
Meeting: Council
Date: 29 November 2012
Subject: Central Bedfordshire Alternative Provision Free School (APFS) – premises development procurement
Report of: Cllr Mark Versallion, Executive Member for Children’s Services
Summary: The report provides background to the proposed amendment to the recommendation (from the Executive on 6 November 2012) to Council on the Capital Programme Review.

Advising Officer: Edwina Grant, Deputy Chief Executive/Director of Children’s Services
Contact Officer: Pete Dudley, Assistant Director for Learning, Commissioning and Partnerships 0300 300 4203
Public/Exempt: Public
Wards Affected: All
Function of: Executive and Council
Key Decision Yes
Reason for urgency/ exemption from call-in (if appropriate) It is intended that the new Alternative Provision Free School will be in place for September 2013 and decisions relating to the arrangements for the premises procurement are needed urgently.

| CORPORATE IMPLICATIONS | |
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| Council Priorities: | |
| The report supports Central Bedfordshire’s Medium Term Plan: <i>Delivering your priorities – Our Plan for Central Bedfordshire 2012-2016</i> and the specific priority of Improved Educational Attainment. | |

Financial:

1. This project is externally funded by the Department for Education (DfE) through a capital grant of approximately £3M. This is in addition to previous funding invested by the Council on the Kingsland premises to address urgent health and safety works. There is no further financial implication for the Council. Rigorous measures will be in place to ensure that the costs of the project are contained within the funding envelope available and the use of the template Design and Build contract supports this by restricting expenditure to a fixed agreed Contract Sum. There are no revenue implications directly arising from this report.

Legal:

2. The main legal issue relates to the procurement arrangements for the design and build contract. Processes for granting leases to the Free School of the former Roecroft School and of an element of the Kingsland campus are currently underway, as approved by the Council's Executive on 27 March 2012.

Risk Management:

3. The main risks in this project relate to agreeing a scheme which can be procured within the capital funding envelope available, whilst also guaranteeing timely delivery of the project.
4. A project team has been established by the promoters of the Free School with the Council alongside support from specialists with significant experience of delivering projects through the DfE Academies Framework who are responsible for developing high level risks into a 'PRINCE 2' risk register (consistent with the Council's established processes) and for its regular review.

Staffing (including Trades Unions):

5. There are no direct staffing implications arising from this report.

Equalities/Human Rights:

6. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics. Education is a key determinant of life chances allowing individuals to develop the skills, capacity and confidence to secure economic and other life opportunities. Ensuring educational opportunity for children not in attendance at school is a key driver of the Alternative Provision Free School (APFS).
7. The APFS Trust will be directly accountable through its Funding Agreement with the Secretary of State for Education for meeting Equalities requirements in operating the provision.

8. The Partnerships for Schools (PfS) standard contract documentation (referred to in section 27 of the report) contains full equalities provisions in order to comply with requirements directly relating to the procurement activity. The adapted and new-build premises must meet full access requirements to obtain current Buildings Regulations approvals.

Public Health

9. None.

Community Safety:

10. The Council has a statutory duty under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area as it exercises its functions. It is a requirement for using the Partnerships Framework Design and Build Contract that rigorous attempts are made to incorporate appropriate features to make the new facilities both secure and accessible. This dimension must feature on the risk register referred to in 4, above.

Sustainability:

11. An objective of the project is to ensure the up-rating of the services infrastructure in the proposed premises where possible. The level of funding and the predominant refurbishment nature of the project will not enable especially radical technologies to be deployed. The premises at the Kingsland site have recently had new double-glazed windows installed, which it is hoped will reduce energy consumption.

Procurement:

12. It is proposed to draw a single contractor (Willmott Dixon Limited) from the Academy framework agreement created by the Education Funding Agency and entered into by Central Bedfordshire Council. The relevant statutory provisions are contained with the Public Contracts Regulations 2006 (SI2006/05) and in particular regulation 19. This proposed procurement methodology has been approved by the Council's Procurement Team.
13. Sections 25 to 28 of the report explain the proposed procurement arrangements and the parameters directly relating to direct award procurement. The Partnerships for Schools (PfS) Design and Build contract requires the adequate design development of the scheme prior to entering into the contract, which assists in securing cost-certainty and quality. A clerk of works and construction-risks safety planner will work with the scheme's Technical Advisor as part of the client-team to monitor the actual building process, which will also be subject to regular Building Regulations inspections throughout implementation. The rates for works in the PfS European-wide procured Framework have been through rigorous testing in order for Willmott Dixon Limited to be able to be considered for a place on the framework.

Overview and Scrutiny:

14. This matter has not been considered by Overview and Scrutiny.

RECOMMENDATIONS:

Council is asked to:

agree the addition of the Central Bedfordshire Alternative Provision Free School scheme within the Capital Programme.

Note: It is proposed that delegated authority will be granted by the Leader to the Deputy Chief Executive / Director of Children's Services, in consultation with the Head of Legal Services, the Executive Member for Corporate Resources and the Executive Member for Children's Services, to enter into an Education Funding Agency Design-and-Build Contract, as outlined in the report, to comply with the implementation arrangements required by the Education Funding Agency and to agree the commencement of expenditure.

