

Item No.	Classification: Open	Date: 12 September 2012	Decision Taker: Cabinet Member for Children's Services
Report title:		GW1: Procurement Strategy Approval for the Construction works and their management for Cherry Garden and Gloucester Primary School	
Ward(s) or groups affected:		Peckham, Grange	
From:		SSF Project Director	

RECOMMENDATION

1. That the Cabinet Member for Children's Services approve the procurement strategy outlined in this report for the construction works, and their management, for Cherry Garden and Gloucester Primary School, namely to use the Local Education Partnership (LEP), 4 Futures Limited. The estimated contract sum for these works is £13m for the period between August 2013 and summer 2014.

BACKGROUND INFORMATION

2. It is proposed that a new school for Cherry Garden Special Primary School is built within the existing site of Gloucester Primary School, with an increase in numbers from 45 to 66 pupils, and that the existing facilities for Gloucester Primary School are redeveloped, with a reduction in the accommodation at Gloucester to form a 2FE school (420 mainstream + 50 nursery pupils). The project will promote co-location and provide the building facilities that both schools require.
3. On the 13 April 2010, the Local Authority Representative (Deputy Director of Children's Services) appointed the LEP to undertake Stage 0 work (initial design, survey and cost estimations) to enable the delivery of these works through the LEP.
4. At the council's request the project was then put on hold pending revised pupil place planning information. The current scope reflects the revised pupil place needs in consultation with the school representatives.
5. Following this, in April 2012, approval was given by the Finance Director for the design development to be progressed through the LEP.
6. This report seeks approval for the procurement strategy outlined in this report for the delivery of construction works and their management by the LEP. The background document 'Procurement of the Local Education Partnership', dated August 2012, outlines how the appointment of the LEP provides a Framework for the council to commission this project.

7. The execution of the design and build contract for the construction of Cherry Garden and Gloucester Primary Schools and associated ICT and FFE (Fixed Furniture and Equipment) provision will be subject to a further Gateway 2 report.

Summary of the business case/justification for the procurement

8. The council has entered into a Strategic Partnering Agreement (SPA) with the LEP, which governs the relationship between the parties. The SPA specifically refers to the delivery of capital projects in Southwark's Primary schools.
9. The identified benefits for using the LEP for the delivery of the main works include the following:
 - Cost certainty at an earlier stage of the project process.
 - The appointment has already been through the OJEU process, which would result in a considerable reduction in procurement timescales. This therefore enables an improved programme timescale for delivery of the required outcomes.
 - A reduced programme for delivery also reduces the risk of further pricing inflation, which could result in the project being made unaffordable.
 - Single point of responsibility for delivery of the scheme.
 - An integrated range of supply chain sub-contractors (only one procurement required and reduced contract management and interface risks).
 - Risk transfer (the LEP will be responsible for design development, surveys and planning application that underpins it and as such significant risk transfer will be possible at the point of award).
 - Continuity from feasibility study and initial school engagement which has taken place so far.
10. The SPA details the 'approval criteria' against which the council can judge whether to proceed with a proposal from the LEP, including whether costs are within target and whether proposals meet the Local Authority Requirements. The Stage 0 proposal received from the LEP has been reviewed by the council and meets these criteria, as outlined in paragraphs 24 to 28 of this report.

Market Considerations

11. On 13 May 2009 the council entered a Shareholders' Agreement with the LEP and others which will remain in operation throughout the term of the Strategic Partnering Agreement.
12. The shareholdings/shareholders of 4 Futures Limited are: 80% held by a major PLC Balfour Beatty (with over 250 employees), 10% held by London Borough of Southwark and 10% BSFi (a Government Agency, Building Schools for the Future Investments).

KEY ISSUES FOR CONSIDERATION

Options for procurement including procurement approach

13. See Appendix 1 for a summary of procurement options considered.

Proposed procurement route

14. The appointment of the LEP provides a framework for the Council to commission this project.

Identified risks for the procurement

No.	Risk	Rating	Mitigating Action
1	Should there be a delay in securing planning approval, there is a risk that financial close for the scheme could be delayed, ultimately leading to an overall delay in the construction programme.	Medium	The LEP to develop contingency plan to mitigate any slippage of the planning programme.
2	The LEP do not demonstrate Stage 1 value for money for Cherry Garden and Gloucester Primary School	Medium	The council will agree with the LEP a number of key value for money indicators which are to be considered at each stage of the project, to ensure that the partnership is working in a way which delivers value. In addition, prior to Stage 1 Approval, the council's external Technical Advisor is to undertake a value for money assessment for the scheme to ensure that the project is demonstrating value for money.
3	Unforeseen site conditions (including contamination, services, asbestos, archaeological artefacts,) result in additional costs	Low	The LEP are required to undertake more detailed and intrusive surveys to ensure they are able to include provision for site issues within overall project budgets.
4	Increase in budget for the contract sum is not approved by Cabinet in the 2012 Capital Refresh	Low	The additional contract sum is proposed to be funded from existing capital resources funded from external grant. The proposed increase in the contract sum has been the subject to open negotiations with all parties. Several iterations of value engineering have taken place and the stage 0 submission has been externally assessed and demonstrates value for money.

