

North Somerset Council Decision

Decision Of: Director of Children's Services

With Advice From: S151 Officer and Head of Strategic Procurement

Directorate: Children's Services



Decision No: CY11 (2020/21 Scheme)

Subject: Contract Award report for the Design of the Winterstoke Hundred Academy Extension (WHAE)

Key Decision: YES

Reason:

The value of the contract is greater than £500,000.

Background:

The Highway Infrastructure Fund (HIF) is £5.5 billion capital grant funding available until March 2024.

It has been allocated to local government on a competitive basis, providing infrastructure targeted at unlocking up to 650,000 new homes in England.

Following a successful shortlisting, COU18 on the 8 May 2018, gave authority to work up the business case for this project, as part of Stage Two: Co-Development. This work was completed, and the HIF business case was submitted on 7th February 2019 following approval under 18/19 DE341.

Following a period of assessment and scrutiny, the Ministry of Housing, Communities and Local Government (MHCLG) recommended to the Secretary of State for Housing, Communities and Local Government approval of NSC's HIF FF bid. This was confirmed on the 26th November 2019 in a letter to NSC together with accompanying terms and conditions. The HIF grant was formally accepted at the council meeting on 16th June 2020 subject to approval of the final terms and conditions by the Executive meeting on the 29 June 2020; these were subsequently approved by the Executive for signing.

The award of the HIF grant for NSC is for the delivery of key enabling infrastructure, namely;

- **Secondary school place provision at Weston Villages;**
- Banwell bypass including land assembly and flood mitigation works;

- Local transport improvements including supporting active and sustainable travel and public realm/traffic management within Banwell village and the adjacent road network and villages;
- Utility improvements.

Cabot Learning Federation (CLF) are operating the Winterstoke Hundred Academy on Beaufighter Road (WHA - BR) until their expansion to their main site on the Parklands development is available. WHAE forms part of the HIF grant awarded to NSC.

A Multi-disciplinary consultant was procured to take the scheme to RIBA stage 0-1 by October 2020, with an initial design accommodating 900-1200 school children. These school places are viewed as essential as the demand grows in line with the ongoing housing developments and the development sites related to the HIF grant.

Decision:

It is requested that the contract for the Design of the WHAE be awarded to Kier Construction Ltd, Tempsford Hall, Sandy, Bedfordshire, SG19 2BD (company registration number 2099533) a 1 year contract with a contract value of £713,013.

Reasons:

Introduction

The procurement carried out was for the Design and Build of a secondary school.

The Commissioning Plan was approved at Full Council on 25th June 2019 (see Background papers).

The Procurement Plan was approved by the Executive Member on 24 September 2020 (see Background papers).

The contract value is in two stages, for the detailed design and the construction. This report is for the award of the detailed design element. There are two contracts – the Pre-Construction Services Agreement (PCSA) and the design and build (D&B) contract. During the first contract the contractor will work up the construction cost and the project team will go back to Executive for the approval of the construction element. The detailed design element will form the contract value of £713,013 and be commissioned via the standard Southern Construction Framework (SCF) PCSA contract. This will run from January 2021 to January 2022. The construction element will be from January 2022 to September 2023.

Market Engagement actions

The Project Team engaged with different framework suppliers and contractors, to establish the appetite for pursuing projects on the scale of WHAE. It was established that the tender process has not been significantly affected by the pandemic. Bid teams have had to increase the time it takes to prepare a bid for submission, but this is not a dramatic increase and was mitigated against by providing contractors with information in advance of the first stage of the procurement process. The pre-construction phase will be largely unaffected, with different parties able to collaborate over video conferencing software.

Discussions with framework suppliers and contractors indicated that WHAE is an attractive project for prospective bidders. NSC has been granted the funding for the school, which provided the bidders with a degree of financial security in an increasingly uncertain economic climate. The cost of the project meant that all 10 of the contractors associated with SCF could bid, with the smallest contractors able to bid for projects with a value of up to £40 million and the largest able to bid for projects valued from £20 million. This meant that the project could attract interest from all available bidders, increasing competition and driving value.

