

**REPORT TEMPLATE:
PROCUREMENT COMMITTEE**



Agenda item: **[No.]**

Procurement Committee

On [Date]

Report Title: **Amendment to BSF Contractor Partner Oversight Protocol**

Forward Plan reference number (if applicable): **[add reference]**

Report of: **Director, Children and Young People Service**

Ward(s) affected: **All**

Report for: **Key Decision**

1. Purpose

- 1.1 To seek Members' review of their decision, taken at the April 17th Procurement Committee meeting - in respect of a previous request to delegate Procurement Committee powers to award contracts for specific projects under the BSF Contractor Partners Framework Agreement to the Director of CYPS in consultation with the Lead Member - in view of proposals in this report to ensure greater transparency, compliance and Member involvement in the decision-making process .

2. Introduction by Cabinet Member

- 2.1 I support the recommendations: they offer a balance that will provide members with the right level of involvement and assurance but also allow the BSF programme to meet its tight deadlines.

3. Recommendations

- 3.1 That Members agree to the proposals in paragraph 14 of the report.

Report Authorised by:

A handwritten signature in black ink, appearing to read "Sharon Shoesmith".

**Sharon Shoesmith
Director
The Children and Young People's Service**

Contact Officer: **Gordon Smith, BSF Programme Director,
gordon.smith@haringey.gov.uk , Tel 020 8489-5368**

4. Executive Summary

- 4.1 This paper seeks to clarify the requisite procurement oversight needed by Councillors whilst allowing for the flexibility needed by the BSF programme to meet its ambitious programme milestones.

5. Reasons for any change in policy or for new policy development (if applicable)

- 5.1 Not applicable

6. Local Government (Access to Information) Act 1985

- 6.1 List of background documents:
None
- 6.2 See Part B for exempt information.

7. Background

- 7.1 At the previous Procurement Committee meeting held on 17 April 2007 members expressed concern that the mini-competition process for selecting contractor partners did not have sufficient oversight from Councillors.
- 7.2 In order to meet this and other broader concerns about how best to arrange accountability in this programme, the Programme Director met with the Leader of the Council and the Chief Executive. Having considered the best way to meet the concerns expressed by members of the committee, and having consulted with Councillor Mallett, they suggested a proposal that sought to provide the level of assurance members were seeking in terms of transparency, compliance and involvement, whilst maximising the continuity requirements needed by the BSF programme to meet its very demanding timescales.
- 7.3 To enable greater Councillor involvement in the process of selecting and allocating Contractor Partners – but without prejudicing the programme's tight timescales – it was proposed that there should be Councillor involvement in the mini-competitions and sign-off will be by the Director of CYPS in consultation with the Lead Member. Acting only in an observation capacity, we propose that Councillors participating in the individual mini-competitions will not be members of the Council's Overview and Scrutiny Committee. Furthermore, Councillors will be required to declare that they have no undue interest in the outcome before participating in the mini-competition.
- 7.4 Six monthly progress reports on the overall programme will be made to the EAB and the Leader will be briefed regularly on the progress of the programme by the Programme Director.

- 7.5 Procurement Committee will continue to receive reports on the procurement aspects of the programme.
- 7.6 Consideration will be given to an additional Councillor becoming a member of the BSF Programme Board.
- 7.7 Under arrangements for support to the programme agreed at the last meeting all procurement activity will continue to be undertaken by Council procurement staff (funded by the BSF programme on an agreed basis) and the Head of Procurement, as advisor to this committee, will perform the independent procurement scrutiny role. Legal and financial advice will be obtained by procurement staff as required.

8. Budget

- 8.1 Not applicable.

9. Description of Procurement Process

- 9.1 Not applicable.

10 Consultation *(if applicable)*

- 10.1 See paragraph 7.

11 Key Benefits and Risks

- 11.1 See paragraph 7.

12 Contract and Performance Management

- 12.1 See paragraph 7.

13 Summary and Conclusions

- 13.1 Not applicable.

14 Recommendations

- 14.1 Members agree to amend the decision taken at the previous procurement committee meeting to resolve that:
- A Member participate in each mini-competition as a reviewer at the sign-off stage where the preferred bidder will be nominated;
 - The Director, in consultation with the Lead Member for Children and Young People Service, has the delegated authority to finalise individual school mini-competition Contractor Partner contracts;
 - The Members consider whether an additional member join the BSF Programme Board to provide further clarity and oversight into the activities of the programme; and
 - That all decisions taken, and progress made, in these mini-competitions between Procurement Committee meetings be reported back fully at each meeting.

