REPORT OF

The Strategic Director for Children's and Adult Services

TO

Procurement Board

ON

22nd March 2017

TITLE: Request for the approval for an Exception to Contractual Standing Orders to award a contract to Ortoo Ltd to provide a Governor Services software system

RECOMMENDATION:

That the Procurement Board

(1) Approves an exception to Contractual Standing Orders in accordance with Paragraph 3.1 as follows :-

- Specialist services/supplies which are available only from one supplier. For example, specialist niche consultants or suppliers where there is a sole supplier of patented or proprietary articles, or materials or services exclusively provided by a statutory undertaker or other bodies.

- For reasons of compatibility with existing services/products - for example, equipment that needs parts from its own manufacturer.

- There is value for money reasons justifying an exception.

(2) Approves the award of the Contract for a Governor Services software system as detailed in the table below:
<table>
<thead>
<tr>
<th>Detail required</th>
<th>Ortoo Technologies Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Successful Contractor</td>
<td>TBC</td>
</tr>
<tr>
<td>Supplier Registration Number (to be supplied by Corporate Procurement)</td>
<td></td>
</tr>
<tr>
<td>Type of organisation (to be supplied by Corporate Procurement)</td>
<td>Private Limited Company</td>
</tr>
<tr>
<td>Status of Organisation (to be supplied by Corporate Procurement)</td>
<td>Non-SME</td>
</tr>
<tr>
<td>Contract Value</td>
<td>£14,830 est.</td>
</tr>
<tr>
<td>Contract Duration</td>
<td>Full Project</td>
</tr>
<tr>
<td>Contract Start Date</td>
<td>24 months</td>
</tr>
<tr>
<td>Contract End Date</td>
<td>01.07.17</td>
</tr>
<tr>
<td>Optional Extension Period 1</td>
<td>30.06.18</td>
</tr>
<tr>
<td>Optional Extension Period 2</td>
<td>01.07.18 to 30.06.19</td>
</tr>
<tr>
<td>Who will approve each Extension Period?</td>
<td>n/a</td>
</tr>
<tr>
<td>Contact Officer (Name &amp; number)</td>
<td>Steve Titley (Commissioning Manager 0161 793 2435) Liz Wright (Senior Democratic Services Officer 778 0261)</td>
</tr>
<tr>
<td>Lead Service Group</td>
<td></td>
</tr>
<tr>
<td>How the contract was procured? (to be supplied by Corporate Procurement)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Governor Services Revenue Budget</td>
</tr>
</tbody>
</table>

(3) Notes that prior to the end of the period of time covered by the exception as indicated in 2 above, the Strategic Director will determine whether the service is to be decommissioned or, in consultation with the Corporate Procurement Team, will agree to undertake a compliant procurement process to re-let the contract by the end of the exception period.

EXECUTIVE SUMMARY:

The purpose of this report is to seek request an exception to Contractual Standing Orders to approve the award of a contract Ortoo Ltd to provide a Governor Services software system.

The reasons are:

- A contract was awarded to Ortoo Ltd for a less than one year and under £10k value via an informal quote process, as there was an urgent need for the service at the time.
- The decision to award was based on an assessment by the Governor Services Team of the value for money and efficacy of the product (particularly
in relation to access to the database for customers to allow for self-service) and in relation to other options in the market and in the relatively short time since that award (June 2016) this assessment has not changed.

- Consequently Ortoo is the best option for the short to medium term and any change to a different product would mean a third system being introduced in three years, which would be a disruption to the Governor Services Team and schools as well as a waste of the resources that have been put into working with the product to date.
- The proposed extension would provide a period of stability and development in the service to schools and also allow for further development in the market and a review of options, including competitive tender in the future.

BACKGROUND DOCUMENTS: Children and Adults Services Directorate Delegated Decision Notice 14.06.16

KEY DECISION: No.

Background

Schools have a legal obligation to have in place an effective governing board that provides strategic leadership and oversight and challenge on school management, performance and standards. Governing boards (GB) are required under regulation to appoint a Clerk to the Governors to support and advise the GB so that it can fulfil its role and responsibilities. Schools do not have to use Local Authority Services to help to ensure that they meet this obligation but many in Salford do, with 85 out of 99 choosing to use Salford Council's Governor Services.

