

# LONDON BOROUGH OF BRENT

**Executive - 14 March 2005**

## **Report from the Director of Education, Arts & Libraries**

For action

Wards affected: All

**REPORT TITLE: AUTHORITY TO AWARD CONSTRUCTION CONTRACT FOR  
'WILLESDEN GREEN LIBRARY CENTRE  
RECONFIGURATION / GRANGE MUSEUM RELOCATION'  
PROJECT**

Above

Below

**Confidential Line  
with the exception of  
Appendix 1 only**

### **1.0 Summary**

1.1 This report requests authority to award contracts as required by Contract Standing Order No 89. This report summarises the process undertaken in tendering this contract and, following the completion of the evaluation of the tenders, recommends to whom the contract should be awarded.

### **2.0 Recommendations**

2.1 That the Executive note and approve the tendering procedure for the construction contract for the Redevelopment of Willesden Green Library Centre and the Relocation of the Grange Museum and approve the evaluation criteria in paragraph 3.8.

2.2 That the Executive gives approval for the omission and addition of the items outlined in paragraphs 4.7.1 - 4.7.3 from/to the construction contract.

2.3 That the Executive approves the re-allocation of £171,184 from the existing Libraries Health and Safety Capital Budget for expenditure on the Willesden Green Library Centre / Grange Museum capital project.

2.4 That subject to the approval of the recommendations in paragraphs 2.2 and 2.3 the Executive awards the construction contract for the Redevelopment of Willesden Green Library Centre and the Relocation of the Grange Museum to Mitie Property Services (UK) Ltd.

## **3.0 Detail**

### ***Background***

- 3.1 As part of the project to redevelop Willesden Green Library Centre and relocate the Grange Museum to purpose-built premises within the building, it will be necessary to appoint a construction contractor to carry out the building works necessary to alter the building in accordance with the project design.
- 3.2 Between July and December, the detailed architectural design for the project was developed by Brent Council's architect on this project, Owen Williams Consultants. Owen Williams are appointed under the Council's framework agreement for architectural services. As the design developed, it became increasingly clear that the project architect employed by Owen Williams was consistently failing to carry out his responsibilities to the required standard, and this led to the inclusion of a large number of errors and inconsistencies in the detailed design which was initially presented to Brent Council Officers. These were immediately identified by officers and have now been primarily resolved, although the process has resulted in some delays in the project timetable.
- 3.3 Owen Williams Consultants have fully accepted responsibility for these failings, and in late 2004, the architect in question was replaced on the project. In an attempt to redress these earlier failings, Owen Williams have now provided the project with a full time project manager, at no extra cost, to take this project forward with the aim of making up for lost time on the project and ensuring that no further slippages/errors occur. Over the last two months, the new Owen Williams project team have shown that they are more than capable of providing a good and satisfactory service to Brent Council.
- 3.4 Despite this, and in order to ensure that the overall project timetable (completion in March 2006) did not slip due to failures on the part of the architect, a full tendering process for the construction contract on this project was begun in September 2004. This process included the assessment of pre-qualification questionnaires to provide a shortlist of acceptable contractors and then inviting these contractors to return detailed tenders. The process has complied with Council Standing Orders with the exception that Executive approval was not sought and received before the Tendering process was initiated. This was an inadvertent oversight on the part of Council officers. The Executive is asked to note the failure to seek Executive approval to advertise for expressions of interest for the contract and to the pre-tender considerations for the contract including the evaluation criteria. Further the Executive is asked to note and approve the tender process undertaken for the contract as detailed in the report.

### ***The tender process and Pre-Qualification Assessment***

- 3.5 The new contract will be let using the JCT Standard Form of Building Contract Local Authorities Without Quantities 1998 Edition incorporating Amendments 1:1999, 2:2000, 3:2001 and 5:2003, all as adapted by the JCT Composite Contractor's Designed Portion and Sectional Completion Supplement 2000 Edition.

