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DATE: 14 June 2021

CHILDREN, EDUCATION AND FAMILIES PDS COMMITTEE

Meeting to be held on Tuesday 15 June 2021

Please see the attached report marked "to follow" on the agenda.

**9a PROCUREMENT OF CONSULTANTS FOR EDUCATION CAPITAL
PROJECTS (PAGES 3 - 14)**

*Copies of the documents referred to above can be obtained from
<http://cds.bromley.gov.uk/>*

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Report No.
CEF21021

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: EXECUTIVE

Date: 30 June 2021
With pre-decision scrutiny from the Children, Education and Families
PDS Committee Tuesday 15 June 2021

Decision Type: Non-Urgent Executive Key

Title: PROCUREMENT OF CONSULTANTS FOR EDUCATION
CAPITAL PROJECTS

Contact Officer: Rob Bollen Head of Strategic Place Planning
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Chief Officer: Director of Education

Ward: All

1. Reason for report

To agree procurement arrangements for professional consultancy services in relation to the delivery of the Council's Education capital programme. The Council's previous arrangements for consultancy services were procured through LB Lewisham consultants framework and have expired. The Council needs to ensure consultants are in place for new projects.

2. RECOMMENDATION(S)

- 2.1 The Children, Education and Families PDS are recommended to note the report and provide any comment.
- 2.2 Executive is recommended to approve proceeding to procurement for contracts for professional consultancy support for education capital schemes as detailed in paragraph 4.3.1. The proposed length of the contracts are four years with an estimated overall value of £4m.
- 2.3 Executive is recommended to grant delegated authority to the Director of Education to award contracts from the Lots, based on the agreed Basic Need Capital Programme, subject to Agreement from the Portfolio Holder for Children Education and Families, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Capital investment will support the Council to meet the needs of both mainstream and SEN pupils through the provision of new additional school places at new and/or improved education premises.
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Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Children and Young People
-

Financial

1. Cost of proposal: Estimated Cost £4m
 2. Ongoing costs: Non-Recurring Cost
 3. Budget head/performance centre: £93,130k
 4. Total current budget for this head: £93,130k
 5. Source of funding: Source of funding: DfE Basic Need Capital Grant, DfE SEND Capital Grant, DfE School Condition Allocation Capital (SCA) Maintenance Grant, Section 106 contributions
-

Personnel

1. Number of staff (current and additional): 2
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
-

Procurement

1. Summary of Procurement Implications: This procurement exercise will ensure that there is sufficient professional consultancy support to assist the Council in the delivery of the Education Capital Programme.
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 Currently the Council's professional consultants are procured through the LB Lewisham Consultants Framework. This framework has now expired, and whilst consultants procured through the framework continue to support a number of projects, there is currently no procurement strategy for procuring consultants for new projects.
- 3.2 On 31 March 2021 the Executive agreed a Basic Need Capital Programme Capital Budget of £93,130k. The consultants will be primarily employed in the delivery of this programme.
- 3.3 Whilst this report seeks delegated responsibility to appoint the consultants chosen through the proposed procurement exercise set out below, the budgets for associated capital schemes will continue to be subject to the current arrangements for Executive approval.

4. SUMMARY OF THE BUSINESS CASE

- i) The Council needs to procure professional consultants to support it in its delivery of the Education Capital Programme and the delivery of its statutory place planning duties.
- ii) The estimated spend on consultancy services to assist the Council in delivering the education capital programme over the next 4 years is estimated to be in the region of £4 million. This will be for a range of projects, including the expansion and improvement of mainstream and SEN schools and Alternative Provision.
- iii) The proposal is to divide the Council's total requirements into 4 lots . Each lot consists of a single programme comprising a number of projects within that programme. A single operator will be appointed to be the sole provider under each lot to deliver the entire programme relevant to that lot.
- iv) The Council's needs can be best delivered by appointing multidisciplinary consultants, who become familiar with the school buildings and stakeholders. Robust experience in delivering education projects including SEN is important to the success of the projects.
- v) The Council has a small team supporting the delivery of education capital projects. It is key that consultants appointed are able to work collaboratively with the Council and other appointed consultants to support efficiency through standardisation and continuous improvement of process and documentation.
- vi) A variety of consultants allows for market competition, benchmarking and driving up standards. It also creates a larger pool of professional expertise encouraging innovation and access to a greater pool of knowledge of matters such as modern methods of construction, sustainability and energy efficiency which can be incorporated into projects.

