

Item No. 6.	Classification: Open	Date: October 29 2008	MEETING NAME Major Projects Board
Report title:		Appointment of Selected Bidder for Southwark's Local Education Partnership	
Wards affected:		All	
From:		Strategic Director of Major Projects	

RECOMMENDATION

1. That the major project board approve the appointment of Bidder A as the Selected Bidder for Southwark's Local Education Partnership (LEP).
2. That the major project board delegate authority to the Strategic Director of Major Projects to approve contract award for the contracts set out in table 2, subject to:
 - confirmation of funding from Partnerships for Schools, St Michaels School and Tuke School;
 - the council's financial commitment being within the parameters set out in the closed report.
3. That the major project board gives approval to the Finance Director signing certificates under the Local Government (Contracts) Act 1997 which are required to be given to the LEP and which certify that the local authority has the power to enter into these contracts (further details of which are given in paragraph 74)
4. That the major project board note that the Strategic Director of Major projects will continue to work with Children's Services, FMS, the schools, governing bodies & diocesan authorities to identify other budgets in order to minimise the necessary financial contribution from the council, in accordance with the Executive decision May 2 2007.
5. That the major project board approve the following appointments for the purposes of shadow LEP mobilisation prior to financial close, as set out in paragraph 62:
 - A senior member of the Children's Services management team, as the shadow Authority Representative;
 - the members of the shadow Strategic Partnering Board;
 - the SSF Project Director as the Southwark's shadow LEP board director.
6. That the major project board delegate authority to the shadow Authority Representative to instruct the shadow LEP to agree with the selected bidder the programme for commencement of phase 2 schools, commencing stage 1 and stage 2 feasibility work on Phase 2 schools, once the criteria set out in paragraph 64 are satisfied, setting the target costs in accordance with the parameters approved by Executive on May 2 2007, and confirmed by Partnerships for Schools.
7. That the major project board approve that further archaeological excavation works be commissioned at St Michael's school, subject to the financial parameters articulated in the closed report.

8. That the major project board note that a further report outlining the approach to contract management and governance of the Local Education Partnership, including the financial resource implications, will be presented to Executive in January 2009.

BACKGROUND INFORMATION

9. On May 2 2007, the council's executive approved the gateway 1 report for the procurement of Southwark's LEP as part of the report entitled 'Southwark schools for the future: BSF Outline business case (OBC)'.
10. The LEP was approved as the delivery vehicle for Southwark's BSF investment programme comprising thirteen projects, including twelve secondary schools and the pupil referral units. To this end the LEP will:
 - act as the single point of contact for procuring and providing all the services needed to deliver the BSF investment programme – ranging from design, construction, project management and maintenance to ICT services;
 - integrate and manage a diverse range of supply chain sub-contractors – ranging from building contractors and FM services providers to ICT suppliers; and
 - enable delivery of projects through a mix of procurement routes: private finance initiative and conventionally funded.
11. The Southwark LEP will have exclusivity to offer the following services to the specified clients:
 - Design, build, finance and operate for 25-year period PFI schemes at St Michael's, St Thomas the Apostle and Sacred Heart schools, including lifecycle maintenance, hard facilities management services and soft facilities management services, as agreed with individual governing bodies.
 - Design and build for all other BSF funded non-PFI schemes, except Walworth Academy, with the possible addition of facilities management services, subject to further consultation with schools and governing bodies:
 - ICT equipment and managed services to both PFI and non PFI schemes
12. The contract value was set at £400 million on the basis of the exclusive services set out above and a prudent assessment of a sum to give the council discretion to offer additional services/facilities to the LEP at a future date. It is important to note that the council is not required to award additional work to the LEP in addition to the exclusive services set out above and is not under any obligation to award the exclusive services if the LEP is not meeting performance requirements.
13. The procurement process has followed the 'competitive dialogue' process, as set out in the Public Contract Regulations 2006. This process is envisaged for procurements such as this, which are particularly complex, as defined by the regulations.
14. The procurement approach to the LEP is largely standardised in respect of process and documentation, including an extensive list of legal agreements to be used, as prescribed by Partnership for schools.
15. Following appointment of selected bidder, the LEP will be set up in shadow form in order to organise the workings of the partnership and to commence feasibility work on phase 2 schools. To this end, the council needs to nominate officers and

partners to fulfil key roles within the partnership during the shadow LEP period. During this time the council will need to decide on the permanent appointments to these positions (a report to Executive is on the forward plan for January 2009).

