



**Executive**  
29<sup>th</sup> May 2007

**Report from the Director of  
Children and Families**

For Action

Wards Affected:  
Preston Ward

**Authority to seek expressions of interest for the  
construction contract for the expansion of Preston Manor  
High School**

Forward Plan Ref: C&F-06/07-033

**1.0 Summary**

- 1.1 This report requests approval for the Governing Body of Preston Manor High School to invite tenders for a works contract to enable the expansion of Preston Manor High School under the government's Popular and Successful Schools Initiative.
- 1.2 The estimated commencement date of the contract is no later than February 2008. This report contains the relevant pre-tender considerations (paragraphs 3.12 - 3.17) as required by Contract Standing Orders 88 and 89.

**2.0 Recommendations**

That the Executive:

- 2.1 Approves the pre-tender considerations and the outline evaluation criteria to be used to shortlist and evaluate the tenders for the Preston Manor expansion works contract as set out in paragraph 3.12 – 3.17 of this report.
- 2.2 Authorises the Governing Body of Preston Manor High School to invite expressions of interest and tenders and evaluate them in accordance with the approved outline criteria referred to in paragraph 2.1.

### **3.0 Detail**

- 3.1 The DfES has agreed to fund the expansion of Preston Manor High School under the Popular and Successful Schools Initiative. The total funding is £4.5m (see Financial Implications section for further breakdown) which covers both the construction costs and all design team and project management costs. The school has approval to expand its numbers from September 2008. The intake at age 11 will increase from 216 to 250. The 11-16 capacity of the school will therefore increase from 1080 to 1250. It is also anticipated that there will be a modest increase in the sixth form capacity from around 280 to 300. This would give an overall capacity requirement for 1550 pupils.
- 3.2. The proposal was approved by the School Organisation Committee (SOC) in October 2006. (This committee was established by the School Standards and Framework Act 1998 and considered matters such as the enlargement of schools and changes to admission numbers previously decided by the Council as local education authority. The SOC is now dis-established and new forms of local decision making are being introduced).
- 3.3. The school appointed Sampson Associates to produce a feasibility report (RIBA stages A and B) on the accommodation requirements necessary to implement the expansion in pupil numbers. That report has now been completed and the school is now out to tender for the full design team for RIBA stages C-L. This contract will include all design work, cost analysis, preparation of tender documents for the works contract, analysis of the works tenders and full contract administration of the works.
- 3.4 For all required contracts it is proposed that the governing body will be the client; the client representative will be the Deputy Headteacher, supported by the Project Manager. The scheme however will be developed in close consultation and partnership with the governing body and Brent Council.
- 3.5 The Governing Body have been consulted on the pre-tender considerations. Although it is the school's view that this Executive report is not required, legal advice (see section 5) has been given that the Council is contributing £2m, because its own capital allocation from the DfES has been reduced by this amount.
- 3.6 Accordingly, this report seeks members' approval to invite expressions of interest and tenders in respect of the construction contract. The reasons for this are set out in the detail section of this report.

#### **Delivery Issues**

- 3.7. The delivery programme is based upon the appointment of the design team in early June 2007 and requiring completion of the majority of new classroom spaces by September 2008, and is very tight. This leads to a need for a form of building contract that will accelerate the delivery programme without adding significant costs or exposing the school to the risk of rising costs. Allied to these requirements is the school's need to control post-contract costs to a

very tight level since the school is responsible for those costs that exceed the DfES and Council contribution.

- 3.8. The recommended form of building contract is therefore the JCT Standard Form of Contract with Contractors Design. This approach, which was used successfully on the Preston Manor CLC, relies on inviting tenders based upon outline/performance information on the structure and services but with highly developed architectural information. This detailed architectural information together with the contract terms and conditions, preliminaries, health and safety plan, risk assessments, sustainability targets including the Buildings Research Establishment Environment Assessment (BREEAM) requirements and supporting data from the 'Employers Requirements' form the basis of the invitation to tender. Under "Contractor's Design", Contractors are able to have some input into the cost efficient procurement of those 'performance specified' elements and thus have an additional opportunity to demonstrate cost competitiveness at tender stage.
- 3.9. The effective transfer of risk for these elements offer the school a high level of cost certainty at an anticipated little or no added risk.
- 3.10. This approach is recommended as appropriate for the new build/major works elements of this project (new classroom block and gym block) which will be funded from the DfES/ Council grant of £4.5m. It is for this main part of the scheme that expressions of interest will be invited under the OJEU process.
- 3.11. In addition to the main works a programme of smaller refurbishment elements ('additional works') have been identified which will be procured on a traditional basis using the JCT Agreement for Minor Building Works or the Intermediate Form of Contract as appropriate and subject to formal two-stage selective tendering direct to the school. These additional works have been costed at £800k+. This will be funded from the school's resources as they become available and which may be built up from a combination of sources including devolved budgets, carry forward of balances and funds raised. As this is being paid for from the school's resources which in part derive from the Council through the school's delegated budget, the governing body will need to follow the Council's Standing Orders in relation to advertisement, evaluation and contents of the tender pack. These works are necessary in any event irrespective of the major expansion works, and relate to matters such as improvement of electricity supply, and refurbishment of dining areas, gym, classrooms and science rooms.