4.1 SERVICE PROFILE/DATA ANALYSIS

- 4.1.1 The Council is mostly reliant on central Government for funding for schools capital projects. This is received via Basic Need Capital Grant, SEND Provision Capital and School Condition Allocations (SCA) along with Section 106 funding (soon to be replaced by CIL) received through the planning system. Based on existing grant monies received but not yet spent and likely future allocations the total value of grant available could be £30m over 4 years. This includes:

- £3,000k allocated to support secondary age growth and bulge classes
- £4,132k to provide sufficient SEND places and improve SEN environments
- £150k to undertake feasibilities to identify priorities for future SEN investment
- £1,205k allocated to improve mental health alternative provision (Nightingale)
- c.£375k per annum to support maintenance works at community and foundation schools

4.1.2 The value of consultancy services required is estimated to be up to £4,000k across the four years to support the needs of the Council. This includes; architectural, project management, cost consultancy and employers agency services to support new build, extension and refurbishment of existing education facilities; and condition surveys, net capacity surveys, asset management planning and environmental and specialist surveys to support maintenance works.

4.2 OPTIONS APPRAISAL

4.2.1 An options appraisal has been undertaken to develop the specification for procuring new consultants. This has involved a review of existing agreements with consultants, frameworks and market testing and inhouse procurement. The following options have been considered:

Option 1: Carry out an in house tendering exercise to procure a number of consultants through LOTs. Initially there would be 4 LOTs to cover the Council's requirements. These LOTs will be tendered through an open tender process.

Option 2: Tender consultancy services for a framework and mini tender each project separately.

Option 3: Enter into Access Agreements for existing Consultancy Services frameworks in the market place.

4.2.2 The advantages and disadvantages of each option are shown in the following table:

	Advantages	Disadvantages
Option 1	<p>Bespoke LOT arrangement to suit Bromley's particular requirements</p> <p>Standardised documentation and increased efficiencies through reducing the time that officers spend agreeing specifications and producing contracts.</p> <p>LOTs provide for awarding of a variety of project to a number of multi disciplinary consultants</p> <p>Procurement Team and Education will need to undertake more due diligence</p>	<p>Multi disciplinary approach tends to exclude Small and Medium Sized Enterprises SME</p> <p>Potentially a risk if relationships breakdown</p>

	Lends towards medium size companies that are more responsive to the needs of the council	
Option 2	<p>Competitive mini-tenders drawn off regular return to the consultants on the list</p> <p>Greater market choice and competition</p>	<p>Time, staff resources and expertise are not available to prepare the necessary documentation and carry out a tendering exercise</p> <p>Lack of efficiency and difficult to develop relationships with consultants and expertise on projects</p> <p>Companies on the list cannot plan work and retain staff due to uncertainty</p>
Option 3	<p>Compliance and due diligence completed by frameworks but do not guarantee quality</p> <p>Framework Agreements have been advertised in the Official Journal of the European Union (OJEU) and comply with relevant EU procurement regulations</p> <p>Standardised documentation, increased efficiencies through reducing time officers spend agreeing specifications and producing contracts.</p> <p>Collaborative working with other local authorities to deliver improved consultant performance.</p>	<p>Tendency to result in Lot based procurement and can end up undertaking time consuming mini tenders</p> <p>Restricted by access only to the consultants already on the framework</p> <p>Often leads to procurement of large companies as the expense of SME</p> <p>Relies on others rather than inhouse expertise developed through experience</p>

4.2.3 Option 1 and 2 were discussed with LB Bromley Procurement Team and identified as the most efficient use of officer time. It was concluded that the use of LOTs would provide a greater degree of certainty for bidders and support the development of strong service delivery relationships, and avoid wasted officer time in procuring individual ones.

4.3 PREFERRED OPTION

4.3.1 Taking the advantages and disadvantages identified in 4.2.2 above into account, officers have concluded that Option 1 is the preferred option. It is proposed that the procurement strategy adopted is the procurement of professional consultancy services through a Bromley led tender made up of Lots.

4.3.2 Each LOT will include a programme or work at a range of schools. This will include:

- The review of the accommodation at all existing SEN provision in the borough to identify opportunities for improvement and expansion
- Schools that could potentially host an SEN resource provision
- Mainstream school expansions
- Site specific projects
- hygiene rooms
- services to support the delivery of the Council's schools planned maintenance service.