16. The timetable of the procurement process through to financial close is set out in table 1. It should be noted that the April contract award, which is the subject of this report, will be the first of a series of contract awards relating to the implementation of the BSF programme. Table 2 sets out the suite of contracts that will need to be awarded simultaneously to establish the Local Education Partnership and commence implementation of phase 1 schools (Tuke School and St Michaels School). Following this initial suite of contracts, separate contracts will be awarded for each subsequent school in the programme, in addition to two ICT contracts (one for phase 2 schools and another for phase 3 schools).

Table 1: Procurement milestones

Milestone	Date
OJEU Contract Notice published	24 August 2007
PQQs submitted	24 September 2007
ITPD Evaluated	2 November 2007
Invitation to continue Dialogue	28 November 2007
Dialogue Meetings & Clarifications	December 2007 - March 2008
Initial Bid submission	3 April 2008
Initial Evaluation	24 April 2008
Clarification of submissions	8 May 2008
Initial Bid Final evaluation	9 May – 16 May 2008
Approvals and de-selection to 2 bidders	30 May 2008
Phase 2 Dialogue	2 June - end July 2008
PfS Approval and Formally Close Dialogue	September 2008
ITSFB	September 2008
Receipt of Final Bids	9 September 2008
First Evaluation and Clarifications arising dispatched and returned	6 October 2008
Final Evaluation	20 October 2008
PfS and LBS Approvals	9 Oct - 4 Nov 2008
Preferred Bidder selected (subject to Alcatel Standstill)	5 November 2008
Selected Bidder Letter despatched	11 November 2009
Alcatel, planning, judicial review	6 Nov 2008 – 8 April 2009
LEP Contract award	April 2009
Phase 2 and Phase 3 contract awards	2009 – 2013

Table 2: Suite of contracts to be signed simultaneously at LEP contract award

Contract	Contract purpose	Initial term	Extension
Strategic Partnering Agreement	Agreement setting out the work of the partnership, including project preparation and programme management. Also includes performance required in order for the LEP to maintain exclusivity over phase 2 and 3 schools.	10 years	5 years
Strategic Shareholders Agreement	Agreement setting out shareholder's voting rights and the regulation of other shareholders business relating to the LEP as a company.	10 years	5 years
Project Agreement – St Michaels School	Detailed design, build and operations (i.e. Facilities Management) of St Michaels School.	25 years	N/A
Design & Build Contract – Tuke School	Detailed design work & build of Tuke school	No term – dependent on completion of build and defects period (approx 3 years)	N/A
Phase 1 ICT Contract	ICT services for Tuke & St Michaels School	5 years	5 years
Facilities Management Agreement	Umbrella contract for Facilities Management Services for non-PFI schools.	10 years	5+5+5 years
Management Services Agreement	Contractual relationship between LEP and PFI Special Purpose Vehicle	10 years	5 years
Funders Direct Agreement	Contractual relationship between LBS, LEP and funders for the PFI Special Purpose Vehicle.	25 years	N/A

KEY ISSUES FOR CONSIDERATION

17. This key issues section is split into two section as follows: 1) Appointment of Selected Bidder and 2) Mobilisation of Shadow LEP.

SECTION 1: APPOINTMENT OF SELECTED BIDDER**Evaluation criteria and weightings**

18. The criteria and weightings used in evaluation of final bids are stated below. These criteria have applied throughout the procurement process.

Table 3: Evaluation criteria and weightings

Category	Overall Weighting (%)
LEP Partnership	30
PFI Sample school	15
Design and Build Sample school	15
Facilities Management	10
ICT	20
Legal and Commercial	5
Financial	5
Total	100

19. It is important to note that bidders were required to submit bids within affordability criteria approved by the Executive. Therefore price was evaluated as a compliance issue and not scored. The Financial element of the score was focused on an assessment of financial robustness.
20. The criteria above were sub-divided with weightings applied to the sub criteria. The evaluation was undertaken in a structured manner with a series of different evaluation workstreams – design (including planning), technical & construction, facilities management (including utilities), cost (including lifecycle costs), ICT, partnering, finance and legal. The evaluation team comprised approximately 50 individuals drawn together from:
 - officers from major projects and children’s services, with advice from development control and economic development;
 - external advisors from PricewaterhouseCoopers, Faithful & Gould, and Trowers & Hamlin;
 - and three representatives from BSF schools – Deputy Headteacher of Tuke School, Assistant Head Teacher St Michaels School and former Deputy Head Teacher of Notre Dame school, representing interests of schools in phase 2 and phase 3 of the programme. .

