

	<p style="text-align: center;">Executive 16th June 2008</p> <p style="text-align: center;">Report from the Chief Executive</p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p>Civic Centre Project – Approval of procurement option to design and build and Acquisition of Freehold.</p>	

Forward Plan Ref: F&CR-08/09-2

1.0 Summary

1.1 Following a detailed report in March 2008 Members approved the procurement and delivery of a new Civic Centre for Brent. In May, the Executive agreed, in principle, to acquire a site in the Wembley regeneration area for the purposes of constructing a new Civic Centre. This report sets out the available procurement routes for the delivery of the new Civic Centre, describes the methodology behind officers' internal evaluation, with expert advice, of those options and recommends an option for approval. The report also asks members to give their approval to acquire the freehold interest in the site as well as the leasehold interest at no additional cost.

2.0 Recommendations

- 2.1 Members agree the Design and Build procurement route, as described in paragraphs 4.3 to 4.3.9 below, as the route to deliver the new Civic Centre.
- 2.2 Members note that, subject to recommendation 2.1 being agreed, a further report will be submitted in July for approval of the strategy for implementation of this chosen procurement route, including procurement of a design team and a building contractor to deliver the new Civic Centre.
- 2.3 Members agree to acquire the freehold interest in the agreed site as well as the leasehold interest.

3.0 Detail

3.1 In March 2008 the Executive Members resolved:

- (i) that the procurement and delivery of a new Civic Centre for Brent in the Wembley Regeneration area be agreed.
- (ii) that the options available for procuring a new Civic Centre (as described in the March report) be noted.
- (iii) that the site purchase option be approved and that it be agreed that officers continue negotiations with landowners for the site. If negotiations are successful it was agreed that a report will be brought to Executive to approve purchase of a specific site.
- (iv) that, if a site purchase is successful, it be noted that three options are to be considered to procure the building of the new Civic Centre, these being:
 - Self build, or
 - Developer led, or
 - Partnering.

These options were described in paragraphs 10.0 of the March report. It was also agreed that a further report would be brought to Executive recommending one of the options and requesting approval to go out to tender in due course.

- (v) that it be agreed that the site boundary for the new Civic Centre to be in the North West District as defined in the council's Wembley Masterplan in the first instance and, if necessary, extended to the National Stadium Policy area.
- (vi) that the Strategic Brief be approved as a basis for the procurement of the new Civic Centre,
- (vii) That approval be given to officers to establish a project team, including external advisers, with the capacity to deliver the new Civic Centre on time and to budget. The external advisers currently engaged by the council in connection with the new Civic Centre will continue to advise on this stage of the project. The position will be reviewed when the options for the management of the project are further refined.
- (viii) that officers be instructed to procure any necessary additional advisers in accordance with the council's Contract Standing Orders and to the extent it applies the European Union's public contracts procurement directive. The funding for the project team and external advisers will be contained within the resources envelope for the new Civic Centre project.
- (ix) That it be noted that the new Civic Centre will both facilitate and be dependent upon new ways of working being adopted throughout the council.

- 3.2 Then, in May 2008 Members also resolved:
- (i) to enter into an Agreement for lease with Quintain Developments plc for a site in the Wembley Regeneration Area North West District and payment of a deposit.
 - (ii) that, subject to the necessary funding being agreed by Full Council, agreement be given to enter into a long leasehold interest of 999 years on the main terms and conditions as set out in a confidential appendix to that report. The lease being subject to approval of the Chief Executive such that he is satisfied as to final details of the agreement being in the best interests of the council.
 - (iii) that approval be given to the location of the Civic Centre as being within the boundary of the plot shown on the plan attached to that report subject to the detailed site area being agreed by the Chief Executive.
- 3.3 During negotiations with Quintain, the company has offered to transfer the freehold interest in the agreed site to the Council as well as the leasehold interest, at no extra cost. Members are therefore asked to agree this acquisition.
- 3.4 This report also deals with the recommendation described in paragraph 3.1 (iv) above and sets out the various procurement options, the recommendations of officers and the reasons therefore.
- 3.5 Officers together with advice from the council's external advisers considered the delivery options available to the council to procure the building of the new Civic Centre. A work stream was set up to lead this process: the procurement sub-group. The sub-group's detailed recommendations were subsequently taken to the Civic Centre Project Board to discuss and endorse.
- 3.6 It was agreed that the three options described in paragraph 3.1 (iv) above were too broad in scope to enable effective evaluation. A total of six options were therefore identified and discussed by the procurement sub-group. These were:
- Traditional construction procurement;
 - Design and build;
 - Turnkey;
 - Partnering;
 - PPP; and
 - Management procurement.
- 3.6 At the first assessment stage, and with the benefit of advice from our external advisors, it was recognised that in reality, three of the 'options' need not go through to the second stage of the evaluation process for the following reasons:

- Partnering. Partnering was seen as a procurement approach rather than a procurement route which would be considered once the preferred delivery option was selected and might be incorporated within the chosen route;
- PPP/PFI. The Government does not make PFI grant available for civic Centre accommodation projects of this type. In addition the beneficial aspects of PPP/PFI procurement can be delivered through other procurement routes. This approach has therefore been discounted; and
- Management contracting. This option was discounted primarily because of the high risk associated with price uncertainty. Under this form of procurement, cost is not defined until all construction packages are let. This type of procurement also tends to be used only by those employers who are highly experienced in this form of procurement.

4.0 Evaluation of remaining options

4.1 The decision on which delivery option best suit the council's needs should be guided by an overarching strategy and a reasoned assessment of the council's vision and objectives in relation to the project. The three factors in relation to any construction project of this kind are as follows:-

- Time (speed and certainty of completion date)
- Cost (price level or cost certainty); and
- Quality (functionality and performance)

These three factors are interdependent and are often in tension with one another. It is rare for time, cost and quality to be equal in either importance or impact on construction projects of this size. These factors have been taken into account in making the recommendation to Members in this report.

4.2 **Traditional Construction Procurement.** (previously described as self-build in the March 08 report)

4.2.1 Under a traditional construction procurement, the design and build stages follow one another in programme. This can mean that the duration of project is relatively long when compared with other methods of procurement which can involve a degree of overlap between the design and construction phases. The length of the project using this method has been estimated at 60 months. Time savings would be required to meet the council's target completion date of 1/1/2013.

4.2.2 Under this procurement method the council would appoint a design team normally led by an Architect to prepare a complete design for the Civic Centre (fully resolved to RIBA Stage G). The design is then tendered to main contractors. The design control is therefore the full responsibility of the council, the contractor is then appointed to deliver the council's design, exactly as drawn, scheduled and specified. The main contractor prices a

lump sum contract to deliver the works exactly as drawn, scheduled and specified.

4.2.3 The Architect/Contract administrator is responsible for the design and the majority of administrative duties. They are the single point of contact to the client body (the council) during the design stage. As lead consultant, the Architect manages the design team and produces stage information for sign-off by the council.

4.2.4 It must be stressed that the proportion of large construction projects (£20m+) that use this route is very low.

4.2.5 Typical features of this procurement method are:-

- Development of full design can take a long time;
- Variation to the tendered design stage is usually expensive;
- Risk is balanced so the council can be more exposed than other routes;
- The council gets exactly what it wants (As long as it knows what it wants at the right time.);
- Lump sum contract;
- The council will be anticipating the precise way in which the building will function and operate therefore there is a high benefit to the end-user;
- Quality is managed throughout the construction process through performance payments and activities of clerk of works ensuring the outcome meets the expectations of the client's requirements; and
- Timescale can be affected if there are disputes during the course of delivery extending the project delivery period.
- The council has full control over the build programme and can therefore seek to implement the delivery of economic, social and environmental benefits for the local community.

4.2.6 Risk management under the traditional procurement route would be the responsibility of the council. Therefore the council would need to assure itself that all possible risks and hazards are identified and where possible costed. The council must satisfy itself that it was able to meet those risks internally. In doing this the council would have to consider whether it has sufficient capacity, capability and resource set aside internally to manage the risk associated with the project under this method of procurement.

4.2.7 The traditional procurement route can aid clients who wish to minimise their exposure to the risks of overspend, delays or design failure. The main contractor is obliged to complete the works within the contract period. However the overall programme for the project may be longer than for other routes as the design and construction are separate sequential processes. The exposure to risk will increase where the design phase is rushed, where

unreasonable time targets are set or where the tender documents are not fully completed.