Consultants will be appointed to carry out the range of required professional services to deliver projects from feasibility through to post construction. However, there will be break clause in contracts for each project and works will only be initiated on projects in line with the Council's agreed Basic Need Capital Programme. Being award a LOT will not provide a guarantee that all projects will proceed. Indicative LOTS are set out below:

LOT 1:

2 mainstream school expansions up to 1 FE increase in size
 Future use of the Marjorie McClure School site
 1 Special School (ASD, SLD, PMLD)
 Hawes Down Centre
 4 schools with SEN resource provisions
 2 schools new resources provisions at existing schools

LOT 2:

Alternative provision (AP) mental health provision (Nightingale)
 2 Alternative provision sites
 1 special school (SEMH)
 2 mainstream school expansion up to 1 FE in size
 4 schools with SEN resource provisions
 2 schools new resources provisions at existing schools

LOT 3:

4 schools with SEN resource provisions
 1 Special Schools (PD)
 6 hygiene/accessibility schemes at schools
 6 schools new resources provisions at existing schools

LOT 4:

1 Special School (ASD)
 6 schools with SEN resource provisions
 2 schools new resources provisions at existing schools
 M&E services to support the Council in delivery of its
 Maintained schools condition net capacity/surveys
 Health and safety support

- 4.3.3 LOTs will be awarded based on a 60/40 price/quality basis, with the bidders required to bid for each LOT separately. The quality assessment will be based upon the response of bidders to the specification of each LOT. No bidders will be awarded to more than 2 LOTs.
- 4.3.4 The specification requirements will be draw up on the basis of the nationally accepted RIBA standard procurement specification for consultants. This will be completed by Education officers with experience of delivery and inconjunction with the Corporate Procurement Team. This will be solely for the use by the Education department with a significant million pound budget to deliver school places in line with education priorities. The specification will incorporate KPI's to be reviewed relating to standard capital project equilibrium of cost, time, and quality to achieve best value.
- 4.3.5 Customer and stakeholder views have been incorporated through regular review meetings with consultants and schools and academies as 'lessons learnt' sessions, and through multi consultancy meetings as well as ongoing. Currently capital projects have a standard process during pre and post site delivery of projects, and monthly Consultancy Board Meetings. This includes budgetary reviews, bench marketing of costs, and drives to obtain efficiency saving and value engineering where necessary. This will continue to be required as part of the specification to meet client KPI's and monitoring of the contract.
- 4.3.6 Each consultant will be appointed for a set package of works determined within the ITT at tender stage. The expected value of each package will be in the region of £500k to £1,500k.
- 4.3.7 Surplus funds from capital projects will be reinvested through budgetary control into remaining projects within the programme. This procurement method will provide a greater degree of flexibility than a standard framework.
- 4.3.8 The capital programme will continue to be the subject of annual review and be reported on direct to Executive under the Basic Need Programme Update, and allow for member level scrutiny.
- 4.3.9 Contracts awarded to contractors for specific projects will also be continuously revaluation by both officers, and members, together with Portfolio holder agreement. In addition consultancy fees linked to specific projects will be reaffirmed and formalised on individual projects.
- 4.3.10 The key decisions taken at the point of contract award and capital programme review will be published and subject to call in, thus retaining transparency of the procurement process.

4.4 MARKET CONSIDERATIONS

- 4.4.1 Recent trends indicate that many local authorities are not renewing existing Frameworks although some new ones are emerging onto the market.
- 4.4.2 A cautious approach to use of SME Smaller and Medium sized enterprises needs to be adopted in the current post covid market place settledown. The use of multi-disciplinary consultants may discourage some smaller companies from bidding. However, the small Council team delivering education capital projects does not have the capacity to manage the interface between different specialisms i.e. architectural services and cost consultancy and this would increase risk for the Council. A programme of projects will help to stablise companies. It will also allow for a greater degree of scrutiny and control by officers, and building of

relationships. However, bids are encouraged from local businesses and consultants currently employed Council have offices either in Bromley or immediately neighbouring boroughs.

- 4.4.3 Market testing has been undertaken which suggests market interest in the services being tendered. Benchmarking is currently being undertaken relating to recent consultancy fees across existing contracts and through liaison with other authorities. Historically, consultancy fees are based on a percentage of the contract sum, and in addition they include disbursements and survey fees such as ecology, topography, planning, building control etc dependent upon individual projects. It is clear that many of the survey fees have increased over time and are becoming a more significant factor when determining budgets. Without these costs been split it is likely to result in a misunderstanding of the level of actual fees paid to the consultants. This will be reflected in the new specification.

5. STAKEHOLDER ENGAGEMENT

- 5.1 Customer and stakeholder views have been incorporated through regular review meetings with consultants and schools and academies as 'lessons learnt' sessions, and through multi consultancy meetings as well as ongoing. Currently capital projects have a standard process during pre and post site delivery of projects, and monthly Consultancy Board Meetings. This includes budgetary reviews, benchmarking of costs, and drives to obtain efficiency saving and value engineering where necessary. This will continue to be required as part of the specification to meet client KPI's and monitoring of the contract.