Procurement process (post OJEU & Expression of Interest)

21. Stage 1 – Pre-Qualification Questionnaire (PQQ): an invitation to submit expressions of interest was issued with the OJEU contract notice issued on 24 August 2007. The three companies that responded were:
 - Balfour Beatty Capital, trading as Transform schools
 - Mouchel Babcock Education
 - Vinci Investments Ltd
22. The PQQ acted as a filter, with only those applicants that achieved a minimum standard in capacity and experience taken to the next stage. All three companies achieved that standard.
23. Stage 2 – Invitation to Participate in Dialogue (ITPD): the ITPD was to further test applicants in order to create a shortlist of three bidders to be invited to proceed with the full bidding process. Although there were only 3 candidates available, the council nonetheless took the opportunity to test the bidders’ suitability and received written submissions and a presentation by all three. All three achieved an acceptable score.
24. Stage 3 – Invitation Continue Dialogue (ITCD): all three companies were invited to continue dialogue. The specifications and submission requirements were detailed and lengthy, with the ITCD document being contained in four volumes. The ITCD was followed by written clarification requests from the bidders, to which the council responded.
25. Stage 4 – First Stage of Dialogue: this stage involved over 140 meetings; 40 plus with each bidder. The purpose of the meetings was to allow for the development of greater clarity for bidders in understanding the council’s requirements and for bidders to test out their developing proposals (including the designs for the two sample schools) with the SSF teams in the various workstreams (Partnering, Design, Facilities Management, ICT, Finance and Legal). The meetings involved SSF officers, legal, financial and technical advisors and schools representatives in tightly structured dialogue sessions, with

decisions and agreements recorded.

26. Stage 5 Initial Bid Submission and Evaluation: initial bids were submitted on 3 April 2008. They were read and scored by the evaluation teams. There was an initial moderation of scores, and a distribution of clarification questions on 24/25 April 2008, and the bidders responses were received on 8 May 2008. The bids were re-evaluated, in light of the information provided in the bidders' responses. Scores within workstreams were again moderated and a final full moderation involving all evaluators took place on 16 May. The outcome of the exercise was a final score for each bidder, a ranking of the bidders and a recommendation to the Director of Major projects as to the two bidders to take forward to the second and final stage of dialogue and the bidder to de-select. Vinci Investments was de-selected.
27. Stage 6 – Second Stage of Dialogue: the two selected bidders, Mouchel Babcock Education and Transform schools, were invited to continue in the second stage dialogue of nine weeks duration from early June 2008 to end July 2008. This stage of dialogue consisted of a further set of some 80 dialogue meetings (40 each bidder). The purpose of the meetings was to refine the bidders' proposals and also to ensure that all material commercial matters were agreed before final bid submission. After these meetings the council declared the dialogue closed and invited bidders to submit their final bids. Partnerships for Schools undertook a review of the project at this stage, and dialogue was closed with their approval.
28. Stage 7 – Invitation To Submit Final Bids (ITSFB): The ITSFB (an updated version of ITCD) was formally issued and final bids were received on 9 September.
29. Stage 8 – Final Bid Evaluation: the bids were read and evaluated by individuals before moderation of scores by workstreams and the full team. Clarification questions arising were despatched to bidders for return on Monday 13th. Following further evaluation by workstreams in light of the clarification responses from bidders, there was a further full team moderation of scores on 20th October, the outcome of which was a final score for each bidder and a ranking of the two bidders, which is the basis of the recommendation of the Strategic Director of Major Projects contained within this report.
30. The moderated scores for the two bids are stated in the closed report.

Table 4: Final evaluation scores

Category	Overall Weighting (%)	Bidder A	Bidder B
All categories	100	65.60	60.86

31. A high degree of rigour was exercised in the evaluation and moderation process, with careful recording of the rationale for scores, to ensure that:
 - the outcome is robust and the risk of challenge minimised;
 - that the process is underpinned by a strong audit trail from beginning to end
 - that the scoring is well-evidenced
 - to afford detailed feedback to both the winning and second placed bidder
 The process has been overseen by Partnerships for Schools, who have satisfied themselves that the process has been undertaken in a robust and evidenced manner.

