

BUILDING SCHOOLS FOR THE FUTURE (BSF) - APPOINTMENT OF SELECTED BIDDER

To: Cabinet

Date: 15 December 2009

From: Executive Director, Children & Young People's Services

Electoral division(s): Chatteris, March East, March North, March West, Roman Bank and Peckover, Waldersey, Whittlesey North, Whittlesey South, Wisbech North, Wisbech South

Forward Plan ref: 2009/028 **Key decision:** Yes

Purpose: To recommend the appointment of a Selected Bidder following the evaluation of Final Bids
To consider the implications for the next stage of the Building Schools for the Future programme.

Recommendation: That:

- 1) Equitix Learning Community Partnerships should be appointed as Selected Bidder subject to the terms of the Selected Bidder Letter.
- 2) the Executive Director, Children & Young People's Services, in consultation with the Cabinet Member for Learning, shall be authorised to sign the Selected Bidder Letter with Equitix Learning Community Partnerships once any outstanding issues have been addressed.
- 3) The Significant Implications set out in section 4 of this report of progressing towards the conclusion of contracts with Equitix Learning Community Partnerships are noted.
- 4) a further report be brought to Cabinet before contracts for the Local Education Partnership and the Sample Schools may be entered into.

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1. BACKGROUND

- 1.1 Since July 2008, the Authority has been engaged in a major procurement process to select the Private Sector Partner (PSP) for the Local Education Partnership (LEP) in Cambridgeshire. The LEP is the prescribed delivery model for BSF and will be a joint venture between the Authority (10%), Partnerships for Schools (10%) and the PSP (80%).
- 1.2 The PSP brings design, build, facilities management and Information and Communication Technology (ICT) expertise and capacity to the LEP to enable the LEP to deliver up to 44 eligible BSF schemes for major refurbishment and rebuilding projects in secondary and special schools and pupil referral units (and, potentially, other education related projects for similar works and/or services) in Cambridgeshire over the next 10-15 years. Subject to performance, the LEP has exclusivity for all BSF schemes.
- 1.3 Four consortia responded to the Authority's request for expressions of interest in July 2008. One consortium – Guildhouse Barclays – was de-selected at the pre-qualification stage. A second consortium – Balfour Beatty – was de-selected after the evaluation of Initial Bids in April 2009.
- 1.4 Following an extensive process of “competitive dialogue” (European public sector procurement prescribed model for complex and large scale public sector procurements) with the remaining two consortia – Equitix Learning Community Partnerships and Inspiredspaces [Carillion] – the dialogue stage of the process concluded on 6 October 2009. Final Bids were received from both consortia on 15 October 2009 and have been subject to a detailed evaluation since then.
- 1.5 Final Bids include:
 - Detailed designs for two “Sample Schools” – Thomas Clarkson Community College in Wisbech and Neale-Wade Community College in March – and the associated contracts;
 - ICT Managed Service proposals and contracts for the six BSF schools in Fenland;
 - Facilities Management (FM) proposals and contracts for the five design and build schools in Fenland (Thomas Clarkson College will be redeveloped under a Private Finance Initiative (PFI) contract and is subject to a different facilities management regime as part of the PFI contract);
 - Detailed proposals and contractual provisions for ensuring the performance, continuous improvement and value for money of the LEP across the BSF programme in Cambridgeshire. This includes guaranteed minimum savings and other value-added initiatives such as local employment and training commitments which the LEP undertakes to deliver;
 - Pre-negotiated template contracts for future projects.
- 1.6 The evaluation process has involved some 40 individuals from the Authority, schools and external advisors to review and score the bids in accordance with the published evaluation methodology.