6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

6.1 Estimated Contract Value –

£4,000k

6.2 Other Associated Costs –

n/a

6.3 Proposed Contract Period –

4 years

6.4 Procurement project plan

- June 2021 – Executive agreement to procurement strategy
- Late July 2021 – Tenders advertised via Find a Tender and Contract Finder – PAS 91 + ITT
- August – mid September – 6 week tender period
- Late September evaluation of tenders
- October 2021 – award of contracts

6.5 Development of the tender documentation

- 6.5.1 The specification requirements will be draw up on the basis of the nationally accepted RIBA standard procurement specification for consultants. This will be completed by Education officers with experience of delivery and inconjunction with the Corporate Procurement Team. This will be solely for the use by the Education department with a significant million pound budget to deliver school places in line with education priorities. The specification will incorporate KPI's to be reviewed relating to standard capital project equilibrium of cost, time, and quality to achieve best value.
- 6.5.2 ITT Tender documentation will also utilise information from existing tendered consultancy contracts, DfE premises guidelines and sample projects. The Council will identify 3-5 packages of works to ensure competition and sharing of best practice once awarded, including membership and support of LBB education projects consultancy forum.
- 6.5.3 Standard form contracts will be used, either JCT or NEC, with LBB amendments including with regards safeguarding.

6.6 Evaluation

- 6.6.1 Evaluation will be undertaken by staff in corporate procurement and the School Place Planing Service. Consultants will be chosen via the Council's standard 60/40 Price/Quality split. Quality evaluation will be based on the consultants demonstrating their experience and competency in delivering similar works, experience of working with schools and SEN environments, sustainability and pricing of the sample projects.

7. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 7.1 The appointed consultants will be expected to have industry recognised environmental accreditation i.e. ISO 14001.
- 7.2 In designing school premises the consultants will be expected to ensure facilities comply with LBB, DfE and other environmental standards. In supporting the delivery of condition improvements to school consultants would also be expected to demonstrate how they can support the delivery of the Council's Green Recovery Targets.
- 7.3 This procurement exercise will impact upon schools, children and families and SMEs. It will affect the companies that currently provide professional consultancy services to the Council which includes local businesses.
- 7.4 The contract will have a positive impact on schools, children and families who will benefit from works to education premises arising from this contract. Improving school facilities will support children with learning and support schools in raising standards.
- 7.5 The greatest positive effect is likely to be the impact on children with SEN, the work of the appointed consultant(s) will allow the Council to target its resources to better support children with SEN and address their needs locally.

8. POLICY CONSIDERATIONS

- 8.1 Bromley Council has an established policy for the review and strategic planning of school places and related school organisation. The need to ensure sufficient school places, the quality of those places and their efficient organisation is a priority with the Council's strategy 'Building a Better Bromley' and contributes to the strategy to achieve the status of an Excellent Council. This policy also contributes to key targets within the Children, Education and Families Portfolio Plan.

9. IT AND GDPR CONSIDERATIONS

- 9.1 Successful bidders will be required to comply with Council and statutory requirements with regards sharing project, procurement and commercial information.

10. PROCUREMENT RULES

- 10.1 This report seeks authority to proceed to procure a number of professional Consultants using 4 Lots following the tendering process as described in section 6 above. This is to provide Consultancy support for Education Capital projects as outlined in 4.3.2.
- 10.2 The duration of the contract is estimated from October 2021 for a period of 4 years. The estimated value of each contract will be in the region of £500k to £1.5m.
- 10.3 This is an above-threshold service subject to the requirements for social and other specific services stated in the Public Contracts Regulations 2015. This tender will be advertised in Find a Tender and Contracts Finder via the Portal.
- 10.4 This process has been carried out in line with the requirements of the Public Contracts Regulations 2015.
- 10.5 The Council's requirements for authorising an award of contract are covered in CPR 16. For a framework of this value, the approval of the Executive following agreement by the Portfolio Holder, the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance must be obtained. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 10.6 Following the decision, the relevant notices will be issued. A mandatory standstill period will need to be observed. The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

11. FINANCIAL CONSIDERATIONS

- 11.1 The estimated cost of the contract is envisaged to be £4m over a four year period.
- 11.2 The costs will be contained within the overall capital programme through Basic Need Capital Grant, SEND Provision Capital, School Condition Allocations (SCA) and with Section 106 funding. There will be no call on core Council finances for this expenditure.
- 11.3 The capital programme itself was reported to the Executive in March 2021. The costs of consultants for the next phase of feasibilities was embedded within that report.

12. **LEGAL CONSIDERATIONS**

- 12.1 The Council has the powers to conduct the procurement exercise described in this report. There are no significant legal issues raised in this report. The Council would have to comply with the Public Contracts Regulations 2015 and its own Contract Procedure Rules.
- 12.1 Officers may (if they wish) consult Legal Services on any legal issues in connection with the procurement, and in relation to the contract documentation (e.g. whether to use JCT, NEC, or bespoke documentation).

Non-Applicable Sections:	PERSONNEL CONSIDERATIONS
Background Documents: (Access via Contact Officer)	