

	Officer Key Decision
	Report to the Corporate Director of Finance and Resources
Authority to Award a Design and Build contract for the Temporary SEND School as part of the SEND Capital Programme	

Wards Affected:	Harlesden
Key or Non-Key Decision:	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>	Part Exempt – Appendix 1 is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)”
No. of Appendices:	Appendix 1 – Exempt Appendix 2 – Evaluation Grid
Background Papers:	None.
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Neil Martin Head of Capital Programmes (Schools) Neil.Martin@brent.gov.uk

1.0 Purpose of the Report

1.1 This report concerns the provision of a Special Educational Needs and Disabilities (SEND) School Accommodation for Manor School. This report requests authority to award the design and build contract as required by Contract Standing Order 88. This report summarises the process undertaken in tendering a contract and, following the completion of the evaluation of the tender, recommends to whom the contract should be awarded.

2.0 Recommendation(s)

That the Corporate Director of Finance and Resources:

2.1 Approves the award of two-stage design and build contract for the Temporary SEND School to The McAvoy Group for a total sum of £1,928,570.

3.0 Detail

3.1 In November 2021, Cabinet approved the School Place Planning Strategy Refresh. This report evidenced the growing demand for places that meet the needs of children and young people with SEND. In order to meet this growing need and to tackle increasing pressures on the High Needs Block of the DSG, creating additional local school places for children with SEND is identified as a key part of the School Place Planning Strategy and is also contained within the new SEND Strategy (2021-24).

3.2 In January 2022, Cabinet approved the SEND Capital Programme Business Case which detailed how the Council intends on increasing SEND provision within the borough to meet the growing need as well as reducing the pressure on the High Needs Block of the DSG. The programme aims to deliver 427 places over the next 2-3 years along with capital improvement projects to enhance accessibility at mainstream schools. The cost of the approved programme is £44.19m and this will be funded by Basic Need, High Needs Capital Grant and the Special Provision Fund.

3.3 One of the identified work streams within the SEND Capital Programme is expansion of existing SEND Schools. Within this work stream is to create 36 places at Manor School on a satellite site at Newman Catholic College. The expectation is that these pupils will be accommodated by Manor School at Newman Catholic College until such time the new SEND school opens at London Road (expected 2024/25).

3.4 The Council will enter into a lease with the school whilst the buildings are needed for the SEND provision as listed in paragraph 3.3 above. In order to protect the new facility provision, the Council has the option to continue use of the site subject to a new agreement with the school and any required planning approvals.

3.5 In April 2022, the Director of Property and Assets approved the pre-tender considerations for this project using a design and build contract and procured via a mini-competition process under the NHS Modular Buildings Framework Ref SBS/10091 (the "Framework") under Lot 5 – Modular Education Units for Purchase.

The Tender Process

3.6 In accordance with the Framework's rules, all suppliers on the Framework lot were invited to express interest in this opportunity. There are 19 suppliers on the Framework lot and officers received 12 responses, nine expressing an interest and three suppliers who were not interested.

- 3.7 On 4 July 2022, the nine suppliers who expressed an interest were issued with an invitation to tender via the London Tenders Portal. Suppliers were provided with the technical information and details of the tender approach and were invited to bid.
- 3.8 The tendering instructions stated that the Contract would be awarded on the basis of the most economically advantageous offer to the council and that in evaluating tenders, the council would have regard to the following:
- Commercial / Price: 50%
 - Quality: 40%
 - Social Value: 10%
- 3.9 The tendering instructions also required the tenderers to meet certain requirements prior to being considered for contract award:
- Did tenderer score 0 out of available 5 for any of the method statement questions?
 - Did tenderer score 2 out of the available 5 on two or more of the scored Method Statement Questions?
 - Did bidder score less than 25 % for the overall Quality score?
 - Did the bidder exceed the council's budget for the contract?