15. It should be noted that Stage 1 work is equivalent to outline feasibility assessment, during which it would be expected that key issues will have been identified but not resolved. The detailed project development work is the focus of Stage 2 work.

Key/Non Key Decision

16. This report deals with a Non key decision.

Policy implications

17. The works to Cherry Garden and Gloucester Primary School will assist Southwark in working to achieve their Fairer Future promises, in particular to champion improved educational attainment for the borough's children.

Procurement project plan (Key Decision)

Activity	Complete by:
Stage 0 Submission – Cherry Garden and Gloucester Primary School	February 2012
Completion of Evaluation of Stage 0 Proposal	March 2012
Approval of: GW 1/2: Procurement Strategy and Approval of Award for Design Development of Cherry Garden and Gloucester Primary School	April 2012
DCRB Review: GW 1: Procurement Strategy Approval for the Construction works and their management for Cherry Garden and Gloucester Primary School (this report)	18 July 2012
CCRB Review GW 1: Procurement Strategy Approval for the Construction works and their management for Cherry Garden and Gloucester Primary School (this report)	27 July 2012
Decision Taken: GW 1: Procurement Strategy Approval for the Construction works and their management for Cherry Garden and Gloucester Primary School (this report)	September 2012
Notification of forthcoming decision	September 2012
New Project Request letter to be issued to the LEP	September 2012
Stage 1 submission, evaluation and stage 1 Approval letter	December 2012
Stage 2 submission	July 2013
GW 2: Award of Contract for Construction Works and their Management for Cherry Garden and Gloucester Primary School	July 2013
Contract award	August 2013
Construction commencement	August 2013
Operational Services Commencement	Summer 2015

18. The project approval process set out in the SPA has two stages: Stage 1 - new project proposals; and Stage 2 - new project final approval submission.

19. Following acceptance of the New Project Request Letter, the New Project Proposal (or Stage 1 submission) will be submitted by the LEP to the council in December 2012. This will then be reviewed, with support from external advisors, to confirm whether it satisfies the requirements as detailed in the Strategic Partnering Agreement. Following this, the New Project Proposal will be considered by the Strategic Partnering Board chaired by the Local Authority Representative (LAR), and approval to proceed to stage 2 will be delegated to the LAR.
20. Prior to Stage 1 approval, the costs associated with drawing up the designs for the New Project Proposal are borne by the LEP. However, once the council has given approval to proceed to Stage 2 then the council would be liable for bid costs incurred associated with any major redesign, scheme deferral or cancellation, as approved in the GW 1 / 2 report 'GW 1 / 2 Award of Contract for the Design Development of the Cherry Garden and Gloucester Primary School Project' dated 30 April 2012.

TUPE/Pensions implications

21. Not applicable.

Development of the tender documentation

22. The LEP have undertaken a Stage 0 study - initial design, survey and cost estimation work - for Cherry Garden and Gloucester Primary School. This Stage 0 submission acts as tender documentation for the council to consider.

Advertising the contract

23. Not applicable. As described in the April 2012 document 'Procurement of the Local Education Partnership, the Strategic Partnering Agreement entered into with the LEP provides a framework for the council to commission this project, subject to an approval process.

Evaluation

24. As outlined in paragraph 22, the Stage 0 submission acts as a tender and enables the deliverability of the project to be assessed.
25. At the council's request the project was put on hold pending revised pupil place planning information, which once confirmed, enabled the submission of a revised Stage 0 in February 2012. The current scope reflects the revised pupil place needs, in consultation with the school representatives.
26. In February 2012, the council received the stage 0 submission from the LEP for CCGPS, which has been reviewed by the council with support from external technical advisors. The financial liability arising from this procurement for the construction works and their management will be £13m.
27. Southwark's Technical Advisor has confirmed their view that the Stage 0 demonstrates that the overall project is affordable and can offer value for money, provided that the LEP and the council follow the agreed methodology,

with regard to value for money, alongside further scrutiny of the Stage 1 and Stage 2 submissions.