The Project Team have been engaging with framework providers, visiting school sites with prospective contractors and consultants. A briefing session was held in September with all 10 of the SCF suppliers; the suppliers were advised of the site, scope, value, duration etc of the contract. The SCF Manager then ran the Mini competition 1 process whereby the suppliers answered various questions and 3 bidders (out of the 7 who bid) were taken through to the Mini Competition 2 stage.

Award Criteria

The quality: price weightings used were 70:30. The mini competition 2 submission required the contractor to provide financial information for their overheads and profits only; the estimated construction cost of the school was provided to bidders by the council as insufficient detail was provided at this stage for the bidders to estimate this.

Within the quality and technical section, one of the mandatory questions was 'Financial Control'. This question requires bidders to comment and evidence their ability to deliver the project to the stated cost plan, highlighting the top three risks and how these would be mitigated. This question was given a weighting of 25% of the overall quality weighting to ensure the council was confident that bidders were evidencing how they would achieve value for money e.g. their open book accounting methods for procurement of subcontracted packages of work.

Question Areas	Question Weighting
Financial Control	25%
Social value	10%
Framework / Project Delivery: Proposed Team	10%
Framework / Project Delivery: Applying Previous Experience	10%
Handover & Aftercare	10%
Design Management: Approach	10%
Design Management: Programme	5%
Sustainability and Environment	20%
Total	100%

Procurement procedure & publishing information

The council chose to use the SCF and ran a mini competition process, this meant that an OJEU notice was not required to be published. The procedure was the SCF's 2 stage mini competition process using the timescales recommended by SCF.

Mini competition 1 ran for one week from 2 to 9 October 2020.

The Mini competition 2 ran from 19 October to 2 November 2020.

Evaluation Panel Members (for Mini competition 2)

The panel consisted of:

Senior Project Manager (School Team)
Project Officers (School Team)
Representative from AECOM
Service Lead Strategic Planning and Governance

Moderated by the Strategic Procurement Service.

Evaluation outcome

The individual panel members scored the supplier bids. The 3 shortlisted bidders submitted bids via the council's e-procurement system, Procontract, and the panel evaluated out of 5 using the scoring matrix below:

Score	Classification	Award Criteria
5	Excellent	A response that inspires confidence; specification is fully met and is robustly and clearly demonstrated and evidenced. Full evidence as to how the contract will be fulfilled either by demonstrating past experience or through a clear process of implementation.
4	Good	A response supported by good evidence/examples of the Bidders' relevant ability and/or gives the council a good level of confidence in the Bidders' ability. All requirements are met, and evidence is provided to support the answers demonstrating sufficiency, compliance and either actual experience or a process of implementation.
3	Satisfactory	A response that is acceptable and meets the minimum requirement but remains limited and could have been expanded upon.
2	Weak	A response only partially satisfying the requirement with deficiencies apparent. Not supported by sufficient breadth or sufficient quality of evidence/examples and provides the council a limited level of confidence in the Bidders' ability to deliver the specification.
1	Inadequate	A response that has material omissions not supported by sufficient breadth and sufficient quality of evidence/examples. Overall the response provides the council with a very low level of confidence in the Bidders' ability to deliver the specification.
0	Unsatisfactory	No response or response does not provide any relevant information and does not answer the question.

A moderation session was held on the 5 November 2020. This initial evaluation and moderation process identified two leading suppliers who had scores within 1%. Due to these extremely close results, the Strategic Procurement Service recommended that the final evaluation scores and supplier feedback were verified independently.

An independent validation was therefore undertaken by a member of staff from Devon County Council who had not been involved in the procurement but had knowledge of the SCF framework.

The original moderation panel was reconvened on the 18 November 2020 for a further moderation session to consider the comments from Devon County Council and finalise the moderation. The moderation panel agreed to accept the recommendations made by Devon County Council in their independent validation.

The moderation results were as follows:

	Kier	Supplier 2	Supplier 3
Quality Score	56.70%	49.00%	53.90%
Price Score	30.00%	24.52%	29.58%
Total Score	86.70%	73.52%	83.48%

Kier was selected as the preferred supplier.

