

Agenda item

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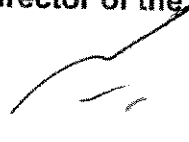
PROCUREMENT COMMITTEE

On 18 December 2008

Report Title.

Building Schools for the Future: Award of Main Contract for John Loughborough School

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



IAN BAILEY

Contact Officer :

David Bray

020 8489 1824

david.bray@haringey.gov.uk

Wards(s) affected: **Tottenham Hale**

Report for: **Key Decision**

1. **Purpose of the report (That is, the decision required)**

1.1 To seek Procurement Committee approval to award the main work's Design and Build contract, following completion of the Pre-Construction Stage

2. **Introduction by Cabinet Member (if necessary)**

2.1 John Loughborough School 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.

3. State link(s) with Council Plan Priorities and actions and /or other Strategies:

3.1 Making Haringey one of London's greenest boroughs

3.1.3 The project will assist in ensuring the appropriate renewal and refurbishment of property assets in the Borough, and address issues of maintenance, all of which will contribute to the optimum use of resources in the long term

- Measures to minimise water use
- Energy efficient lighting
- Lighting occupancy sensing in the toilets
- Recycled construction materials
- Certified Timber (CoC)

3.1.2 An initial BREEAM (Building Research Establishment Environmental Assessment Method) review indicated that the project would achieve a "Good" rating. However, work is progressing with the contractor partner to assess whether this can be improved to "Very Good" within the AMP.

3.1.3 Designers are briefed to ensure the new build elements comply to the highest level of energy saving.

3.1.4 The school is adopting Haringey's sustainability policy.

3.2 Creating a Better Haringey: cleaner, greener and safer

3.2.1 Variety of sustainability measures including BREEAM as in section 3.1.2

3.2.2 Construction Partner has undertaken to implement, wherever possible the Council's policies in respect of employing local labour as in 3.6.8 .

3.2.3 Encouraging lifetime well-being, at home, work, play and learning

3.2.4 The BSF programme will contribute to the transformation in outcomes for young people in Haringey by improving the learning environment, providing anywhere/anytime access to ICT, increasing inclusion and providing a wider range of pathways of study.

3.2.5 The BSF programme will improve access to extended services in and around schools and contribute to improving community cohesion. Examples include access to out of hours study support for children and families, sports and the arts. This particular school will have new art and sports provision and will continue to have a strong connection with its faith community. Improved access and site security will ensure that children, families and the building will be safer.

3.2.6 Promoting independent living while supporting adults and children **when** needed

3.2.7 Creating apprenticeships for local people

3.2.8 Encouraging the use of local labour

3.3 Delivering excellent, customer focused, cost effective services

3.3.1 Key to the success of the BSF programme is to improve standards in schools. John Loughborough school has made good progress at GCSE level in recent years. The BSF programme will add to the learning environment to enable further progress to be made by eliminating poor teaching spaces.

3.3.2 The BSF work to the school's reception area will bring about much needed improvements to the way in which visitors are greeted.

3.4 Council Strategies

3.4.1 Safer for All:

In all our work we will pay particular attention to:

- Young people and crime
- Mental health issues
- Support for victims and witnesses of crime
- Working with and through communities (Community Engagement)

3.5 Resources

3.5.1 Overall Value for money is achieved by the procurement methodology to prove the economy, efficiency and effectiveness of each project as it is tendered. Six suitable contractors formed a BSF contractor framework to serve each project in the programme, by means of mini competitions. The successful contractor worked through the design stage ultimately producing costed packages of work. The exercise is "open book", allowing the project manager and cost manager to see the sub consultants tenders and confirm the price meets scope and quality criteria.

3.5.2 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.

3.5.3 A thorough analysis of pupil place planning has been carried out to ensure that the school accommodation is appropriate for both current needs and the foreseeable needs of the future. Governors have signed an agreement to maintain the property in good order once the BSF work is completed. The FM aspect of the PFI contract will be reviewed at the end of the BSF works. A workforce development programme is already in place to ensure the skills, knowledge and experience of the staff match the needs of an effective school.