- 3.6 Advertisements were placed in the trade press and the local press on 15<sup>th</sup> September 2004 to seek initial expressions of interest, from which the council's representative received 35 initial enquires. Short-listing pre-qualification questionnaires, and an information pack containing the outline specifications and tender approach were sent out, and 28 contractors returned the questionnaires.
- 3.7 Short-listing was carried out on the basis of the contractors' financial viability (conducted by Brent Financial Services), technical ability (by Owen Williams), quality assurance (by Owen Williams), and a thorough review of their health and safety procedures (by EAL Asset Management), together with a summary of any Health and Safety Notices which had been served on either the company, or their parent company (by EAL Asset Management). The scoring Matrix for the assessment of the pre-qualification questionnaires is contained in Appendix 1.
- 3.8 On the basis of this pre-tender assessment, six construction companies were short-listed and invited to tender. A list of these companies, and the value of their eventual priced tenders is contained in Appendix 2. A tender pack was sent out to each company on Monday 10<sup>th</sup> January 2005. The tendering instructions stated that the contract would be awarded on the basis of the most economically advantageous offer, and that in evaluating tenders, the Council would give regard to the following:
- Tender Price, and accuracy of pricing documents.
  - Method Statements submitted by the contractor regarding Health and Safety procedures for the period of works in a publicly accessible building
  - Method Statements submitted by the contractor regarding customer, stakeholder and client liaison for the period of works in a publicly accessible building
  - Satisfactory References

A contractor would only be judged to have submitted the most economically advantageous offer if their price was lowest of those tenders which met a pre-agreed standard for method statements and had satisfactory references.

- 3.9 Short-listed contractors were invited to provide two fixed price tenders which would be used to evaluate price. The first (Tender A) was to be based on the construction works being carried out in line with a pre-determined construction timetable (drawn up by Owen Williams Consultants on the basis of the client's requirements). This tender was to be used in the tender evaluation to compare like for like cost between each tender. Short-listed contractors were also invited to submit a second, optional fixed price tender (Tender B) for carrying out the work to their own timetable. Each of the short-listed contractors declined to submit a price for Tender B, suggesting that minimal savings can be made by working to an alternative construction timetable to that produced by Owen Williams Consultants.

## **Evaluation process**

- 3.10 All tenders were required to be submitted no later than 12noon on Friday 18<sup>th</sup> February. Tenders were opened on 18<sup>th</sup> February and 5 valid tenders were received. These were photocopied and passed to Owen Williams Consultants for a detailed evaluation of the lowest two priced tenders.
- 3.11 The pre-Tender Estimated Value of this contract was £1,420,000, based on a detailed cost analysis which was carried out by Owen Williams. This figure included a general contingency, but excluded the £66,500 additional ringfenced contingencies. As such, this pre-tender estimate already represented an increase of £123,090 on the approved project budget which can be broken down as follows:

<b>Budget Heading</b>	<b>Cost (£)</b>
Construction Work (inc general contingencies)	1,296,910
Ringfenced contingencies	66,500
Exhibition Fitout Work (inc contingencies)	653,031
Fees	247,198
Decant of Museum Collection	26,846
Other Costs	57,000
Sunk Costs	32,781
<b>Total Project Costs</b>	<b>2,380,266</b>

- 3.12 Because of this, prior to Brent Council receiving the completed tenders, Owen Williams Consultants. This identified the main reasons for the significant increase in cost between the RIBA Stage D costing exercise (carried out by Owen Williams Consultants themselves), and the final pre-tender estimate. Broadly speaking, these were as follows:

3.12.1 **Client Extras** - £43,090 of the increased costs can be ascribed to client extras – additional work which was incorporated into the project between RIBA Stage D and the completion of the detailed design, such as the refurbishment of an existing lift and the complete refurbishment of main centre toilets which is urgently needed, and which had been in the original RIBA Stage D specification, but which had been interpreted by Owen Williams as meaning a thorough clean and coat of paint, rather than re-tiling and renewal of sanitary-ware.

3.12.2 **Design Extras** - £76,000 of the increased costs can be ascribed to design extras – costs which were clearly included in the specification, but where no budget (or in some cases a wholly inadequate budget) was allowed for by Owen Williams.

