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| REPORT TO: | CABINET 17 November 2014 |
| AGENDA ITEM: | Appendix 1 to Agenda Item 11 |
| SUBJECT: | Education Capital Projects Procurement Strategy |
| LEAD OFFICER: | Paul Greenhalgh and Jo Negrini |
| CABINET MEMBER: | Cllr Alisa Flemming, Cabinet Member for Children, Families and Learning And Cllr Simon Hall, Cabinet Member for Finance and Treasury |
| WARDS: | All |

CORPORATE PRIORITY/POLICY CONTEXT/OUTCOMES FOR RESIDENTS OF THE BOROUGH:

The delivery of this project is critical in ensuring the Authority is able to meet its statutory requirement to provide pupil places to meet increasing demand and will support the Authority in meeting the Policy Objectives of:

- Achieving better outcomes for children and young people
- Promoting economic growth and prosperity

FINANCIAL IMPACT

The budget for the 2016/17 Expansion Programme is £49,349,524

FORWARD PLAN KEY DECISION REFERENCE NO.: This is not a key executive decision.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

RECOMMENDATIONS

- 1.1 The Cabinet is asked to approve the strategy identified within the detail of this report to procure Professional Services providers and Construction Works contractors to deliver the Education Capital Programme for 2015-2017 consisting of refurbishment and new build provision of Primary and Secondary school places, Special Educational Needs places and Planned Maintenance requirements.

2. EXECUTIVE SUMMARY

- 2.1 This procurement strategy has been formulated following extensive research of education capital works options available to the council to procure suppliers of Professional Services and Construction Works to deliver the Education Capital Programme 2015-2017 consisting of refurbishment and new build provision of Primary and Secondary school places, Special Educational Needs places and Planned Maintenance requirements (the programme). In reviewing the available options the council has also considered the currently agreed education projects which need to be procured in future years. This strategy sets out a specific suite of procurement options enabling the council to respond to its educational objectives whilst ensuring that the most appropriate procurement solutions can be followed for individual projects taking into account, project type, complexity, location factors and delivery timescales.
- 2.2 To procure a programme of education capital works of this type services fall into 2 main categories: Consultancy services, these include architectural design, engineering and other specialist advisors; and Works, main or building contractors.
- 2.3 It is proposed that procurement of consultancy services for delivery of education capital works to be obtained using a blend of the following dependent on the scale and nature of the individual or batched projects:
- Construction Line for sub-OJEU packages of works;
 - CRCS 2012 framework for a varied consultancy lot requirements;
 - GLA Architecture, Design and Urbanism framework;
 - ESPO Professional Advice and Management Services Framework 2664;
 - Scape Design for multidisciplinary consultancy services for use in conjunction with IESE, Scape, LHC, CRCS and EFA D&B contracts;
 - Scape Consult for Project Management and Quantity Surveying services for use in conjunction with IESE, Scape, LHC, CRCS and EFA D&B contracts.
- 2.4 Procurement of construction works is to be obtained using a blend of the following dependent on the scale and nature of works being undertaken:
- IESE two stage NEC3 Design & Build procurement for new build, extension and refurbishment projects;
 - Scape Sunesis NEC3 Design and Build for new build education projects;
 - Scape Connect NEC3 Design and Build for education extension projects;
 - Scape Refurbishment for refurbishment projects;
 - Scape Procure for single stage procurement of D&B projects;
 - SMART East for single stage D&B contracts;
 - LHC for package procurements of roofs, windows and building fabric
 - Croydon Planned Maintenance and Improvements Contract for roofs, windows and building fabric
 - CRCS Pan London construction framework, once let (due to be let early 2015);

- Education Funding Agency construction framework as suitable for all education projects;
- Croydon Modular Unit Framework for modular hire and purchase projects;
- Government Procurement Service Modular Building Systems framework for modular hire and purchase projects
- Construction Line for procurement of sub-OJEU projects.

3. DETAIL

3.1 Annually, education officers submit the Council's Statutory Capacity (SCAP) return to the DfE which quantifies the physical capacity of the school estate, the projected number of places required and the potential deficit in capacity. This 'SCAP' return determines the level of Basic Need funding the Council receives from Central Government. Recent SCAP returns show that Croydon is the local authority with the highest pupil number percentage growth in the country. This Procurement Strategy will provide the supply mechanisms for the school places demand set out in the Education Estates Strategy reported to the July Cabinet or any subsequent changes agreed.

3.2 Education Programme Delivery

The 2013-15 schools expansion programmes have been successfully delivering unprecedented numbers of pupil places within tight budgetary constraints and challenging timescales to meet the statutory education obligations of the Council. This has been achieved using a blend of nationally recognised frameworks and individual tenders in accordance with LBC's Tender and Contract Regulations. Given the considerable amount of experience, understanding and knowledge gained through use of proven delivery methods it is recommended to continue to use the proven and successful procurement options set out below to deliver projects for the 2016/17 academic years.

3.3 This strategy will apply to the entire programme. Due to the changeable context of this programme in terms of demand, funding, the provision of Free Schools in Croydon and the possibility of further sites becoming available, projects may be removed, added or amended whilst still following the procurement principles set out in this report.

3.4 Feasibility studies will be commissioned once project briefs are provided. One of the key objectives of the feasibility will be to provide firm recommendations for the most appropriate project procurement solutions, taking into account, project complexities, site condition, completion requirements and type of construction required. The council also needs to have the flexibility and agility to commission works for sites not currently named and the ability to react to feasibility recommendations and changing market conditions which are key to successful delivery of this critical programme.

