



Delegated Decision by the Deputy Leader
24 April 2019

Report from the Strategic Director of Regeneration & Environment

Recommendation to waive Contract Standing Orders in relation to the procurement process for a Contract to undertake building works for a new reception area at Leopold Primary School, Hawkshead Road, NW10 9UR.

Wards Affected:	Harlesden
Key or Non-Key Decision:	Non-Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	<p>Neil Martin, Senior Capital Programme Officer, Tel: 020 8937 4203</p> <p>Cheryl Andani, Capital Programme Manager Property and Assets, Tel: 020 8937 3227</p> <p>Nick Ljustina, Operational Director Property and Assets, Tel: 020 8937 5025</p>

1.0 Purpose of the Report

- 1.1 Full Council on 9 July 2018, approved a number of changes to the Constitution, which included a scheme allowing the exercise of certain executive powers by individual Cabinet Members, in consultation with the Leader. Amongst the delegations approved were decisions relating to waiver of Contract Standing Orders for Medium to High Value contracts.
- 1.2 The relevant Cabinet Member, for the purposes of this report, is the Deputy Leader. This report seeks approval from the Deputy Leader, in consultation with the Leader to waive Contract Standing Orders requirements in relation to the usual procurement process and to permit officers to approach five, pre-selected contractors to bid for a Medium Value works contract to construct a reception and admin area at Leopold Primary School, Hawkshead Road, NW10 9UR [Harlesden ward].

2.0 Recommendation(s)

That the Deputy Leader:

- 2.1 Approves an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a construction contract for a new reception and admin area Leopold Primary School for the good operational and financial reasons detailed in paragraphs 3.5 and 3.6 thereby enabling Officers to instead approach five contractors to participate in a competitive bid exercise.
- 2.2 Notes that subject to complying with the revised procurement process detailed in 2.1 above, the contract award decision will be taken by the Strategic Director, Regeneration & Environment, in accordance with the Council's scheme of officer delegation.

3.0 Detail

- 3.1 Brent Council (the Council) is the responsible body for 41 community and foundation schools and has a duty to undertake major projects at these schools to ensure the buildings are weather tight and provide a safe environment for education. Funding is provided to responsible bodies to carry out these works by the Education and Skills Funding Agency (ESFA) via the School Condition Funding (SCF). This funding is provided each year based on an assessment by the ESFA of high level building condition need and is provided to meet the responsible body's own local condition priorities across their schools. The Council places SCF monies in a specific capital budget, the School Asset Management Programme (AMP) budget to meet its statutory requirement
- 3.2 A five year programme was agreed by Capital Investment Panel in October 2017 to address condition improvement priorities across the schools. These projects are considered the most vital and cover boiler replacement, fire safety, electrical distribution upgrades and roof and window improvements. This programme is in line with the Council's responsibilities for schools in terms of major replacement or renewal projects. Making improvements to school buildings will enhance the teaching and learning environment that will enable the schools and the Council to deliver a superior learning experience for Brent school aged children.
- 3.3 The school currently has difficulty in monitoring visitors from the entrance gate to reception due to the current reception building not having a segregated access from the main gate and the school admin staff being located on the first floor of the main school building. This project will improve the safeguarding of the pupils and staff by proposing to install a segregated walkway and new purpose built reception building which will enable the school to monitor visitors more effectively. Further, the admin staff will be relocated downstairs which will free up a room to be used for the teaching and learning of the school pupils.
- 3.4 To date, the Council's appointed multidisciplinary design team has produced specifications to demolish the existing reception building and construct the new building as well as the internal renovation works to accommodate the admin staff. Subject to gaining approval to waive the Contract Standing Orders detailed in this report and successful completion of the procurement process, the works are planned to start in the school summer holidays and continue until

the October half-term. Alternative access arrangements will be made with the school.

- 3.5 Discussions with the Procurement Team have concluded that the most cost and time-efficient procurement route for this Medium Value works contract would be to appoint a contractor from five pre-selected contractors. The works are estimated to cost £350,000.
- 3.6 By direct approach to pre-selected contractors, officers will have the opportunity to invite to tender those who are local to Brent, are known to have successfully delivered similar projects in a live school environment and thus aware of the sensitivities required for working in a school during school term time. An alternative procurement route would be the restricted procedure, involving a more lengthy two stage process, with numerous contractors expressing interest, but possibly without the required experience of working in a live school setting and for which much valuable time would be spent in filtering appropriate contractors. This procurement route would most likely have an impact on programme whereby good quality contractors would not be available to commence works in the summer holidays meaning that the project would cause greater inconvenience to the school. Officers are of the view that this size works contract is too low for a restricted procurement process and that the more efficient route would be the requested direct approach of pre-selected contractors route.
- 3.7 The procurement process for which approval is now being sought will require a waiver of the Contract Standing Orders as it will involve approaching pre-selected contractors, so that appropriate bidders only are invited to submit a bid. If approved, officers will exercise an appropriate quality assessment addressing themes such as project personnel resources, relevant school site experience and programme details. The qualitative assessment will be weighed against the price tendered and the preferred contractor would be selected. Approval to award a construction contract would be duly sought from the Strategic Director of Regeneration & Environment. The contractor would then be in contract with Brent Council to deliver the required project.
- 3.8 Subject to appropriate approvals being in place, the proposed timelines for procurement of the five pre-selected contractors is outlined below, in Table One:

