

London Borough of Enfield

Key Decision - Portfolio

Cabinet Member: Children's Services
Executive Director: Executive Director – People

Key Decision: KD 5249

Subject: Fern House School – Award of Construction Framework And Pre -Contract Services Agreement (PCSA) for the Re-build of 'life expired' school.

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Purpose of Report

1. This report seeks approval to award a Construction Framework for the re-build of the School and to award the Pre-Contract Services Agreement (PCSA) to "Contractor A" (as detailed in the Restricted appendix A of this report) for the services relating to the works comprising a new 9 classroom double storey building to include staffroom, main hall, kitchen, siteworks and all ancillary facilities associated with a modern new build school.
2. To approve the appointment of each Consultant detailed in Restricted Appendix A of this report relating to consultancy services for the post award stage.
3. To note details of the total project expenditure relating to the works, professional and technical fees, project contingency and loose furniture and equipment as noted in the Restricted Appendix A of this report.

Proposal(s)

That the Cabinet Member for Children's Services:

4. Approves the entry by the Council into a Contractor Framework Agreement with Contractor A, Contractor B and Contractor C as the First, Second and Third Placed Framework Contractors respectively (see Restricted Appendix 'A' to this report for names of the bidders) in relation

to the design and construction of a new school on the existing site of Fern house School (the Works).

5. Approves the award of the PCSA to “Contractor A”, being the First Placed Framework Contractor as detailed in Restricted Appendix A, in accordance with the call-off provisions of the framework.
6. Approves the appointment of each Consultant detailed in Restricted appendix A of this report relating to consultancy services for the post award stage.
7. Notes details of the expenditure relating to the works, fees, loose furniture and ICT contributions as detailed in Restricted appendix A to this report

Reason for Proposal(s)

8. The tender from Contractor “A” is compliant (both for the PCSA works and the construction works) and is the most economically advantageous tender.
9. Tender is below the pre- tender estimate.
10. The design has been future proofed to enable the accommodation to be reorganised should room requirements and use change.
11. The award of the PCSA allows for a reasonable and acceptable progression of the design works and defined costs ahead of the Works Contract Award in March 2021.
12. The PCSA process will afford Officers the opportunity to collaborate with ELT in order to realise potential construction savings of £403k.

Relevance to the Council’s Plan

Good homes in well-connected neighbourhoods

13. This programme will assist the Council to deliver its construction related projects and programmes which in turn help support the delivery of education services to the benefit of the community.

Sustain strong and healthy communities

14. This term contract will assist in the procurement of construction related activity within the borough and its associated employment and economic

benefits. The Borough needs to ensure appropriate infrastructure is in place to allow for the growth of the population.

Build our local economy to create a thriving place

- 15.** The provision of good quality schools and buildings helps to ensure a stable strong community.

Background

- 16.** The update on the Strategy and Approach to Delivering Pupil Places was presented to November 2019 Cabinet. Items 18 to 24 below sets out the approvals obtained from that Cabinet report.
- 17.** The report set the scene for the administration's approach to the provision of school places for Enfield residents and updates the strategy for the provision of places up to the financial year 2022/23.
- 18.** The update reflects the increasing demand pressures on provision for children who need additional high-level specialist support and that the Demand for high support provision for children with certain categories of special education need continues to increase.
- 19.** The report agreed the strategy of increasing capacity in special schools and establishments that provide education services for some of the most acute special need categories.
- 20.** Approved delegated authority to the Cabinet Member for Children's Services to approve the adding of individual school projects and budgets to the capital programme in support of the strategy of providing additional special school places up to 2022/23 - KD 5082 - Updated School Condition and Fire Safety Programme 2020/21 to 2021/22 (Schools Capital Programme).
- 21.** Approval has been given to the proposed programme of works including professional and technical expenses detailed in the restricted Appendix A of this report or any other emergency schemes proceeding up to the total three-year indicative Programme value of £28 million.

22. The Executive Director People to continue:
- (i) approving tenders for individual schemes or schemes of aggregated value up to a maximum of £500,000 including professional and technical expenses;
 - (ii) manage the Programme in a flexible way within the overall budget available, to take account of variations between estimates and tender costs and the need to substitute schemes having a greater technical priority if the need arises using the tender acceptance report pro forma; and
 - (iii) allocate any contingency provision (up to a maximum of £250,000 including professional and technical expenses) to emergency projects and/or to schemes identified as priority but not yet programmed
 - (iv) That it is recommended, through this report, to reduce the schools de minimis limits to £15,000 for primary and special schools and £25,000 for secondary schools.
24. To note that a portfolio decision Cabinet Member for Children's Services will be sought in relation to the approval of tenders for any proposals exceeding £500,000 in value including professional and technical expenses

Main Considerations for the Council

25. The Tendering Procedure is in accordance with the JCT Practice Note 6 (Series 2) 'Main Contract Tendering' Alternative 2.
26. The tender works comprise construction of a new double storey 9 classroom school.
27. The tender was based on the JCT design and build Contract 2016 (DB2016). The tender documentation includes the contract sum Analysis, Preliminaries, Specification and Drawings.
28. The Tender was invited on a lump sum fixed price basis. Expressions of interest (EOI) were invited via an OJEU notice issued on 17th March 2020. Twenty responses to the EOI were received by 21st April 2020. These were assessed to give a shortlist of five bidders in accordance with the Public Contract Regulations 2015 as stated in the OJEU notice .
29. The tender documents stated a contract period of 62 weeks for the Works contract starting 6th April 2021 and completing 13th June 2022. Tenderers were given the option to propose alternative periods.
30. The tender documentation was sent to five contractors all of which submitted priced tender documents. The tenders were submitted on the tender return date of 10th August 2020.

