

LONDON BOROUGH OF NEWHAM

MAYORAL PROCEEDINGS

Is it a key decision?	Yes
Is it in the Forward Plan?	Yes
Date report published	23/11/11
Date of meeting	01/12/2011

Subject: East Ham Civic Campus and Customer Service Centre and Library – Procurement Approval of the Contractor for the Site

Source: Regeneration, Planning and Property

Wards affected: East Ham Central

Exempt Information

The appendix to this report is exempt by virtue of paragraph 3 of the Access to Information Procedure Rules set out in the Constitution pursuant to Schedule 12A Local Government Act 1972, as amended.

The reason that this is exempt is that it contains confidential information relating to the overall price proposed by each of the tendering parties, which are commercially confidential, and their overall ranking following the tender process.

Purpose of Report

Following the decision at Cabinet on 20th May 2010 and the subsequent decision of the Chief Officer (under delegated power) on 21st September 2010 to approve the appointment of BAM as the main contractor for the stage 1 pre construction period of the East Ham Campus programme of works and the new-build Customer Service Centre and Library (CSCL), this report asks for post procurement approval to continue with the development of the project with the main contractor for the stage 2 construction period with the intention of awarding a final contract. This is to ensure that works onsite can commence as soon as possible, following contracts being agreed which was a condition stipulated by English Heritage to allow any demolition works to proceed.

This approval also allows for discussions with the contractor to proceed with an early works package, which is designed to bring forward the eventual final completion date of the works identified in the report.

The designs for the CSCL, and the East Ham Campus, and the East Ham Campus Buildings Future Uses Strategy were approved at Mayoral Proceedings on 6th October 2011.

Reason for Urgency

In order for the Council to enter into discussions with the contractor, BAM, for early works and to finalise the detailed costs with an intention to award a contract. This follows the stipulation by English Heritage that contractual arrangements are in place before any works commence onsite.

Recommendations

The Mayor is asked to:

1. Note the position in respect of progress with the selected tenderer (BAM) under the pre-construction agreement.
2. Approve the continuing discussions with BAM for the stage 2 construction period programme of works for East Ham Campus and the new build Customer Service Centre & Library (CSCL) at 328 Barking Road.
3. Approve the continuation of the Executive Director for Regeneration, Planning and Property's delegated authority to engage with BAM to endeavour to reach agreement to finalise a contract, which includes development of a separate package of early works and to award in line with the Council's Chief Officer Scheme of Delegation. The early works form part of the overall programme of works and consist of:
 - Asbestos survey and removal
 - Installation of hoarding to secure the site
 - Site clearance
 - Site set up.
 - Demolitions work

The final cost of the early works package is subject to the asbestos survey but is estimated to be between £500,000 and £1million.

4. Note that the main contract package for the CSCL build and the East Ham Campus refurbishment and redevelopment will not be awarded without Mayoral Approval of the final detailed costs of the works.
5. Note that a final award of a contract is reliant on a favourable Secretary of State planning determination, anticipated end January 2012.

Reasons for the Recommendations

In order to maintain an aggressive programme of works and apply a value managed approach to build the CSCL and redevelop and refurbish the surrounding Campus buildings, a 2 stage mini competition process for the contractor was undertaken under the Improvement & Efficiency South East (IESE) and London construction framework for Major Construction Projects.

The tendering process was taken forward by comparing the quality of the team, their approach and their defined cost for the pre construction works and their indicative

costs for the stage 2 construction works.

All affiliates to the IESE framework were asked to bid to provide allow for an open and competitive tender

The quality and approach of each team was awarded up to 80% of the score, and the cost up to 20%. This is a requirement of the IESE framework. It is felt that the contractor proposed provides the best approach and value for the Council.

The procurement of the contractor using the IESE framework is a two stage process with a pre-construction agreement for assistance with design development culminating in a collaborative/partnering contract for the second stage for the delivery of specific projects within the overall programme.

