



Executive
23 June 2010

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

Wards affected:
ALL

**Authority to Award a Construction Contract
for the Expansion of Sudbury Primary School from
3FE to 4FE.**

APPENDIX 2 IS NOT FOR PUBLICATION

1.0 Summary

- 1.1 This report requests Executive approval for the award of a contract in relation to the construction works at Sudbury Primary School, estimated at £7,068,885. The contractor is from the IESE (Improvement and Efficiency South East) Buildings Work-stream Construction Framework. These works will involve part newbuild and part remodel and refurbishment of existing buildings to provide additional capacity at Sudbury Primary School to enable them to accommodate an expanded 4FE [840 children from Year R to Year 6 plus a Nursery] Primary School.

2.0 Recommendations

The Executive is recommended to:

- 2.1 Note the award of a contract for pre-construction services in the sum of £35,241 to Morgan Ashurst in relation to the construction works at Sudbury Primary School.
- 2.2 Agree to the award of a contract to Morgan Ashurst with a maximum sum of £7,068,885 for the construction works at Sudbury Primary School to provide part new build accommodation and part remodel (and refurbishment) of the existing buildings.

3.0 Detail

- 3.1 Sudbury Primary School is a maintained Local Authority Foundation School. The

school specialises in art, music and ICT teaching and there are accelerated programmes in all year-groups to cater for more able pupils; its pupils come from diverse ethnic and cultural backgrounds. It was identified as one of the schools to be expanded by 1FE with funding mainly from the PCP resource allocation.

- 3.2 In its Primary Capital Programme - Primary Strategy for Change (PCP- PSfC) submitted to the DCSF in June 2008, the Council acknowledges an increasing demand for school places across all year groups, with most acute demand in central and west Brent, particularly in Wembley Central, Sudbury and Alperton wards, where the majority of primary school places are full.
- 3.3 At their meeting of 26 May 2009, Executive approved the allocation of up to £6.50m from PCP funding to support the expansion proposal by 1FE at Sudbury Primary School, supported by the school's own resources of £1.5M and, if required, a School Loan of up to £300k to address its specific accommodation requirements, including an external canopy and an additional wet play area to the main hall for pupils. The total provision for the scheme is now an estimated £8,264,459 of which the maximum construction cost is £7,068,885. A breakdown of scheme budget is detailed below:

Total Scheme Costs	Source	Available Amount
£8,264,459.00	Primary Capital Programme	£6,500,000.00
	Budget Share	£1,252,000.00
	Devolved Formula Capital	£248,000.00
	Loan under School Loan Scheme up to:	£300,000.00
<u>£8,264,459.00</u>		<u>£8,300,000.00</u>

This budget will enable the following scheme costs to be met:

AMOUNT	ELEMENT
<u>Fees</u>	
£1,060,333	Design Team
£35,241	Pre-Construction
<u>Construction</u>	
£7,068,885	Construction contract
<u>FFE</u>	
£100,000	Furniture and Fixed Equipment

- 3.4 In addition to the main contract, a total of £408,250 Sure Start monies is budgeted against the new-build Children's Centre, landscaping and ground works services. The procurement and works package for this package of works is not the subject of this report. It is being procured separately given the different nature of the building and construction technology. The procurement for this will begin shortly with a contract award aimed for Autumn 2010 upon confirmation of Planning approval.