4.0 Detailed Analysis of Procurement Routes

4.1 This programme involves activities classified as “Works / Services” under EU tender and procurement legislation. The EU Threshold values for these categories are:-

Services **£ 172,514**

Works **£4,322,012**

4.1.1 This report proposes the strategy for procurement of the education programme for Services (consultancy) and Works (main and building contracts). Delivery timescales mean there are a limited number of routes available to the Council to engage consultant/professional services contracts and construction contracts above the levels¹ which require advertisement in the Official Journal of the European Union (OJEU). OJEU procurement process generally takes in excess of 6 months to complete and so is not generally suitable for education projects which have shorter lead-in and delivery times. Procurement via this route is resource intense and can be subject to expensive and time consuming legal challenge, emphasising the need for the Council to consider other compliant procurement options.

4.1.2 A series of contracting strategies have been examined. The conclusion, which is in line with the Government Procurement Strategy, is that the most efficient method for the procurement of Works (construction contracts) is via a suitable compliant framework utilising an open-book two-stage design and build process.

4.1.3 For the 2013-15 programmes, the Council has been contracting on a Two-Stage Open-Book basis calling-off from established national & regional frameworks. This means that an element of feasibility work is done by LBC to secure initial internal sign off and budgeting before being passed to a Main Contractor procured via a framework. One procurement is undertaken, however, there are two Award Reports produced; the first for the Stage 1 Pre-Construction Services Agreement (PCSA), the second for the Stage 2 Main Contract if agreed subsequently.

4.1.4 LBC and the Main Contractor then enter into a PCSA whereby the Main Contractor provides consultancy and design services to the point where the scheme can proceed to obtain Planning Permission.

4.1.5 In parallel, the packages of works required to build the scheme are developed and tendered by the Main Contractor to his sub-contractor supply chain. LBC have full visibility of these packages of work, and the responses and prices returned by the sub-contractors; this is referred to as ‘Open Book’. It allows the Council and its appointed Project Quantity Surveyor full access in order to determine that value for money has been achieved. If the Council does not believe that Value for Money has been proved at the end of the pre-construction phase then the Council has ownership of the design and can invite tenders for its construction from the wider market without being obliged to continue with the contractor awarded the 1st Stage (PCSA) contract.

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4.1.6 An alternative approach is to contract on a single-stage basis, where the client develops a design up until the point where it receives planning permission and then takes this detailed design to the market directly via a framework. In this approach the contractor is engaged late in the design process and the sub-contract packages are less developed meaning that the Council pays a premium for transfer of unknown risk to be borne by the contractor. Historically these projects have overrun in cost and time and the contractor and client adopt traditionally adversarial positions. The contractor will focus on protecting his commercial position and raising claims rather than focusing on project completion. This route is therefore not recommended.

4.1.7 The table below sets out the principle differences between single and two stage tendering processes for Works (construction contracts).

| Strategy | Pros | Cons |
|--------------|--|---|
| Single Stage | <ul style="list-style-type: none"> • Design is fully developed so cost fixed at start of construction phase • Contractor carries more risk • Client retains control of design • Suitable for traditional contracts | <ul style="list-style-type: none"> • Lack of contractor involvement in design can result in risk pricing • Residual risks still remain, particularly those relating to design development or late client changes • Management of design prior to contract requires a high level of internal resource and can be a considerable procurement burden • Fewer routes available with two-stage being preferred • Normalisation of tender analysis can be time consuming • Design process can add time, and hence cost into the process |
| Two Stage | <ul style="list-style-type: none"> • Early contractor involvement is claimed to improve buildability and therefore cost certainty • Design consultancy is managed by contractor, reducing demand on client resources for procurement and management • Performance is incentivised by the framework managers KPI system • Contractor preference for two stage means that a much wider market is available. • Open book specification | <ul style="list-style-type: none"> • Sub-contract tendering process can still result in surprises, particularly in an inflationary environment. |

| | | |
|--|--|--|
| | <p>development, tender review and normalisation of sub-contractor packages of works</p> <ul style="list-style-type: none"> • Ease of establishment of value for money through open book access to tenders. • Promotion of local labour and training incentives | |
|--|--|--|

4.1.8 The two-stage design and build procurement process for selection of contractors has many more advantages when compared to single stage tendering and is recommended as the most economically advantageous route for the Council to follow when procuring these education capital projects. These findings and subsequent recommendation echo those of the Government Construction Strategy 2011 following detailed case study analyses (which included the iESE framework). Croydon has delivered its 2014 programme using this approach and demonstrated a 20% saving on baseline cost as a result.

4.1.9 The independent HM Government – Constructing Excellence report on Two-Stage Open Book procurement in appendix D, co-authored by Professor David Mosey (Kings College London Centre of construction Law) and Professor Peter McDermott (university of Salford) set out many of the significant advantages to the Scape Framework using this form of design and build procurement, namely:

- Cost savings (Liverpool Council attain 26% savings)
- Improved programme certainty
- Collaborative working
- Commitment to local economy
- Innovative design

4.2 SUMMARY OF PROCUREMENT ROUTES AVAILABLE

4.2.1 The majority of education capital projects for school expansions are of a scale that professional consultancy services, especially when aggregated across the programme, are above the EU threshold values set out for Services.

Tendering for consultancy services through OJEU is time and resource intensive and appointments are open to expensive and time consuming legal challenge. The short lead in to delivery of programmes for education expansion projects do not give sufficient time for the Council to consider open tenders through the OJEU route.

In order to comply with EU, Central Government and Local Authority tender and procurement rules and requirements it is proposed that the Council will use a blend of the frameworks listed below dependent on the project particulars, complexity and allowable timeframes for the selection and appointment of consultancy teams required. Some individual Consultancy services below the OJEU threshold may be procured through Construction

Line.

