



Agenda item:

[No.]

**Procurement Committee**

**25<sup>th</sup> November 2008**

Report Title: **Building Schools for the Future: Award of Contract and Approval of Maximum Project Budget for Northumberland Park and the Vale School**

Forward Plan reference number: V78

Report of: **Director of the Children & Young People's Service**

Wards(s) affected: **Northumberland Park**

Report for: **Key Decision**

**1. Purpose**

1.1 To seek Procurement Committee approval to award the main works design and build contract following completion of the Pre-Construction Stage

**2. Introduction by Cabinet Member**

2.1 Northumberland Park and the Vale is one of the twelve schools in the Building Schools for the Future programme that has completed its pre-construction stage and is moving to the main stage of the Design and Build programme.

2.2 This project is of major significance to the school and the local community, who will all benefit from the enhanced facilities and consequential transformation.

**3. Recommendations**

3.1 The Procurement Committee award the design and build contract, with an Agreed Maximum Price, to the Construction Partner in clause 20.1. and authorisation to spend the Maximum Project Contingency Allocation.

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#### **4. Chief Financial Officer Comments**

4.1 Members will note that there are two outstanding items that require confirmation at their meeting :

- The confirmation of abnormals referred to in paragraph 10.2; and
- The confirmation of receipt of the corrected Promissory Note referred to in 10.4.2

4.2 Subject to these matters being resolved the total cost of the project remains within the cash limited budget.

4.3 Members may also wish to satisfy themselves as to the adequacy of the provisional sums set out at paragraph 20.2 as these represent in excess of 10% of the total AMP and are an area where there is scope for the cost to vary.

#### **5. Head of Legal Services Comments**

5.1 The Director of Children and Young People' Services is seeking Procurement Committee approval of award of the contract for the Design and Build phase of the Northumberland Park Community School Project ("the Project") to the contractor named in Paragraph 20.1 ("the Contractor"), and for authorisation to spend the Maximum Project Contingency Allocation sum set out in the table in Paragraph 20.1.

5.2 In June 2008 the Contractor was recommended to the Procurement Committee for the award of the Pre-construction contract for the Project and the opportunity to negotiate an Agreed Maximum Price for the project as a whole, following a mini-competition held with four of the contractors on the BSF Contractor Partners Framework Agreement.

5.3 As confirmed by external legal advisers to the BSF programme, Eversheds, the BSF Construction Partners Framework Agreement was established following the correct advertisement in accordance with EU public procurement directives and regulations.

5.4 The Procurement Committee at its meeting of 12<sup>th</sup> June approved the award of the Pre-Construction Services contract to the Contractor.

5.5 The Construction Procurement Group have confirmed that all parties understood that the subsequent contract for the Design and Build stage of the contract would be awarded to the same contractor that was awarded the contract for the Pre-construction stage of the contract unless an Agreed Maximum Price could not be reached with that contractor.

5.6 An Agreed Maximum Price had now been reached with the Contractor therefore this report is seeking approval of the award of the contract for the Design and Build stage of the Project to the Contractor.

5.7 As the value of the Agreed Maximum Price in relation to the proposed contract exceeds £250,000, the Procurement Committee is the appropriate body with the power, under CSO 11.3, to approve the award of the proposed contract.

5.8 The Head of Legal Services confirms that, subject to funding, there are no legal reasons preventing Members from approving the recommendation as to the proposed contract award set out in Paragraph 3 of this report.

## **6. Head of Procurement Comments**

6.1 The process for assembling the Agreed Maximum Price (AMP) is based on an open book process where the sum of each package of works (such as piling and decorations) compiles the AMP.

6.2 The AMP has been assembled by the contractor following a series of mini competitions to their supply chain and the figures received are arithmetically checked by the Cost Consultant. The prime contractor recommends the intended sub-contractor for each package for examination by the Cost Consultant and Project Manager.

6.3 The Agreed Maximum Price is then received and processed by Council officers in accordance with standing orders and financial regulations.