Project details

- 3.5 The expansion of Sudbury Primary School, by 1FE to 4FE is an essential step that enables the Council to meet its statutory duty to provide school places; it features as a high priority in the Council's March 2009 submission to the former DCSF (now DfE) for funding from Primary Capital Programme (PCP).
- 3.6 Works to the main school building include a new-build classroom block, incorporating larger classrooms that can support the primary approach to learning, new-build group learning areas, a new music room, a new-build hall and associated facilities which will allow the school to carry out whole school assemblies, thematic based learning, cross curricular work and community engagement. In remodelling the existing buildings clearly defined space will be created for a library which can function as a central point for the school. In addition, the project incorporates remodelling to Year 1 areas, reception, staff/administrative and Nursery areas and refurbishment to classrooms and drama areas. The front of the main entrance is to be redesigned by the introduction of a defined entrance to the school; soft landscaping will be introduced at boundaries and within play areas; the existing site perimeter fencing is to be heightened and in parts replaced to increase security. Sustainable measures, as outlined in paragraph 3.29 are also an integral part of the expansion project at Sudbury Primary School.
- 3.7 In order for the school to effectively offer required additional places from September 2011, a contractor must be appointed and take possession of the site as soon as the school closes for the summer holiday on 16 July 2010.

Appointment of Lead Design Consultants

- 3.8 Mace Ltd was appointed (following a Mini Competition) from the Council's Framework Agreement for Property Services as the multi-disciplinary Lead Design consultants. Frankham's, also from within the Council's Framework were appointed to carry out the cost consultancy and Mechanical & Electrical (M&E) services design. In reviewing the programme to deliver the expanded capacity of Sudbury Primary School, Mace recommended that a contractor be appointed from an existing Framework Agreement that has already been tendered in accordance with the European Union procurement rules. The IESE Buildings Work-stream Framework for Major Projects is one such Agreement.

Options for Procurement

- 3.9 Given the pressure on the Council to find sufficient school places, two procurement options were considered for the Sudbury expansion.

OJEU

- 3.10 Initially, the Official Journal of the European Union (OJEU) process was considered. This route could have been used to award any form of construction contract eg Design and build, traditional single or two-stage contract. This route involves placing an advert in the OJEU - however it would have been a relatively protracted process which could have put at risk meeting the target date of completion by September 2011.

The IESE Procurement and its Benefits

- 3.11 In essence, the IESE Framework Agreement was established following an EU-compliant process and any call-off is on the basis of most economically advantageous tender. The IESE Framework is one to which a number of contractors have been appointed after testing on minimum standards of economic standing and technical capacity. The framework is structured to provide for traditional procurement using a two-stage contract (ie pre-construction services and then the main build contract). The added value of this IESE procurement route is that it allows for open book accounting with the main and sub-contractors, enabling the Council and appointed consultants to audit the cost management process during the pre-construction and construction phases. Under the IESE Framework rules, it is necessary to run a mini-competition process among the participating contractors to appoint a contractor for the pre-construction phase, and there is no contractual obligation to proceed to contract award until the contract proposals are offered at the end of the construction phase.
- 3.12 Using the IESE Framework Agreement will allow the Council to procure the required part new-build, part remodelling and refurbishment works within the timeframe permitted by the terms of the IESE Framework Agreement with reduced expenses incurred. Officers therefore regard the Framework Agreement to be beneficial for procuring the construction works contract at Sudbury Primary School. The benefits include:
- Programme time saving and programme certainty
 - Cost certainty earlier in the process - open book policy
 - Comprehensive risk reduction earlier in the process
 - Collaborative working
 - Contractor certainty - already pre-qualified on financial stability and quality
 - Resources are minimised when compared to the OJEU procurement route
 - Process - KPI's and Stage approvals, following the RIBA design stages.
 - All contractors have worked on schools
 - The opportunity is there to ensure that continuous value engineering of the project is meeting its objectives of cost certainty.
 - Updated management and project specific preliminaries costs, if necessary
 - Alignment of the cost plan with design development and budget
 - Negotiations with subcontractors and suppliers to achieve best value costs within cost plan
 - Designing out risk and increasing buildability within project budget
- 3.13 It was therefore decided to proceed with using the IESE Framework. A report was submitted to the Directors of Children & Families and Corporate & Finance Resources setting out the case for accessing the IESE Framework. That report was approved in February 2010. As required by Contract Standing Orders, the Borough Solicitor also confirmed that it was legally permissible to call-off from that framework in November 2009.