32. It is also worth commenting that it is in the nature of complex procurement scoring, involving large groups of evaluators, such as this case, that scores are close and tend to fall into the range of 60%-70%. Therefore the scoring differential represented by the score denotes a material differentiation between first and second place. In general, both bids could be regarded as strong.
33. On the basis of this evaluation, the bidders have been ranked as follows:
 - 1st A
 - 2nd B
34. The bid by Bidder A is therefore considered to be the most economically advantageous recommended for appointment of selected bidder.
35. Following evaluation, the key strengths and areas of fine tuning of Bidder A bid have been identified. The areas for fine tuning will all be addressed prior to contract close and are set out in the closed report.

Resource implications

36. The OBC report to Executive of May 2 2007 set out the financial implications for the BSF LEP programme. The implications noted by the Executive in their resolutions were translated into headline affordability targets for bidders, as set out in an OBC update report to Major Projects Board on November 21 2007. Following dialogue with bidders, bidders were required to submit prices within these targets in order for their bid to be evaluated as compliant.
37. Further details on the affordability implications for the council are provided in the closed report.
38. With regard to the affordability targets associated with the agreements set out in Table 2, both bidders have been evaluated as compliant.
39. The majority of the funding associated with these agreements will come from:
 - PfS – who will confirm their funding commitment following approval of an FBC, to be submitted to them and approved by both themselves and the DCSF immediately prior to contract award; and
 - St Michael's school and Tuke school – who will commit to revenue contributions in back-to-back governing body agreements to be signed prior to contract award.
40. As a result of both bidders submitting bids that comply with the affordability targets, the maximum council contribution associated with contract award is set out in the closed report.
41. It is recommended that the major project board delegate authority to the Strategic Director of Major Projects to approve contract award for the contracts set out in table 2, subject to:
 - confirmation of funding from Partnerships for Schools, St Michaels School and Tuke School;
 - the council's financial commitment being within the parameters set out in the closed report.
42. It is further recommended that the major project board note that the Strategic Director of Major projects will continue to work with Children's Services, FMS, the

schools, governing bodies & diocesan authorities to identify other budgets in order to minimise the necessary financial contribution from the council, in accordance with the Executive decision May 2 2007.

43. The costs of the project team through to financial close have been subject to separate reporting within the Executive Revenue Monitoring Report 2008-09 dated 21 October 2008. The total expenditure requirement for financial year 08-09 to fund the costs of financial close, according to the programme articulated earlier in this report, is an estimate of £2.67m.

Work to financial close and key risks

44. The provisions of the Competitive dialogue have been followed and commercial matters agreed prior to the close of the dialogue. Nevertheless there are inevitably a number of matters which need to be resolved, which although important are more about fine tuning and clarification.
45. It is expected that financial close (contract award) will take place in April 2009. The project has successfully achieved all the milestones in the procurement plan so far and there is no reason to consider it other than well placed to achieve the April 2009 target date.
46. However, it is important to highlight a number of risks that will need to be managed in order to achieve this deadline – see Table 5. In particular, the current credit crunch and banking crisis has the potential to impact on the project. Further information on the potential impact of this particular issue is provided in the closed report.

Table 5: Key risks to financial close

Risk	Impact	Mitigation
Planning consent is not achieved according to programme.	Contract close cannot be reached without full planning consent being achieved on both St Michael's and Tuke school schemes.	<ul style="list-style-type: none"> • Planning officer has been appointed and has worked with bidder throughout the process to ensure planning issues have been dealt with early. • Pre-planning community consultation has been continuous throughout the process, with final consultation planned immediately upon appointment of selected bidder.
Banks withdraw from schools PFI market, as a result of credit crunch.	Selected bidder cannot secure capital and contract close cannot be achieved.	<ul style="list-style-type: none"> • Limited mitigation, aside from monitoring the situation – see box 1 for further details.
Banks view investment in St Michael's school as more risky than equivalent schools PFI schemes.	Selected bidder cannot secure capital and contract close cannot be achieved.	<ul style="list-style-type: none"> • Only abnormal risk relates to archaeology at St Michael's, to be de-risked as soon as possible upon appointment of selected bidder – see below for mitigation.

Selected bidder backtracks from agreed headline contracts.	Contract close is delayed while commercial terms are renegotiated.	<ul style="list-style-type: none"> Legal protocols have been signed with both bidders to confirm that they will not seek to renegotiate, to be re-confirmed in selected bidder letter.
Technical information to populate contract schedules is not produced and/or reviewed in a timely manner.	Contract close is delayed.	<ul style="list-style-type: none"> Project team to be structured so as manage process effectively. School project leads to organise school stakeholders. Programme to be agreed with selected bidder at outset.
Selected bidder does not address fine tuning issues in a timely manner.	Contract close is delayed, or quality of outcome affected.	<ul style="list-style-type: none"> Selected bidder to be informed of issues within appointment letter. Process to be structured so as to address issues in an effective manner.