- 4.2.8 Once the design process is complete, certainty over the construction costs relating to the project can be obtained. This would minimise financial uncertainty relating to a project delivered through this procurement route. However, construction costs are only certain if timescales for completion are realistic and predictable and no changes are made to the design of the building once construction commences. Any variations to the design at this stage would be costly.
- 4.2.9 The time needed for the project overall under traditional procurement routes tend to be relatively longer than that of other procurement methods. Given the tight timescales for completion of this project, the risk of missing the completion date could be greater than under other procurement routes. This route is not suitable for fast track projects, where deadline and speed is a primary factor.
- 4.2.10 The council is responsible for setting aside sufficient risk and contingency monies to cover the whole project, as this element is not transferred to the contractors.

4.3 **Design and Build.**

- 4.3.1 Under a design and build procurement the early design stages (typically RIBA work stages C to E – outline design to final proposals) are the same as the traditional route. The appointment of the design team is directly to the client. However the later stages of production and construction phases overlap and therefore overall this route can lead to shorter project duration. The length of the Civic Centre project using this method has been estimated at a minimum of 47 months and is therefore considered to take the least amount of time in comparison to the other two routes being considered. This route would meet the target completion date for the council.
- 4.3.2 Design consultants are appointed directly by the council to a pre-determined stage of the design process. It is generally expected that the Royal Institute of British Architects (RIBA) plan of work stages B, C, D and E are completed. This stage represents 40 – 50% of the overall design work and forms what becomes known as the Employer's Requirements (ER). At the completion of the ER the project (completion of the design and construction) is tendered to a main contractor experienced in this work. At tender return it is the convention for the contractor to submit his financial offer and schedules of construction works as 'Contractors Proposals'. Once appointed the (stage E) design is formally assigned to the main contractor who then completes the design and constructs the building. At this point a decision has to be made as to the future of the councils design team. Where the contractor uses its own in-house design team to develop the design for construction purposes, the original designers and cost consultants could be retained by the council to

monitor standards and supervise payments. Alternatively, the original designers could be “novated” to the contractor. This decision will be made prior to tendering for the design team and will be part of the OJEU tender process.

- 4.3.3 Under the design and build procurement route the council has specific control over the design for a limited period, as described above, that is, until the point at which the ER is complete. Once in Contract with the main contractor the council can only rely on the ER to challenge any proposals as to design that may be made by the contractor. A council team will be set up to review the Contractors Proposals and make sure they meet the Employer's Requirements. This is the primary control mechanism during the contract other than site inspections. If the council wants more certainty over the quality of construction, the information delivered as Employer's Requirements can be more detailed, including the supplementing of stage D/E design proposals with detailed materials specifications.
- 4.3.4 Under the first stage of this procurement route the design team report to the council through design workshops and stage reports. In the second stage the main contractor takes over the responsibility for design (whether or not the design team is novated over). The contractor reports on progress to the council. The council would need to appoint Employers Agent and a Cost Consultant to advise and act on its behalf through this stage.
- 4.3.5 The proportion of large construction projects (£20m+) that use this procurement route is high. 95% of construction projects use this route.
- 4.3.6 Typical features of this procurement are:-
- Lump sum contract;
 - The council should get mostly what it wants (as long as it knows what it wants at the right time);
 - Contractor on board earlier so procurement time can be reduced resulting in a time saving to the project;
 - If novated over to the main contractor, the design team, originally appointed by the council, remains on the project to the end, albeit reporting to the contractor once they are novated
 - Few relationships to manage leading to reduced administrative costs and an enforceable contract;
 - Quality is managed through the definition of the Employers Requirements;
 - Design and Build Contractors can manage the supply chain to achieve economies and efficiencies.
 - Change can be difficult to estimate/expensive;
 - Responsibility and risk of the majority of the design (including ensuring the professional team deliver) falls to the contractor.

- The council has some control over the build programme through the procurement process for the appointment of the design team and the main contractor and can therefore seek to influence matters such as encouraging the delivery of economic, social and environmental benefits to the local community.

4.3.7 Design and Build procurement is considered to be a lower risk route for the council, when compared to the traditional procurement route, as responsibility for the majority of the design and all of the construction clearly lies with the contractor. This method of procurement has the advantage that it shields the council from the costs associated with mitigating risk. However this route may increase the risk that the design outcomes may not meet all of the council's aspirations. If the original brief is not precise and the specification offered by the contractor vague, there may be a temptation for the contractor to reduce standards in order to save costs. This can be mitigated by scoping the specification comprehensively.