3.5.4	Engagement of the Community: The designs have been made available to stakeholders through various media and events including resident drop in sessions, school parents and school governors' review days, school council assemblies. Project newsletters have also been distributed to parents and local residents, while the proposals have been set out on the Haringey BSF web pages (www.haringey.gov.uk/bsf). Information and updates will continue to be provided to stakeholders during the construction phase of the project.
3.5.5	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).
3.5.6	Full planning permission has been received for the scheme.
3.5.7	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.
3.5.8	During the construction phase of the works the construction partner will be expected to set up apprenticeships from the community for the John Loughborough 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.
3.5.9	Risks are managed within the governance of the BSF programme. This includes Stream Lead meetings and reporting to the Programme Board. The projects are managed within Prince 2 methodology and Managing Successful Programmes. Procurements are managed to European Legislation and advice is taken from legal advisers to ensure compliance. An audit of the programme completed satisfactorily.
3.5.10	Work streams within the programme incorporate people from the Haringey work force where practical.
4.	Recommendations
4.1	The Procurement Committee award the design and build contract, with a value set out in Appendix 16.1, and with a 57 week programme to 26th February 2010.
4.2	The procurement committee authorise spending on this contract up to the sum detailed in 16.1.2, with reference to the build up of this sum in 16.1.1, conditional on the funding position for VAT costs associated with this project being resolved with HMRC and PfS as detailed in paragraph 13.2.
5.	Reason for recommendation(s)
5.1	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.

5.2 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.

5.3 Four contractors from the CP framework passed the financial criteria set to enter a mini competition for John Loughborough School. All four of the contractors accepted to tender with the tender opening taking place on the 15th April 2008. The Procurement Committee subsequently approved the contractor specified in paragraph 16, on 12th June 2008, to work through the pre-construction services and negotiate an Agreed Maximum Price

5.4 The appointed contractor partner has been working with the Project Teams during the Pre-Construction stage and submitted their Contractors Proposals with an Agreed Maximum Price, this tender was submitted on the 14th November 2008.

5.5 The Pre Construction stage was undertaken as follows:

5.5.1 Council's Requirements

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 the contractor partner 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

5.5.2 Pre Construction Services /Contractor's Proposals

The contractor partner 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

The contractor partner received the Council's Requirements on 15th August 2008 and then worked with the Design Team Partner and stakeholders to develop their Contractor's Proposals in response.

5.5.3 Review

All of the works packages, except materials and Block A alterations, within the design have been tendered by the Contractor Partner. The CP was instructed to send out individual work packages to a minimum of three suppliers. The suppliers were asked to return their prices to Potter Raper Partnership's (cost consultant) Office for opening and recording, and the CP asked to submit a recommendation report for the Individual packages, which demonstrated value for money.

Potter Raper Partnership have reviewed each recommendation for a package of works from the contractor partner, and have concluded that the prices returned for the packages, including those noted above as having not been tendered, represent value for money. The Design Team Partner has reviewed the recommendation to ensure that they are compliant with the Council's Requirements. There have been no significant derogations from the Council Requirements.

5.5.4 Final Tender

The Agreed Maximum Price was submitted and opened on 14th November 2008. The tender included the following information:

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

A Development Agreement has been agreed in principle with the Seventh Day Adventists which acknowledges that the contractor 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; it is proposed that this Agreement will be signed simultaneously with the building contract.

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

being prepared for PFS approval.

The Agreed Maximum Price Summary (Appendix, paragraph 16.1), incorporates a full review of the professional fees required to complete the project. The figure presented in paragraph 16.1 presents the estimated costs.

5.5.5 Health and Safety Implications

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

As part of their acceptance onto the Contractor's Framework for BSF the contractor partner is a member of the Contractors Health and Safety Assessment Scheme (CHAS). This has allowed the Council access to contractor partner's information on their Health and Safety record, to ensure that they are meeting the necessary regulations.

6 Other options considered

6.1 Not Applicable

7 Summary

7.1 The John Loughborough BSF project has been the subject of a 2 stage tendering process with the contractor appointed to undertake pre-construction services. This report addresses the process used to ensure value for money, identifies the anticipated costs resulting from the procurement exercise, and seeks approval to proceed to award a design and build contract for the refurbishment and selective renewal of the John Loughborough School to the contractor partner appointed for the pre-construction stage, on the terms set out in the appendix to this report.

