

Item No.	Classification: Open	Date: 28 July 2016	Decision Maker: Strategic Director of Children's and Adults Services
Report title:		Gateway 2: Contract Award Approval: Keyworth Primary School	
Ward(s) or groups affected:		Newington	
From:		Director of Regeneration	

RECOMMENDATIONS

That the Strategic Director of Children's and Adults' Services

1. Approves the award of the main works contract at Keyworth Primary School to Galliford Try Construction (UK) Ltd ('Galliford Try') for the total contract value including variation costs for the enabling works, main works and a contingency sum as set out in the closed report, for a period of 63 calendar weeks commencing on 22 August 2016 and completing on 3 November 2017. This is based on JCT 2011 Design and Build Contract with the council's standard amendments.
2. Approves the variation costs to the Pre-Construction Services Agreement (PCSA) contract (awarded 17 Nov 2014) plus an allowance for unknown PCSAs and a contingency sum as set out in Appendix 1 of the closed report.

BACKGROUND INFORMATION

3. On 16 July 2013 Cabinet approved a primary school investment programme to address the shortfall in primary school places for a number of schools and sites which included Keyworth Primary School. It was envisaged that the works would be procured through the Improvement and Efficiency South East construction and management framework (IESE) and that the projects would be split into two packages.
4. On 22 July 2014 Cabinet approved the Gateway 1 procurement strategy to appoint 2 contractors, one for Package A and one for Package B, using the IESE Framework. The contractor for each Package would carry out preconstruction services, the works and, where necessary, enabling works and these services and works would be approved in a number of Gateway 2 reports. It was approved by Cabinet that the decision maker for these Gateway 2 reports would be delegated to the Strategic Director of Children's and Adults Services (irrespective of their estimated value).
5. The development to allow the expansion of Keyworth School falls within Package A. The development is on the site of the existing school building.

6. On 17 November 2014 the Strategic Director of Children's and Adults Services approved the appointment of Galliford Try to carry out the pre-construction services for Package A, under the Improvement and Efficiency South East (IESE) regional framework arrangements for construction and management using the two-stage Design and Build method.
7. The PCSA requires the following variations due to:
 - Legal issues raised by a local resident which led to additional surveys being required
 - Additional Design costs due to the introduction of sprinklers into the school design for insurance purposes
 - Additional design fees incurred due to a change in the brick / cladding for insurance reasons
 - Additional fees due to the increased value of the contract
8. An itemised breakdown of variations to the PCSA package in the total sum is included in Appendix 1 of the closed version of this report.
9. Full Planning permission was received for the new Keyworth Primary School development in February 2015. This major construction will allow Keyworth Primary to expand from 1.5 Forms of Entry to a 3 Forms of Entry school. The works include the building of a new nursery and classroom block, a new dining and sports hall block, some remodelling of the main building, and associated landscape works.
10. In order to progress with the works programme, an enabling works contract was entered into with Galliford Try, as approved by the Strategic Director of Children's and Adults' Services, as summarised in Table 1 below.

Table 1 – Enabling Works Contracts

Contract Name	Parties	Initial Term	Approved Contract Value
Enabling Works	London Borough of Southwark and Galliford Try	17 calendar weeks	£481,794

11. There have been a number of variations under the Enabling Works Agreement. These are due to:
 - Bringing forward a small portion of works from the Main Works to update the entrance barriers, lighting and street works to improve the Doddington Grove Entrance early on in the programme;
 - Bringing forward ground and substructure works from the Main Works Contract in order to protect and advance the programme; and
 - Delays arising from an unforeseen application for judicial review of the planning consent, party wall matters and an unexpected discovery of asbestos on site.

12. The rectification of these matters has been dealt with as a variation in accordance with the conditions and provisions in the Enabling Works contract.
13. An itemised breakdown of variations to the enabling works package in the total sum included in Appendix 1 of the closed version of this report. The cost of the enabling works, including these variations, is included in the overall contract sum given in paragraph 1 of the closed version of this report.