15 Equalities Implications

15.1 None.

16 Health and Safety Implications

16.1 None.

17 Sustainability Implications

17.1 None.

18 Financial Implications

18.1 None.

19 Comments of the Director of Finance

19.1 The Director of Finance has been consulted on this report and is generally in support of the proposals. This is subject to, however, the requirement that all the stated delegated authority reports, to be approved by the Director and Lead Member, Children and Young People's Service, include the appropriate financial implications section and Director of Finance comment.

20 Comments of the Acting Head of Legal Services

20.1 The Framework Agreement to which this report relates has been tendered in the EU in accordance with the Public Contracts Regulations, 2006.

20.2 Regulation 19 of the Public Contracts Regulations, 2006, provides that selection of contractors for specific projects under a Framework Agreement may be undertaken by mini-competition.

20.3 Under the Council's Contract Standing Orders, any contracts (whether let under a Framework Agreement or otherwise) with an estimated value of over £250,000 must be awarded by the Procurement Committee.

20.4 This report is seeking that Procurement Committee delegates its power to award contracts for specific projects to contractors selected from the BSF Contractor Partners Framework Agreement (following a mini-competition) to the Director of Children's and Young People Service acting in consultation with the Lead Member. The report states that this will facilitate continuity of the BSF Programme and meeting of the Programme deadlines.

20.5 The Procurement Committee has the authority under Part 3E of the Council's Constitution, to delegate its powers to an officer. This authority is derived from Section 15 of the Local Government Act, 2000.

20.6 The Acting Head of Legal Services confirms that there is no legal reason preventing Members from approving the recommendations in Paragraph 14 of this report.

21 Comments of the Head of Procurement

- 21.1 The Constitution of the Council draws a clear distinction between the role of Elected Members and paid Officers in regards the operations of the Council.
- 21.2 The proposed Member involvement in mini-competitions requires careful management.
- 21.3 It is proposed that Members will be presented with a report after the mini-competition has taken place detailing the process undertaken and the outcome.
- 21.3 If Members are minded to approve the recommendations contained within this report, consideration needs to be taken on the roles and responsibilities of both Officers and Members which could potentially become clouded and even undermine the scrutiny role of Members.

22 Use of Appendices / Tables / Photographs

- 22.1 [List any appendices and their titles.]
- 22.2 Part B of this report contains exempt information.

HARINGEY BSF FRAMEWORK AGREEMENT FOR CONSTRUCTOR PARTNERS

Mini Competition Process (worked example)

*After the mini-competition, Members will be presented a report **for information** detailing the process undertaken.*

Project details:

1. Approximate value	£8,000,000	
2. Mix:	Refurbishment:	40%
	New Build:	60%
3. Anticipated Constructor appointment date:	TBC	
4. Anticipated Start date:	4 th July 2008.	
5. Anticipated Completion date:	23 rd August 2010.	

Mini-competition Process

The mini competition is in three parts and will be scored as follows:

- Price 30%
- Method Statement Quality 40%
- Interview 30%

*Members are asked to **note** the proportional split between the price and the two quality elements (quality and interview). (Note that the percentage split is in line with that stated in the OJEU advertisement and tender documents, and may not materially change from same.)*

Part 1

All those contractors who are suitable to undertake the work must be invited to take part in the mini-competition. *Members will be **informed** of those framework contractors who **were invited** to take part in the mini-competition.*

Contractors will be invited to take part in the mini-competition and will be asked to confirm their interest and to provide the following:

- Updated turnover information
- Updated insurance information
- Details of similar projects you have completed
- Confirmation that you have no outstanding HSE incidents

*Members are asked to **note** this exercise as one of due diligence in updating information, previously provided but which may have altered since appointment to the framework.*

Part 2

Contractors will also be asked to provide a written response based on the following:

- Confirmation that your initial pricing response still stands and adjustment of it to comply with any revised programme information.
- Pricing of specific preliminaries items such as:
 - Provision of tower cranes
 - Scaffolding
- Proposed management structure
- CVs of the proposed second stage tender team and the on site management team Logistics statement
- Anticipated programme

*Members are asked **to note this process** as a method of ensure that the contractor's pricing continues to offer value for money at the project level.*

Part 3

Contractors will be asked to attend an interview where the personnel who will be working on the project will be asked to present against three key criteria considered important by the school and provide their proposed logistics statement.

*Members are asked **to note this process** as a method of determining that the selected contractor's staff have been taken into consideration and deemed to be suitable for the needs of the school.*