Social Value

In accordance with the council's social value policy bidders were required to submit their commitments. Kier's social value commitments include:

- Commitment to change the lives of 100 people in North Somerset
- Work placements – 50
- Apprenticeships – 14
- Other jobs created (new entrants/graduates) – 15
- Construction careers information, advice and guidance events – 22
- Waged training weeks on site (apprenticeships) – 340 weeks
- Waged training weeks on site (traineeships) – 224 weeks
- Waged training weeks on site (new entrants trainees) – 76 weeks
- Qualifications and industry certification for main contractor and subcontractor
- Set up the Winterstoke Hundred Sustainability Academy (WHSA), with the creation of a low carbon pavilion to provide an indoor/outdoor training space

Contract Management

The Council will be procuring Employer's Agent and Quantity Surveyor services for the HIF Bypass and School construction to oversee the projects. The HIF Project Team will act as the intelligent client.

A contract management plan will be produced for managing the contract of the construction contractor. This plan will address clearly:

- Performance management
- A timetable for meetings and processes for communications
- Risk management
- Governance
- Financial management and reporting
- Managing change in the contract
- Technical evaluation
- Sustainability objectives

The details of this plan will be determined by the contractor employed, the construction contract used and the employer's agent brief.

A JCT contract will be used to manage the relationship between NSC and the contractor. A fixed price will be sought from the contractor which will take account of any inflation or other potential increases in project cost. In addition, the JCT contract includes clauses to protect against spurious claims and amendments. It will be the employer's agent's role to manage this process.

Implementation of Contract

It is anticipated that the design work that this award report relates to should be completed within the calendar year of 2021. The easiest way to communicate the work that will be undertaken is using the RIBA Stages, which is a method used to organise the process of construction from inception to completion, encompassing briefing, designing, constructing and operating the building project. This work will cover stages 2-4; concept, spatial and detailed design. The table below presents the primary activity that will be undertaken through the year and at each RIBA stage.

Date (all 2021)	RIBA Stage	Activity
Jan	2	Commencement of 'Concept Design'
Feb	2	Sharing of concept design with local community and the NSC Design Review Panel – feedback received and included
March	2	Pre-Planning application submitted to LPA
April	3	Commencement of 'Spatial Design'
April	3	Receive feedback on Pre-Planning Submission – and address any concerns raised by LPA
May	3	Sharing of spatial design with local community – feedback received
May	3	Workshops with LPA
June	3	Updated design shared with NSC Design Review Panel
July / Aug	3 / 4	Submit planning application Commencement of 'Detailed Design'
Sept – Oct	4	Detailed design ongoing
Nov / Dec	4	Planning permission received

Options Considered:

Futures for Somerset

Futures for Somerset (FS) was founded in 2010 by Somerset County Council as a specialist vehicle to support the delivery of their 'Building Schools for the Future' programme. In 2019 FS became a standalone social-enterprise with 10% ownership retained by the Council, 10% by Amber Investments and 80% by BAM (construction and facilities management contractors). FS have an OJEU approved process for the procurement of school design and construction services. FS has been involved in the delivery of over 100 school build or refurbishment projects with a combined value of over £200m. In addition to procurement FS can provide consultancy on all aspects of the school construction process from preparing a bid for funding to the facilities management of a completed school.

Although 80% owned by BAM they work with several contractors on the delivery of projects. They work with a suite of contractors across the region. Either the NEC3 or JCT contract can be used in the delivery of the project.

There is no fee incurred in using their procurement process however we would be required to use their consultancy services during the design and / or construction process if we were to use it.

SCF

Developed by Devon and Hampshire County Councils in 2003 SCF is the fourth-generation of a framework for the procurement of construction services in Southern England by the public sector. It has been used in the delivery of £6.6bn of projects and provides a rapid and efficient way of accessing leading contractors. There are ten contractors able to bid for work through the framework in the south-west:

- BAM
- Galliford Try
- ISG
- KIER
- McLaren
- Midas
- Morgan Sindall
- Sir Robert McAlpine
- Wates
- Willmott Dixon

The framework follows the Cabinet Offices recommended two-stage open book procurement process which takes the form of a two-stage competition. The framework can be used to commission both build only or design and build projects. Either JCT or NEC contracts can be facilitated.