The process required to be followed by the IESE Framework

- 3.14 Under the rules of the IESE Framework, the IESE team at Hampshire County Council run an Expression of Interest process to identify relevant contractors on

behalf of the participating authorities, in this case Brent Local Authority, in relation to the required construction works at Sudbury Primary School.

- 3.15 Following an evaluation of the Expressions of Interest, the appointment of a preferred contractor using the IESE Procurement Framework is based on structuring the Mini-Competition Tender Documents around the specific stakeholder and project requirements. It enables the contractor to fully understand these requirements and prepare an initial Draft Execution Plan (DEP) identifying risk and issues within the project. The evaluation criteria scores the (DEP) in addition to their cost and ability submissions. The transparency of this approach allows the stakeholders and Design Team to fully assess the contractors' competence and suitability to deliver this complex project.

The Expression of Interest process

- 3.16 All ten IESE Framework Agreement contractors were invited to express their interest against outline project information including their preferred type of work, their relevant experience, capacity and their geographical presence. All ten contractors on the framework chose to express interest and were evaluated.
- 3.17 The evaluation carried out by MACE on behalf of LBB with guidance from IESE is based on the contractors' overall performance (KPIs on finance, quality, programme and satisfaction – information is managed and supplied by IESE managers. That information is provided direct by IESE and sourced from previous Framework projects), capacity and relevance to undertake the project. One contractor was excluded at this stage on the advice of the Borough Solicitor, because of a risk of bias; this was because the contractor concerned was part of the same group of companies as one of the Council's consultants on this project.
- 3.18 Following the evaluation of the Expression of Interest, the top three contractors were (as identified in Appendix 2 – not for publication):
- Contractor A
 - Contractor B
 - Contractor D

Tender process

- 3.19 Following the evaluation of Expressions of Interest, invitations to tender were issued on 15 February 2010 to the three contractors who scored top three highest and able to enter the mini-competition. The mini-competition was held to enable the selection of a contractor to be appointed under a call-off contract for pre-construction work to include design work, to inform on technical solutions best suited to the scheme requirement and the development of a cost plan.
- 3.20 A full breakdown of the criteria and requirements was issued to the three contractors covering project description, duties of the framework contractor and the ability (competence to carry out the work) and cost submissions.
- 3.21 The written tender submissions were evaluated by the Design Team led by MACE and including Frankham as the Cost Consultant; the contractors were awarded marks based on the agreed evaluation matrix, detailed in the tender report as shown in Appendix 1.

- 3.22 Interviews were carried out on 11 March 2010 in accordance with the criteria set out in section D.2.7 of the IESE Invitation to Mini Competition and jointly evaluated by the Design Team, Sudbury Primary School and a Brent Council Officer - Children & Families. The primary purpose of the interview was to seek clarification on the understanding of the scheme and the school's requirements based on an agreed schedule of questions applicable to all three contractors. The interview confirmed Contractor A's ability to deliver the project within the budget and programme constraints.
- 3.23 The evaluation report at Appendix 1 gives the detailed evaluation and the strengths of the highest scoring bidder. The overall final percentage scores are summarised as follows:
- Contractor A 78.4%
 - Contractor B 64%
 - Contractor D 52.8%
- 3.24 Following completion of the evaluation process, the evaluators recommended that the contract for Pre-Construction Services be awarded to Contractor A, Morgan Ashurst. Appendix 1 also sets out the particular strengths of their tender. The award of the contract for Pre-construction services to Morgan Ashurst was agreed by officers under delegated powers.
- 3.25 A breakdown of Contractor A's Pre-construction Stage Management Structure and Costs submission has been received from Morgan Ashurst. It supports the reasoning behind the evaluation process selecting this contractor as the main contractor to successfully deliver the expansion scheme at Sudbury Primary School. Officers now wish to proceed with the award of the main construction contract to Morgan Ashurst.
- 3.26 Subject to Executive approval to appointing Morgan Ashurst as the main contractor it is anticipated that start on site commences on 19 July 2010 and delivery of the completed project by September 2011. The Council through Mace, as architect and lead consultant, will retain control over the final design to ensure that proposals meet the aspirations of the client team. Contractor A, thus being appointed initially at Pre-construction stage will feed into the design development stage alongside the Design and Client Team from RIBA Stage E.
- 3.27 The financial implications of appointing Morgan Ashurst through the IESE Procurement route has enabled the early introduction of the contractor to the School and the Council to ensure the expansion to 4FE is delivered with minimal disruption to the operation of the school. In addition to the contractors design/buildability advice to the Design Team, all the intrusive surveys and investigations (Level 3 asbestos, structural, M&E services, opening up works, fire) have been completed during the school holiday periods well before the main contract commencement, highlighting any construction/programme issues impacting on the budget, therefore assuring the output cost certainty of the contract
- 3.28 The Planning Application for the scheme received approval on 14th April 2010, with conditions which include:
- A contribution of £10,000 towards off-site transport improvements;
 - Hard and soft landscaping scheme to be approved prior to commencement on site

