

	<p style="text-align: center;"><b>Executive</b> 12<sup>th</sup> March 2007</p> <p style="text-align: center;"><b>Report from the Director of Children and Families</b></p>
For Action	Wards Affected: Kingsbury
<p><b>Authority to invite tenders for the new-build post 16 building at Grove Park and Hay Lane Special Schools</b></p>	

Forward Plan Ref: C&F-06/07-024

**APPENDIX 1 OF THIS REPORT IS NOT FOR PUBLICATION  
(‘below the line’)**

Appendix 1 of this report is not for publication as it contains the following category of exempt information as specified in Paragraph 3 Schedule 12A of the Local Government Act 1972.

‘Information relating to the financial or business affairs of any particular person (including the authority holding the information)’.

**1.0 Summary**

- 1.1 The report concerns the procurement of a design and build contract for a new building for 16-19 year old special needs students at Grove Park and Hay Lane Special schools.
- 1.2 This report requests approval of the procurement process undertaken to date and seeks authority to continue with the tender process outlined in this report.

**2.0 Recommendations**

- 2.1 That the Executive note the procurement process undertaken to date in respect of the design and build contract for the new building for special needs students at Grove Park and Hay Lane Special Schools and give approval for the process to continue.

- 2.2 That the Executive agree the pre-tender considerations and the evaluation criteria as set out in paragraphs 3.11 and 3.13 of this report.
- 2.3 That the Executive give approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria, as referred to in paragraph 2.2 above.

### **3.0 Detail**

- 3.1 The Director of Children and Families carried out a Review of Special Education Needs in the borough early in 2005. One outcome of that review was an agreement to develop a new shared 16-19 provision for both the Hay Lane and Grove Park Schools to meet the needs of students with severe learning difficulties and profound and multiple learning difficulties. The current provision for post 16 students at both schools is not satisfactory and needs to be developed in line with the latest DfES guidance. A new post 16 building will provide for both Grove Park and Hay Lane students. Students will remain on the roll of their respective school and the centre will be managed jointly by both schools. Both schools are committed to the new facility and an agreement will be developed detailing the respective responsibilities of both governing bodies.
- 3.2 Children & Families Asset Management Service appointed Sampson Associates to provide Royal Institute of British Architects Stages C to L, which include: architectural work, the technical input, preparation of the tender documentation and assistance with the tender process and evaluation, and cost analysis for the design and development of a post 16 special school building shared between the two special schools, Grove Park and Hay Lane and will administer the building contract once it is awarded. The building contract is to be on the basis of the JCT1998 WCD form of contract.
- 3.3. It is anticipated that the building contract will start on site in August 2007 with completion in April 2008. The building is to be sited to the rear of the Grove Park School site ensuring that the building is accessible by both schools. A planning application has been submitted.
- 3.4. Unfortunately, Executive approval as required by the Council's Contract Standing Orders and Part 4 of the Constitution (relating to delegations) was not sought prior to obtaining initial expressions of interest, a first step before the tender process began. Sampsons, believing they had Committee approval, placed advertisements in the trade press (Construction News - 20 July 2006) and a local paper (Harrow Times, 20 July 2006) seeking initial expressions of interest on 20 July 2006. No tenders have been sought at this stage.
- 3.5. The non-compliance with Standing Orders, was picked up by officers of Children and Families Service as part of checks in the scheme commissioning process prior to obtaining tenders. This was an unintentional error on the part of the external consultants, who are also acting for the Council on the scheme at Chalkhill Centre (to create a new Pupil Referral Unit and refurbish and modernise the Youth

Centre). They had assumed that the Executive approval for the tender process for the Hay Lane/Grove Park scheme had been obtained on 6 June 2006 at the same time as approval was obtained for the Chalkhill Centre Scheme (report titled "Authority to Seek Tender Approval for a New PRU & Improvements to Chalkhill Youth and Community Centre"). However, the Chalkhill scheme was approved by the Chief Executive under delegated urgency powers during the period directly after the Council elections when an Executive had yet to be appointed. At that time, this scheme for Hay Lane and Grove Park was not the subject of the same approval process as the sense of urgency was not as great as that for the Chalkhill Centre.