Activity	Date
Issue Invitation To Tender	7 May 2019
Site Visits	TBC
Deadline for submitting clarifications	24 May 2019
Tender submission deadline	31 May 2019 @ 12 Noon
Evaluate Tender submissions	3 June – 14 June 2019
Notification of decision to award	17 June 2019
Contractor mobilisation	18 June – 19 July 2019
Contract commencement date	22 July 2019
Contract completion date	25 October 2019

Table 1 - Procurement Timetable

- 3.9 The evaluation process will include an assessment of the bids where the highest scoring bidder for the most economically advantageous for the Council will be recommended for the award of contract. The most economically

advantageous bid calculation will be based on 40 per cent of the points being awarded for technical/quality and 60 per cent of the points being awarded for Commercial Assessment (Price). Technical assessment will include responses to lead-in times and key milestones and support of local businesses through the bidders' supply chain. An outline of the categories of Technical and Quality headings are provided, below, in paragraph 3.10, Table Two.

- 3.10 Officers intend to award a contract to a suitable contractor by operating an evaluation criterion as outlined in Table Two, below:

Technical / Quality	Area weighting	Overall weighting
Q1 Project Programme	20%	40%
Q2 Project Resources & Delivery	16%	
Q3 Working in the live school environment	23%	
Q4 Project Communication Plan	18%	
Q5 Previous Experience/Reference	13%	
Q6 Social Value	10%	
Total for Quality/Technical	100%	
Commercial - Cost	Area weighting	Overall weighting
Commercial (Price)	100%	60%
Total		100%

Table 2 - Evaluation Criteria

- 3.11 The progress of the project will be regularly reported as part of the School's Asset Management Programme which forms part of the Schools Capital Programme Board. This board includes the relevant Operational Directors from Children and Young People and Property & Assets, a Senior Finance officer and the Capital Programme Manager. The status reports, produced by the relevant officer within the Capital Programme Team, will monitor risks, issues expenditure and raise governance matters as appropriate. The appointed multidisciplinary technical team will continue to manage the project; officers will continue to lead on liaisons with the school and ensure communication is maintained.

4.0 Financial Implications

- 4.1 It is noted that the works budget of £350,000, identified in paragraph 3.5, is to be financed from the Council's School Asset Management Programme funding, which lies within the Schools Capital Portfolio budget.

5.0 Legal Implications

- 5.1 The estimated value of this contract is £350,000, which falls below the EU threshold for works contracts and therefore any procurement route or award of contract is not subject to the full requirements of the Public Contracts Regulations 2015 (the "EU Regulations"). Further, the estimated value of the contract is such that it is not considered to be of cross border interest.

- 5.2 For the purposes of the Council's Standing Orders and Financial Regulations, the estimated value of this contract is such that it is classed as a Medium Value Contract.
- 5.3 Contract Standing Order 96 provides for contracts below the EU threshold, tenders should be invited in accordance with Contract Standing Orders using a single or two stage tender process. Contract Standing Order 84(a) however provides that subject to any requirements in the European Procurement legislation for below threshold contracts, an individual Cabinet member may agree an exemption from the requirement to procure where there are "good operational and/or financial reasons" for doing so. The individual Cabinet Member should therefore satisfy themselves that there are "good operational and/or financial reasons" for waiving Contract Standing Orders and is referred to Officers comments regarding this in paragraphs 3.5 - 3.7 of Section 3 of this report. Further, for the reasons detailed above, it is not considered that waiving Contract Standing Orders would constitute a breach of domestic and EU legislation.
- 5.4 Following the evaluation of the bids submitted by the pre-selected contractors the Strategic Director, Regeneration & Environment has delegated authority to award the contract.

6.0 Equality Implications

- 6.1 The proposed new reception and admin areas project will enhance the safeguarding of the school's pupils as well as provide a more effective and professional way to manage visitors to the school. The project will also provide a new teaching and learning space so will improve the school facilities to enhance learning and development environment to enable Brent's young people to have a better start in education.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Consultation on the project proposal with all relevant stakeholders will take place through the Planning Approval process. The school has agreed to the designs and positive feedback has been received from the wider school family of stakeholders in order to provide a superior building and school management system.
- 7.2 The Lead Member for Schools, Employment and Skills has been consulted on the requested waiver of the procurement process to enable a direct approach to pre-selected contractors and support the recommendation detailed in this report.

8.0 Human Resources/Property Implications (if appropriate)

- 8.1 There are no Human Resources/Property Implications for the purpose of this report.

9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in

conducting the procurement process the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement and will be inviting various local Brent contractors to bid. This duty does not strictly apply to the proposed contract as it is a works rather than a service contract. Nevertheless, Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

Report sign off:

AMAR DAVE

Strategic Director, Regeneration & Environment