4.2.2 Services (Consultancy)

| Framework/Route | Type | Comments |
|---|--|--|
| Construction Line | Competitive tender | Suitable for use with development of fully specified projects of simple nature. |
| CRCS | Framework. Competitive tender via mini-competition. Direct call-off for minor requirements | Multiple lots from complete multi-disciplinary teams to more specialist lots to specialist consultancy requirements. Flexibility of use to pull specialism s together dependent on project complexities. |
| ESPO Professional Advice and Management Services Framework 2664 | Framework. Competitive tender via mini-competition or direct call-off | Lot 3 provides for project management services with sixteen national suppliers. List of PM suppliers is comprehensive. |
| GLA – Architecture, Design and Urbanism Panel | Framework. Competitive tender via mini-competition | Multiple lots from complete multi-disciplinary teams to more specialist lots to specialist consultancy requirements. Flexibility of use to pull specialism s together dependent on project complexities. |
| Scape Design | Direct Award | Single source procurement to obtain a complete or blended multi-disciplinary design and contract administration team with pre-tendered rates. |
| Scape Consult | Direct Award | Single source procurement for Employers Agent / Project Management and Project Quantity Surveying Services based on pre-determined rates. |

4.2.3 The procurement of professional services / consultancy support will consider

the options listed above and either select a single or blended solution dependent on the size, complexity, cost and time constraints for projects.

Clerk of Works Services, BREEAM services, Employers Agent services, Construction Design and Management Consultancy and Client Design Advice are recommended be procured on a programme wide basis utilising a blend of the CRCS 2012, Scape Design and Scape Consult Frameworks. Volume delivery of works being delivered by fewer firms will result in greater standardisation of approach and delivery to safeguard the Councils contractual interests and to promote a uniform quality of service.

Architectural, Building Surveyor-led Design Teams, Project Management and Project Quantity Surveying services are recommended to be procured as batches of similar schemes (as opposed to programme-wide aggregation). This approach will promote a robust, firm and consistent open-book processes during the tendering of the sub-contract packages and that the Contractor's pre-construction bids will be intensively scrutinised to ensure value for money is achieved and that sufficient resource is in place on the contractors' side during the design process.

The duties which are to be provided under these services are provided in Appendix B

4.2.4 Works (Main and Building Contracts)

| Framework | Type | Comments |
|--|---|--|
| Scape Sunesis | Framework Direct Award Two-stage | Standard design available given suitable sites. Two stage processes allows for early contractor engagement. |
| Scape Connect | Framework Direct Award Two-stage | Standard design available for simple extension buildings. Two stage processes allows for early contractor engagement. |
| Scape Procure | Framework Direct Award Single-stage | Single stage prevents budget uncertainty due to transition from first to second stage. |
| IESE (to transition to Southern Construction Framework) | Framework Competitive tender via mini-competition Two-stage | Competition among firms on framework. Two-stage process allows for early contractor engagement. Suitable for refurbishment, new build and extension projects. Open book procurement and development of sub-contract packages allows for risk to be minimised. LBC will be involved in the SCF tender evaluation process. |
| EFA | Framework Competitive tender | Competition among firms on framework. Two-stage process |

| | | |
|-----------------------------------|--|--|
| | via mini-competition Two-stage | allows for early contractor engagement. Open book procurement and development of sub-contract packages allows for risk to be minimised. |
| CRCS Pan London Framework | Two-stage | Competition among firms on framework. Two-stage process allows for early contractor engagement. Open book procurement and development of sub-contract packages allows for risk to be minimised. Framework is not yet Let (due early 2015). LBC has been involved in the development and tender evaluation process. |
| Smarte East | Framework Competitive tender via mini-competition Single-stage | Single stage prevents budget uncertainty due to transition from first to second stage |
| LHC Package Procurement Framework | Framework Competitive tender via mini-competition Single-stage | Suitable for procurement of traditional specialist packages of works such as roofing, M&E, windows. Rates and contractors all set up for mini-competition or call-off. Suitable for major maintenance works. |
| Construction Line | Competitive tender Single-stage | Suitable for traditional contracts, i.e. simple refurbishments projects or major maintenance programmes under OJEU thresholds. |
| Croydon Modular Framework | Framework Direct Award Single-stage | Allows off-site manufacture and will result in considerable programme efficiencies. Single contractor for hire and purchase will save tendering time |
| GPS Modular Buildings Framework | Framework Competitive tender via mini-competition Single-stage | Allows off-site manufacture and could result in considerable programme efficiencies |

4.2.5 Construction frameworks listed in the table above are all nationally recognised and procured in compliance with European, Central Government and Local Authority tender and procurement regulations.

Appendix C gives a summary of each of the framework agreements to be used together with a summary of their origins and objectives.

4.2.6 **Localism and Social Value:** The different frameworks all set out their localism requirements giving opportunities for involvement of SME's / local businesses or voluntary sector: typically this is set at 30miles for supplies with similar requirements for local labour although these are flexible allowing LBC to influence and determine specific requirements. Framework KPI's capture performance relating to Apprenticeships, SME engagement and Localism. Traditionally LBC has achieved higher than average outcomes within these areas.

4.2.7 The Council will implement the London Living Wage policy in line with the best practise set out by the London Living Wage foundation.

4.2.8 National construction frameworks are set up with KPI's to target the localism agenda, including:

- IESE target 70% spend within a radius of 30 miles
- Scape target 50% spend within a radius of 20 miles, which is estimated to be equivalent to reinvestment of £1.6bn in local communities over the lifecycle of the framework
- Scape calculate that 98% of local spend means that ripples are felt directly by more local people
- Scape target that 92% of construction waste is diverted from landfill and targets to be improved upon annually
- Two stage procurement adds to programme and cost certainty

4.3 THE TENDER PROCESS:

4.3.1 There is insufficient time to conduct "stand alone" OJEU activities so procurement activities above EU Threshold values will be procured utilising suitable existing Frameworks via "call-off or mini-competition" contract arrangements.

4.3.2 The project team will utilise the "Most Economically Advantageous Tender" (MEAT) "Award Criteria" for scoring the Mini-Competitions. In order to use the framework the project team will comply with specific scoring which ranges from 60%/40% to 40%/60% Quality/Price ratio depending on the specific framework and lot. The Scape Design and Consult frameworks will be qualitative assessment alone as the contract rates have been pre-determined.