## **7. Local Government (Access to Information) Act 1985**

7.1 The following background documents were used in the production of this report:

- Haringey Council's BSF Construction Framework documentation.
- The Council's Standing Orders

7.2 This report contains exempt and non-exempt information. Exempt information is contained in the appendices and is not for publication.

7.3 The exempt information is under the following category

(identified in the amended Schedule 12A of the Local Government Act 1972):

*Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

## **8. Background**

8.1 In April 2007, following an Official Journal of the European Union (OJEU) process, Haringey's Procurement Committee agreed a framework of six Constructor Partners (CP). These CPs would be used to source the twelve school projects in the BSF programme.

8.2 In May 2008 it was agreed with the Leader of the Council that, in order to give full Member involvement in the BSF Design and Build process, the pre-construction stage would be reported to Procurement Committee for approval. Subsequently the main award with an Agreed Maximum Price (AMP) would also be presented to Procurement Committee.

8.3 Four contractors from the CP framework passed the financial criteria set to enter a mini competition for Northumberland Park and the Vale School. All four of the contractors accepted to tender with the tender opening taking place on the 9<sup>th</sup> April 2008. The Procurement Committee subsequently approved Apollo London Ltd, on

12<sup>th</sup> June 2008, to work through the pre-construction services and negotiate an Agreed Maximum Price

8.4 Apollo London Ltd have been working with the Project Teams during the Pre-Construction stage and submitted their Contractors Proposals with an Agreement Maximum Price, this tender was submitted 24<sup>th</sup> October 2008

## **9. Pre Construction Stage and Contractor's Proposals**

9.1 The Pre Construction stage was undertaken as follows:

### **Council's Requirements**

9.1.1 The Design Team Partners developed the level of design up to RIBA Stage D+ (detailed design) which formed the basis of the Council's Requirements. To allow Apollo London Ltd to formulate an Agreed Maximum Price the following information was sent to them:

- ❖ Drawings (architectural, structural and civils, mechanical and electrical, landscape and acoustic)
- ❖ Specifications
- ❖ ICT proposals
- ❖ Waste management proposals
- ❖ Statutory requirements
- ❖ Programme
- ❖ Planned maintenance programme
- ❖ Key performance indicators
- ❖ Contract terms and conditions

### **Pre Construction Services /Contractor's Proposals**

9.1.2 Apollo London Ltd undertook the following services in order to submit an Agreed Maximum Price:

- ❖ Pre-construction design
- ❖ Supply chain management/works package tendering with full cost management
- ❖ Value engineering/open book accounting
- ❖ Procurement of surveys
- ❖ Quality assurance
- ❖ Method statements
- ❖ Procurement of material samples
- ❖ Insurances/warranties and bonds

9.1.3 Apollo London Ltd received the Council's Requirements on 14<sup>th</sup> July 2008 and then worked with the Design Team Partner and stakeholders to develop their Contractor's Proposals in response.

### **Review and Negotiation**

9.1.4 Each package item within the design has been tendered by Apollo London Ltd. Individual packages were sent out to a minimum of three suppliers and were returned to Potter Raper Partnership's (cost consultant) Office for opening and

recording. Apollo London Ltd submitted a recommendation report for the Individual packages, which demonstrated value for money.

Potter Raper Partnership reviewed each recommendation for a package of works from Apollo London Ltd. The Design Team Partner has reviewed the recommendation to ensure that they are compliant with the Council's Requirements. Derogation from the Council's Requirements to the Contractor's Proposals have been agreed by the project team.

9.1.5 The School, as a key stakeholder, has been included within the discussion of the compliancy of the Contractor's Proposals.

### **Final Tender**

9.1.6 The Agreed Maximum Price was submitted and opened on 24<sup>th</sup> October 2008. The tender included the following information:

- ❖ Form of Tender
- ❖ Contractor AMP form
- ❖ Programme
- ❖ Contractor's Proposals

9.1.7 Northumberland Park and the Vale School signed a Governing Body Agreement which acknowledges that Apollo London Ltd will require access to the school premises to carry out the works and that the school will liaise closely with them to support the phasing and decanting requirements of the scheme. They also acknowledge that the responsibility for soft and hard FM services will be with the school.