2. FINAL BID EVALUATION

2.1 Final Bids have been evaluated against six principal criteria as follows.

Criterion	Weighting
LEP Partnership	40%
PFI Sample School (Thomas Clarkson College)	15%
Design & Build Sample School (Neale-Wade College)	15%
ICT	20%
Finance	5%
Legal	5%
	100%

2.2 The scores achieved by each Bidder for each of these criteria and overall are set out in the following table.

Criterion	Equitix	Inspiredspaces	Difference (EQ-IS)
Partnering	29.10	27.08	+2.02
PFI Sample School	9.67	8.76	+0.91
D&B Sample School	9.66	9.47	+0.19
ICT	11.50	12.30	-0.80
Finance	4.25	3.50	+0.75
Legal	3.58	3.60	-0.02
Overall Score¹	67.75	64.70	+3.05

Rank	1	2	-
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2.3 Equitix Learning Community Partnerships is the highest scoring bidder in four out of the six principal criteria and overall.

2.4 By its nature an effective competitive dialogue process, which requires material issues affecting risk and price to be agreed between the parties before dialogue can be closed, tends to result in close scores at the final evaluation stage.

2.5 Nevertheless, a 3% difference in the final scores is a material difference. Whilst both bids were acceptable, the Equitix bid is considered to be better in more respects and more acceptable overall.

2.6 The key differentiators between the Bidders are summarised diagrammatically below (note that this diagram is not to scale and illustrates the broad areas in which one or other Bidder was considered to have the better Bid or where it is considered that a Bidder's approach to the process has helped to achieve that).

¹ Note: rounding to two decimal places in the evaluation model accounts for the second decimal place difference in the total for each bidder

Whole Bid

- | Bringing to bear established BSF track record and experience
- | Innovative partnering proposals
- | Development of proposals in response to dialogue
- | PFI Sample School design
- | D&B Sample School design
- | Managing the Works
- | Sample School and FM pricing and value for money
- | ICT Learning platform offer
- | Thoroughness and detail of ICT proposals
- | Supply chain management
- | Legal derogations and commercial offer
- | Employment and TUPE

Equitix	Inspiredspaces

- 2.7 Full details of the evaluation process, criteria, scores and rationale are set out in a confidential evaluation report.
- 2.8 The recommendation of the evaluation panel is that, as the highest scoring Bidder, Equitix Learning Community Partnerships should be appointed as the Selected Bidder for BSF in Cambridgeshire, subject to the terms of the Selected Bidder Letter. This recommendation was endorsed by the BSF Programme Board at its meeting on 1 December 2009.
- 2.9 The Equitix Learning Community Partnerships Consortium includes the following principal organisations.

Consortium Lead	Equitix Ltd
PFI Sample School	MAKE (Architects) Kier Eastern (Builder)
D&B Sample School	RH Partnership (Architects) Galliford Try (Builder)
FM Services	Mitie
ICT Services	Dell Corporation
Additional Builders (for subsequent schemes)	Willmott Dixon Clugston

- 2.10 These principal organisations are supplemented by a supply chain of other professional and supplier organisations to provide the capacity and expertise necessary to deliver the range of services required by the Authority under the Strategic Partnering Agreement.
- 2.11 A significant feature of both bids (the Equitix bid in particular) is a commitment to ensure that a significant proportion of the project expenditure will be spent in the local area and to create local employment and training opportunities to support the Fenland economy.
- 2.12 The considerable commitment shown by both bidders throughout the BSF procurement process has enabled this challenging and complex process to be conducted in a highly professional and constructive manner. This is acknowledged and appreciated.
- 2.13 In view of the fact that Inspiredspaces have submitted a set of proposals that, were it not for Equitix's superior offering, would in themselves provide a workable solution for the Authority, it is proposed that it is made clear to both

Bidders that the Authority reserves the right to revert to Inspiredspaces as second placed Bidder in the event that the Authority has grounds to withdraw the status of Selected Bidder from Equitix or otherwise disqualify its bid.