47. The table above draws attention to the archaeology risk at St Michael's school. During the procurement period, an archaeological survey was commissioned by the bidders to ascertain whether or not there were archaeological remains at St Michael's. Five trial pits were dug, and one Roman pot was found. As a result, the planning authority has informed the project team and bidders that further archaeological work will be required in the south-east corner of the site. Until this work is carried out, there is a possibility that there are further remains on the site, although advice from the Museum of London, supported by Southwark's own archaeologist is that this is highly unlikely.

48. The further archaeological excavation work could be undertaken once construction has commenced, as part of the PFI contract. However, this would make the contract more risky from the private sector's perspective and dialogue with bidders confirms that they would only take the risk up to a relatively low financial cap. Furthermore, the existence of this unknown risk is likely to make the potential funders (i.e. banks) more nervous and could lead to them choosing to invest in other PFI schemes and not Southwark, or increasing the cost of finance. Therefore, it is recommended that the further archaeological work be undertaken by the council following appointment of selected bidder. Further details are provided in the closed report.

Policy implications

49. There are no policy implications arising from this contract award. The procurement forms part of the wider Southwark schools for the future programme and as a result the policy implications have already been considered by the major projects board and the executive in reports dated November 21 2007 and May 2 2007 respectively.

Community Impact Statement (including local jobs and supply chain)

50. The community impact statement and equalities impact assessment were completed for the entire Southwark schools for the future project and approved by the executive on May 2 2007. In summary, this project will have a significant impact upon the communities of Southwark. In particular:
- All schemes will ensure higher quality learning and teaching environments for young people.
 - All schemes are to be designed to facilitate community access to the buildings as part of the extended schools agenda.
 - All schemes are to be designed to provide a range of flexible spaces appropriate for the provision of integrated children's services.
51. As part of the final bids, both bidders have been asked to set out proposals for targeted employment, training and broader corporate social responsibility activities. During dialogue, the council agreed with both bidders that their proposals would include the following elements:
- 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
 - school staff – leadership and management training opportunities within the supply chain, for example, work shadowing, teacher placements in business, business management mentoring.
 - Targeted employment – work placement and apprenticeship opportunities, linked into Southwark's existing BLCF work place coordinator model. Also offer for local employment opportunities in support services, FM and ICT services.
 - SME support – commitment to meet the buyer type events, and other mechanisms to secure opportunities for SME supply-chain, including BME (meet the buyer to be held in partnership with the council).
 - Additional CSR activities or initiatives – other CSR activities, not required by legislation or regulations, that demonstrate a commitment, such as voluntary initiatives etc. (Youth programmes,)
52. Both bidders have provided proposals that encompass each of the above areas, the costs of which are fully incorporated into their prices, that respond to each element above. The council's economic development team worked with the project team on this aspect of the dialogue and were involved in the evaluation of this part of the bid. An extract from the recommended selected bidder's final bid is provided in the closed report.

Consultation

53. The following consultation and engagement activities have taken place:
- Consultation for outline planning. During outline planning consultation, the school (pupils, parents, staff and governors), the local community and key stakeholders were sent a letter inviting them to an exhibition about the new school and enabling them to give feedback on the early proposals for each school.
 - Consultation with school representatives. Sample schools have been fully engaged in the competitive dialogue (including design development) process via a senior staff member seconded into the project team. These representatives have worked in the project team to help brief and evaluate bidders during the dialogue and bid assessment process. They will continue to be involved once we have selected our preferred bidder and during the construction phase of the project.
 - Consultation with pupils, staff and parents. Southwark council has led on this and has consulted pupils, staff and parents at key stages during the 10-month competitive dialogue process to gain an understanding of what their main expectations would be from the new building, together with their likes and dislikes. When a preferred bidder is selected, a programme of further consultation will ensure that they continue to be involved in the design of the new school.
 - Consultation with governors. Regular meetings have been held with governors to keep them informed of progress on the school design development to enable them to make key decisions about the school's future.
 - Consultation with the local community. As with pupils/staff/parents, residents and key stakeholders around the school have been invited to information sessions at key stages of the dialogue process to allow the community to detail what they would like to see in the new building, as well as taking cognisance of their feelings and requirements. The information gathered at these sessions informed the dialogue process and gave early warning of any planning sensitivities. Pre-planning consultation will be undertaken once the preferred bidder is appointed to gain formal feedback from the local community on the winning proposal.
 - Consultation in relation to neighbouring developments. Discussions have been ongoing between the school, the project team, the area housing office and St Martins (the developers of Chambers Wharf) to ensure a joined-up approach to the development of each site and the use of Section 106 funding for the local community. Consultation is underway with the local tenants and residents association and the school to enable the development of shared community/education facilities under Section 106.