9.1.8 The generic Final Business Case (FBC) has been submitted to Partnership for School and has been agreed by DCFS. However, the individual project FBC is currently with PFS for approval, this was submitted on the 13<sup>th</sup> November 2008

## **10. Supporting information**

10.1 The Agreed Maximum Price Summary (Appendix 20.1), incorporates a full review of the professional fees required to complete the project. The figure presented in appendix 20.1 presents the estimated costs.

10.2 DCSF funding guidance dictates the level and type of abnormal spending that is allowed for each project and across the BSF programme. This detailed analysis is currently being prepared by Potter Raper Partnership, but this process has not yet been fully concluded. It is anticipated that this will be completed by the time of the Procurement Committee meeting on the 25/11/08, at which point any outstanding issues will be updated.

10.3 DCSF issued a promissory letter on Friday 7<sup>th</sup> November 08 confirming the BSF programme FBC had successfully been signed off, and the total grant funding payable to the council.

10.3.1 As defined in the DCSF Funding Protocol, the date of this Promissory letter defines the moment of financial close for funding purposes. This was confirmed by the discussion and minute of the 21<sup>st</sup> October BSF Programme Board.

10.3.2 DCSF are in the process of releasing an Promissory Note, as the funding total described in the letter is not as expected. We are assured by PFS that this will not affect the level of grant that we require to deliver the projects confirmed in the FBC. It is planned that a replacement letter will be available for the Procurement Committee meeting on the 25<sup>th</sup> November 2008.

## **11 Conclusion**

11.1. The pre-construction agreement dated 12<sup>th</sup> June 2008 will now be superseded by the award of the main works design and build contract.

Following the Agreed Maximum Price stage assessment it is recommended that Apollo is the most suitable option for the main works to be carried out at Northumberland Park and the Vale School

## **12 Sustainability:**

12.1 The Northumberland Park and the Vale School exhibits a number of sustainability features. The main solution is the inclusion of Solar hot water panels. Although the new build area is less than 1,000m<sup>2</sup> it is proposed that Solar evacuated tube hot water panels are installed to meet an aspiration target of 10% renewable energy.

12.2 A Breeam Pre-assessment has been completed on the Northumberland Park and the Vale school which has highlighted the need to obtain additional credits during the construction process. The Project Team and Construction Partner are currently looking at opportunities to increase the project rating to a 'very good' level and will be producing an action plan to identify the credits and responsible organisations prior to starting on site.

12.3 Life cycle cost analysis are currently being reviewed by Potter Raper Partnership on a programme wide basis. The report will be included in the project specific FBC submission.

## **13 Financial Implications**

13.1 Appendix 20.1 presents the AMP Stage Cost Schedule. This table confirms all project cost elements associated with the project's design and build phases based on information from Potter Raper Partnership and confirmed by the Mace Project Manager. This table shows that the Maximum Project Cost equals the cash limited budget for this project and therefore has the necessary budget provision available for this approval to be made (subject to successful confirmation of the points in 13.2 and 13.3 below).

13.2 Section 10.2 of this report highlights incomplete analysis for the funding of Abnormal Costs associated with this project and the BSF Programme overall. Pending completion of this analysis by Potter Raper Partnership, a small funding risk remains, and it is anticipated that this analysis will be satisfactorily concluded prior to the Procurement Committee meeting on 25<sup>th</sup> November, so that funding certainty can be confirmed as far as reasonably possible.