The benefits of adopting a two stage approach using are as follows :

- There is no requirement to adopt the full OJEU tender process which would otherwise have to apply. This would have likely extended the programme of works for up to another year.
- The selected contractor can start earlier on site and ensure a co-ordinated approach is applied to the works which in turn minimises disruption to staff and ensures a better health and safety practice is in place to keep all from harm when accessing the campus and surrounding area.
- A better process for management of eventual cost as the stage 1 process will definitively scope the programme and costs of the stage 2 works and the stage 1 process is in place for early contractor involvement to ensure they can keep to the anticipated bid costs and look for value managed efficiencies to improve upon this.
- A realistic baseline programme of works is developed after the detailed design has concluded. This means costs are more accurate, there is more time to value engineer variations that were not included in the original scope of the programme, and this creates a more transparent, open book arrangement allowing the Council a stronger position to manage the NEC 3 Target Cost type contract.

As the pre-construction design phase is now close to completion, and a planning application has been submitted, it is now necessary to begin discussions for stage two of the construction works to allow works on site to begin as soon as possible. By beginning discussions now, this will allow the contractor more time to market test and value engineer the initial fixed price.

English Heritage has stipulated that contractual arrangements are in place before any works commence onsite. The two main contracts (one for the Customer Service Centre & Library build and one for the East Ham Campus redevelopment and refurbishment) will be executed simultaneously in accordance with the phased programme of works supported by English Heritage and which are anticipated to be approved by the Secretary of State in January 2012.

Should the recommendations not be approved then the programme will be put at risk with likely abortive costs to the design team and a reputational risk with English Heritage.

NAME OF LEAD OFFICER: Clive Dutton
POSITION: Executive Director Regeneration, Planning and Property

Originator of report: Susan Curran and Christopher Andrew, Physical Regeneration

Tel no: 020 3373 4335; 020 3373 9662

E-mail address: susan.curran@newham.gov.uk;

christopher.andrew@newham.gov.uk

Local Government (Access to Information) Act 1985

Background papers used in preparing this report:

- Tender documents held on NECTR, the Council's electronic procurement system (NECTR reference: RRP/MJ/2705/CA).
- Report to Cabinet on 20th May 2010, held on the Council's website
- Decision of Chief Officer (under delegated power) report 21st September 2010, held on the Council's website.
- Letter of Award – Preconstruction work, dated 8th April 2011, held on NECTR, the Council's electronic procurement system (NECTR reference: RRP/MJ/2705/CA).
- Report to Mayoral Proceedings on 6th October 2011, held on the Council's website.

List of enclosures / Appendices:

- Appendix1: Exempt report

Report - Part A

1. Introduction and Background

- 1.1 On 20th May 2010 the Mayor in consultation with Cabinet agreed to a programme of activities in East Ham, to include: the development of the Integrated Front Office, now known as a Customer Service Centre & Library (CSCL); and the refurbishment and reoccupation of the Listed Buildings.
- 1.2 A procurement process has been undertaken to select a contractor for the works using the Improvement and Efficiency South East (IESE) and London framework for Major Construction projects. Subsequently the decision of the Chief Officer (under delegated power) on 21st September 2010 approved the appointment of BAM as the main contractor for the stage 1 pre construction period of the East Ham Campus programme of works and the new-build CSCL and a letter of Award for Preconstruction work, dated 8th April 2011, was issued. The procurement of the contractor using the IESE framework is a two stage process with a pre-construction agreement for assistance with design development culminating in a collaborative/partnering contract for the second stage for the delivery of specific projects within the overall programme.
- 1.4 The designs for the CSCL, and East Ham Campus were approved at Mayoral Proceedings on 6th October 2011. There has been considerable consultation on the emerging designs with Executive and Ward Members, the Design Review Panel, user groups, local residents and businesses.
- 1.5 The planning application was taken to Strategic Planning Committee on 15th November 2011. To ensure that works onsite can commence as soon as possible once planning is determined and the target cost threshold is approved, this report asks for post procurement approval to enter into discussions with the contractor (BAM) for the stage 2 construction period.
- 1.6 In addition this report asks for approval to commission BAM for a separate package of early works, which form part of the main programme. These works consist of:
- Asbestos survey and removal
 - Installation of hoarding to secure the site
 - Site clearance
 - Site set up.
 - Demolitions work
- The final cost of the early works package is subject to the asbestos survey but is estimated to be between £500,000 and £1 million.
- 1.7 The latest cost estimate for the construction works (including the early works packages) is £11.5 million for the CSCL build and £9.2 million for the East Ham Campus works. This is being funded from the £15 million CSCL budget and the £12.5 million East Ham Campus budget, allocated as part of the Capital Programme 2010-2015 Report (agreed by Cabinet on 11th March 2010). During the stage two period, the contractor will market test and value

