full compliance with EU regulations and other requirements. The submitted tender here be rigorously assessed against the tender specifications and the outcome is that Contractor A is the recommended preference company to undertake this contract.

Recommendations

5. (2) The Cabinet Member for Environment, Highways & Waste is asked to agree:

- (a) That Contractor A as detailed in this report be awarded the contract for the Highways Maintenance Works.
- (b) and the Executive Director, Environment, Highways & Waste subject to him being satisfied as to the detailed terms and conditions, be authorised to sign the contact on behalf of the County Council

Author Contact Details

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Background Documents: None