3. NEXT STEPS

3.1 The appointment of the Selected Bidder is a significant milestone which triggers a number of further activities. The principal ones are:

- Establishment of the Shadow LEP, including nomination of the Authority's LEP Director and an independent Chair;
- Further, detailed development of the Selected Bidder's designs for the two Sample Schools;
- Submission of the planning applications for the two Sample Schools;
- Preparation of the Final Business Case (FBC). Approval of the FBC by Partnerships for Schools is a pre-requisite for Contract Close. The FBC will need to demonstrate that the objectives set out in the Outline Business Case (OBC) have been or will be delivered by the procured solution;
- "Fine tuning" and final preparation of all the contract documents;
- Agreement of Governing Body Agreements with the governors of the Fenland BSF schools in which the schools' obligations to the Authority in respect of their BSF projects, and vice versa, are set out in contractual form.

3.2 The current programme plan assumes that contracts will be awarded in late May/early June 2010, with work starting on site at the two Sample Schools in July 2010. This remains an ambitious programme which is vulnerable to some of the risks highlighted below – in particular, securing approval of the Final Business Case close to the likely date of a general election.

3.3 A further report will be brought to Cabinet in April 2010 and Full Council in May 2010 seeking approval to establish the LEP and award the Sample School contracts. In the meantime, the Authority is under no obligation to award any or all of the contracts for which this procurement has been conducted.

4. SIGNIFICANT IMPLICATIONS

The following significant implications of moving from the procurement to the operational phase of BSF should be noted.

4.1 Resources and Performance

Finance

- BSF client team resources will need to increase from the 3.5 FTE currently working in the programme office to 6 FTE to ensure that sufficient professional building, ICT and FM expertise is available in-house to manage the contracts with the LEP and ensure that the new project development phase for the Fenland phase 2 and next follow on wave of

schemes progresses in a timely manner. Additional education and ICT resource to be seconded to the LEP (1.5 FTE) is also required to ensure that opportunities to improve educational outcomes are maximised through BSF investment.

- Enabling works up to £1.7m are required to facilitate the main works programmes starting on site in early July 2010. Since these enabling works would occur before Contract Close, the Authority would be liable to the successful bidder for these costs if Contract Close did not happen and the contracts for the Sample Schools were not entered into.
- Schools modernised through BSF receive 50% less Devolved Formula Capital. In order to meet the realistic lifecycle maintenance costs of BSF schemes over time, additional capital contributions will be required from the Authority to ensure that schools modernised through BSF are appropriately maintained thereafter. For the six schools in Fenland, the Outline Business Case estimated that the capital contribution required would be approximately £11m (nominal) over 25 years. This would be a call on the capital programme and, for the most part, would be expected to replace normal capital schemes at these schools over the equivalent period. This has previously been noted by Cabinet.
- If BSF rolls out across all 44 eligible schools in Cambridgeshire, the approach adopted in the Fenland BSF project in respect of client side resources and capital support to schools will potentially also apply to subsequent waves.
- The standard form contracts on which the Cambridgeshire BSF contracts are based envisage some risk being retained by the Authority. These include asbestos and latent defect risk in retained buildings and risks associated with title and compensation events in certain circumstances. Any or all of these could have an impact on programme and price. Whilst some contingency will be held within each project and at the wave level from the BSF capital funding, many of the usual caveats about building programmes also apply to BSF. For example, initial archaeological investigations at Neale-Wade College have revealed some Iron Age and Medieval artefacts. The County Archaeologist's further report is awaited but there is the prospect that planning conditions could be imposed which will impact on how the works can be carried out on site – with potentially significant programme and price consequences.
- The Authority's investment in the LEP could be up to £260k depending on the precise share of equity and working capital investment required. However, it should be possible to agree with the Preferred Bidder to limit the Authority's investment in the LEP to a maximum of £50k based on an equity investment only, the sum currently included in the BSF budget for this purpose.
- Value for money and risk transfer has been, and continues to be, tested through the use of standard form contracts with agreed derogations where a better balance of risk and price can be achieved locally, benchmarking of costs and, in the case of the PFI school, revisiting in the Final Business Case the VFM assessment carried out in the Outline Business Case two

years ago. The BSF team has also used the competitive phase of the process to secure improvements in the overall offer and elements of risk transfer without an impact on price.