Procurement project plan (Key Decision)

14. The timetable of the procurement process for Keyworth Primary School is set out in the table below.

Procurement project plan

Activity	Completed by/Complete by
Forward Plan for Gateway 2 decision	June 2016
Approval of Gateway 1 – Procurement Strategy Approval: Appointment of Contractors for Primary Expansion Programme	22 July 2014
Contract Award (Pre-Construction Services)	26 November 2014
Approval of Gateway 2: Award of Contract for Enabling Works	19 August 2015
CAB Review Gateway 2:	27 July 2016
Notification of forthcoming decision – Five clear working days	28 July 2016
Approval of Gateway 2: Contract Award Report	5 August 2016
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	8-12 August 2016
Finalisation of contract terms	August 2016
Contract award (subject to sign-off by the Strategic Director)	15 August 2016
Add to Contract Register	15 August 2016
Contract start	22 August 2016
Contract date for completion	3 November 2017

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

15. This procurement will lead to the expansion of Keyworth Primary School from one and a half forms to three forms of entry. The works consist of:
- The demolition of a prefabricated dining hall and kitchen;
 - The erection of a new two storey building for nursery and reception classes, together with a new kitchen, dining/sports hall;
 - Some internal refurbishment of the existing school building; and
 - Landscaping improvements.

Key/Non Key decisions

16. This report is for a key decision.

Policy implications

17. The expansion of Keyworth Primary School will help to fulfil Southwark's ongoing commitment to its community, helping to encourage improved educational attainment for the borough's children, and assist with the council's statutory duty to provide additional school places. There is a demand for primary school places in the north of the Borough, which the expansion of Keyworth Primary School forms part of the Borough wide strategy to deliver school places through the Primary Investment Strategy.

Tender process

18. Galliford Try was appointed by way of a mini-competition as detailed below, in line with the procedure prescribed by the IESE framework arrangements.
19. The procurement followed the standard IESE two-stage approach, in which the contractor has the following core responsibilities:

Stage 1 (pre-construction)

- Fully developing the design proposals from RIBA Work Stage E onwards;
- Packaging and competitively tendering the works on an open book basis; and
- Submitting contractor's proposals and pricing document, including the proposed contract sum, for decision by the council (this report).

Stage 2 (construction) – subject to a separate Gateway 2 approval (this report)

- Carrying out and completing the works in compliance with the contract documents.
20. The Gateway 2 report for the award of the contractors for Stage 1 (pre-construction services) was approved in November 2014. That report detailed the evaluation method followed to award the most economically advantageous tender.

21. From the Stage 2 process, there has been an approval already for enabling works, as stated in table 1. This Gateway 2 report deals with the approval to appoint Galliford Try for the main contract works.
22. With this two stage approach to procurement, there is an expectation and likelihood that the contractor appointed for pre-construction services would be appointed for the works contract, subject to the formal decision of the contracting authority to proceed. Value for money is obtained through the application of competitively tendered framework rates for main contractor's core costs (i.e. management, design, certain preliminaries and overheads and profit) and by competitive tendering of the works packages by the main contractor.
23. The design and specification for the project was developed by the consultant team under the direction of the council's Project Management consultants, Mace Limited, which together with the overall scheme proposals were issued to Galliford Try in the form of Employer's Requirements.
24. Following the process of design development and packaging of the scheme proposals, the contractor has obtained competitively tendered prices for the various packages which, together with their construction phase core costs (previously tendered and reported in the Gateway 2 for pre-construction services) combine to make up the proposed contract sum for the main works.
25. Galliford Try provided a detailed scope and cost breakdown for the main works in June 2016. This has been reviewed by the consultant project manager, client design advisor and quantity surveyor to ensure that the works are required and that the price is representative.