4.3.3 The project team will use the process specified under the Contracts Handbook (for procurement values below £100k) or the Contracts and Tenders Regulations (for procurement values over £100k) as appropriate

4.3.4 The Invitation To Tender (ITT) / Mini-Competition / Framework Call-Off documents will be prepared by the project team using the appropriate templates from Croydon Council or the Framework Operator. Where two-stage design and build contracts are used sub-contractor contract packages of works will be agreed with the council in advance of ITT's being posted. The council will have full visibility of all subcontractor packages of works, tendered and will have the opportunity to attend all mid-tender clarification meetings and post tender opening, analysis and normalisation of sub-contract tender packages of works received. This is referred to as 'open book' tendering and ensures that

the council obtains best value using the ‘most economically advantageous tenders’ (MEAT) evaluation process. This process gives full transparency to the council and ensures that it is not being overcharged, which is not available through either traditional or single stage design and build contracting. Appendix D provides an independent analysis as to how Liverpool council through use of the Scape two stage open book procurement process has delivered 26% savings and greater programme certainty.

4.3.5 Procurements with values in excess of the EU Thresholds:

The Council will utilise an existing framework from the lists set out in the Services table listed in 4.2.2 (pages 10-12) and the Works table listed in 4.2.4 (pages 13-16) and adopt the appropriate framework Call-Off arrangement as summarised below:-

4.3.6 Call-Off Arrangements – Services (Consultants)

| | |
|--|--|
| Market Warming and Expression of Interest | Brief overview of requirements sent out in advance to all operators on the Framework Lot |
| Mini-Competition or Direct Call-Off (as appropriate) | Quality/Price Ratio to be in accordance with framework guidelines |
| Award | All mini-competition participants advised of outcome. Award approved by CCB & Cabinet as appropriate |

4.3.7 Call-Off Arrangements – Works (Contractors)

| | |
|--|---|
| Market Warming and Expression of Interest | Brief overview of requirements sent out in advance to all operators on the Framework Lot |
| Mini-Competition or Direct Call-Off (as appropriate) | Quality/Price Ratio to be in accordance with framework guidelines |
| Pre-Construction Award | All mini-competition participants advised of outcome. Award approved by CCB & Cabinet as appropriate |
| Main Construction Award | Subject to determination of Value for Money and affordability. Award approved by CCB & Cabinet as appropriate |

4.4.8 Procurements with values below the EU Thresholds

The Council may, where appropriate, undertake a competitive procurement using Constructionline to determine suitable selected suppliers following standard Croydon Council process and protocols.

Where the contract value is above £100k the contract is to be approved by an external Legal Advisor before the Contract formalities are completed (signing and sealing).

4.4.9 The Council’s e-procurement portal (the London Tenders Portal provided by Due North) will be used for the formal procurement process. The tender

process will be conducted electronically.

All communications with the bidders (both during the bidding process and any post tender clarifications) will be directed through the e-procurement portal to ensure the equal treatment of all bidders and to provide an audit trail of the proceedings for future reference.

4.4.10 Bidder evaluation: The tenders will be returned electronically via the e-tendering portal.

The Procurement Officer will undertake the initial check of each tender submission and take such action as is appropriate to deal with any error / omissions / discrepancies.

4.4.11 The Evaluation Panel will verify each bid submission to ensure technical compliance with the ITT documents / Instructions to Tender / Call Off process. In addition the pricing document will also be checked to see if there are any features which could result in additional cost.

Any post tender clarifications and communications with the bidders are to be made via the e-procurement portal to provide an auditable record of proceedings.

4.4.12 The ITT Evaluation Panel will consist of the following members:-

| Name | Title | Scoring / Non Scoring Member |
|--|---|--|
| Karl Atanasoff Katharyn Jones | Category Manager Snr Procurement Officer | Evaluation Moderators (Non Scoring) |
| Colin McBride | Education Programme Manager | Scoring |
| Project Manager associated with the scheme | Project Manager | Scoring |
| Roger Morris | Programme Quantity Surveyor | Scoring |

To avoid the potential for conflicts of interest - all matters relating to this procurement exercise will be treated as confidential material and will not be disclosed or accessible to any consultancy firms working within the CDH.

4.4.13 Bidder Stability:

Suppliers on an existing Framework

The supplier's financial standing is monitored by the Contracting Authority's Framework Manager. Any deterioration in the financial standing of particular framework suppliers is to be advised to the Contracting Authority processing the individual "call-off" contract.

Suppliers selected using Construction Line

Each tenderer is evaluated by Construction Line for their financial stability, so

that the council can satisfy itself that the successful contractor has the economic and financial standing and the capability in meeting the financial obligations anticipated under the contract. Additional checks will be made by Finance Department if deemed appropriate.

4.4.15 Prior to the recommendation of award to the CCB the financial appraisal results will be approved by the Section 151 Officer if the successful contractor has an extreme caution rating.

To mitigate any potential financial risk to the Council the following measures may be adopted:-

- There may be a requirement to activate the provisions within the ITT for the Contractor to provide a Performance Bond at additional cost to the Council.
- Payment in arrears – All valuations are carried out monthly in arrears to determine the amount of works done. A valuation certificate is issued to a value determined by the Contract Administrator and the contractor presents his invoice for payment

4.4.16 Value for money: The budget for the programme approved by Cabinet is to be allocated against the various cost elements (including allowances for risk and contingencies). Each contract award within the programme is to be compared against the budget allocation. Other programme costs are to be similarly monitored. Where there are “over spends” against the budget allocation a further explanation shall be provided to identify measures to reduce the cost or draw upon allowances for risk and contingencies.

4.4.17 Monthly financial reports identify the current level of commitments and projected out-turn costs are to be submitted to the Education Programme Boards and also made available to Growth board chaired by the Executive Director for Development and Environment.