Property and Facilities Management

- BSF offers the prospect of providing greater community use and other local services on school sites. These are being assessed on a case by case basis in conjunction with schools and the Estates department.
- Whilst they are different and will provide greater security to the Authority and Governing Bodies, the FM contracts associated with the PFI and D&B schools under BSF will require new ways of working between schools, the Authority and the FM Managed Service provider.

ICT

- Upgrading the Shire Hall Server Room by September 2010 and providing a replacement wide area network for the Cambridgeshire Community Network (CCN) by 2012 are key dependencies for the BSF ICT contract.

Human Resources

- Approximately 40 staff currently employed by the Fenland BSF schools in a facilities management (at the PFI school) or ICT (at all schools) capacity will transfer to the employment of the FM or ICT provider as appropriate. As is normal practice in such cases, the Authority retains pension contribution rate risk above a fixed rate calculated by the pension fund actuary and agreed with the bidders.

Performance

- The LEP vehicle will provide maximum benefit and value for money if there is a regular pipeline of projects. Future public spending decisions, and the prospect of a new Government next year, could have a significant impact on the timing and extent of future BSF investment in Cambridgeshire.

Key Risks

- Key risks not otherwise addressed in this Implications section include:
 - Educational outcomes do not improve as a result of the BSF investment. BSF requires a significant commitment from schools in time and resources. The design development and construction phases in particular add to the risk that standards, or other school initiatives, could be adversely affected.
 - The performance of the LEP is inadequate and/or the value for money of schemes developed by the LEP is poor.
 - Planning permission is not achieved in time to start work on site in accordance with the current programme.

- These risks, along with many others, are recorded on the project risk register and the risk probability and mitigation measures are monitored by the BSF Board on a regular basis.

3.2 Statutory Requirements and Partnership Working

- BSF is a national programme to modernise all 3,500 secondary schools in England. All local authorities have been invited to participate and to prioritise their eligible secondary estate into groups of 6-8 schools. Fenland is in Wave 4 of the national programme. Entry into the programme for subsequent groupings of schools is dependent on meeting certain Readiness to Deliver criteria as defined from time to time by Partnerships for Schools. There is a degree of uncertainty about both the timing and prospects for future waves of BSF in the medium and long term.

3.3 Climate Change

- BSF will assist the Authority to meet its climate change objectives by replacing old, inefficient school buildings with modern facilities which meet far higher environmental standards. BSF schools will meet or exceed the Authority's policy of BREEAM Very Good and deliver significant carbon reduction savings through higher standards of energy efficiency and greater use of renewable energy systems.

3.4 Access and Inclusion

- BSF will assist the Authority to meet its access and inclusion objectives by providing modern school facilities which meet relevant SEN and DDA standards and by providing school based facilities which can be used by the community. Note that whilst designs for BSF schools will include improved community and extended use facilities, such facilities must have a curriculum use to qualify for BSF funding and the costs of making these facilities available for community use (eg heating, lighting, cleaning etc) cannot be met from school budgets.
- The development of exciting new schools at the heart of local communities is also likely to stimulate a new interest in learning and education.

3.5 Engagement and Consultation

- Consultation with local communities and other stakeholders is an important part of BSF in terms of identifying local needs and aspirations and through the design development and town and country planning processes.
- The Commission for Architecture and the Built Environment (CABE) has reviewed the Sample School designs during the design development process to date and continues to be involved to ensure that good design is delivered through BSF.

Source Documents	Location
<p>Final Bid Evaluation Report</p> <p>This is a confidential document not for public access as it contains commercially sensitive information about each bid as defined under paragraph 10.4 (3) of Part 4 of the Rules of Procedure - Access to Information Procedure Rules section of the County Council Constitution.</p> <p>Cabinet Members may request a copy from the BSF Project Office.</p>	<p>BSF Project Office</p>