### **Procurement Process**

- 3.12 This works contract exceeds the EU threshold for tendering. Subject to all necessary approvals being obtained and, in accordance line with the Public Contracts Regulations 2006 ("the EU Regulations"), a two-stage tender as set out in standing order 96(c) will be used. Advertisements are to be placed in the Official Journal of the European Union (OJEU), the relevant trade press and a local paper as soon as possible to obtain initial expressions of interest. Those organisations that respond to the advert will be sent the School's Pre-Qualification Questionnaire (PQQ), which will be based on the Council's standard PQQ. The PQQ addresses issues such as Business

Probity, Economic and Financial Standing, Technical Ability (which includes experience of delivering secondary school accommodation, quality of references, recent experience in other education projects) and Health & Safety considerations. Organisations meeting the School's required standards will be invited to tender for this contract. Members are referred to the paragraph on Quality (Paragraph 3.15). However, a maximum of six organisations will be invited to tender and this will be specified in the OJEU notice.

3.13 The tendering instructions will advise tenderers that the successful tender will be selected on the basis of being the most economically advantageous tender. This will be assessed using the outline evaluation criteria set out in this report. The evaluation criteria will be listed in the Instructions to Tenderers which forms part of the tender pack and in accordance with the EU Regulations will give weightings for the different criteria. The proposed outline evaluation criteria are based on the tender price and Quality criteria (including design capability) each having a 50% weighting:

### 3.14 **Quality**

As the proposed form of contract includes elements of contractor's design, how the works contractor delivers quality is more important than with a conventional procurement where all the design work is undertaken by the design team. Information relating to the Quality of the proposals will be weighted at 50% in the evaluation.

[NB: the interviews will not be used to elicit new information but instead will be used to clarify the written submission]

<b>Criteria</b>	<b>Evidence sought</b>
Experience of interpreting and developing secondary school briefs, including experience and track record of working in partnership on a "Contractor's Design" contract	Evidence of experience in school (particularly secondary schools) or similar works, through tender documents, verification from end users, site visits (clarified at interview if required)
Expertise and track record, especially in delivering education projects budget and on time	As above plus references from clients
Proposals for quality and cost control	Through tender documents, references (and clarified at interview if required)
Current capacity to take on additional work for the proposed start date	Through tender documents (and clarify at interview if required on previous projects)
Experience of the proposed team in respect of site management, especially experience of construction on an occupied site	As for 'Experience'
Proposals for communication with stakeholders (governing body, parents, and neighbouring occupiers)	As above

Proposals for sustainability	As above
Contribution to buildability (*)	As above

(\*) The extent to which the tenderer is able to demonstrate its ability to work with the design team to apply relevant construction technologies and methodologies to help address site and construction challenges not previously anticipated during the design process.

### 3.15 Price

Price will form 50% of the evaluation. The price will be fixed save from abnormals found on site when items will be re-measured.

3.16 The tender evaluation panel will comprise of senior staff and school governors, with the advice of the appointed design team who will evaluate the tenders and make a recommendation to the full governing body.

3.17 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations are set out below for approval of the Executive.

Ref.	Requirement	Response	
1.	The nature of the service.	Building works contract for the expansion of Preston Manor High School	
2	Estimated value	£4.044m - This is in excess of the EU threshold of £3,611,319	
3.	Contract term	February 2008 with a completion date of August 2009	
4.	The tender procedure to be adopted	Restricted (two-stage) procedure under the EU Procurement Regulations, using the JCT Standard Form of Contract with Contractors Design.	
5.	The procurement timetable		Indicative timetable
		OJEU notice dispatched and other adverts placed	June 2007
		Expressions of interest (PQQs) returned	July 2007
		Shortlist drawn up in accordance with the Council's approved criteria	August 2007
		Invite to tender	August 2007
		Deadline for tender submissions	October 2007
		Panel evaluations and interviews	October 2007