4.5 Value for Money using 2-Stage Design & Build Capital Costs Challenge

4.5.1 Reductions in the Council’s historic capital build costs are evidenced as follows:

| | LBC 2011-12 £'000/m2 | LBC 2013-14 £'000/m2 | Variance % |
|----------------------------|-------------------------|-------------------------|---------------|
| Base Build Costs | 2,102 | 1,675 | -20.3 |
| Contract Costs | 2,845 | 2,681 | -5.8 |
| Total Project Costs | 3,682 | 3,225 | -12.4 |

4.5.2 LBC’s capital build costs compare well with the costs of similar projects in other London Boroughs and Local Councils nationally, taking into account the London construction uplift constrained site working conditions and local topography factors.

4.5.3 Croydon’s construction costs are 3.7% less than the Building Cost Information services (BCIS) and 9.3% below Hampshire/EBDOG benchmarks Thus indicating that LBC have succeeded in procuring and producing very economic traditional build solutions through the use of both Scape and IESE National Frameworks

4.5.4 The independent HM Government report in appendix D provides a reference to savings achieved by Liverpool council for the delivery of Archbishop Beck catholic Sports college utilising the Scape two stage, open book procurement delivering:

- Percentage saving = 26%
- Baseline benchmark = £1,950 per square meter for a comparable project in 2009
- Target benchmark = £1,450 per square meter
- Actual benchmark = £1,438 per square meter

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 The budget approved by Cabinet in July 2014 for all education projects is:

| Improving Our Assets | 2014/15 £ | 2015/16 £ | 2016/17 £ | Total £ |
|---|--------------|--------------|--------------|-------------|
| Education - Academies | 10,016,080 | 500,000 | 500,000 | 11,016,080 |
| Education - DDA | 500,000 | 0 | 0 | 500,000 |
| Education - Primary Fixed Term Expansion | 3,727,511 | 2,400,000 | 500,000 | 6,627,511 |
| Education - Permanent Expansion | 75,218,637 | 38,272,860 | 45,140,000 | 158,631,497 |
| Education - Major Maintenance | 5,266,089 | 2,000,000 | 2,000,000 | 9,266,089 |
| Education - Grant funded kitchen works and 2 year old entitlement funding | 1,719,449 | 0 | 0 | 1,719,449 |
| Education - Secondary School | 18,090,957 | 5,221,667 | 1,209,524 | 24,522,148 |
| Education - SEN | 25,579,586 | 6,700,000 | 0 | 32,279,586 |
| | 140,118,309 | 55,094,527 | 49,349,524 | 244,562,360 |

5.3 The effect of the decision

5.3.1 This report recommends commitment to procuring the services and works required in order to deliver the 2016-17 Schools Expansion Programme using the defined and tested procurement routes set out above. It will allow timely development of design, construction and site logistics solutions which are essential prior to securing an effective construction contract to deliver the project objectives with minimum disruption to the existing school and to avoid program delays and cost escalation.

5.3.2 **Risks** The high-level risks (5x5) which face this programme are as follows:

| Risk | Impact | Likelihood | Impact | Rating | Mitigation |
|------|--------|------------|--------|--------|------------|
| | | | | | |

| | | | | | |
|---------------------------------|--|---|---|----|--|
| Price inflation in supply chain | Results in schemes going over budget prior to construction phase | 4 | 4 | 16 | Projects will be designed to ensure that a high level of contingency is maintained during the pre-construction period. |
|---------------------------------|--|---|---|----|--|

| | | | | | |
|--|--|---|---|----|---|
| Site conditions cause delay to programme | Some of the sites have obvious issues in terms of planning or site acquisition | 3 | 4 | 12 | Early engagement with planners and finance and assets to develop alternative strategies |
| Lack of resourcing in pre-construction phase | Poor coordination of design and cost information resulting in cost or programme overruns | 3 | 4 | 12 | Carefully framed mini-tender questions for pre-construction competition to focus on resourcing |
| Lack of market interest | Insufficient tenders (or insufficient quality) to proceed with programme | 2 | 5 | 10 | Batching of contracts to form attractive packages of work. Framework providers and contractors contacted in advance to ensure market is prepared for opportunity |
| Use of single consultants across programme | Consultant failure or performance issue impacts cost or quality | 2 | 4 | 8 | Consultants will be carefully monitored by CDH and issues raised with the framework provider. As a last resort contracts will be terminated and alternative providers brought in. |

5.4 Options

5.4.1 Future savings/efficiencies - The programme will be procured to ensure that the best value possible is achieved for the Council. This will be achieved by batching projects where appropriate, improved project briefing, robust change control combined with careful cost control and benchmarking. Appropriate regional and national benchmarking will also enable the Council to monitor it indicators will increase efficiency. As set out in section 5.4, the CDH have been successful in achieving savings and efficiencies

Approved by: Dianne Ellender, Head of Finance and Deputy Section 151 Officer

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

6.1 The Solicitor to the Council comments that the procurement routes as detailed in this report meets the requirements of the Council's Tenders and Contracts Regulations and its statutory duty to secure best value under the Local Government Act 1999.

Approved by: Gabriel Macgregor, Head of Corporate Law on behalf of the Council Solicitor and Monitoring Office

7. HUMAN RESOURCES IMPACT

- 7.1 The required disciplines are not available elsewhere within the organisation and there are no TUPE implications resulting from any recommendations within this report. It is therefore considered that there is no Human Resources Impact arising from this report.

Approved by: Deborah Caliste on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

- 8.1 A batch EA will to be produced for the 16/17 programme to demonstrate and document the impact (if any) on all protected groups. It is recognised that some individual projects may require an individual/separate EA where the project activity is likely to have an adverse positive or negative impact on protected groups.