- 3.6. The consultants, however assumed that both schemes assigned to them had been approved and proceeded to advertise (seeking expressions of interest) for both schemes in order to achieve efficiencies. There has been a timelag between the receipt of expressions of interest and seeking tenders as the scheme at Hay lane/Grove Park has been the subject of further extensive consultation and revisions.
- 3.7. Following publication of the advertisement those organisations that responded to the advert have submitted the Council's Pre- Qualification Questionnaire which addresses issues such as Business Probity, Economic and Financial Standing, and Health & Safety considerations. All correct procedures have been followed in assessing the response to the Pre- Qualification Questionnaires and only organisations which meet the Council's required standards will be invited to tender for this contract.
- 3.8. Since receiving and assessing the Pre- Qualification Questionnaires the tender process has been put on hold to enable approval to be sought from the Executive for the remaining aspects of the tender process including the pre-tender considerations as set out in the table at paragraph 3.13. But for the lack of Executive approval the process undertaken to date and the remainder of the tender process will be in accordance with the Council's Contract Standing Orders.
- 3.9. If the tender exercise was to be discontinued and started again then there will be a delay in the start and completion of the project with consequential disruption to pupils' education and potential additional costs. The Hay Lane/Grove Park site share a boundary with the former Robert's Court on Stag Lane – now the subject of a major re-development scheme. Whilst there is currently available access through the access routes in Robert's Court for the construction traffic disruption to pupils at both schools would be minimised by avoiding construction traffic through both schools. There may therefore also be a lost opportunity in gaining access from the neighbouring Robert's Court which will also potentially impact on costs and the pupil's education. The potential cost is further expanded upon in paragraph 4.0.
- 3.10. Four companies responded to the Council's advert seeking Expressions of Interest. All four passed the Council's PQQ

assessment. Subject to obtaining approval to continue with the tender process it is intended that all the four organisations, also listed in the confidential Appendix 1, will be invited to tender for the contract.

3.11. The tendering instructions will advise tenderers that their tenders will be evaluated in accordance with the evaluation criteria set out in this report, and shall state that the recommendation to award the contract will be made on the basis of the most economically advantageous offer to the Council. The proposed evaluation criteria are:

- Price/Cost
- Quality
- Approach to Service Delivery and Timescales
- Track record in similar type of work
- References
- Current capacity

3.12 Following the tender evaluation process (which shall be supported by Sampson Associates as outlined in paragraph 3.2), Sampson Associates will produce a detailed tender report which shall enable the evaluation panel of Brent Officers to make a recommendation to the Executive as to whom to award the works contract.

3.13. Prior to the inviting of tenders from the short listed organisations, pre-tender considerations have been set out below for the approval of the Executive in accordance with Contract Standing Orders 88 and 89,

<b>Ref.</b>	<b>Requirement</b>	<b>Response</b>
(i)	The nature of the Contract.	Design and building work to produce a Post 16 Special School building shared between the Special Schools Grove Park and Hay Lane .
(ii)	The estimated value.	Set out in the confidential Appendix 1.
(iii)	The contract term.	August 2007 to April 2008
(iv)	The tender procedure to be adopted.	Single Stage Selective Tendering as the relevant NJCC Code of Procedure which is the same as the two stage tender procedure pursuant to the Council's Contract Standing Orders [The first stage being the invitation to provide expressions of interest and the second stage being the invitation to tender from contractors who succeeded through the PQQ stage.]

(v)	The procurement timetable.	<b>Indicative dates are:</b> Adverts placed Expressions of interest returned Shortlist drawn up in accordance with the Council's approved criteria Invite to tender Deadline for tender submissions Panel evaluation and shortlist for interview Interviews and contract decision Report recommending Contract award circulated internally for comment Executive approval Contract start date2007 Completion date	18.7.06 11.08.06. 05.09.06 13.03.07 13.04.07 27.04.07 03.04.07 May 07 May 07 August April 2008
(vi)	The evaluation criteria and process.	The completed pre- qualification questionnaires, in the Council's standard format (as outlined in the Council's Procurement and Contract Management Guidelines), has been used to evaluate and shortlist those contractors who meet the Council's standards in relation to financial standing, technical capacity and technical expertise. The panel will evaluate the tenders against the criteria set out in paragraph 3.11 above.	
(vii)	Any business risks associated with entering the contract.	No specific risks other than has been outlined in this report. Financial Services and Legal Services have been consulted concerning this contract.	
(viii)	The Council's Best Value duties.	The competitive tendering process will assist the Council in achieving Best Value.	
(ix)	Any staffing implications, including TUPE and pensions.	See section paragraph 7.0 below	

