

Finance and Resources Committee

10am, Thursday, 12 May 2016

Contract Award under Urgency Procedure - Café Concessions for Parks and Greenspace and Museums and Galleries - Lot 2

Item number	7.10
Report number	
Executive/routine	
Wards	City Centre

Executive summary

The Council carried out a tender process under public procurement rules to renew a number of café concession contracts throughout the city. The opportunity was taken to consolidate a number of new and existing sites through one tender exercise, separated into 11 lots, with one subsequent withdrawal.

A report seeking approval for the tender award for the remaining lots which had received bids, was submitted to Finance and Resources Committee on 17 March 2016. It was agreed at that Committee to award 6 contracts with the exception of Lot 2 – East Princes Street Gardens, due to the need to carry out further due diligence.

This report is to advise Committee of the action taken to award Lot 2 East Princes Street Gardens Kiosk under urgency powers following the satisfactory completion of the due diligence process.

Links

Coalition pledges	P48
Council priorities	CP9
Single Outcome Agreement	S04

Contract Award under Urgency Procedure - Café Concession for Parks and Greenspace and Museums and Galleries - Lot 2

Recommendations

- 1.1 It is recommended that Committee notes the action taken to award of Lot 2 – East Princes Street Gardens to GIPA Capital Ltd, under the Urgency Procedure paragraph 4.1 of the Committee Terms of Reference and Delegated Functions.

Background

- 2.1 The Council has a number of cafe concessions throughout the city, which required to be tendered in 2016. The opportunity was taken to consolidate existing café concessions, with a number of newly identified sites to generate income to the Council, whilst offering further opportunities for small and medium enterprises to participate in this tender prospect.
- 2.2 The outcome of this tendering exercise was reported to Finance and Resources Committee on 17 March 2016, where approval was given for the award of 6 contracts where bids were received, with the exception of Lot 2 - East Princess Street Garden Kiosk, which was withdrawn due to further due diligence required. The remaining 3 lots which received no bids will be re-advertised under a second phase.

Main report

Tender Process

- 3.1 On 5 January 2016 an OJEU contract notice for a single stage open procedure was published in the national Public Contracts Scotland Portal inviting expressions of interest from suitable suppliers for a number of café concessions. Interested parties responding to the notice were provided with the tender documentation.
- 3.2 To ensure that the tender was awarded to the suppliers offering best value, the bids were assessed using the most economically advantageous methodology. The weightings used for the selection of the suppliers were based on Quality 40% and Price 60%.
- 3.3 The quality analysis was based on weighted Award Criteria questions, which were scored using a 0 to 10 matrix. Following completion of the quality analysis,

tenders that passed the minimum threshold score of 50% for quality were subject to a cost analysis.

Committee Approval – 17 March 2016

3.4 6 lots were awarded on 17 March 2016 by this Committee, following removal of Lot 2.

3.5 At Committee it was indicated that a report seeking approval to award Lot 2 would be brought back on 12 May 2016.

Urgency Procedure

3.6 Due to timescales for implementation of the contract, approval to award the contract for Lot 2 to GIPA Capital Ltd was sought using the Urgency Procedure, in consultation with the Convenor and Vice Convenor. The urgency procedure states that: 'If a decision which would normally be made by a Committee requires to be made urgently between meetings of the Committee, the Chief Executive or appropriate Director, in consultation with the Convener or Vice-Convener, may take action, subject to the matter being reported to the next Committee.

3.7 There were a number of unintended consequences that would have occurred should the urgency powers not have been invoked.

3.8 These consequences include:

- TUPE not applying, if there is a significant gap in service provision then TUPE is unlikely to apply to staff employed by the incumbent.
- Avoidable break in trading over the summer period which is likely to impact on suppliers and customers
- GIPA Capital Ltd have confirmed that their business plan is based on full operation for the Summer Period which includes a re-branding and re-opening of the café and there may not be sufficient time to do this if the award is delayed until June. There were concerns that waiting until June to award may result in the Council having a less attractive offer or that offer being withdrawn resulting in the need to retender.
- Loss of income to the Council.
- Temporary closure of the kiosk.

Award of Contract

3.9 Due diligence was carried out by Council officers with a recommendation to award the tender for the kiosk at East Princes Street Gardens to GIPA Capital Ltd.