- 3.13. Tenders were to be evaluated on Behalf of Brent Council by the Quantity Surveyor and Project Manager (Owen Williams), and the Head of Heritage Services (Brent Council). In the event that the lowest priced

tenderer provided unsatisfactory method statements and/or references, a weighting was to have been given to each set of information as outlined in Appendix 3. In the event, it was not necessary to employ this scoring mechanism because the lowest priced tenderer also provided entirely satisfactory method statements and references.

3.14 Mitie Property Services (UK) Ltd provided the lowest priced tender. At £1,534,094, their tender price is an additional £114,094 over the pre-tender estimate. Therefore Mitie's tender represents an increased cost in the overall project budget of £237,184. It is however also £350,438 less than the next lowest tender. The Tender Evaluation Report which was produced by Owen Williams Consultants and which is attached to this report as Appendix 4, outlines the financial validity of Mitie Property Services (UK) Ltd's tender, and offers an explanation for this further increase in price. The conclusion of this document is that on the whole the Mitie Property Services (UK) Ltd's tender is realistically priced. However, the report does recommend that a provisional sum of £22,000 should be added to the contract to cover 4 areas of cost in the tender which it was felt may have been under-valued by Mitie Property Services (UK) Ltd. These are detailed in the tender report (Appendix 4).

3.15 The method statements provided by Mitie Property Services (UK) Ltd in relation to Health and Safety and Client Liaison have been evaluated and found to be extremely strong. A matrix containing summary information about these method statements (and the scores which have consequently been awarded to Mitie Property Services (UK) Ltd) is contained in Appendix 3 to this report.

3.16 Mitie Property Services (UK) Ltd. were also interviewed by the Project Manager, Owen Williams in order to clarify the small amount of relevant information which was not made totally clear from the tender report. The responses from Mitie Property Services (UK) Ltd at this interview were all entirely appropriate and more than adequate.

In the event that Members approve the letting of this contract in line with the other recommendations contained in this report, the contract would commence on 11<sup>th</sup> April 2005.

#### **4.0 Financial Implications**

4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval of the award of the contract.

4.2 The cost of this contract should have been entirely funded from ringfenced budgets of £2,380,266 for the Willesden Green Library Centre redevelopment / Grange Museum relocation project as approved by Executive in March 2004. This is comprised of the following sums:

<b>Source</b>	<b>Amount (£)</b>
Heritage Services Revenue Budget	71,266
Ringfenced Capital Budget	1,033,000
Heritage Lottery Fund Grant	1,276,000
<b>Total</b>	<b>2,380,266</b>

- 4.3 This approved project budget of £2,380,266 was based on a costing exercise which was undertaken at RIBA Stage D. The approved project budget for the construction element of the works is £1,296,910 (including £151,798 general contingencies) and additional ringfenced contingencies of £66,500, as outlined in paragraph 2.11.
- 4.4 If Mitie Property Services (UK) Ltd are appointed on the basis of their tender in its current form (£1,534,094), this would leave a funding shortfall of £237,184 - the amount which Mitie's tender is currently over the approved budget for the construction element of the project.
- 4.5 HLF's Grant contract with Brent Council explicitly stipulates that any increase in project costs must be funded entirely by Brent Council, as their grant will not be increased. The grant expiry date is 31<sup>st</sup> December 2006. Failure to have completed the project by this date will give the HLF the right to require Brent Council to pay back any part of the grant which has already been claimed.
- 4.6 Failure to award the contract to Mitie Property Services (UK) Ltd on the basis of this tender will result in significant delays to the project which will mean the project will be completed much later than the current projected completion date of March 2006. Despite the problems on the project outlined in paragraphs 3.2 and 3.3, it has so far been possible to retain this completion date. It is also likely that any delay caused by a decision to re-tender would also result in increased costs due to inflation.
- 4.7 The following options are proposed which should, if taken together as a package, be seen as a financially robust approach to closing the current funding gap for the construction element of the project. These are:
- 4.7.1 Make savings on costs by omitting the following specific elements of the design which could be deemed to be not so critical that their exclusion would render the project seriously flawed.
- Alterations to Brent Artists Register rear office
  - Refurbishment of Staff toilets – simply clean and repaint
  - Creation of additional office in Library Workroom
  - Air conditioning to museum offices.