Sustainability considerations

54. The council requires that the proposed designs for Tuke and St Michaels schools comply with its planning policies, with a target of BREEAM excellent standard. The schemes also have the ability to connect to any future CHP/CCHP schemes.
55. The predicated carbon emissions from the two new buildings are 27kg/m² at St Michaels and 40kg/m² at Tuke – these figures represent at least a 60% reduction in carbon emissions at both schools.

Accessibility considerations

56. The output specifications for both samples schools require that the schemes fully address DDA as set out in Building Regulation. Over and above this, they require demonstration of good practice in design, in line with the Commission for Built Environment (CABE), with regards to clear way-finding, both externally (approaching the building) and internally, and logical and coherent building layouts.
57. The output specification for Tuke school extends far beyond DDA regulation requirements towards a fully accessible “sensory school” designed for the needs of its students who have profound and multiple learning difficulties (PMLD) and autistic spectrum disorders (ASD). The concept for this school is that the building will adapt to needs of the students, rather than the students having to adjust their behaviours to the building; so, for example, daylight levels can be adjusted throughout, artificial lighting colour wash and smell is used for way-finding; tactile trails are built into the fabric of the building; all spaces, including hygiene rooms, are equipped with sensory stimulating ICT equipment.

SECTION 2: MOBILISATION OF SHADOW LEP

58. In parallel with financial close, it will be necessary to mobilise the LEP in shadow form, in order that the partnership is robustly established at financial close and that Southwark’s target implementation programme is realised.
59. During the selected bidder to financial close period, the LEP mobilisation activities will include:
 - establishing ways of working and operational protocols;
 - commencing design development of phase 2 schools; and
 - establishing clienting and contract management arrangements.
60. A recent review of operational LEPs undertaken for PfS by PwC, indicates that the LEP mobilisation activities are critical for ensuring a well functioning partnership, which is in turn critical for delivery.
61. The strategic partnering agreement and the shareholders agreement, which establish the role and the functioning of the LEP, envisage the following appointments by the Local Authority:
 - Authority Representative – this is the individual with the authority to instruct the LEP to commence work on new projects. This is a two stage process, at the end of which, if the Authority chooses not to proceed with a particular project, the Authority will have to pay agreed costs to the LEP commensurate with work undertaken (these are agreed at the outset).
 - Strategic Partnering Board – this is the board comprising the authority and key stakeholders that is responsible for high level monitoring of LEP performance.
 - Authority LEP board director – the LEP board is the board of the company, and has the responsibility for overseeing the operations of the LEP in response to the work commissioned by the Authority Representative.
62. A report is scheduled for January Executive to agree the governance and management arrangements for the LEP. This will include decisions on the permanent appointments to the roles above. However, in order for the LEP mobilisation activities may commence, it is recommended that the following appointments be made for the purpose of shadow LEP mobilisation activities:

- a senior member of the Children's Services Management team, as the shadow Authority Representative, to be appointed by the Strategic Director of Children's Services.
 - the members of the shadow Strategic Partnering Board, be consistent with the existing project board, including Strategic Director of Major Projects, Deputy Director Children's Services – Education, RC Archdiocese of Southwark, Diocese of Southwark, a 4ps representative, a PfS representative and a representative of BSF schools.
 - the SSF Project Director as the Southwark's shadow LEP board director.
63. These recommendations are made to ensure a level of consistency between the procurement phase of the project and the shadow LEP operations. Lessons learned from other authorities indicate that as much consistency as possible between these two phases is advisable.
64. In order for the LEP to commence work on phase 2 schools, it is recommended that delegated authority be given to the shadow Authority Representative to agree with the selected bidder the programme for commencement of phase 2 schools, instructing the shadow LEP to commence stage 1 and stage 2 feasibility work on Phase 2 schools, once each school has fulfilled the following criteria:
- Completed an Education Design Specification, signed off by the Governors, Diocesan Board, Academy Trustees, as appropriate; and
 - Proved readiness and capacity to deliver, including nomination of a school project lead, who is a member of the leadership team, with the appropriate capacity and time to manage the process, and the necessary delegated authorities to make decisions on behalf of the school.
65. The target costs for phase 2 schools will be set in accordance with the affordability envelope agreed by Executive on May 2 2007, and funding levels confirmed by PfS.
66. Both bidders have agreed to undertake this work on phase 2 schools at their own risk. To this end, in the event that financial close of the sample schools and LEP does not take place in April, the council will not have any liability with respect of this work. In the event that the council does close the samples schools and LEP, but decides not to proceed with any of the phase 2 schools following the completion of phase 2 works, then the council will be liable for the costs of work undertaken.
67. The January report to Executive will be an important report to ensure that the management of the LEP is established effectively, to this end, the report will also include recommendations dealing with:
- decision making for contract award of phase 2 and 3 schools;
 - management of clienting and contract management
 - financial resource implications
68. The final bids do not establish any commitment for the council as to the level or cost of the clienting and contract management functions. It is important to note that there will be an ongoing requirement for the Council to resource such a function, whilst also noting that the size of this function, and thus cost, differs between local authorities depending upon the number of staff that the LEP has.
69. The January report for Executive is being prepared collaboratively between Children's Services, Major Projects and the Property Department.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Children's Services

70. The work of the BSF team bringing us to this point has been supported by Partnership for Schools and has involved senior staff in Children's Services and headteachers at every stage. The Strategic Director of Children's Services believes, therefore, that the process that has led to the decisions in this report to be robust, and that they have the full support of our wider school community. There are issues remaining to be settled, particularly with regard to the Local Educational Partnership, but we are confident these can be resolved during the discussions leading to financial close. Children Services therefore supports all recommendations in this report.

Strategic Director for Legal and Democratic Services

71. This report seeks the Major Project Board's approval to the appointment of the selected bidder for Southwark's Local Education Partnership (LEP) and other related recommendations.

72. The procurement of the LEP and the entering into of the contracts noted in Table 2 of this report have been tendered in accordance with the Public Contract Regulations Act 2006, using the competitive dialogue procedure, which was appropriate taking into account the complexity of this procurement. The procurement also complied with all requirements of the council's Contract Standing Orders. The final tenders submitted by both bidders have been evaluated in accordance with the Regulations and the evaluation criteria advised to bidders. This was on the basis of selection to the most economically advantageous tender. The invitation to submit final bids confirmed that once final bids were received and evaluated, that bidder with the highest score would be invited to proceed as selected bidder, with the appointment of selected bidder being conditional upon any remaining issues being resolved through a process of clarification and fine tuning (as is permitted under the competitive dialogue process). Paragraph 35 of this report confirms that the bid submitted by Bidder A is the most economically advantageous tender, and therefore it is recommended that they be appointed selected bidder.

73. The legal evaluation of these tenders has been conducted by the council's in-house lawyer and external solicitors, Trowers and Hamlins, both of whom will continue to be involved in the clarification process leading up to contractual close of these contracts. Both in-house and external lawyers have provided advice to the SSF team throughout the procurement process. As there are some issues to be concluded in the period leading up to contract award, it is recommended that the gateway 2 approval decision is delegated to the Strategic Director of Major Projects (subject to certain requirements set out in recommendation 2).

74. Authority is also requested to enable the Finance Director to sign Contract Acts Certificates in respect of these contracts. Although the council will enter into the contracts set out in Table 2, an individual officer will be responsible for certifying a number of these contracts, and such certification must be authorised by the council. The certificates are required under the Local Government (Contracts) Act 1997, and by providing such certificates confirms that the council has the necessary powers to enter into these contracts. The length and nature of these contracts requires that the council is required to provide certificates in respect of

them. The Act also sets out those officers of the council who are permitted to give such a certificate, one of whom is the Finance Director.