Tender evaluation

26. The submission from Galliford Try has been reviewed by the Capital Works team, ~~the council's external legal advisor and external cost consultant against the~~ council's Employer's Requirements as set out in the contract documents in order to ensure that it meets these and provides value for money. The following key requirements have been met:
 - **Confirmation from the council's Cost Consultant that the project represents value for money** - The council's cost consultant has raised clarifications regarding the tender submission which have been worked through with Galliford Try. The council's external cost consultant has also reviewed comparative data with other providers, to ensure that the submitted rates are on market and are justified.
 - **The submission from Galliford Try satisfying the council's requirements** - The Employer's Requirements (ER's) form a key document to be included in the contract, and the contractor's proposals respond to these requirements to ensure that they are met. Galliford Try has proposed a small number of items, alongside appropriate justification, which vary from the ER's which have been agreed as acceptable.

Plans for the transition from the old to the new contract

27. Not applicable

Plans for monitoring and management of the contract

28. The project clienting, including the management and administration of the consultant and contractor appointments, will be run and resourced through the Regeneration - Capital Works team. MACE will act as the Employers Agent on day to day issues with implementing the contract and reporting on the contractor's performance to Regeneration – Capital Works team. Progress with the contract works and performance of the consultant team will be subject to constant scrutiny and monthly formal review, including reviews on cost, programme and quality. The experienced officer client team will use a number of mechanisms for monitoring and controlling the financial and programme performance of the contract, including:

- Strategic cost plan, which will be regularly reviewed and updated
- Monthly financial statements by the consultant quantity surveyor/contractor
- Monthly appraisals of progress against the contract programme
- Monthly progress reports by:
 - The project manager/Employer's Agent
 - Main contractor
 - Other design consultants
- Monthly progress meetings on site
- Tracking and chasing actions on critical issues
- Weekly 'look ahead' meetings with principals / directors
- Periodic project team 'look ahead' workshops covering key phases of work and risks
- Risk and issues logs.

Identified risks for the new contract

	RISK	RISK LEVEL	MITIGATION ACTION
1.	Contractor has inadequate resources and management arrangements to deliver the main works project.	Low	The project team has ensured that the Contractor plans to: (1) deploy adequate resources and is willing to supplement additional resources to the project, if required. (2) put adequate management arrangements in place to deliver the project.
2.	Insolvency of framework contractor.	Low	An up-to-date financial check was obtained and this found the contractor to be at 'very low risk'. Galliford Try will also provide a parent company guarantee as a

	RISK	RISK LEVEL	MITIGATION ACTION
			condition of contract. The Council shall closely monitor performance of firms once appointed.
3.	<p>Construction delays on site due to;</p> <ul style="list-style-type: none"> • Hidden obstructions below ground; and • Contamination below ground. 	Low	Desktop studies and non-intrusive surveys have been undertaken to anticipate and plan for potential hazards on site. Investigation and remediation works undertaken in enabling works contract have de-risked the site in readiness for the main contract works.
4.	Construction delays on site and additional costs.	Medium	Pre-order components with long delivery period. Ensure that site operations are thoroughly and realistically planned by the contractor, prior to commencement of the works. Allow appropriate contingency provision in the programme to cover possible loss and expense claims arising from delay and disruption of the works. Include Liquidated Damages for non-completion of contract by the contractor.
5.	Delay to approval of planning conditions.	Medium	Ensure effective forward planning and regular communication with the planning officer and relevant parties to the decision making process. Information to be submitted for planning approval in a timely manner to allow for approval periods.
6.	Default by key subcontractor/supplier.	Low	A select list of well established sub-contractors by trade maintained by the main contractor, which includes financial health checks and performance monitoring.
7.	Delay to final agreement of contractor's proposals and contract documents, leading to a delay in contract award.	Medium	On going monitoring and forward programming to ensure close can be achieved.

	RISK	RISK LEVEL	MITIGATION ACTION
8.	Delay to programme such that the building cannot be occupied in September 2017.	Low	On going monitoring and forward programming to ensure works progress to programme.

Community impact statement

29. Generally the provision of additional school places, which this contract will ultimately provide, will have a positive impact on communities with increased provision of places in areas where they are in need. The proposals are consistent with promoting the safeguarding and well being of all local children and young people by providing sufficient school places to meet forecast need.