These omissions will reduce the contract sum by a total of £58,000. This figure is based on the prices contained in Mitie Property Services (UK) Ltd.'s document, and so represents an actual, rather than an estimated figure.

- 4.7.2 Make savings on contract costs by deleting an additional provisional sum of £30,000 for Mechanical and Electrical contingencies *over and above* the general contingencies. Any overspend on M&E would as a result need to be funded from the general contingency. Members are advised that the general contingency of 9.59% which would remain in the contract is more than adequate for a project at this stage of detailed design.
- 4.7.3 Add provisional sums to the contract totalling £22,000 to cover issues outlined by the tender report (Appendix 4).
- 4.7.4 Transfer funds of £171,184 from the existing Libraries Health & Safety Capital Budget allocation to meet the remaining funding shortfall. A total of £353,000 would have been carried forward from this budget to the 2005/06 financial year for expenditure on outstanding Health and Safety Issues. The remaining £181,816 will continue to be spent in 2005/06 on the purpose for which it was originally approved.
- 4.7.5 Paragraph 23 of the Council's Scheme of Transfers and Virements allows the Executive to vire funding from one set of capital projects to another provided that reductions are not made to the funding of projects below the level that is already financially committed and spending commitments in future years are not made beyond the resources available to fund them.
- 4.7.6 [This transfer of funds from the existing Libraries Health and Safety Capital Allocation to the WGLC/Grange Museum Relocation project falls within paragraph 23 of the Council's scheme of Transfers and Virements and is therefore permissible.]
- 4.8 Were Members to approve the proposals outlined in 4.7.1 - 4.7.3, these would be stipulated in an Addendum Specification prior to contract signing, and would result in a Revised Contract Sum which would bring this tender within an approved project budget.
- 4.9 The proposals outlined in 4.7.1 – 4.7.3 would overall, reduce the cost of contracting Mitie Property Services (UK) Ltd. by £66,000 and would limit the increase in the overall budget for the project to £2,551,450 as shown in the table below:

<b>Budget Heading</b>	<b>Cost (£)</b>
Fixed tender price for Construction Work (inc general contingencies)	1,468,094
Ringfenced contingencies	66500
Exhibition Fitout Work (inc contingencies)	653031
Fees	247198
Decant of Museum Collection	26846
Other Costs	57000
Sunk Costs	32781
<b>Total Project Costs</b>	<b>2,551,450</b>

- 4.10 The proposal outlined in 4.7.3 would increase the approved project budget from the current allocation of £2,380,266 to a total of £2,551,450 as broken down in the table below:

<b>Source</b>	<b>Amount (£)</b>
Heritage Services Revenue Budget	71,266
Ringfenced Capital Budget	1,033,000
Transferred Capital Budget (former Libraries H&S)	171,184
Heritage Lottery Fund Grant	1,276,000
<b>Total</b>	<b>2,551,450</b>

## **5.0 Legal Implications**

- 5.1 The value of this contract over its the lifetime is not higher than the EU threshold for Works and the award of the contracts therefore is not governed by the Public Procurement Regulations. The award is subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.2 The Council's Standing Orders require officers to seek Executive approval to invite expressions of interest for High Value Contracts and approval to the pre-tender considerations including the evaluation criteria. Officers failed to seek such approval at the outset of the tendering process for this contract. However, the tendering process complied with the Council's Standing Orders in all other respects.
- 5.3 It is open for the Council to look at ways of reducing the contract price tendered by Mitie Property Services (UK) Ltd by omitting specific elements of the contract as part of the clarification process for the contract.

## **6.0 Staffing Implications**

- 6.1 This service is to be provided by an external contractor, and so there are no direct staffing implications arising from this report. In the event that the contract needed to be re-tendered rather than awarded at this point, the only implication for staff would be that the re-opening of the museum would be delayed and the existing staff would need to remain in their decanted accommodation for an extended period of time.

## **7.0 Diversity Implications**

- 7.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

### **Contact Officer(s) details**

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