28. A number of areas were highlighted where further consideration is needed, and these will be identified in the New Project Request letter.

Community impact statement

29. As per the community impact statement and equalities impact assessment completed for the entire Southwark schools for the future project and approved by the executive on May 2 2007, the CGGPS project will have a significant impact upon the communities of Southwark. In particular:
- a. All schemes will ensure higher quality learning and teaching environments for young people.
 - b. All schemes are to be designed to facilitate community access to the buildings as part of the extended schools agenda.
 - c. All schemes are to be designed to provide a range of flexible spaces appropriate for the provision of integrated children's services.

Economic considerations

30. The sustainability considerations were included in the report to Major Project Board to appoint the Local Education Partner (see paragraphs 56 and 57 of that report).
31. Transform Schools is a private organisation with over 250 employees and an international area of activity. In their final bid, Transform Schools included the following opportunities for local labour and market development:
- Young people – mentoring, training opportunities for young people, throughout supply chain, with clear understanding of how this can be linked into curriculum pathways, and a focus on hard to reach young people. This has included setting up talks with students from a Southwark school to encourage them to take Btec in Construction, providing a site tour and Health and Safety talk and a number of work experience placements for Southwark's students
 - School staff – leadership and management training opportunities within the supply chain, for example, work shadowing, teacher placements in business, business management mentoring. This has included placements for London Southbank University students, and a Prince's Trust style programme being devised for under-represented groups in the Construction industry
 - Targeted employment – work placement and apprenticeship opportunities, linked into Southwark's existing Building London Creating Futures ("BLCF") work place coordinator model. Also offer for local employment opportunities in support services, FM and ICT services
 - Small and Medium-sized Enterprises ("SME") support – commitment to meet the buyer type events, and other mechanisms to secure opportunities for SME supply-chain, including Black and Minority Enterprises ("BME") (meet the buyer to be held in partnership with the council)
 - Additional Corporate Social Responsibilities ("CSR") activities or initiatives – other CSR activities, not required by legislation or regulations that demonstrate a commitment, such as voluntary initiatives etc. (Youth programmes).
 - The National Skills Academy for Construction which was formally launched at the end of March 2011, offering courses to the Community who wish to return

to the construction industry.

32. The opportunities outlined in paragraph 31 have been delivered through the LEP more generally. On this particular occasion, it is expected that there will be opportunities for local labour and market development.

Social considerations

33. Not applicable.

Environmental considerations

34. Not applicable.

Plans for monitoring and management of the contract

35. There is a governance and reporting structure in place to commission and monitor the development and delivery of projects through the LEP. The performance of the LEP in terms of outcomes for the council and council Related Parties is managed through the Strategic Partnering Board.
36. The LEP is required to meet its contractual responsibilities as identified in the Strategic Partnering Agreement. The LEP's performance is measured against the agreed key performance indicators (KPI's) and Continuous Improvement Targets (CIT's). These KPI's are reviewed annually (or as required) to ensure that they are an effective tool for the monitoring of performance.
37. The LEP's First Track Record Test (the assessment of the LEP's performance against agreed indicators) was considered passed by the Strategic Partnering Board in May 2010.
38. The second Track Record Test relating to current activity over phases 1, 2 and 3 of the BSF programme, and Assessment of Continuous Improvement Targets (CIP) was collated in October 2011. Of the 25 indicators that form the priority basket, only 20 were reportable in that year. The LEP met their target on 17 of these 20 indicators, and have addressed those which did not meet the required standard. These include energy consumption, and school satisfaction with the operational phases based on the facilities management service (however this is not relevant to this report, subject to the school procuring their own FM service). This information will be presented to the Strategic Partnering Board, for consideration.
39. The result of the third Track Record Test and Assessment of Continuous Improvement Targets (CIT) is now due to be received from the LEP. Once received, the information will be presented to the Strategic Partnering Board for consideration.

Staffing/procurement implications

40. Staff resources associated with this project will be funded within the existing resources of the Children's Services department.