3.10 The bid price reflects an annual lump sum cost over a five year period for the rental of the site. Where no bid price has been included, this is due to the bidder failing the quality threshold or submitting a bid which did not comply with the minimum lump sum payment set by the Council.

Contractor	Price (60%)	Bid Price	Quality (40%)	Overall Score	Overall Rank
GIPA Capital Ltd	58.35	£424,000	24.60	82.95	1
Bidder 2	60.00	£436,000	20.20	80.20	2
Bidder 3	0.00		28.00	28.00	3
Bidder 4	0.00		16.40	16.40	4
Bidder 5	0.00		13.00	13.00	5

Winning Café Concept

- 3.11 GIPA Capital Ltd are offering an Eco-friendly, socially responsible coffee shop with locally sourced fair trade Scottish produce. Selling a range of produce including coffee, cakes and sandwiches, the kiosk will have full Wi-Fi access and a range of seating options to enhance the customers' experience. The kiosk will operate throughout the year. GIPA Capital Ltd have committed to supporting a local charity that utilises the Gardens as well as a local football team through a sponsorship opportunity. They will also offer free coffees and refreshments to veterans at selected times during Remembrance Week.

Measures of success

- 4.1 Meeting the following vision statement which was included within the specification and summarised the key outcomes of the tender exercise. Cafés and catering outlets:
- Are sensitive to the historic and/or green space that they occupy;
 - Provide an inviting environment which add to the location in which they operate;
 - Offer a range of high quality food and beverages at a range of prices;
 - Offer a choice of healthy food and drink options;
 - Support locally sourced and Scottish produce and products; and
 - Are proactive in taking measures to be environmentally responsible.
- 4.2 In additional new sites are expected to create both direct and indirect employment.
- 4.3 The new high quality provision is expected to support the cities thriving tourist and visitor scene, provision for the general public, support increased visitor numbers to the parks and museums and galleries they operate in and will bring investment in the city from the successful suppliers.
- 4.4 This project demonstrates the city's ongoing commitment to supporting business development in Edinburgh.

- 4.5 Through proactive market engagement and consolidation of the sites available into one tender process, the Council has generated significant competition for all sites. This optimises the market value and income potential for all sites.

Financial impact

- 5.1 Through the use of the tender exercise The Commercial Excellence Programme, aimed to achieve market value for each site through subjecting tenderers to market competition.
- 5.2 The forecast income across all of the sites across the life of these contracts totals £1,040,150 which accounts for a combined increase in rental of £318,050 over the life of all contracts.
- 5.3 There are gain share arrangements in place for City Arts Centre and Lauriston Castle, which will result in further revenue income for the Council.
- 5.4 The costs associated with procuring this contract are estimated at up to £10,000.

Risk, policy, compliance and governance impact

- 6.1 Suppliers were required to detail Health & Safety policy and procedures and required to comply with Health & Safety at work regulations.
- 6.2 Tenderers were required to put forward copies of their certifications and policy and procedures on the following areas:
- Insurance;
 - Health & Safety;
 - Environment management; and
 - Customer compliant handling.

Equalities impact

- 7.1 Suppliers are required to comply with equal opportunities legislation in the terms and conditions of contract.
- 7.2 No negative impacts arise from the award of these contracts.

Sustainability impact

- 8.1 Suppliers were required to detail environment management processes and procedures, including site and waste management, including recycling.
- 8.2 For all sites specific requirements were detailed into the specification in order to protect the environment or historic buildings in which the supplier will operate.

- 8.3 The impacts of the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties. Any adverse outcomes are considered to be minimised by the duties placed on the providers.

Consultation and engagement

- 9.1 Consultation was carried out with *Historic Scotland* on an appropriate procurement strategy and factors to consider.
- 9.2 Previous supplier enquires and previous public engagement was used to inform the new sites across the Parks and Greenspace estate.
- 9.3 CPS worked closely with the Parks and Greenspace, and Museums and Galleries team to carefully capture specification requirements for each site.
- 9.4 A market research exercise to identify potential interested suppliers including incumbent, local and national suppliers was carried out. Email notifications were sent out to over 70 contacts/ suppliers identified who were directed to register on Public Contracts Scotland.

Background reading/external references

n/a

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Links

Coalition pledges	P48 – Use Green Flag and other strategies to preserve our green spaces
Council priorities	CP9 – A vibrant, sustainable local economy
Single Outcome Agreement	S04 – Edinburgh’s communities are safer and have improved physical and social fabric