9. ENVIRONMENTAL IMPACT

- 9.1 Council planning policy requires that new buildings and refurbishments meet minimum environmental performance standards as measured by BREEAM. Where the project covers a floor area above 500m², the requirements are:-
Refurbishment – BREEAM “Very Good” rating
New build for building greater than 500m² BREEAM “Excellent” rating.
New build for building greater than 1,000m² must comply with the sustainability agenda set out in the London Plan.
This procurement will include provision of specialist BREEAM consultancy to help ensure that projects meet these standards.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no specific crime and disorder impacts arising from this strategy report

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 The procurements routes recommended are either OJEU compliant frameworks or, if under the EU threshold, compliant with the UK procurement regulations and the Council’s Tender & Contracts Regulations.
- 11.2 This proposed method of procurement has been successfully used for a number of other projects within the 2013-14 and 2014-15 school expansion programmes.

CONTACT OFFICER: Colin McBride – Programme Manager, Capital Delivery Hub

BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972: None

APPENDIX A

Frameworks v One-off OJEU Procurements

This report considers the use of one-off procurements, requiring an advertisement in the Official Journal of the European Union (OJEU), and advises that this may not be the optimal route for the council for the following reasons:

- Programme impact – these processes typically take a minimum of 6 months;
- Resourcing – the production and evaluation of Pre-Qualification Questionnaires and Invitations to Tender is extremely resource-intensive;
- Risk of challenge – if the process is not followed precisely there is considerable risk of procurement challenge. This risk results from the ability of an unsuccessful contractor, should they be able to show that the procurement process could be argued to be unfair in some respect, to claim damages in relation to the profit that they would have gained had they been successful. It is also possible for a challenged procurement process to be set aside, meaning that the resulting contract would be void;
- Contract size – even if the projects which are the subject of this report were batched they are unlikely to be of sufficient interest to a contractor to ensure the Council receives the best possible service;

The use of frameworks overcomes resource intense OJEU procurement processes, and risk of challenges in the following ways:

- Compliance with EU Directives has taken place in advance and the tender process can take place in weeks;
- There is no need to run a complex procurement process, saving resources;
- Procurement challenge is almost completely limited to the firms on the framework, who have an incentive not to raise these sorts of claims;
- The volumes of work passing through frameworks mean that firms are very keen to ensure that they retain a good reputation with the organisations running them.
- Use of two stage open-book frameworks allows for fully open and transparent procurement of contractor sub-contract packages of works
- Procurement and legal support from the framework providers to assist with decision making.

APPENDIX B

BATCHED PROJECT APPROACH

- Quantity Surveying – analysis of tender information and any other cost information relating to design or construction, the assembly of contract information and the management of the process whereby the employers requirements and the contractors proposals
- Project Management/Employers Agent – this role is required to independently administer the contract under the NEC and JCT design and build forms of contract respectively.
- Architect / Design Team

BATCHED PROGRAMME APPROACH

- BREEAM – The Building Research Establishment Environmental Assessment Method is the tool by which sustainability is assessed and consultancy on this is essential to meet the planning requirements of a BREEAM Excellent rating for new build and BREEAM Very Good for extensions.
- Construction Design and Management Co-ordinator (CDMC) – this is required to ensure that the design and construction methodology meet the demands of the regulations under the Health & Safety at Work Act.
- Clerk of Works – a clerk of works is essential under a design and build contract to ensure quality standards and programme are met during the construction phase

Client Design Advice – this is architectural advice to ensure that, as the design develops from concept to construction stages, the quality and design intent is maintained.

APPENDIX C

| Framework | Objectives |
|---|--|
| <p>Scape (Sunesis, Connect & Procure) Construction Frameworks</p> | <p>The Scape suite of frameworks has been set up as single source framework agreements. Scape adds certainty to public sector construction programmes, whether new build, refurbishment or maintenance. As a Local Authority controlled company, Scape has the experience, agility and strategic insight to respond to your requirements and deliver the services required, through standard design systems, strategic procurement arrangements and expert consultancy, including the CLASP system. Scape is an agile and dynamic Local Authority owned and controlled not for profit organisation. We have the flexibility to respond to changing needs and circumstances. Up to 98% local spend means the ripples are felt by even more people in the local community.</p> <p>http://www.scapebuild.co.uk/</p> |
| <p>iESE construction Framework</p> | <p>Improvement and Efficiency South East (iESE) is a not for profit social enterprise set up by the Central Government to provide a regional centres of procurement excellence. IESE based in Hampshire County Council have been creating and operating construction frameworks, usable by all public sector organisations in the South East and London, since 2006. The core principles of all IESE frameworks are that, through collaborative working and early contractor engagement, the minimum out turn overall project cost can be achieved. IESE also strongly promote other benefits such as local engagement with SMEs and improved construction skills. IESE Frameworks cover both contractors and design consultants, with Frameworks split by geographical area and by financial banding. Each of our frameworks is governed by a collaborative Steering Group made up of participating authorities. IESE provide participating authorities with the security of a fully managed framework using a team of experienced Framework and Programme managers. The IESE framework management team collect and share an extensive list of performance and benchmark data with the framework users and appropriate other organisations. IESE are always pleased to work with other public sector authorities on a local, regional and national scale to share learning and provide assistance</p> <p>http://www.iESE.gov.uk/construction-framework http://www.nacframework.org.uk/docs/NACF%20Conference%20Flyer.pdf</p> |