engineer the initial fixed price. The contracts will not be executed without Mayoral Approval of the final costs with any shortfall being identified.

1.8 Procurement methodology for the contractor

- 1.8.1 The construction companies considered for this appointment are from the IESE framework. Given that the appointment will cost in excess of the European Union's procurement limit of approx £3,927,260, the alternative procurement approach would have been an OJEU process, which would have added a considerable delay to the timetable.
- 1.8.2 All 10 contractors on the panel were Invited to Tender as an open Tender basis for procurement and in accordance with a two stage approach 6 were shortlisted. Details of the companies shortlisted and the evaluation can be found in Appendix 1. Following evaluation of the tenders the preferred management contractor selected is BAM as it was felt they had the most innovative approach to the concept design, and would work well with the local authority. In terms of price, they were very competitive and provided the best use of resources.
- 1.8.4 The nature of the eventual contract is based under an NEC3 Appendix C which is a collaborative target cost arrangement. This incentivises the contractor to work with design teams earlier to programme supply chain and sourcing of materials. More importantly, it places a contractual obligation upon the contractor to identify changes and their relative impacts to the programme of works before they are approved by the Client.

2. Key Considerations and Sustainability

- 2.1 Sustainability featured significantly in the assessment of the successful contractor. Emphasis was placed on the type of community benefits they would deliver and it was expected that they would impart a social inclusion element to their bid by evidencing how they would source local resources in their work. Equally, partnering with subcontractors with emphasis on local supply chains featured, which would advantage local businesses. The BREEAM excellent expectation was also retained with the tender panel's confidence that BAM would deliver upon this given their experience and expertise in this field.

3. Service Delivery and Performance Issues

- 3.1 The integration of all local service functions into the CSCL will make it easier for local people to access Council facilities in a comfortable setting. Customers everywhere now expect organisations to resolve their enquiry at the first point of contact wherever possible. It will also enable the Council to drive very significant savings from delivering services in radically different ways, delivering on the agreed Customer Access Strategy and the approaches that the document sets out for managing customer transactions.

4. Comments of the Finance Officer

- 4.1 There is an approved allocation within the Capital programme of £27.5m for the two projects relating to the East Ham Civic Site (£15m for construction of the Customer Service Centre and Library and £12.5m for the renovation of the rest of the site).
- 4.2 Both projects are subject to the review of the Capital programme to be considered at December Cabinet. Should the review support a continued allocation then the scheme could be progressed. Without this there would need to be further consideration of how to fund the capital costs before committing to the project through seeking Mayoral Approval to the final detailed costs of works
- 4.3 Awaiting the outcome of the Capital Programme review will not delay the project as the timing of signing of contracts is in any case reliant on a favourable Secretary of State planning determination which is not expected until the end of January 2012.
- 4.4 There is a financial risk around the shortfall between the £12.5m budget and the estimated costs of the works to the wider campus. This is being managed as described in paragraph 6.2 below and by exploring alternative funding sources.
- 4.5 The revenue costs relating to the running costs of the new building are estimated to be £0.5m higher than the cost of current buildings. This has been identified as a budget pressure and will need to be addressed in the budget strategy.