4.3.8 Design and build procurements lend themselves more readily to allowing contractors to start on site before the design is completely finished. Some certainty over project costs can be obtained once the design and build contract is let. This is usually part way through the design process and therefore earlier than under traditional procurement methods.

4.3.9 Risk will be valued into the price of the contract by the contractor. The risk premiums are usually thought to increase the amount payable on the project by approximately 10% - 20% of the overall fee. The council should seek to validate the contract price by conducting a valuation of risk, ensuring any premium is an accurate reflection of the level of risk on the project. As the risk is transferred to the contractor the council does not have access to any money set aside to manage risks. Any savings realised through successful mitigation of risk would not be paid back to the council and would increase the contractor's return. The council should ensure full risk identification, cost and monitoring processes be implemented to ensure key risks are identified and a reasonable price is obtained for their transfer.

4.4 **Turnkey.** (Previously described as Developer led in the March 08 report).

4.4.1 This approach involves the overlapping of design and construction. The length of the project using this method is estimated at 51 months. This is slightly longer than for a design and build and largely due to the procurement process being more complicated.

4.4.2 The key feature of a turnkey procurement is that it invites developer consortia to bid for the contract to design and build the Civic Centre. The consortia will include an architect, cost consultant and financial consultants rather than simply a design team and a contractor as under the design and build. The

council would have one contract – with the developer. The developer would then appoint his own design team and subsequently his main contractor.

- 4.4.3 Under this route the council has very limited management control. The responsibility for the development of the design, control of programme delivery and administration of building contracts rests with the developer. The council relies heavily on its own brief or output specification to monitor the functional, operational and qualitative aspects of the building as proposed by the developer.
- 4.4.4 During the tendering process, the developer will respond to the council's output specification with an Input Specification that expands on the council's requirements into a financial offer for the complete project which often includes a design proposal. The council then approves the Input Specification as far as it meets the council's requirements. The developer can choose his own form of procurement for the building construction but would commonly use the Design and Build route. The council will be informed of progress but would not have control to influence the selection of the main contractor or detailed design aspects.
- 4.4.5 This route requires the most developed and detailed specification work up front as it is the only control document in the contract. An output specification (with or without drawn information) is typically developed and can take up to five months to produce.
- 4.4.6 Under a turnkey procurement the design team would report to the council for the production of the output specification. After appointment the developer becomes the client. The council would need a monitoring role in upholding the output specification requirements but no longer has control over the design itself.
- 4.4.7 Typical features of this procurement are:
- The low control over design and other matters could be perceived as a high risk to the council getting what it anticipated or in delivering any other aspirations it may hold for the project;
 - If the output specification is developed enough the building should deliver the council's operational and functional needs. If not then the building is developed running the risk that it does not meet end user requirements;
 - Low control once tender is accepted;
 - Lump sum contract;
 - Lower risk to client over cost and timescale;
 - Design expectation may not be met, describing in words the need for quality and landmark status is subjective;
 - No control over design only functional and operational requirements.
 - The council is required to commit its full resources before the design of the building is known.

- Developer will drive all aspects of the project with an emphasis on price, generally at the expense of quality.
- The council has no control over the build programme and cannot seek to influence matters such as encouraging the delivery of economic, social and environmental benefits to the local community in a meaningful way, without the acquiescence of the developer.

4.4.8 Turnkey procurements are generally regarded as a low risk option for the client as responsibility for all the design and construction lies with the contractor. All risks are transferred to the contractor, as this is factored into the overall price. Typically a premium of 10%-20% is charged by the developer. This procurement route differs from a design and build route in that the entire budget for the project is committed to the developer prior to the design of the building.

4.4.9 Certainty over project costs can be obtained once the turnkey contract is let. This will be prior to the start of the design process and therefore earlier than both the design and build and traditional routes. However the contract sum for a turnkey solution will be relatively high as it will include a risk premium and a developer's profit. Any variations to the design or construction will be expensive as it will include developer's fees as well as the more general fees.

4.4.10 Whilst project costs are generally paid at key milestones and can easily be spread over the life of the project, turnkey procurements are considered to be relatively expensive forms of procurement as they transfer the majority of the management and risk for the project to the contractor at the earliest stage.