(x)	The relevant financial, legal and other considerations.	See paragraph 4.0 and 5.0 below
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#### **4.0 Financial Implications**

- 4.1 The Council's Contract Standing Orders state that works contracts exceeding £1million (High Value Contracts) shall be referred to the Executive for approval to invite tenders.
- 4.2 The estimated value of this works contract is as set out in the confidential Appendix 1.
- 4.3 The budget for this project was agreed by Members at the Council meeting on the 6<sup>th</sup> March 2006 as part of the SEN Review programme.
- 4.4 The estimated value of these works is within the total budgetary allocation for SEN schemes in the Children and Family four year capital programme and should any additional costs arise relating to this scheme, these will be contained within the department's overall capital allocations.
- 4.5 Given that this project is being funded directly through the capital programme it is being managed by officers from the Asset Management Team rather than being devolved to the two schools.
- 4.6 If the expressions of interest exercise has to be repeated then there will be delays which will have financial repercussions. There will be an additional estimated cost of £82k [related to the inflationary rise in building price indices] to the project which could rise further (the exact amount would need to be calculated) if access is not achieved through Robert's Court.

#### **5.0 Legal Implications**

- 5.1 The estimated value of this contract is below the threshold of the European Procurement Regulations for Works contracts. The proposed Works contract is subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.2 Pursuant to paragraph 2.5 of Part 4 of the Council's Constitution, Chief Officers do not have authority to advertise and invite expressions of interest for High Value contracts. Accordingly, Executive approval is required for such contracts prior to the tender process commencing. In addition, the Council's Contract Standing Orders require that the Executive agree certain pre-tender considerations (as set out in paragraph 3.12 of this report) prior to the inviting of expressions of interest. Such approvals were not obtained by officers prior to the advertising and seeking of expressions of interest for this contract. In this respect the process has deviated from the Council's Contract Standing Orders and was commenced without appropriate authority.

- 5.3 Although the process has deviated from the Council's Contract Standing Orders and was commenced without appropriate authority it is considered that the process has not been prejudiced in any way. The process to date has in all other respects complied with the Council's Contract Standing Orders. Additionally the process has been put on hold pending the approvals sought by this report thus enabling the Executive to agree the pre-tender considerations prior to the actual inviting of tenders from the short-listed organisations.
- 5.4 Once the tendering process is complete Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 5.5 The form of contract for this project will be the Joint Contracts Tribunal Standard Form of Contract 1998 Edition with Contractor Design and will incorporate Brent's standard amendments.

## **6.0 Diversity Implications**

- 6.1 The SEN Review was approved by the Council in October 2005. The recommendations in this report take forward the outcomes of the recommendations onto implementation. The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications. However, the new proposals will provide a high quality inclusive building.
- 6.2 The school draws its school population from a diverse community with 31% Black or Black British, African-Caribbean heritage and 41% Asian backgrounds.
- 6.2 The proposed building will benefit the diverse community as mentioned above and will provide a 21<sup>st</sup> century learning environment for those children and will be compliant with the access requirements of the Disability Discrimination Act 1995.

## **7.0 Staffing Implications**

- 7.1 There are no staffing implications for Council staff nor for the respective School staff arising from the invitation to tender this works contract, nor for the evaluation process enabling subsequent recommendation for the award of works contract.
- 7.2 The staff and pupils will remain in the present accommodation during the construction of the new building; they will then be decanted into the new building.

## **Background Papers**

1. CYPP 2006
2. SEN Review
3. Site studies

## **Contact Officers**

Any person wishing to inspect the above papers should contact:

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