<b>Ref.</b>	<b>Requirement</b>	<b>Response</b>	
		Contract recommendation decision	November 2007
		Report recommending Contract award circulated internally for comment	November 2007
		Executive approval	November /December2007
		Debriefing to tenderers and standstill period, award of pre-contract agreement at end of stage 1	December 2007
		Award of contract	End of January 2008
		Notice of award published	Must be within 48 days of the award
		Completion date	August 2009
6.	The evaluation criteria and process	The completed pre-qualification questionnaires, which shall be in the Council's standard format (as outlined in the Council's Procurement and Contract Management Guidelines), will be used to evaluate and shortlist those contractors who meet the Council's standards in relation to financial standing and technical capacity. The evaluation panel will evaluate the tenders against the outline criteria set out in paragraph 3.14 and 3.15 above.	
7.	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.	
<b>Ref.</b>	<b>Requirement</b>	<b>Response</b>	
8.	The Council's Best Value duties	The competitive tendering process will assist the School in achieving Best Value.	
9.	Any staffing implications, including TUPE and pensions	See section paragraph 7.0 below	
10.	The relevant financial, legal and other considerations	See paragraph 4.0 and 5.0 below	

## 4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that works contracts exceeding £1,000,000 (High Value Contracts) shall be referred to the Executive for approval to invite tenders. The estimated cost of the construction works for the main contract is £4.044m to be funded from within the DfES allocation of £4.5m under the Popular Schools Initiative. In this case...The Council is expected by the DfES to make a contribution of £2M (the Council's own capital allocation has been reduced by this amount for future years) from its Capital resources with the balance of costs, at £2.5M funded by the DfES through the Council. Preston Manor School has provided a phasing for the expansion project as follows:

2006/07	£10k
2007/08	£1.6m
2008/09	£2.79m
2009/10	£100k
<b>Total</b>	<b>£4.5 m</b>

To date, the DfES has paid the £10k for 2006-07 and made arrangements for £1.6m to be provided in 2007-08. Both payments will form part of Brent's grant allocation (under grant 205d). The DfES expect the authority to transfer the funds to the school accordingly.

Since the Council has agreed to contribute £2 million towards the expansion project, the DfES' contribution will be £2.5 million (inclusive of the incentive funding of £500k). Taking into consideration the Department's allocations of £1.61 million made in 2006-07 and 2007-08, there is a balancing amount of £890k which will be allocated and paid in 2008-09. The Council will need to balance the 2008-09 payment by £1.9 million and in addition contribute the final amount of £100k in 2009-10.

- 4.2 If tenders exceed the budget then the school will make a decision either to reduce the specification or add funding from its own resources. There is no risk or responsibility on the council over and above the £2m contribution should overruns etc occur on the scheme.

## 5.0 Legal Implications

- 5.1 The estimated value of this contract is above the Public Contracts Regulations 2006 ("the EU Regulations") threshold for Works (of £3,611,319) and is therefore subject to the full application of the EU Procurement Regulations. The project manager for the project has been taking advice from Legal Services as well as the Council's Procurement Unit and the Children and Families' Asset Management Team to ensure that appropriate procedures are being followed, and it is expected that he will continue to do so.
- 5.2 The estimated value of this contract is above the Council's Standing Orders threshold for High Value Works Contracts (of £1,000,000). In addition, as some of the funding for the project is derived from the Council, then the school is carrying out a procurement on behalf of the Council. As a result the

Executive needs to approve the pre-tender strategy as set out in this report, and will also need to approve the award of contract.

- 5.3 However under the Schools Property Manual, which includes mandatory procedures and guidelines for how capital projects should be run, the fact that some money is coming from the Council does not mean that the school governing body cannot be the client for the purpose of the contract. Here the contract will be advertised, tendered and awarded by the governing body, and the school will assume project management responsibilities.
- 5.4 Paragraph 3.11 above refers to a separate works contract. It is considered that this does not require aggregation under the EU Regulations with the main works contract for constructing the new accommodation, as under the Public Contracts Regulations 2006 there is no single requirement for works as they are for different works, nor do they represent different phases of the same work. This means that there is no requirement for this other contract to be advertised under the EU Regulations. However as the school will be funding this contract from its delegated budget, which derives from the Council, it will be necessary to follow Brent's tendering procedures for Medium Value contracts (valued at between £144,371- £1m for works).
- 5.5 Members need to be satisfied that the procurement of the works contract on the basis of the pre-tender considerations and evaluation criteria set out in the report will deliver best value.

## **6.0 Diversity Implications**

- 6.1 There are no adverse equality implications in these proposals. However, the new accommodation will provide high quality inclusive Buildings.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 For the immediate purpose of this report, there are no staffing implications for Council staff nor for staff at Preston Manor High School arising from the invitation of expressions of interest, the invitation of tenders, nor for the evaluation process enabling subsequent recommendation for the award of this works contract.

## **Background Papers**

Feasibility Report 2007

## **Contact Officers**

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