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| <i>Reason for Recommendations:</i> | <i>(a) in order to procure the works the scheme needs to be included in the Capital Programme;</i> <i>(b) Once the funding has been approved the scheme needs to be implemented promptly in order that the intended completion date in August 2013 can be achieved.</i> |
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Executive Summary

15. The Council has supported an application to establish an Alternative Provision Free School within Central Bedfordshire as recommended to Executive on 27 March 2012. The Secretary of State for Education has given initial approval to the proposal, enabling its further development.
16. The Council are best placed to secure the design and build contract for urgent premises development works on the two sites involved in the scheme to provide facilities that will enable the delivery of the school's curriculum model.
17. Similar arrangements have been successfully made in relation to the premises development of the Central Bedfordshire University Technical College project and it is considered that the approach suggested by this report will lead to the same value for money outcomes.
18. The report explains the proposed contractual arrangements and provides delegations which enable timely approvals to Education Funding Agency (EFA) documents.

Background to the Alternative Provision proposal

19. On 27 March 2012 the Council's Executive agreed to support the development of the range of provision for pupils who are at risk of permanent exclusion or who require an alternative curriculum and support to address their needs by partnering in the submission of an application for a Free School, with a collaboration of local schools acting as promoters.

20. The Executive also agreed to make available the site of the Council's current Pupil Referral Unit (PRU) at Kingsland Campus, Houghton Regis, and the premises and part of the site of the former Roecroft School in Stotfold as locations for the Alternative Provision Free School. These sites will be the subject of 125-year leases using the model provided by the Education Funding Agency.
21. The Secretary of State has recently indicated the success of the initial bid and the project has now moved into planning stage, with a view to formally opening in September 2013 subject to project development work and a range of formal approvals being in place.

Procuring Premises Development

22. An outline capital funding envelope of £3m has been allocated by the Education Funding Agency (EFA) to the Free School to provide facilities that will enable the delivery of the school's curriculum model and the development of the existing premises required to implement the APFS scheme. The timescale for implementing works is very challenging to enable completion in August and opening in September 2013 and having explored various implementation models the EFA have suggested the most effective arrangement would be a direct award contract arrangement through the Council. The promoters of the free school support this proposed arrangement.
23. The construction company, Willmott Dixon Limited, have recently completed the building of new premises for All Saints Academy, Dunstable and the school is now in occupation. The company have also recently completed the first two phases of work for the premises of the Central Bedfordshire University Technical College (UTC), at Kingsland Campus, Houghton Regis. The timescale for undertaking the works at the UTC was also challenging but the UTC was able to open on time in September 2012.

Procurement route

24. The Council also used a 'direct award' procurement solution for the UTC premises procurement, using the EFA Academies Framework, which the Council's Executive approved in March 2012. This report proposes adopting a similar approach in relation to the building work for the APFS.
25. The Public Contracts Regulations 2006, regulation 19, provide that where a framework agreement has been created it is permissible to award a contract to a single contractor, who is signed up to the framework, without running any further form of competition. This is only permitted on the basis that the terms of the contract are laid out in the framework agreement. The documents attached to the framework agreement have been reviewed and they provide the reassurance required that the terms are contained therein and so it is considered permissible to enter into a direct award scenario.

26. In order to pursue the suggested approach the Authority has to work within its own Constitutional Procurement Rules and also have regard to the way in which the Academies Procurement Framework was tendered to comply with European legislation. The direct route is permitted by the Council's internal rules providing it satisfies best value considerations.
27. Officers have obtained the tendered rates for the relevant Framework from Partnerships for Schools which show that procuring via Willmott Dixon Construction would be cost effective. Willmott Dixon Construction's rates applicable to the scheme were the same as the rest of the Framework member companies.
28. The national framework has been re-tendered since All Saints Academy was procured and Willmott Dixon Construction's rates have reduced in line with the prevailing economic context in the construction industry, providing further negotiated value for this project. The APFS scheme would benefit from further reduction as the projects would be 'batched' for costing purposes. Using the direct contract route would also save time and can be implemented using a standardised template contract.
29. Willmott Dixon will remain working on the UTC contract on the Kingsland site until March 2013 and continuing to employ them for the work on the APFS scheme would save on mobilisation and set up costs. This is a significant value for money issue as the amount of capital funding available for the APFS is limited.
30. The promoters of the Alternative Provision Free School support the recommendations set out in this report as the most efficient mechanism for delivering the required works to the premises to achieve the challenging opening date of September 2013.

Conclusion

31. The procurement approach set out in this report is viable and offers good value for money, utilising the national Academies framework. The scheme will need to be incorporated in its entirety in the Council's Capital Programme and senior officers will be tasked to regularly review and report progress. Appendix A is the Detailed Business Case for the scheme to enable expenditure to commence at the appropriate time.

Appendices:

Appendix A – Detailed Business Case

Background Papers: (open to public inspection)

Alternative Future Provision of the Pupil Referral Unit - Executive – 27 March 2012
Accommodation for the Secondary Age Pupil Referral Unit - Executive – 27 March 2012