5.0 Evaluation of the options.

5.1 Eight key officers from Policy and Regeneration, Finance and Corporate Resources and Legal Services were selected by the Civic Centre Project Director to take part in the evaluation of the delivery options. Their preferred procurement route would then be recommended to the Civic Centre Project Board chaired by the Chief Executive for endorsement. This would then be recommended for approval to Executive through this report.

5.2 A number of meetings took place to discuss and understand the delivery options and to agree the evaluation criteria enabling the group to make an objective evaluation and agree a recommendation. The group was advised by the consultant advisers to the project including Trowers and Hamlins (legal advisers) Sherlock Consultancy (real estate advisers) Consarc Consulting Architects (architectural advisers) and Sector Projects (financial advisers).

5.3 Three key areas of assessment were agreed. These were:-

- Cost
- Design functionality; and

- Risk

5.4 Based on these areas of assessment an evaluation matrix was devised and evaluators required to assign a score of 0 to 10 to each criterion. The matrix is shown below.

	Delivery options		
	1. Traditional	2. Design/build	3. Turnkey
	Score	Score	Score
1. Cost			
Affordability	60	59	49
Maximum cost certainty	35	55	66
Variation cost impact	53	48	38
Value for money	64	60	42
Suitability of partnering	38	57	30
Sub Total	250	279	225
2. Design functionality			
Control over design process	75	61	26
Brief requirements	52	51	33
Quality of construction	68	58	33
Quality of design	71	62	26
Functionality / operational requirements	71	59	37
Sub Total	337	291	155
3. Risk			
Overrun (time)	26	64	60
Overspend (financial)	33	57	68
Under-deliver/poor quality (design or function)	64	58	36
Client capacity to manage risk	40	50	50
Extent of risk transfer	28	59	61
Sub Total	191	288	275
TOTAL	778	858	655

5.5 The clear consensus of the evaluators was to select the design and build route as their preferred option. Total scores across the routes were as follows:

Option 1: Traditional route	778
Option 2: Design and Build	858
Option 3: Turnkey	655

5.6 The recommendation from the evaluation group was taken to the Civic Centre Project Board on 7th May where it was discussed in some detail and endorsed. A full evaluation report entitled "London Borough of Brent Civic Centre Project – Delivery Options Evaluation Report" is attached at Appendix 1.

5.7 The Design and Build procurement route is therefore recommended to Members for approval.

- 5.8 A further report will be brought to Members in July requesting approval of the OJEU procurement process for a design team and building contractor.

6.0 Financial Implications

6.1 The Financial Implications of the new civic centre project were included in the March 2008 Executive Report, A Business Case for a New Civic Centre for Brent. This document gave details on the following areas of the project:

- (i) Analysis and calculation of the resources envelope available to support the capital costs of a new civic centre.
- (ii) Detail of the risks associated with the resource envelope.
- (iii) Review of the assumptions made in the model.
- (iv) A review of the viability of the project in light of the resource envelope.
- (v) A review and update of previous financial information regarding the civic centre project.

It also set out the main assumptions used in the Financial Model which forms the basis of this analysis.

6.2 Resource Envelope

6.2.1 The resource envelope is the amount available to the Council to finance the project. It is based on the premise that the cost to the Council of developing the Civic Centre does not exceed the resources required to remain within the current Council accommodation. Indeed the move to a modern facility offers the opportunity for significant efficiencies.

6.2.2 This resource envelope is generated using 3 main elements.

- (i) Capital Receipts from the sale of freehold properties within the Council's current portfolio which will not be required when the Civic Centre is available; and
- (ii) Revenue generated from:
 - the consolidation of the Council's portfolio
 - cashable efficiencies as a result of new working practices set out in Section 4 of the main report
 - central resources allocated in the Council's medium term financial strategy for the upgrade of the current portfolio which can be allocated to the project.
- (iii) Prudential Borrowing:

The Prudential Borrowing Regime allows authorities to adopt a more commercial approach to balancing capital costs and receipts over time with revenue generation and saving opportunities. This means that authorities are no longer prevented from pursuing more prudent options

by virtue of artificial controls, which ration borrowing in the public sector. Following an internal assessment of what they can afford, local authorities may borrow funds for any purpose relevant to their functions. This currently appears the most favoured option to fund the capital elements of the scheme. This will be reviewed more thoroughly in future reports.

6.2.3 The costs of the civic centre project have been further considered in terms of the recommendation in this report that the Council should proceed with a design and build procurement route.