31. After review of the submitted tenders Contractor 'A' had submitted the most economically advantageous tender as detailed in the restricted Appendix 'A'.

Safeguarding Implications

32. The new buildings will address current inefficiencies in the old derelict school and will provide for a state-of-the-art modern new build. There are no other options to address the inadequacy of the existing school buildings.

Public Health Implications

33. The provision of good quality schools helps to ensure a stable, strong community.

Equalities Impact of the Proposal

34. The provision of local schools across the borough ensures quality of rights to good education provision.

Environmental and Climate Change Considerations

35. Materials shall be selected with due regard to their suitability, for purpose and performance, durability, ease of maintenance and repair, resistance to accidental or malicious damage and their environmental impact. Minimal maintenance and economical availability or replacement parts are also essential for the facility to operate smoothly and efficiently.

36. The Contractor shall use appropriate and robust material and finishes that stand up well to the prevailing weather conditions, the ingress of ground and surface water and heavy use, whilst maintaining appearance over the long term. All areas of the building must be easily and safely accessible for cleaning and maintenance whilst preventing unauthorised access. It is imperative that the building is not aesthetically affected (even if only superficially) by weather and the design, maintenance and lifecycle must ensure no breakdown in the building fabric.

37. The School (kitchen/dining hall and associated areas) shall be designed so that any failure of material and components, or failures from the maintenance regime chosen, will minimise any adverse impact upon the operation of the School.

Life Expectancy

38. The service lifespan assessment shall be as defined in ISO 15686 Part 1 Buildings and Constructed Assets – Service Life Planning, General principals. The structural and non-replaceable components for buildings shall be specified as having a life of 60 years or more. Replaceable components shall have a life appropriate to the structure.

39. The principal elements of the building structure, external envelope and external civil engineering elements shall have a minimum life expectancy at handover as set out in the table below.

Service Life Table

Building element	Service life (minimum year)
Structure/Sub-structure	60
Floor Structure	60
Roof structure	60
Roof cladding	20
External wall/cladding	40
External doors	30
Internal partitions	25
Internal finishes	15
Ceilings	25
Internal doors	30
Internal fixtures and fittings	15
Sanitary and catering fittings	20
Mechanical plant	10
Electrical plant	10
Engineering services distribution systems	10
CCTV installations	12
Fire installations	12
Security installations	12
Communication installations	12
Underground drainage	60
External finishes (i.e. tarmacked areas, hard – standings)	25
External fences	30

Risks that may arise if the proposed decision and related work is not taken

40. If the existing derelict school is not replaced the Borough will face further shortfalls in the demand for SEN/SEMH pupil places. The current facilities at Chesterfield School are inadequate and they will not be able to provide for the demand of pupil places.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

41. The key risks to this contract relate to the possible poor performance of the consultant/contractors. This risk is mitigated by robust performance/contract management. Furthermore, the PCSA will be entered into with Contractor 'A' to ensure the design is progressed in an efficient and proper manner to comply with the quality parameters, cost constraints and prescribed timeframes for project delivery.

Financial Implications

On the 12th Feb 2020, Cabinet recommended that Council approve the 10-year Capital programme, which included £28m for the School Condition and Fire Safety Programme (KD5082) funded from central government grant.

This report is seeking approval to spend £250,000 in 20/21 and 487,000 in 21/23 for the re-build of Fern house School. The costs will be funded from the Fern House School budget of £9,865,162.

The annual maintenance costs from this project would be contained within existing revenue budgets funded from the central government schools grant.

The Tables below summarises a breakdown of the spend:

Expenditure	2020/21 £'s	2021/2023 £'s
Construction Framework Fees	250,000	
Post contract Consultant Fees		487,000
Total	250,000	487,000

Legal Implications

22. The Council has a general responsibility for education and to secure efficient primary, secondary and further education to meet the needs of the population in its area under Section 13 of the Education Act 1996 (as amended).

23. Section 111 of the Local Government Act 1972 further enables local authorities to do anything, including incurring expenditure, borrowing, which facilitate or are conducive or incidental to the discharge of their functions. Furthermore, the Council has the power under section 1 (1) of the Localism act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. The recommendations within this report are in accordance with these powers.