Salford Governor Services is a 100% traded service via a service level agreement (SLA) fully financed by school subscriptions. The Service aims to improve the quality of governance in schools by providing a quality clerking service that includes:

- Supporting the recruitment of governors to the GB in line with regulations, including maintaining a database of governors details, terms of office and positions held on the GB and training attendances;
- Clerking GB meetings, including the administration of the meetings paperwork, providing procedural and best practice advice at meetings and a quality assured minute taking service;
- Providing advice on education and governance regulations and statutory guidance;
- Providing training for governors including access to online training courses.

Some schools are still heavily paper-based in the operation of their GBs and Governor Services aim is to assist more schools to become fully digital and online in the operation of their governing board meetings. This will help schools to become more efficient but it will also free-up time for the Governor Services team to target
support to help improve governance in identified GBs and further develop and provide more training for governors. This will add more value to the offer for schools, raising school standards and having the potential to generate more revenue for the Governor Services Team from charges for training.

Up and till May 2016 Governor Services had been using a governor application on the schools EMS software that had been provided as a free add-on. However the provider of EMS service gave notice in May 2016 that the free add-on would no longer be free from 1st June 2016. Governor Services (with the help of the ICT team) had already been looking at alternatives throughout 2016, to see if there were other systems that might provide further functionality to support schools to fully implement a digital, online solution for schools. The short notice of the charge meant that Governor Services would have to either accept whether to pay a charge for the EMS add-on, or pay for a new system from a different supplier as there couldn’t be a break in service for schools.

There was not enough time to conduct a formal competitive quote process and so procurement advice was to either accept the additional charge or contract an alternative provider for a year under an informal quotation process for contracts under £10k, allowing for a review of future options in 16/17. Based on the research during 2016, two other packages by other providers were considered alongside the system at the time.

The Governhub system provided by Ortoo Limited was selected as it was:

- At £6,190, 48% cheaper than would have been the cost to pay for the current add-on to the EMS service for a year.
- Ortoo’s system offered a much better user-friendly, web interface and functionality for self-service by school governors than the existing system or the other products considered;
- The Ortoo system did not rely on Governor Services managing governors log-ons and passwords (the governors would manage them themselves) meaning the governors could reset passwords themselves and do more with the system autonomously in-and-outside office hours, reducing unnecessary admin tasks in the Governor Services Team.
- Ortoo also offered a calendar feature for schools signed up as a free of charge option.
- Ortoo also offered their training booking system as a free of charge option.
- Ortoo were able to guarantee the timely and successfully migration of school data on to their system (in just over one month) from the old system by 30.06.16 (which they ultimately delivered).

**Proposed way forward from 01.07.17**

The £6,190 charge for Governorhub is based on an annual rate for two different services to schools. One service is for schools already using the more efficient digital / online approaches to running their governing boards and liaising with the Governor Services team (46/99) and schools using more paper based approaches and so only limited functionality of the system (53/99).
The proposal is to contract for 1+1 year contract, allowing for a contract review break and to also work with schools to progressively migrate to digital operations with the aim being that 20% more schools become digital in 17/18 and another 30% in 18/19. The conversion rate is a planned estimate and so the annual contract charges are a best estimate. More (or fewer) schools could convert in the period and some schools might decide not to continue to use the Council's Governor Services over the period. If trends suggest that the overall cost of £14,830 for two years will be significantly exceeded, then Procurement Board will be further consulted.

<table>
<thead>
<tr>
<th>Product options</th>
<th>Current 16/17 (up to 30.06.17)</th>
<th>Projected 17/18 (to 30.06.18) 20% conversion</th>
<th>Projected 18/19 (to 30.06.19) 30% conversion</th>
<th>Total estimated cost of a 1+1 extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Database Only (£30 p.a)</td>
<td>53</td>
<td>42</td>
<td>29</td>
<td>£870</td>
</tr>
<tr>
<td>Full Digital Solution (£100 p.a)</td>
<td>46</td>
<td>57</td>
<td>70</td>
<td>£7,000</td>
</tr>
<tr>
<td>Total Number of schools</td>
<td>99</td>
<td>99</td>
<td>99</td>
<td></td>
</tr>
<tr>
<td>Total Cost</td>
<td>£6,190</td>
<td>£6,960</td>
<td>£7,870</td>
<td>£14,830</td>
</tr>
</tbody>
</table>

During the two year period the Governor Services Team will continue to monitor the options in the market to see if alternatives to this system improve and consider the option of a competitive process for provision from 01.07.19 onwards, returning to Procurement Board during the second year to discuss and agree options.