8 Chief Financial Officer Comments

8.1 The Chief Financial Officer has been consulted on the content of this report and has no additional comments to make.

9 Head of Legal Services Comments

- 9.1 The Director of children and Young People Services is seeking Procurement Committee approval of an award of the contract for the Design and Build phase of the John Loughborough School Project (the Project), to the contractor named in paragraph 16.1 (the Contractor), and for authorisation to spend on this contract up to the sum detailed in 16.1.2, with reference to the build up of this sum in 16.1.1.
- 9.2 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.
- 9.3 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.
- 9.4 The Procurement Committee at its meeting of 12th June 2008 approved the award of Pre-Construction services contract to the Contractor.
- 9.5 The Construction Procurement Group have confirmed that all parties to the Pre-Construction Services contract mini-competition understood that the Council reserved the right to award the subsequent contract for the Design and Build stage of the contract to the same contractor that was awarded the contract for the Pre-construction stage of the contract provided agreement as to an Agreed Maximum Price and other terms of the D & B contract is reached with that contractor.
- 9.6 Agreement as to the Agreed Maximum Price and other terms of the Design and Build contract have 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.
- 9.7 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.
- 9.8 As the report states (in Paragraph 5), the Council and John Loughborough School are in the process of finalising the terms of a Development Agreement with the Seventh Day Adventist Association and it is anticipated that the Development Agreement will be signed simultaneously with the proposed Design and Build contract. The Head of Legal Services has been light-touch monitoring the work of external legal advisers, Eversheds, in relation to the Development Agreement.
- 9.9 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 4 of this report.

10 Head of Procurement Comments –[Required for Procurement Committee]

- 10.1 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.
- 10.2 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.
- 10.3 The Agreed Maximum Price is then received and processed by Council officers in accordance with standing orders and financial regulations.

11 Equalities and Community Cohesion Comments

- 11.1 The new build elements of the John Loughborough 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.

12 Consultation

- 12.1 The Construction Procurement Group has been fully consulted in the preparation of this report.
- 12.2 A wide range of internal and external stakeholders have been consulted during the course of project development. These stakeholders include the school and its administrators, the local community, local Members, Partnerships for Schools, DCFS, and the Commission for Architecture and the Built Environment (CABE).
- 12.3 **Legal Implications (provided by Eversheds)**
- 12.3.1 The BSF Framework Agreements with the Construction Partners were established following the correct advertisement in accordance with EC procurement directives and regulations.
- 12.3.2 The framework incorporates a mechanism in order to score call offs and mini competitions. It anticipates that, subsequent to the appointment of a contractor to a Pre-Construction Services Agreement, a Design and Build Contract will be entered into with that contractor in substantially the same form as the draft in the framework.
- 12.3.3 Whilst the contractor has been proceeding with the services under the Pre-Construction Services Agreement, Haringey's Construction Procurement Group, with the assistance of other professional advisers, has been progressing the process of establishing the scope and price for the Design and Build Contract."

13 Service Financial Comments

13.1 Appendix 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 incorporates previous stages approved via delegated authority. 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.

13.2 As a VA school, John Loughborough is subject to different treatment of VAT compared to non VA schools – in overall terms, where a range of tests can be successfully confirmed, HMRC give permission for the school to issue a zero-rated certificate, so that VAT costs can be recovered. HMRC initially gave permission for this route on new build, but has recently withdrawn this permission pending completion of further tests to establish whether this 'new build' coincides with their regulations. It is anticipated that all the construction work at John Loughborough School will fail the 'new build' test, and hence a claim will be submitted to PfS for additional grant to offset the unrecoverable VAT costs. Steve Avis and Michael Edwards from PfS have both confirmed in writing that this will not represent an issue as additional grant will be forthcoming to cover the unrecoverable VAT, but a formal request cannot be submitted until discussions with HMRC are complete. An additional complication is the change in VAT rate for 17.5% to 15% on 1st December, which will require a detailed spend profile to be created to enable the VAT load to be established. Whilst impacting on the overall project funding, this will not affect the value of the contract let. However, until the VAT issue is resolved, any agreement by the Cabinet Procurement Committee must be conditional on the resolution of this issue to protect the overall affordability of the project.

13.3 DCSF issued a revised promissory letter on Monday 24th November 08 confirming the BSF programme FBC had successfully been signed off, and the total grant funding payable to the council. 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 21st October BSF Programme Board.

14 Use of appendices /Tables and photographs

- Agreed Maximum Price Summary (16.1)
- Provisional sum schedule (16.2)
- Programme Milestones (16.3)
- Construction awards to date (16.4)

15 Local Government (Access to Information) Act 1985

15.1 The following documents were used in the compilation of this report:

a. The Council's Standing Orders

15.2 Appendix 1 of this report contains exempt information and is **not for publication**. 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) (Ground 3).