- 24.** The PCSA is a public service contract and the JCT contract is a public works contract. The classification of the Framework will be based on the rules on mixed contracts. In the case of mixed contracts involving a works contract and a services contract, all of which are covered by Part 2 of the Public Contracts Regulation 2015 (PCR 2015), the contract classification is determined by the main subject matter of the contract in question. The main subject matter of the Framework is works and the value of Framework is above the EU threshold for a public works contract under the PCR 2015 (currently £4,733,252). The Council must therefore ensure compliance with the full rigours of Part 2 of the PCR 2015 including complying with the standstill period. The Council must further ensure compliance with its Constitution, in particular its Contract Procedure Rules (CPRs).
- 25.** The professional services contracts are public services contracts under the PCR 2015. The Council must comply with the PCR 2015 and the CPR when appointing the professional consultants under a Framework. CPR 14.4 states that Frameworks, where they exist, should be used provided Best Value can be demonstrated and managers are required to retain sufficient evidence to demonstrate compliance. A due diligence exercise must be carried out by the Procurement and Commissioning Hub (P&C Hub) prior to calling off from the Framework and the Council must be clearly identified as a contracting authority able to use the Framework when the Framework was set up.
- 26.** The contract award for the professional services contracts must be in accordance with the process set out in the Framework agreement and the terms of the call off contract must be consistent with the framework terms. A direct award can be made if (i) Best Value can be demonstrated; (ii) it is permitted by the rules of that Framework; and (iii) the rules of the Framework on direct award are complied with. Although the values of the relevant consultancy contracts are below the Key Decision threshold of £500,000, CPR 25.3 provides that a contract must be sealed “where ... (ii) the Council wishes to enforce the contract for a period of more than 6 years”. It is advised that any contract for professional services to carry out services should be executed under seal by the Council.
- 27.** CPR 6 (Insurance) states that contracts where there is direct advice and/or design services provided by the supplier (including all consultancy and construction arrangements) must have a requirement for professional indemnity insurance. The Service Department must undertake a risk assessment to ensure that the levels of insurance are adequate seeking advice from the Council’s Insurance team.
- 28.** This report constitutes a Key Decision under the Council’s Constitution and the Key Decision process under the Council’s Constitution must be followed.

29. For contracts with a value above £1,000,000, contractors must be required to provide sufficient security in one of the forms outlined in CRP 7.3.
30. All legal agreements (including all associated documentation) arising from the matters described in this Report must be in a form approved by the Director of Law & Governance. Contracts whose value exceeds £500,000 are required to be executed under seal.

Workforce Implications

31. There are no workforce implications as a result of the proposed works.

Property Implications

32. The design and build of the new teaching areas should be implemented so that it does not cause a hindrance or redesign to any new or modified school on site in the future.
33. The Planning Application 19/01183/RE4 was approved at Planning Committee on 18th September 2019.
34. All new or revised asset data arising out of the proposed works must be sent by the Project Manager to Strategic Property Services for input onto the Asset Management Data System, ATRIUM, including revised site plans, floor plans, asset information and maintenance regimes.
35. An inventory list of any material procured and produced will need to be kept. In the event of failure, appropriate arrangements will need to be made for these supplies to be retained and secured for the Council until a decision is made on how best to dispose of them.

Other Implications

Procurement implications

36. This Restricted procedure procurement (DN435294) was carried out in accordance with the Public Contract Regulations 2015 and the Council's Contract Procedure Rules using the London Tenders Portal
37. The Contract Notice (2020/S 054-129718) was issued on 17/03/2020. 20 responses to the Selection Questionnaire were received, of which 11 were compliant. 5 failed on Stage 1a of the evaluation, Constructionline Membership, 3 failed on Stage 2a, Minimum Financial Threshold / Suitable Trading Level (STL) Assessment, and 1 failed on Stage 2b, Financial Assessment (Financial Scoring).

38. The top 5 ranked based on Technical and Professional Capacity and Ability were Invited to Tender.
39. All 5 suppliers submitted a response to the ITT. Evaluation was undertaken in 2 stages – Stage 1, Quality Compliance with Employers Requirements and Stage 2, Price.
40. The top 3 ranked suppliers, Contractors A, B and C detailed in Appendix A, are to be admitted to the framework.
41. The Stage Tender Report analysis undertaken has reviewed the submitted bids and made a recommendation to award to the ranked 1 supplier.
42. As the main building contract is over £250k the service must ensure that sufficient security has been considered on Award of Contract in March 2021.
43. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal including future management of the contract.
44. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

Options Considered

45. To do nothing is not an option as the current school buildings are 'obsolete' and 'time expired'. The current housing of the Fern House pupils at Chesterfield School is temporary in nature and the increased pupil intake in the borough necessitates the requirement for additional school places. The re-build of the school is therefore essential.

Conclusions:

That the Cabinet member for Children's Services:

46. Approves the award of the 'Construction Framework' for the construction of the School
47. Approves the PCSA Award to "Contractor A" relating to the re-build of Fern House School.
48. Approves Consultant contract awards as detailed in the restricted Appendix 'A' of this report

49. Notes details of the expenditure relating to the project works including professional and technical fees, security and FFE/IT allowance can be found in the restricted Appendix 'A' of this report.

SignedDate.....

Cabinet Member – Children’s Services
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Appendices

Restricted Appendix 'A'