6.2.4 The Council's cost consultants (AYH) have assessed the costs of the areas schedule for the new civic centre. As the design of the building is progressed these costs will be continually challenged to ensure that the new civic centre is delivered within the resource envelope, thereby meeting the Council's key affordability test.

6.3 Risk Management

6.3.1 The March 2008 Executive report dealt with the identification and the management of the main risks in the project. In recommending a design and build procurement route the Council has assessed the level of risk it is willing to bear. These risks have been costed and will be managed through the use of a risk register and risk group. At a recent risk awareness workshop, the risks associated with the project were discussed by over 40 senior managers. The risk register has been updated to reflect the chosen procurement route and these discussions.

6.3.2 This approach allows the Council to reduce the total resources available to the project, based on a realistic and professional assessment of the risks identified. This assessment has focused on the resources envelope risks, such as rises in interest rates, and also the construction and development of the building. The latter is in addition to a general contingency which will be held within the specific budget for the construction of the building.

6.3.3 Using the resource envelope in this way described ensures that if risks are successfully managed during the development of the project, resources earmarked to cover these risks can be released either back into the project or as general efficiency savings for the overall Council budget.

6.4 External Support for the Project

6.4.1 The Council has utilised a number of specialist skills through consultants to develop the project to this point. As the project progresses, such support will need to continue. In recommending a procurement route the Council is now in a position to assess its exact requirements and identify any skill gaps on the project. The costs of the internal and external team will be met as part of the overall project costs and be subject to future reports to the Executive.

7.0 Legal Implications

- 7.1 Members may recall the previous report to the Executive on 18 March 2008 *which* explained the need to follow a procurement process complying with the Public Contracts Regulations and the Council's Contract Standing Orders.
- 7.2 The Council is considering which procurement method it may employ for the design and construction of its new civic centre project.
- 7.3 A number of factors will determine the choice of procurement method. The Council's policies, available resources, organisational structure and preferred contractual arrangements will all need to be taken into account. The Council will no doubt be familiar with the cost, quality and time "triangle". If these three factors are kept in balance, with appropriate quality being achieved at an acceptable price in a reasonable timescale, the triangle would appear equilateral - with equal weight or emphasis being given to each factor. If, however, particular circumstances dictate that one of the factors must take precedence, the other two will "suffer" or carry less weight or emphasis. If quality is of paramount importance, adequate time must be allowed for the design and specification to be perfected, and the cost could rise on both counts. If speed of completion is paramount, quality and cost may both have to suffer. If lowest cost is the priority, time may not be prejudiced but quality could suffer.
- 7.4 The effect of these different priorities is relative. There is no reason why, with proper planning and management, those elements with a lower priority cannot be adequately controlled.
- 7.5 A key decision when selecting a procurement method is based on the manner on which the detailed design is to be progressed. For example, by following a traditional procurement (see section 4.2 above), the design team will develop the design, whereas with design and build procurement (see section 4.3) the design team may only prepare a design brief, the design itself being completed by the contractor.
- 7.6 The level of control over design must however be weighed against the fact that each procurement method has a different time, cost and quality scenario.

Traditional procurement (Council led)

- 7.7 The main feature of this procurement method is that, as noted above, the design process is separate from construction, and full documentation is required before the contractor can be invited to tender for carrying out the works. Specific features of this approach include:
- Given the Council's status as a contracting authority, the appointment of an architect and a contractor would have to be made following an OJEU compliant tender process.

- Full documentation is necessary for tendering purposes, including that from any specialist sub-contractors, and adequate time is needed for the preparation of this.
- The Client has control over design, specified quality and standards etc through his appointed consultants. Generally there is no design responsibility imposed on the contractor.
- Depending upon the existence of any consultant framework arrangements available to the Council, each consultant will need to be procured in compliance with EU regulations (on the assumption that thresholds are likely to be exceeded).