**Reasons in support of this proposed way forward**

- An emergency decision had to be taken in May 2016 to ensure that schools would continue to receive a good service. Market comparison by the team at the time concluded that the Ortoo system was the best option in terms of both value for money and efficacy of the product and this assessment has not changed.
- The Governor Services team has only been using the system since July 2016 and so has only been using it with schools for just less than two terms and so have only had a limited time to engage with schools and explore and exploit the potential of the system.
- The proposed extension will give a period of time to exploit the potential of the Ortoo system with schools and will give time for other options in the market to develop.
- An extension would allow for an acceleration of the digitalisation process via the system, with schools improving their efficiency and the Governor Services Team having progressively more time to concentrate on value-added and
revenue-generating training for schools, which would contribute to improving school standards.

- Also any change to a new system from 01.07.17 following a competitive process would not only waste the work done by the team to roll out the package with schools to date but it would also mean introducing a third different system to schools within three years, risking adverse customer relations and loss of business.
- The Department For Education launched A Competency Framework for Governance in January 2017, with 16 different competences based around the knowledge, skills and behaviours needed for effective governance of schools and so a period of stability with the Ortoo system would help to support schools to implement this, whilst a change to a new system would be a distraction for both the Governor Services Team and schools.
- The contract value for the proposed 2 year extension is relatively low.

KEY COUNCIL POLICIES: Not applicable

EQUALITY IMPACT ASSESSMENT AND IMPLICATIONS:-

Not applicable.

ASSESSMENT OF RISK: The Governor Services Team have not changed their assessment that the Ortoo system is the best option for the short-to-medium term. Any change to a new system would be a disruption and waste of resources put into developing the Ortoo system and would risk the loss of reputation of the service with schools and the loss of business.

SOURCE OF FUNDING: Governor Services Team revenue budget.

LEGAL IMPLICATIONS: Tony Hatton, Principal Solicitor, tel. 219 6323

Ordinarily when commissioning contracts for the procurement of goods, services or the execution of works the Council as a ‘contracting authority’ must comply with the Public Contract Regulations 2015 as well as the provisions of its own Contractual Standing Orders (CSO’s), Financial Regulations and the duties of Best and Social value. In addition, the Regulations require that contracting authorities treat candidates equally and in a non-discriminatory way and act in a transparent manner, failing which the award of a contract may be subject to legal challenge. For contracts of this value the Council would usually undertake an exercise to obtain quotes from three suitably qualified providers.

However in exceptional circumstances where the Council’s Contractual Standing Orders permit, the Council may dispense with strict compliance of its CSO’s, and the report sets out the reasons for the request for the exception, in accordance with
paragraph 3.1 of CSO’s. Whilst exceptions to CSO’s may be authorised by an approval from the Procurement Board, there is still a risk of challenge from aggrieved providers if the usual tender process has not been followed on the basis that it ought to have been advertised and put out to competition.

The risk of challenge increases with the value and duration of a proposed contract being awarded. Here the period proposed is short and is for a very low value, and a very tight time scale. Accordingly the risk of any such challenge may be regarded as extremely low.

The Council is also under a best value duty to carry out its functions economically, efficiently and effectively with the objective to achieve value for money in all public procurement. The Council has considered the circumstances in this matter and concluded that the recommendation to award the contract to Ortoo Limited is considered to be of least risk and of most benefit to the Council.

FINANCIAL IMPLICATIONS  Chris Mee – Strategic Finance Manager

The cost of this contract will be met from within the existing Governor Services budget funded from SLA income received from Schools

PROCUREMENT IMPLICATIONS: Emma Heyes Procurement Category Manager

The request for approval for an exception to contractual standing orders on the grounds of value for money is outlined within the report.

There is always a risk that any award of business, if made outside of the full competitive processes, could be subject to challenge by an aggrieved supplier on the basis that it ought to have been advertised and put out to competition. This risk cannot be eliminated.

The exception to Contractual Standing Orders represents a low risk to the Council in terms of potential challenge by other suppliers, due to the value being low and that there is a limited market for this type of service, therefore it may be argued it would be prohibitive at this time for a fair and open competition to be undertaken and would not achieve value for money.

OTHER DIRECTORATES CONSULTED: Not applicable.

CONTACT OFFICERS: Steve Titley (Commissioning Manager 0161 793 2435) Liz Wright (Senior Democratic Services Officer 778 0261)

WARD(S) TO WHICH REPORT RELATE(S): All