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| EFA | <p>The new Education Funding Agency (EFA) contractors framework was launched in November 2013. This framework can be used to design and build larger schools and is suitable for either single or grouped schools projects. The contractors framework can be used to deliver schools totaling £4 billion in capital cost and will expire in November 2017.</p> <p>https://www.gov.uk/government/collections/education-funding-agency-contractors-framework</p> |
| CRCS | <p>Haringey Council and their procurement department have been selected by Central Governments improvement and efficiency network to tender and establish a Pan London Contractor Framework for major capital projects. This framework is currently in the evaluation process which Croydon Council and its procurement officers form part of the evaluation team. In anticipation of the framework award Croydon Council wish to consider its use for future education capital works contracts.</p> <p>http://www.nacframework.org.uk/docs/NACF%20Conference%20Flyer.pdf</p> |
| Smarte East | <p>Smarte East is a central government improvement and efficiency not for profit procurement partner set up in East Anglia. This framework is similar to iESE and the CRCS Haringey frameworks.</p> <p>http://www.smarteeast.co.uk/ http://www.nacframework.org.uk/docs/NACF%20Conference%20Flyer.pdf</p> |
| LHC | <p>LHC is a leading not-for-profit public sector purchasing consortium that provides best value procurement solutions for the refurbishment, retrofit and maintenance of social housing, schools and other public sector buildings in England, Wales and Scotland.</p> <p>http://www.lhc.gov.uk/</p> |
| Croydon Modular | <p>The Croydon modular framework is in the process of being procured with the aim of having a single call off Framework for the hire and purchase of modular units primarily required for bulge classrooms. The framework suppliers once appointed will be appointed to provide a once stop solution to provide a complete turnkey design, build and supply service to the Council. This framework will enable the council to deliver short lead-in projects with greater certainty with shorter programmes to help assist with achieving critical August completions dates.</p> |
| Crown Commercial Service (GPS) Modular Framework | <p>The Modular Building Systems framework offers a real alternative to traditional build accommodation, providing a comprehensive range of solutions designed to cover most temporary and semi-permanent accommodation requirements.</p> |

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| | <p>Split into five building types across 10 lots the framework offers generic timber and steel framed structures in standard sizes and configurations, with options for variable plans and multi-storey configurations to suit customer specific requirements. Complementing the generic buildings are catering units and modular restaurant/canteen applications; educational units offering solutions for nursery, primary, secondary and further education accommodation needs; and healthcare units covering patient consultation, patient accommodation and modular operating theatre units. Call-off terms incorporated within the framework include a suite of NEC and JCT standard forms designed to cover contract requirements either by outright purchase or lease/hire. Service options range from manufacture, construction, delivery and installation on to a prepared site of standard units to a full “design and build” turnkey package with site preparation, planning, installation and commissioning, ongoing maintenance and “remove and recover” options.</p> <p>http://ccs.cabinetoffice.gov.uk/contracts/rm875 https://ccs.cabinetoffice.gov.uk/</p> |
| Construction Line | <p>Construction Line is not a framework agreement and is designed for use with selecting local firms to tender sub-OJEU threshold works to. Unlike self-certification services, Construction Line monitors all their suppliers' details on a daily basis, saving you the hassle of chasing PQQ documents. Already used by 8,000 procurement professionals, we are saving buyers over £10,000 a year in administration costs plus 2-3 days a week in administration time.</p> <p>http://www.constructionline.co.uk/static/buyers/</p> |

Appendix D

HM Government, Constructing Excellence, Two-Stage Open Book procurement report



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| <p>contributions and other added value from prospective Tier 2/3 Subcontractors and Suppliers as part of their selection process and, following selection, during the remainder of the preconstruction phase.</p> | <p>on site, combined with re-design of external landscaping resulted in a saving of £55,164.</p> <ul style="list-style-type: none"> • Installation of under-floor heating in the ground floor slab to allow earlier installation and rationalisation of the heating system produced a saving of £31,234. • Acquisition and re-use of surplus bleacher seating from another school produced a contract saving of approximately £18,564. |
| Cost targets and savings | |
| <p>Liverpool City Council set a target of 20% cost savings to be established in advance of commencement on site by reference to comparable projects in 2009/2010. Taking into account value indicators for similar projects, cost savings achieved results of 26% from a rate of £1,950 per square metre anticipated for a comparable project, to a rate of £1,438 per square metre achieved in relation to Archbishop Beck by the time of establishing an agreed price.</p> | Additional benefits |
| <p>The means by which these savings have been achieved include:</p> <ul style="list-style-type: none"> • Lessons learned from the Notre Dame School project. • Joint working by Willmott Dixon with Tier 2/3 Subcontractors and Suppliers in developing innovative proposals at the point of selecting Tier 2/3 Subcontractors and Suppliers. • Further joint working by Willmott Dixon with its Tier 2/3 Subcontractors and Suppliers and with Liverpool City Council throughout the contractual preconstruction phase. | <p>The project primarily benefitted from lessons learned on the previous Notre Dame School project. It also contributed to the City-wide initiative led by Liverpool City Council for the engagement of local Tier 2/3 Subcontractors and Suppliers and improvement of local employment and skills commitments.</p> |
| <p>Percentage saving: 26% Baseline benchmark: £1,950 per square metre for a comparable project in 2009 Target benchmark: £1,450 per square metre Actual benchmark: £1,438 per square metre</p> | <p>In addition, the preconstruction phase work led by Willmott Dixon with sub-consultants Sheppard Robson and Mouchel enabled Tier 2/3 Subcontractors and Suppliers to offer innovative solutions that improved design as well as saving time and money.</p> |
| <p>Specific savings:</p> <ul style="list-style-type: none"> • De-bundling certain elements of precast to avoid additional layers of profit and overheads, wastage and more efficient co-ordination – savings of approximately £45,000 • Extensive rounds of value engineering in respect of mechanical and electrical designs, with the preferred specialist subcontractor A&B Engineering Ltd and M&E consultant Mouchel contributing to a contract saving of £258,688. • Removal of suspended ceilings and adding additional acoustic treatments produced a saving of approximately £21,068. • Recycling of waste materials for re-use | <p>Examples of additional benefits achieved through Two Stage Open Book include:</p> <ul style="list-style-type: none"> • Appointment of D Morgan Plc from the city region to provide groundwork and offer innovations through reduced drainage runs and size of attenuation units, also saving cost and time by installing precast ground beams sourced separately by Willmott Dixon. D Morgan Plc has subsequently opened a Liverpool office. • Assumption of a glulam approach enabled time savings in the Sheppard Robson design process, and early work with B&K Ltd as preferred subcontractor enabled the team to design out elements of work that had previously caused issues on site on the Notre Dame School project, improving both the sequencing and health and safety through lessons learned • Refinement of glulam, steel and cross-beam solution by engaging B&K Ltd to undertake design, fabrication and erection with consequent, with consequent time savings on progressive erection of the superstructure • Parallel discussions run by Willmott |



Dixon with the steel-frame fabricators and suppliers (Metsec and Cara Brickwork Ltd), also facilitating direct discussions between them, so as to ensure the optimum solution ahead of formal appointments. Cara Brickwork Ltd have subsequently opened a Liverpool office.