13.3 Section 10.3 confirms the process for confirming DCSF funding for the BSF Programme overall. The minutes of the BSF Board Meeting held on 21<sup>st</sup> October confirm that FBC approval (as confirmed in the Promissory Letter dated 7<sup>th</sup> November 2008) confirms financial close and hence guarantee of funding to Haringey Council. Additionally, the grant funding number in the letter is different (higher) to that expected and the Programme team is in the process of confirming the final number. This is expected to be completed by the Procurement Committee meeting on 25<sup>th</sup> November 2008 to confirm the guaranteed funding position for the BSF Programme.

#### **14 Legal Implications (provided by Eversheds)**

- 14.1 The BSF Framework Agreements with the Construction Partners were established following the correct advertisement in accordance with EC procurement directives and regulations.
- 14.2 The framework incorporates a mechanism in order to score call offs and mini competitions.
- 14.3 The scoring matrix compiled for this mini competition was carried out by Haringey's Construction Procurement Group with the assistance of other professional advisers.

#### **15 Equalities Implications**

- 15.1 The new build elements of the Northumberland Park and the Vale School project are being designed to be fully accessible to all levels of physical ability (DDA compliance). As part of the vision for the campus, the facilities have the potential to be open to the local community.

#### **16 Health and Safety Implications –**

- 16.1 During the pre-construction stage the designs have been reviewed by a Construction Design and Management Co-ordinator, (Gardiner and Theobald). Their duties have included:
- ❖ Advise and assist the client with their health and safety duties
  - ❖ Notify details of the project to HSE
  - ❖ Co-ordinate health and safety aspects of the design work and co-operate with others involved with the project
  - ❖ Facilitate good communication between the client, designers and contractors
  - ❖ Liaise with the principal contractor regarding ongoing design work
  - ❖ Identify, collect and pass on pre-construction information
  - ❖ Prepare and update the health and safety file
- 16.2 As part of their acceptance onto the Contractor's Framework for BSF the recommended contractor is a member of the Contractors Health and Safety Assessment Scheme (CHAS). This has allowed the Council access to the recommended contractor's information on their Health and Safety record, to ensure that they are meeting the necessary regulations.
- 16.3 Due to the nature of the works within a live school site, Criminal Records Bureau (CRB) checks will be submitted and monitored by the London Borough of Haringey for the Construction Partners "on site" staff. Supervisors from sub-contractors will also be subjected to CRB. This will bring to the Council's attention anyone unsuitable to work with children and other vulnerable members of society.

## **17 Engagement of the Community**

- 17.1 The designs have been made available prior to the construction stage for resident drop in sessions, school parents and school governors' review days, school council assemblies and information has been posted through the doors of local residents (also available on line for viewing). These initiatives will continue through the construction phase
- 17.2 Full consultation has been undertaken as part of the BSF Stage approvals; this included consultation with Partnership for Schools, Commission for Architecture and the Built Environment (CABE), Council planners and building control, the Fire Officer and the Police (Secured by Design).
- 17.3 Full planning permission has been received for the scheme.
- 17.4 The selected Construction Partner will have a Customer Liaison Officer (CLO) whose role is to actively engage with the community through drop in sessions, leaflet drops, open evenings and many more stakeholder engagement activities to allow for comment and feedback during the construction process.
- 17.5 During the construction phase of the works the Construction Partner will be expected to set up apprenticeships from the community for the Northumberland Park and the Vale School project to encourage the use of locally based labour, unemployed persons etc. These apprenticeships will be within various positions, for example, trades, administration and management. These will be monitored as a Key Performance Indicator.

## **18 Recommendation**

- 18.1 The Procurement Committee award Apollo London Ltd the main design and build works at a value set out in Appendix 20.1, and with a 73 week programme to 30<sup>th</sup> April 2010.
- 18.2 The procurement committee authorise spending on this contract up to the sum detailed in 20.1.3, with reference to the build up of this sum in 20.1.1.

## **19 Use of Appendices / Tables / Photographs**

- 19.1 Agreed Maximum Price Summary (20.1)
- 19.2 Provisional sum schedule (20.2)
- 19.3 Programme Milestones (20.3)
- 19.4 Construction awards to date (20.4)