Evaluation process

- 3.10 The tender evaluation was carried out by a panel of officers from Procurement and Property and Assets.
- 3.11 All tenders had to be submitted electronically no later than 3pm on 15 August 2022. Tenders were opened on the same day and two tenders were received. Each member of the evaluation panel read the tenders and carried out an initial evaluation of how well they considered each of the award criteria was addressed in the tender.
- 3.12 The moderation panel met on 25 August 2022 and each submission was marked by the whole panel against the award criteria. The Council's appointed technical consultants undertook a detailed evaluation of the pricing submissions. This review process included checking for any formulaic or mathematical errors and issuing queries to the bidders to clarify any qualifications or exclusions in order to ensure the bid received was compliant.
- 3.13 The names of the tenderers are included in Appendix 1. The scores received by the tenderers are included in Appendix 2.
- 3.14 Tenderer 1 was excluded from the final ranking stage as they did not meet the council's requirements as listed in paragraph 3.7. It will be noted that Tenderer 2 was the highest scoring tenderer. Officers therefore recommend the award of the Contract to Tenderer 2, namely The McAvoy Group.

4.0 Financial Implications

- 4.1 The total project budget of £2.0m for the Temporary SEND School as part of the SEND Capital Programme approved by Cabinet on 14 January 2020.
- 4.2 The proposed contract value of £1,928,570 can be met from the approved budget outlined in paragraph 4.1 along with the spend and commitments for other expenditure items for this project.

5.0 Legal Implications

- 5.1 The value of the Contract over its lifetime falls below the threshold for Works under the Public Contracts Regulations 2015 (the “PCR 2015”) and the award of the Contract is therefore governed in part only by the PCR 2015.
- 5.2 The award of the Contract is subject to the council’s own Contract Standing Orders in respect of Medium Value Contracts and Financial Regulations. In this respect, it is noted that, in satisfaction of CSO 86(e)(ii), the council’s participation in the Framework has been confirmed as legally permissible by the Corporate Director Governance and considered appropriate for use in respect of this Contract. The Director, Property and Assets also approved the pre-tender considerations raised in respect of this Contract and confirmed that there is sufficient budgetary provision for the Contract as required by CSO 86(e)(ii)
- 5.3 The Corporate Director, Finance and Resources has authority pursuant to paragraph 9.5 of Part 3 of the Constitution to approve the contract award to The McAvoy Group for £1,928,570.
- 5.4 The Council will observe a voluntary 10 calendar day standstill period before the contract will be awarded. Therefore once the Corporate Director, Finance and Resources has determined which tenderer should be awarded the contract, all tenderers will be issued with written notification of the contract award decision. A 10 calendar day standstill period will then be observed before the contract is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers. As soon as possible after the standstill period ends, the successful tenderer will be issued with a letter of acceptance and the contract can commence.
- 5.5 As required by the Framework, the council followed the rules for tendering under the Framework including the use of call off contracts allowed therein. The council had identified the 2016 JCT Design & Build Contract as a suitable contract allowed under the Framework.

6.0 Equality Implications

- 6.1 The council must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.3 The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.
- 6.4 The equality implications associated with the School Place Planning Strategy 2019-23 were set out in the report to Cabinet to approve the same (November 2018). This report considers more specifically the demographics around the demand for SEND school places and the options for meeting that demand.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 The Lead Member for Finance, Resources and Reform has been consulted as part of the drafting of this report. They have also been kept up to date with progress on the project.
- 7.2 Ward Members have also been kept up to date on the project progress and will continue to be as the project progresses through the contract stages.

8.0 Human Resources/Property Implications (if appropriate)

- 8.1 This contract will be provided by an external contractor and there are no implications for council staff arising from tendering the Contract.

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. Whilst the Social Value Act is not strictly applicable to Works contracts, Officers have nonetheless had regard to considerations contained in the Social Value Act in relation to the procurement.

- 9.2 Ten percent of the overall evaluation criteria is allocated to Social Value and this is in line with the council's Social Value and Ethical Policy approved by Cabinet in April 2020. The successful bidder is proposing to deliver work experience for young people, donations to local community groups and assistance with community clear up days and food growing projects.

Related documents

- SEND Capital Programme, Cabinet report, January 2022
- Authority to Tender Report, Recordable Decision April 2022

Report sign off:

Tanveer Ghani

Director of Property & Assets (Acting).