- New design solutions offered by Mouchel including a flat soffit to the slabs so that services could travel along the underside of the slabs without obstruction
- Early engagement with a Liverpool-based distributor of bricks so as to ensure compliance with the agreed specification without the risk of increased costs
- Close liaison with finishing contractors and suppliers such as Combined Catering Kitchens, Crown Stage Lighting and Sangwins FFE so as to facilitate end user engagement and achieve greater design certainty and avoidance of escalating costs.
- Achievement of 60% local spend with Liverpool businesses by Willmott Dixon (compared to 50% target on Notre Dame). This was assisted through participation (with other contractors) in "meet the buyer" events facilitated by Liverpool City Council.
- Direct liaison, through the City-wide Liverpool City Council scheme, with local supply chain members so as to establish clear commitments in relation to apprentices.

Overall assessment

Liverpool City Council have created a strong and effective team through the Two Stage Open Book appointment of Willmott Dixon and its sub-consultant designers and Tier 2/3 Subcontractors and Suppliers on the Archbishop Beck project, benefitting from the systems established the Scape Framework and from the lessons learned on the Notre Dame School project.

Willmott Dixon have responded to the cost and time constraints established by Liverpool City Council, and have also worked with Liverpool's other education contractors under a City-wide initiative to maximise appointment of local businesses.

The build-up of the Willmott Dixon supply chain has enabled design, risk management and

programming contributions from prospective Tier 2/3 Subcontractors and Suppliers at an early stage.

The assessment of the Trial Project Support Group at this interim stage is that there is clear evidence that the agreed collaborative engagement by all parties involved in this project has achieved significant cost savings, a partnering and collaborative approach and efficiencies in Health & Safety and productivity.

Key lessons

As this is an interim case study, it is too early to draw conclusions as to lessons learned:

- The project team benefited from previous experience gained on the Notre Dame School Project and from the consistent preconstruction phase systems puts in place by Scape for the benefit of their clients and project teams.
- The team also used the strategic initiative put in place by Liverpool City Council to secure benefits for the local economy.
- The project demonstrates how innovative school design can be reconciled with cost savings and a tight project programme, if an integrated team can be put in place at an early stage and supported by clear two stage open book processes.

Miscellaneous

Authors:

- This case study has been produced by Professor David Mosey of Trowers & Hamlins LLP/King's College London Centre of Construction Law as Project Mentor, working in conjunction with Professor Peter McDermott of the University of Salford as Academic Partner

Key contributors include:

- Liverpool City Council, Willmott Dixon Construction, Sheppard Robson, Mouchel, D Morgan Plc and A&B Engineering Ltd.

Background: Trial Projects programme

The Government Construction Strategy aims to change the relationship between clients and the entire supply chain within the industry. The trial

projects perform a central role in delivering the Strategy's sustainable 15-20% reduction in costs and are currently testing 3 new procurement models (Cost Led Procurement; Integrated Project Insurance; Two Stage Open Book) that were proposed by industry and developed by a joint task group. Case study reports are therefore an output of monitoring the progress and outcomes of the trial projects. They are produced at four stages: Kick-off Meeting; Brief / Team Engagement; Decision to Build; Build and Occupy. Other case study reports can be found at: <https://www.gov.uk/government/publications/government-construction-strategy-trial-projects>.

Project contacts

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| How the reported savings were achieved | | | | |
|--|------------|---|---|----------------------------|
| Strategic context | | Client driven | Collaboratively driven | Supply chain driven |
| Aggregation of demand | Yes | Through national framework | | |
| Significant committed spend | | | | |
| Standardised procurement / streamlined approval processes | Yes | | Development of designs used on comparable prior project | |
| Lean programming | Yes | | Time savings against comparable prior project | |
| Client cost data base | Yes | Use of 2009/10 prices | | |
| Performance management | Yes | Framework KPIs | | |
| Common new delivery model characteristics deployed | | Client driven | Collaboratively driven | Supply chain driven |
| Challenging cost target / open book | Yes | Use of 2009/10 prices | | |
| Affordable standardised output / outcome requirement | | | | |
| Early contractor involvement | Yes | Preconstruction Agreement | | |
| Lower tier engagement: fully integrated supply chain | Yes | | Early informal appointments | |
| Lower tier engagement: innovation encouraged / achieved | Yes | | Evidence of added value | |
| Standard form of contract with minimum amendments | Yes | NEC3 with bespoke Preconstruction Agreement | | |
| Effectively led change in team behaviours and practices | Yes | | Led by Client, Scape and Tier 1 Contractor | |
| Two Stage Open Book characteristics deployed | | Client driven | Collaboratively driven | Supply chain driven |
| First stage selection of integrated team on open book basis and ability to deliver savings / project objectives | Yes | Early appointment of Tier 1 Contractor | | |
| Joint work of integrated team (incl. Tier 1 and lower tier contractors) on design, risk management, reduced costs under early appointments | Yes | | Joint design development and risk management | |
| Approval to construct on basis of demonstrable ability of team to achieved targeted costs and progress against project objectives | Yes | Award of NEC3 Contract | | |

| Other cross cutting initiatives deployed | | Client driven | Collaboratively driven | Supply chain driven |
|--|--|---------------|------------------------|---------------------|
| Building Information Modelling | | | | |
| Procurement Routemap | | | | |
| Government Soft Landings | | | | |
| Project Bank Accounts | | | | |