Design and build and turnkey

- 7.8 From a pure legal point of view, there is little distinction between a design and build contract and a turnkey contract. Usually the term "turnkey contract" refers to a contract which includes an obligation by the contractor to carry out a complete fit-out of the building which they are constructing. The implication being that the client (in this case, the Council), simply "turns the key" to the completed civic centre building.
- 7.9 In the context of this project, and the Council's concerns to ensure continuity of design, the main distinction between a turnkey and design and build contract is the novation of the design team to the contractor. This would not happen in the case of a turnkey contract. Whereas this can take place on a design and build contract where the contractor could take on responsibility for design at a slightly later stage, the design having been progressed by any consultant architects appointed to advise the Council in the initial stages of the procurement.
- 7.10 In the case of either a design and build contract or a turnkey contract, there are a number of different construction contracts (JCT, NEC or PPC 2000) which could be adapted to cater for either approach.
- 7.11 In both routes, the contractor is responsible for undertaking both the design and construction of the work in return for a lump sum price. There are variants on this option depending upon the degree to which initial design is included in the Client's brief.
- The appointment of a contractor can often be procured by two-stage tendering process, thus retaining a competitive element. As with the traditional method, any appointment will need to be made in compliance with OJEU.
 - The Client's requirements can range from purely outline to a fully worked up scheme design. Adequate time must be allowed for the Client's requirements to be prepared to the appropriate level and (depending on the Client's own internal resources) the Client will usually need to appoint external consultants to undertake this

process. (The number of consultants to be appointed will depend upon the extent to which the Client is prepared to leave the design and design development of the project to the contractor.) The contractor must be given adequate time to prepare his proposals, together with an analysis of his tender figure.

- Difficulties often arise when Clients fail to realise that novated consultants no longer have duties to perform for them. In practical terms, the consultants are no longer employed by the Council and are therefore no longer able to represent the Council's best interests, monitor the quality of construction or deal with payments. These duties must be left to others, such as the Employer's Agent. With due advance planning, however, most potential issues can be anticipated. Depending on the extent of the design responsibility included in the contract and the contractors own professional indemnity insurance cover, the consultants may be required to enter into collateral warranty or third party rights agreements protecting the Council against damages arising out of design based failures. It is arguable however that the novation approach may increase cost given that the contractor is likely to attach a risk premium to the assumption of responsibility for the work undertaken by the Council's consultants prior to novation.
- Because design and construction is likely (under this procurement process), to proceed in parallel, it may be possible for the overall programme of the project to be shortened; the extent to which this is so will depend on the extent to which the contractor is responsible for the design and for design development.
- There can be reasonable certainty as to outturn cost because a contract sum is known at the outset. As long as the Client refrains from ordering changes or variations to the works during the construction period, the contractor is obliged to complete the project for the contract sum.
- As noted, it is possible for the Client to order changes to the design or specification during the construction process, but this can be expensive.

7.12 In terms of cost and time, the design and build approach is a relatively low risk procurement option for the Client but there may be uncertainty over design and quality, particularly if insufficient attention is paid initially in the preparation of the Client's requirements and the checking of the contractor's proposals. In terms of risk management, it is often perceived as one of the principal advantages of design and build that a contractor assumes single point responsibility for all design and construction risk (subject to the terms of the particular contract).

7.13 The power to acquire land by agreement for the purposes of any of the Council's functions under the Local Government Act 1972 or any other enactment pursuant to section 120(1)(a) which confers a power to acquire

land by agreement. This is supplemented by the power in section 120(2) whereby the Council is authorised to acquire land for any purpose for which the Council is authorised by the 1972 Act or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose.

- 7.14 Specifically, the Council has power to acquire or provide and furnish halls, offices and other buildings, whether within or without its area, for use for public meetings and assemblies pursuant to Section 132 of the Local Government Act 1972. The provision of a "one-stop shop", depending on the precise activities which are carried out within the one-stop shop, would prima facie be authorised by virtue of Section 142 of the Local Government Act 1972 which provides that "a local authority may make, or assist in the making of, arrangements whereby the public may on application readily obtain, either at premises specially maintained for the purpose or otherwise, information concerning the services available within the area of the authority provided by the authority or by other authorities or by Government departments or by charities and other voluntary organisations, and other information.
- 7.15 The power to provide a public library is contained in the Public Libraries and Museums Act 1964. Section 7 of that Act provides that it shall be the duty of every library authority to provide a comprehensive and efficient library service for all persons desiring to make use thereof although it is not under a duty to make such facilities available to persons other than those whose residence or place of work is within the library area of the authority or who are undergoing full-time education within that area.
- 7.16 The provision of a registrar's service is authorised by virtue of the Registration Service Act 1953 as recently amended by the Statistics and Registration Service Act 2007.