Economic Considerations

30. Galliford Try will be expected to deliver direct benefits to the local community and local residents through some or all of the following possible means:
- Supply chain and procurement with local businesses;
 - Use of local labour and training initiatives, including a construction employment, skills and training scheme linked to the council's Building London Creating Futures programme, which aims to match local residents with construction vacancies especially where these are linked to key development sites and regeneration activities;
 - A commitment to construction apprenticeships in proportion to the size and scale of the development as agreed in the Partnering Agreement; and
 - Corporate social responsibility and sustainability.
31. Discussions have commenced to ensure that there is a coordinated approach to provide a number of apprentice positions across the expansion programme. The Contractor has had meetings with the supply chain to ensure this is implemented and a number of apprentices have already been appointed. Monitoring information will be required quarterly, to a standard format including basic equalities data.

Social Considerations

32. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. Galliford Try will meet LLW requirements and contract conditions requiring the payment of LLW will be included in contract documents, which will result in quality improvements for the council. These should include a higher calibre of multi-skilled operatives that will contribute to the delivery of works on site and will provide best value for the council.
33. Under promise 8 Education, employment and training of the Fairer Future Promises, the council has made a commitment to create 2,000 new apprenticeships by 2018.

Taking in to account the value of this contract, the council will be seeking nine apprenticeship places from Galliford Try throughout the term of this contract. These will be included within the contractual obligations and will be monitored in accordance with council policy.

34. Pursuant to section 149 of the Equality Act 2010 the council has a duty to have due regard in its decision making processes to the need to:
 - a) Eliminate discrimination, harassment, victimisation or other prohibited conduct.
 - b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not.
 - c) Foster good relations between those who share a relevant characteristic and those that do not share it.
35. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Public Sector Equalities Duty also applies to marriage and civil partnership, but only in relation to (a) above. This report sets out the considerations which have been given to the PSED General Duty, which the Strategic Director of Children's and Adult's Services should consider when making this decision.
36. The contractor made provisions to address Southwark council's equalities obligation during the construction phase. The contractor has reviewed all safety aspects of site management including logistics of deliveries and site traffic. Provisions have been made to ensure that the impact of the contractor's construction phase on vulnerable people by way of age and mobility will be catered for. The site is fortunate that it has slight impact on the existing pavement on one boundary of the school, The contractor has agreed to provide a permanent site marshals to ensure all deliveries are managed safely and that the public have dedicated marshals during site deliveries to reduce any risk to the public, especially more vulnerable members of the public, during the construction phase.
37. As part of the procurement process and in line with recently introduced legislation the council now requires tendering firms and companies to confirm that they have not engaged in blacklisting (meaning the systematic compilation of information on individual trade unionists and their use by employers and recruiters to discriminate against those individuals because of their trade union membership or because of their involvement in trade union activity). However, it should be noted that the procurement of the iESE framework pre-dates the introduction of the legislation and therefore the requirement had not been included at the pre-qualification stage blacklisting

Environmental Considerations

38. The completion of this procurement will create new accommodation which will demonstrate commitment to the carbon reduction measures required by Southwark council, through the application of design principles to manage the use of energy most efficiently.
39. The scheme will be achieving a BREEAM rating of Very Good.

Market considerations

40. Galliford Try has over 250 employees and a national area of activity.

Staffing implications

41. There will be no direct impact on staffing as a result of the award of this contract.

Financial implications

42. This report is seeking in paragraph 1, approval from the Strategic Director of Children's and Adults' Services to award the contract for the main contract works for Keyworth School to Galliford Try at a total cost given in the closed version of this report.
43. A contingency sum, disclosed in the closed version of this report, has been allowed for additional unforeseeable works costs at Keyworth School which is equivalent to 3.5% of total works cost, including the PCSA.
44. A breakdown of total works costs, including variations, being provided by Galliford Try, is given in Appendix 1 of the closed version of this report.
45. The construction cost for the project given in this report align with an up-to-date cost forecast for the overall programme produced for setting the budget.
46. The total estimated cost of contracts in this report can be met from existing identified resources.