Finance Director

75. This report flows from the Outline Business Case (OBC) as presented to Executive May 2 2007 and Major Projects Board November 21 2007. The OBC set the headline affordability targets for the bidders, as noted in paragraphs 36 and 37, and the recommended selected bidder for the LEP has complied with the affordability targets.
76. As a result, this report is recommending that the council progress with the selected bidder to contract close. The majority of the funding will come from PfS and the school's governing bodies however the precise amounts will only be finalised at contract close. This is expected to lead to financial commitments for the council as set out in the closed report.
77. In the meantime, this report recommends that further archaeological excavation work is undertaken at St Michael's School in order to minimise commercial risk and facilitate the timely construction of the school, the estimated cost of which is set out in the closed report. The selected bidder has also agreed to work at risk until contract close on the design of the Phase 2 schools.
78. This report notes that the Finance Director, the Strategic Director of Major Projects and the Strategic Director of Children's Services will continue to strive to identify resources to minimise the council's required contribution. The costs of the contract team have been identified for 2008/09. A further report to Executive in January 2009 will detail project team costs for 2009/10 and the financial implications for ongoing clienting and contract monitoring costs.
79. Value for money has been demonstrated through the extensive competitive dialogue procurement process. Costs have been benchmarked against government guidelines in the OBC which led to compliant bids that fell within the affordability criteria. The bids were further evaluated for financial robustness and the selected bidder has demonstrated to be the most economically advantageous to the council. Continued diligence through to contract close and onward management of the LEP will ensure that VFM will remain a key element of the delivery of SSF.
80. The major risks associated with the selection of the preferred bidder are outlined in the body of the report and summarised in table 5. Further information on the market risk of the current credit crunch is included in the closed report. The selected bidder scored higher in its financial robustness. It is thought that by making SSF project as attractive as possible to the bidder will give SSF a higher chance of attracting investment. This situation will be monitored through to financial close.
81. The Finance Director welcomes the two strong bids that the thorough competitive dialogue procurement process has brought to the table and supports the recommendation for the selected bidder.

Head of Procurement

82. This report is seeking approval to appoint a selected bidder for Southwark's Local

Education Partnership (LEP). The award of this contract will only take place once fine-tuning has been carried out and once PfS has approved the award. The actual award decision will be covered by a gateway 2 report and this report is also seeking approval to delegate the award decision to the Strategic Director for Major Projects.

83. This procurement has followed a competitive dialogue process, which started in August 2007 with the publishing of the OJEU notice. The procurement process is described in paragraphs 18 – 35. Paragraph 20 describes how structured the evaluation process was. Early in the process the evaluation panel set detailed evaluation criteria against which the bids would be assessed. Because of the size and complexity of the bid submissions, work streams were identified and individual panels were set up to assess each work stream. These panels were made up of technical experts and other stakeholders including representatives from the schools. The scoring process has been well documented and provides a good audit trail of the decisions taken along the way. Paragraph 31 confirms that PfS are satisfied that the process has been undertaken in a robust and evidenced manner.
84. The results of the evaluation process are contained in table 4. The scores show that the short listed bidders both submitted strong bids achieving overall scores in excess of 60%. Paragraph 36 confirms that any areas of their final bid requiring fine tuning will be dealt with prior to contract award.

Head of Property

85. This property department has responsibility for the management of Children's Services capital programme. The Head of property supports the recommendations in this report regarding the mobilisation of the shadow LEP, and will be working collaboratively with major projects and children's services to compile the Executive report in January relating to the management of the LEP.

Head of Economic Development

86. At each stage of the selection process, each bid was examined for an assessment of its economic impact, covering plans for training and employment of Southwark residents during construction (including apprenticeships); the impact on post-construction employment; and opportunities arising for local enterprises through construction supply chain opportunities and post-construction procurement.
87. The bids were scrutinised to test the robustness and deliverability of plans to deliver the above provision in line with existing successful employment and enterprise initiatives and provision in Southwark, as well as overall employment and Corporate Social Responsibility commitments.
88. Both bidders demonstrated a sound understanding of the Council's aims in respect of impacts on employment and enterprise, and were able to demonstrate a set of proposed measures to comply with these aims as specified in the tender evaluation process.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Report to Executive: SSF Outline Business Case	Coburg House	Sara Waller 0207 525 5007
Detailed LEP evaluation matrices	Coburg House	Sara Waller 0207 525 5007

APPENDICES

Appendices
None

AUDIT TRAIL

Lead Officer	Stephen McDonald – Strategic Director of Major Projects	
Report Author	Sara Waller – SSF Project Director	
Version	Final	
Dated	October 21 2008	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Children's Services	Yes	Yes
Strategic Director of Legal and Democratic Services	Yes	Yes
Finance Director	Yes	Yes
Head of Procurement	Yes	Yes
Head of Property	Yes	Yes
Head of Economic Development	Yes	Yes
Executive Member	Yes	Yes
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