5. Comments of the Legal Officer

- 5.1 The Mayor is asked approve the recommendations in the report to agree to officers to continue to develop a final contract with the tenderer selected at the first stage of the tender process for the intended works on the East Ham Town Hall complex in respect of the construction of an Integrated Front Office (IFO) and works to other buildings with a view to seeking approval for a final award to be made subject to the provisos in the report.
- 5.2 This is a project affecting municipal buildings that were largely vacated in 2008 and relates principally to their refurbishment and the construction of an IFO building. The Council is also under pressure from English Heritage to carry out works to the historic buildings on the East Ham Town Hall complex .The Council has powers in Section 132 of the Local Government Act 1972 for the purposes of the discharge of its functions to acquire or provide and furnish halls, offices and other buildings which includes construction and maintenance. This is further underpinned by powers under Section 2 of the Local Government Act 2000 in terms of the promotion of the economic, social and environmental well-being of its citizens in line with its Sustainable Communities Strategy. This power allows the Council amongst other things to incur expenditure and enter into arrangements or agreements. The

recommendations in the report are compatible with the aims and objectives of its Sustainable Communities Strategy in terms of municipal facilities.

- 5.3 The procurement process for the final award of a design and build contract was conducted using the IESE (Hampshire) framework using a two stage tender process. The Mayor in consultation with his Cabinet colleagues approved the commencement of the project and delegated to the Executive Director for Regeneration, Planning and Property authority to procure and appoint as necessary for the project. The authority included engaging consultants and building contractors subject to cap budget limit of £750K. The report advises that the said officer authorised selection of a stage one tenderer and to develop the project through a pre-construction agreement which is in line with the IESE framework and consistent with the approval of 20th May 2010. The report goes on to confirm that pre-construction activities have been reached a point where it is now necessary to proceed to stage two of the tender process with a view to finalising a contract with the selected tenderer who the Council entered into a pre-construction agreement. The contractual liability under the said agreement was capped off in line with the authority given to the Executive Director. If moving to stage two with the selected tenderer is not covered by the pre-construction agreement, the Council could be exposed to further costs to develop the works packages and finalisation of the main contract which if final agreement is not reached with the tenderer ,or planning is refused ,or approval to award a contract is not given is likely to have cost implications. The satisfactory pre-construction phase would suggest that there is every chance that a satisfactory agreement on a final contract will be reached.
- 5.4 There are no further legal or propriety issues to the report at this time.

6. Risk Management

- 6.1 The Council is committed to the long term future and success of the East Ham Campus. However, changes to the proposals may occur due to operational requirements. A budget of £12.5m has already been approved by L B Newham to regenerate and refurbish the existing listed buildings. This programme will begin once planning consent has been granted.
- 6.2 There is concern that the £12.5m allocated for refurbishment of the East Ham Campus is not sufficient. A phased refurbishment of the listed buildings and close monitoring of budgets should deliver better management and control of the approved £12.5m to ensure best value. The CSCL has a separate committed budget of £15m.
- 6.3 A risk register has been developed for the CSCL that is being updated on a monthly basis. The risk register is being prepared with the Corporate Risk Management team and is assessed at the monthly Project Board meetings, to ensure that it reflects all the risks and the mitigation proposals required.

6.4 Risks to quality and value for money have been managed through the consideration of these two factors in the competitive selection process for both the architects and the project/cost management teams.

7. Consultation

7.1 A consultation strategy has been developed and consultation with residents and businesses has been ongoing since May 2011. In May 2011 the proposals were on display at the East Ham Town Hall and East Ham Library for four weeks. The designs have also been presented to the East Ham Business Forum, Design Review Panel, DC Members Forum and The Strategic Planning Committee.