- An approved School Travel Plan
- Sustainability measures are to ensure BREEAM Excellent rating on the new build elements.

3.29 In accordance with the signed Section 106 Agreement, the BREEAM requirement for the school is 'Excellent' for the new build elements and 'Very Good' for all refurbished areas. However, the aspiration of the Council, School and Design Team is to exceed this requirement and to achieve 'Excellent' for the overall project. In order to achieve this rating the project includes the following sustainable elements within the design:

- Air source heat pumps for general heating
- Photo-voltaic roof to the Year 5/6 block
- Sedum (green roof) to new Year 1 classrooms
- Water and energy saving devices to all areas

3.30 By appointing Morgan Ashurst through the IESE Framework for Pre-construction services, the Council benefits from their early input into achieving BREEAM credits at the design stage, reducing financial pressures during the construction phase to reach the BREEAM requirement.

3.31 The form of build contract will be JCT SBC/WQ 2005. The indicative works contract sum (subject to continuing Value Engineering), reducing the contingency allowance from 9.50% to 8% and establishing further cost savings) is to be no higher than £7,068,885.

4.0 Financial Implications

4.1 The report notes that utilising the IESE Framework Agreement that facilitates bringing on board a contractor at an early stage of the procurement process enables the principles of Best Value to be adhered to, as outlined in paragraphs 3.12 and 3.27 and how tasks enabling cost certainty during pre-construction and post construction phases may be achieved.

4.2 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. Accordingly, as the indicative contract sum exceeds £1,000,000 and is no higher than £7,068,885 and is an additional cost to the pre-construction stage management works cost of £35,241 the totals of which is to be funded by PCP monies, the school's own resources and, if required, a School Loan of up to £300,000, as shown in paragraph 3.3, the Executive is hereby being requested to approve the works contract to Morgan Ashurst, thus enabling works to start with immediate effect of the school closing for the coming summer holiday period.

4.3 Primary Capital Programme monies allocated to the Sudbury Primary School expansion proposal is confirmed as up to £6.5m of total project costs of £8,264,459,. The School is contributing £1.5m towards the cost of a new-build hall and associated facilities and, if necessary, take a School Loan of up to £300k to meet build costs that addresses the school's additional build requirements. An amount of £408,250 is budgeted against the new build Children's Centre and is to be resourced from Sure Start.

- 4.4 To date the council has received Primary Capital Grant totalling £4.655m of which £2.533m has been spent during 2009/10 leaving a balance of £2.120m. There is an allocation of £7.033m due for 2010/11, which will provide sufficient funding for the scheme, but has not yet been received. Approval of the recommendations to this report, in the current climate of grant cuts from central government, will accept an element of risk that the council will have committed to this scheme before the funding is guaranteed and passed over to the Council.
- 4.5 Full details on the PCP funding allocation over funding Phases 1 and 2 are reported in the 26 May 2009 Executive Meeting paper.