Legal implications

47. Pursuant to the Cabinet Report dated 22 July 2014 the decision maker for this report is the Strategic Director of Children's and Adults Services.
48. Please see the legal concurrent.

Consultation

49. The proposals have been subject to the decision making arrangements of the council's planning process, including consultation with relevant statutory consultees.
50. The Headteacher of Keyworth Primary School has been involved in the design development process.
51. Consultation has been carried out locally ahead of the statutory consultation being conducted through the planning process.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance

52. Comments from the Strategic Director of Finance and Governance are shown in the closed version of this report.

Head of Procurement

53. This report recommends that the Strategic Director of Children's and Adults Services approves the award of the design and build contract and documents for the main works at Keyworth Primary School, to Galliford Try Construction (UK) Ltd. This contract is the second part of the award of the contract that follows pre-construction services and enabling works on the project following a mini-competition from the IESE framework agreement. The report confirms that within the two-stage the contractor is able to submit proposals for the remaining main construction work for this project and that these proposals have been subject to analysis by senior council officers in conjunction with the council's external legal and cost consultants. The total contract sum is confirmed in the closed report and confirms that due diligence has been carried out to ensure that this figure offers value for money. The contract period is 63 calendar weeks and is scheduled to commence on 22 August 2016.
54. The report confirms the monitoring and management arrangements that will be in place during the life of the contract including how apprentices taken on by the contractor as a result of this contract will receive the necessary skills training.

Director of Law and Democracy

55. This report seeks approval of the award of a design and build contract to Galliford Try in relation to the expansion of Keyworth Primary School.
56. ~~On the basis of the nature value of the contract its procurement has been subject to~~ the application of the Public Contracts Regulations 2015 ("the EU Regs"). The report advises that Galliford Try Construction (UK) Ltd had been appointed under the IESE construction and management framework which had been procured in line with the EU Regs and that the proposed contract award forms part of the second stage of a two-stage process prescribed under the terms of that framework. As noted in the Gateway 1 report the procurement process is also in line with the requirements of the council's Contract Standing Orders ("CSOs").
57. The report further advises that the proposed contract award is consistent with the Council's various statutory duties and powers and with corporate policy. Paragraph 4 notes that the decisions to approve the award of this and other contracts associated with the IESE packages had been delegated previously by Cabinet to the Strategic Director of Children's and Adults Services.
58. CSOs provide that no contract may be awarded unless the expenditure has been included in approved revenue or capital estimates, or has been otherwise approved by or on behalf of the council. The concurrent report for the Strategic Director of Finance and Governance advises how this requirement is to be satisfied.

FOR DELEGATED APPROVAL

Under the powers delegated to me in accordance with the Council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature *[Handwritten Signature]* Date...12.09.16
 Designation *STRATEGIC DIRECTOR*

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Cabinet report of 16 July 2013 – Primary Investment Strategy	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 02 7525 4808
Cabinet Report of 22 July 2014: Gateway 1 Procurement Strategy Approval Appointment of Contractors for Primary Expansion Programme	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 020 7525 4808
Cabinet Report of 17 November 2014 : Gateway 2: Appointment of Contractors for Primary Expansion Programme for Pre-Construction Services	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Rebecca McTier – 020 7525 4808
Delegated Report of 19 August 2015: Gateway 2: Award of Contract for Enabling Works 1	Capital Works, Regeneration, 160 Tooley Street, SE1 2QH	Susan Fuller – 0207 525 5037

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Bruce Glockling, Head of Regeneration – Capital Works & Development	
Report Author	Susan Fuller, Project Manager	
Version	Final	
Dated	July 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law & Democracy	Yes	Yes
Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Cabinet Member	N/A	N/A
Contract Review Boards		
Departmental Contract Review Board	Yes	No
Corporate Contract Review Board	N/A	N/A
Date final report sent to Constitutional Team		