Financial implications

41. In September 2009 a decision was taken to increase the size of Cherry Gardens and co-locate with a Gloucester School of reduced size. A budget of £12.5m was established and was included within the Children's Services capital programme in the July 2011 Capital Refresh report to cabinet.
42. The provisional outcome of the Stage 0 assessment of the project was that the total capital requirement was £13m. Following this, extensive value engineering has taken place in consultation with the schools.
43. This report proposes an increase to £13m for the contract sum (including the Design Development as awarded in the GW1/2 report dated 30 April 2012). The revised sums will be included in the September 2012 Capital Refresh report subject to cabinet approval. The anticipated expenditure will be £5.6m in 2013/14; £6m in 2014/15 and £1.4m in 2015/16.
44. The execution of the design and build contract for the construction of Cherry Garden and Gloucester Primary Schools and associated ICT and FFE provision will be subject to a Gateway 2 report, which is programmed for July 2013. The award of any contract will be subject to confirmation of adequate funding within the capital programme.
45. The financial status of the project is as follows:

Existing Budget required for the delivery of the CGGPS project through the LEP (including fee liabilities of £1,015,660 previously awarded)	£12,500,000
Proposed increase in contract sum	£500,000
Total Proposed Budget	£13,000,000

46. The CGGPS project has been assessed as affordable within this budget allocation.

Value for Money (vfm)

47. The vfm approach for this project, which has been established with the LEP, includes identifying key value for money indicators which are to be considered at each stage of the project, to ensure that the partnership is working in a way which delivers value. This approach has been reviewed and agreed by the Technical Advisor and the council's strategic financial advisors PWC.

Legal implications

48. The contract form to be used for the delivery of the works and services for CGGPS will be based upon the agreed forms of contract and commercial terms negotiated for the BSF Phase 1 and Phase 2 schemes, with minor project specific amendments.

Consultation

49. The proposals included in this paper have been discussed with both Head teachers and Governing Body representatives from Cherry Gardens and Gloucester Primary schools.

Other implications or issues

50. Not applicable.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

51. This is a gateway one report seeking approval of the procurement strategy for the construction works, and their management, at Cherry Garden and Gloucester Primary Schools, namely to use the local education partnership (LEP).
52. Appendix 1 details the procurement options considered for the delivery of this project, concluding that the LEP is deemed to offer more certainty with regard to cost and deliverability. Paragraph 9 provides further details of the benefits of using the LEP for the main works.
53. It is noted that under Evaluation, paragraph 28 advises that stage 1 will in particular ensure that previously highlighted concerns regarding value for money are addressed.
54. Paragraphs 35 to 39 confirm the contract monitoring and managements arrangements that are and will continue to be in place, and also confirm that the LEP has passed previous performance assessments against the agreed KPIs, and that the results of the third annual review will be presented to the Strategic Partnering Board shortly for consideration.
55. The project plan is deemed deliverable with the maintenance of allocated resources.
56. It is noted that a further gateway two report will be presented for the execution of the design and build contract, and associated ICT and fixed furniture and equipment for these sites.

Director of Legal Services

57. The Director of Legal Services (acting through the Contracts Section) has advised officers in connection with this proposal and notes the content of this report.
58. As the estimated value of the proposed construction works is in excess of the current advertising threshold prescribed by the EU Procurement Regulations it would usually be necessary for expressions of interest in the contract to be sought by way of the publication of a contract notice in the Official Journal of the European Union ("OJEU"). However, the Strategic Partnering Agreement between the council and the LEP had followed an EU compliant competitive tendering exercise for a local education partner to develop a programme of

construction works relating to the Building Schools for the Future initiative and therefore approval is sought to enter into single supplier negotiations with the LEP. The options appraisal paper contained within Appendix 1 sets out the alternative procurement options for the proposed works and the reasons why their delivery and management through the LEP is preferred.

59. Under the council's Contract Standing Orders ("CSOs") the decision to approve the procurement strategy is one which is to be taken by the Cabinet Member after consideration of the report by the Corporate Contract Review Board.

Strategic Director of Finance and Corporate Services (NR/FCS/8/8/12)

60. This gateway report recommends that the Cabinet Member for Children's Services approves the procurement strategy for the construction works, and their management, for Cherry Garden and Gloucester Primary School, namely to use the Local Education Partnership (LEP), 4 Futures Limited.
61. The Strategic Director of Finance and Corporate Services notes the financial implications contained within the report, and that progressing contract award is dependant on approving an increase in budget. This action is timetabled for the autumn 2012 capital refresh report. Officer time to effect the recommendation will be contained within existing budgeted revenue resources.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Procurement of the Local Education Partnership	160 Tooley Street, SE1	Rebecca Ashton 0207 525 4808

APPENDICES

No	Title
1	Options Appraisal: Alternative Procurement Routes

AUDIT TRAIL

Lead Officer	Sam Fowler
Report Author	Rebecca Ashton
Version	Final
Dated	12 September 2012
Key Decision?	No
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER	

Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Corporate Services	Yes	Yes
Legal Director	Yes	Yes
Head of Procurement	Yes	Yes
Head of Home Ownership	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		12 September 2012