8.0 Diversity Implications

- 8.1 A stage one INRA assessment has been completed regarding the Civic Centre project. This identified that the project is relevant for stages two and three. Stage two and three assessments will therefore be undertaken concurrently with the continuing project.
- 8.2 As a public authority, Brent Council is required to comply with equality duties as laid for example by the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 2005 and the Equality Act 2006. As a matter of good practice, and to demonstrate our commitment to equality and diversity, Brent Council operates a six strand Single Equality Scheme, which in practice means that we have extended our equality duties across age, disability, gender, race, religion and belief and sexual orientation. In the case of procurement, the Race Relations (Amendment) Act 2000 states that as an authority, we need to be satisfied not only that the procurement policies and

practices do not discriminate unlawfully, but that they also promote equality of opportunity and good race relations. We have extended these requirements to apply to all equality strands.

- 8.3 Brent Council is committed to both encouraging supplier diversity in procurement and also to utilising procurement as a mechanism for achieving equality of opportunity for our residents, customers and stakeholders. By ensuring that equality and diversity is central to the procurement process of the new Civic Centre we are not only meeting our legal responsibilities, but also contributing to both our local economy and benefiting our residents as we are a majority BME community.
- 8.4 The council has a commitment to ensure that diversity is embedded into its procurement processes. The pre-qualification questionnaire, which forms part of the first stage of the procurement asks companies to provide details of their equalities policies, information about their training and development and each company is asked to complete a monitoring form. The tender documents will be written to ensure that companies have experience of working with a diverse population and in addition we will ask them to what initiatives they could develop, in conjunction with the council, to encourage a diverse workplace. They will also be asked how they will ensure that Brent residents have an opportunity to develop skills especially in areas such as design where certain ethnic groups are under represented; how they will take account of our diversity in their design and how they will tap into the Brent labour market.
- 8.5 The Civic Centre communications and consultation strategy includes consultation with resident and staff disabled groups who will be regularly involved in the design stages for all parts of the building.
- 8.6 The proposed new Civic Centre presents the Council with an opportunity to explore creating economic and social benefits for the local community, as well as an opportunity to get the local community to participate in a major project in a meaningful and inclusive manner.

The Executive Report of 18 March 2008 had explained:

At the core of and integral to this vision is a new civic building to be the community centrepiece of the redevelopment. A new "heart" for Brent. A building that should have exceptional levels of public access to a wide range of public services, including those provided by the council. A building which will be state of the art for the 21st Century and be a community asset for the residents of Brent for decades to come. A building which embodies our commitment to diversity and community cohesion by incorporating and reflecting best practice in relation to diversity.

As a major high value technical project, the new Civic Centre could be used as a means of delivering real social and economic benefits to the local community through skills, training and employment action plans. However, aspirations by local authorities to achieve social and local economic benefit for their local communities through their commercial operations can be difficult legal matters and incorporation of such considerations into a procurement process needs to be considered carefully.

If the proposal to deliver economic and social benefits to the local community is to be taken up through the Civic Centre project, the Council will need to be clear on what its priorities for delivery are. Examples could be:

- Skills and training for local young people
- Job opportunities for local unemployed
- Addressing the shortage of women in construction
- Supporting local small businesses and encouraging supplier diversity in the supply chain

The Council would probably need to undertake a review of economic and social benefit opportunities and to engage with the Local Strategic Partnership (Partners for Brent; Local Public Services Board, Voluntary and Community Sector Partnership, Employer Partnership etc.) in order to arrive at a list of priorities.

As explained earlier in this report, the Design and Build procurement route should allow the Council; the opportunity to at least influence the delivery of local economic, environmental and social considerations.

Once the suggested analysis has been concluded, officers will work with in-house and external lawyers to consider whether any particular intended economic or social benefit can be factored in to the procurement process as a legitimate evaluation criterion or contract condition.

9.0 Staffing/Accommodation Implications (if appropriate)

- 9.1 As described in paragraph [3.1 (vii)] a project team will have to be put in place to manage and resource the project so that it is completed to time and to budget. A new range of skills will be needed to deliver and manage this project in addition to those already in place. This will be through a mixture of internal and external resources.

10.0 Background Papers

- Report to Executive 18th March 2008 entitled “A New Civic Centre for Brent – Detailed Proposals.
- Report to Executive 27th May 2008 entitled “A new Civic Centre – Site Identification and Land Acquisition”

Appendices

Appendix 1 London Borough of Brent Civic Centre Project – Delivery Options Evaluation Report May 2008.

11.0 Contact Officers

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