5.0 Legal Implications

- 5.1 Brent Council has a statutory duty to provide school places where needed; the proposal of the part new-build and refurbishment project to enable expansion of the Sudbury Primary School's capacity will facilitate the Council in its duty.
- 5.2 Normally a works contract that is above the EU works threshold of £3,927,260 requires the use of an EU-compliant tender process. However there is no need to comply with this where a call-off is made from an EU-complaint framework. The use of framework agreements is permitted within Council Standing Order 86(d) and, provided that there is compliance with EU law and internal rules of the particular framework, individual call offs do not require the following of an individual tender process. However, it is necessary for the Chief Officer, Borough Solicitor and Director of Finance and Corporate Resources to confirm that participation is legally permissible as per Standing Order 86 (d) (ii), each time a call off from another contracting authority's framework is proposed.
- 5.3 Confirmation was obtained from the Borough Solicitor on 19 November 2009 that participation in the IESE Framework is permissible. Authority and approval was obtained from the Director of Children and Families (11 February 2010) and from the Director of Finance and Corporate Resources (15 February 2010) to use the IESE Framework and the process to appoint a contractor by this means was entered into.
- 5.4 The IESE Framework is unusual in how financial evaluation occurs. Rather than a quantitative model, the cheapest tenderer is awarded the highest mark out of 5, with the most expensive tenderer awarded the lowest marks out of 5. While unusual, adopting a particular framework also means using the rules of that framework, so Brent had no other way open to it for evaluating price.
- 5.5 This report now seeks to award the final stage construction contract, as required under the Council's Contract Standing Orders, where estimated construction works exceed £1,000,000 (High Value Contracts). The indicative main works contract sum is not expected to exceed £7,068,885.

6.0 Diversity Implications

- 6.1 Sudbury Primary School is situated in a relatively socially advantaged area, but caters for pupils from a wide socio-economic mix. Pupils come from diverse ethnic and cultural backgrounds and the main languages spoken other than English are Tamil, Urdu, Gujarati and Somali.

- 6.2 The number of pupils with learning difficulties or disabilities is relatively high, but the school is nevertheless strong in KS2 standardised assessment tests and has been put in the top 5% of schools nationally.
- 6.3 The design strategy and the building form will support the education delivery, facilities and amenities for all, including the children and families who need these services most in the expansion programme as detailed in this report and so to enhance their inclusion.
- 7.0 Staffing/Accommodation Implications (if appropriate)**
- 7.1 Sudbury Primary School has a long serving number of staff members who have served the school well in delivering the education curriculum and have helped to raise standards in buildings that are not equipped to cope with the requirements of modern teaching methods.
- 7.2 The building works, as proposed in outline in paragraph 3.6 and further detailed in the 26 May 2009 Executive Report, will improve conditions of teaching accommodation and will thereby facilitate the organisation, management and operation of teaching systems throughout the school.

Background Papers

- i) Sudbury School file - AMS
- ii) Executive report, 26 May 2009: Sudbury Primary School - PCP for expansion
- iii) Mace Feasibility Study – March 2009
- iii) Mace - Procurement Strategy Discussion Document - 8 October 2009
- iv) IESE Construction & Asset Management Partnership - Invitation to Mini-Competition - Sudbury Primary School

Contact Officers

Christine Moore
Asset Management Service
Chesterfield House, 9 Park Lane, Wembley, Middlesex HA9 7RW
Tel: 0208 937 3118 Fax: 0208 937 3093
Email: Christine.moore@brent.gov.uk

Nitin Parshotam
Head of Asset Management Service
Chesterfield House, 9 Park Lane, Wembley Middlesex HA9 7RW.
Tel: 020 8 937 3038 Fax: 020 8937 3093
Email: Nitin.parshotam@brent.gov.uk

John Christie
Director of Children and Families