A fee of 0.25% of the value of the services procured through the framework is paid to SCF by the contractor for its use.

Department for Education Schools Building Construction Framework

Created by the Department for Education to facilitate the building of new schools this construction framework is available to local authorities, schools, academies and other public bodies in England. Access to the framework is governed by DfE and all framework users must sign an access agreement. There is no charge to use the construction framework (or any charges paid by framework contractors). Significant resources to support the use of the framework are available online.

Depending on its anticipated value a project will fall into one of three value bands. WHAE will fall into the higher value band for projects £12.5m+. The value band determines which of the 32 pre-qualified contractors signed up to the framework will be invited to tender. The process for using the framework is well defined and must be followed once commenced. The team decided that the prescriptiveness of the process would make amendments, if required, difficult and stifle creativity.

SCAPE Framework

The SCAPE Framework is a single supplier framework, with Wilmott Dixon being the supplier to NSC. Whilst the Council has used this framework in the past, the drive for competition and attaining value for money means that the Council's preference is for a multi supplier framework. In addition, the Major Works framework is for projects worth £2m - £20m so the value of this scheme exceeds the framework threshold.

Bundle with Bypass

In addition to the construction of the school, the HIF programme includes the construction of a bypass around the village of Banwell. The project team has considered the option of bundling the construction of the school and the bypass.

In this approach the same contractor would be used to deliver both the bypass and the school. This would result in a single tender process being required which could be expected to save the project management team time preparing and assessing two tender processes and on-going contract management. This increased value of a tender for both the school and the bypass may be more attractive to contractors and result in a lower overall project price being negotiated. However, having a single contractor presented several risks - the most obvious one is if the contractor fails, neither project is delivered. In addition, delivering both projects may over stretch the contractor resulting in a drop of quality on one or both projects.

Competitive Tender

A competitive tender process would be advertised in the Official Journal of the European Union and on Contracts Finder, in addition to the Council's procurement portal, potentially resulting in many bids. This approach offers the greatest potential for competition between contractors. This process could also generate the greatest flexibility and innovation.

A competitive tender process may have resulted in increased resource requirement, in the creation of the tender documentation and the bid evaluation than required with the use of the SCF framework agreement.

Financial Implications:

This contract award relates to the design of WHAE and is covered by the PCSA. The total cost for taking the project through the design phase (RIBA Stages 2-4) is £713,013. This amount covers the contractor's design team, management costs and other minor fees associated with pre-construction. The contractor's assembled design team is the most significant cost associated with the design phase.

These costs will largely fall in 2021, before construction begins in 2022.

Costs:

The break down of the budget across the design phase of the project is outlined below:

Design Stage	Activity	Cost
RIBA Stage 2 (Jan 21 – Apr 21)	Concept Design	£168,724
RIBA Stage 3 (Apr 21 – Jul 21)	Spatial Design	£247,060
RIBA Stage 4 (Aug 21 – Dec 21)	Detailed Design	£297,229
	Total	£713,013

Funding:

The works are funded from the HIF Forward Fund grant allocation of £97,067,550. Of this £27,604,192 is allocated to the construction of the school. £2,635,830 of this is for the design, planning and supervision of the project and £855,875 of this for the design contract.

Legal Powers and Implications:

The council is using the JCT form of contract with a Pre-Construction Services Agreement and a Design and Build contract. The council's best interests were represented by using JCT contract amendments; this support was provided by Keystone Law. The acceptance of the council's terms and conditions was made a pass/fail criterion.

Climate Change and Environmental Implications:

A project of the scale of a new secondary school has the potential to have significant environmental implications and impact on climate change. This is fully recognised by the NSC project team and it is their intention to ensure that a school is delivered which will minimise these impacts. This intention has been communicated to throughout the procurement process and Kier have an extensive track record of delivering schools which achieve the highest environmental standards.

On this project Kier have committed to working with us to:

- Use a Sustainable Procurement Plan – ensuring that materials used throughout the construction have the minimum possible impact on the environment, through their sourcing, production, operation and end of life
- Deliver a net-zero carbon in operation school
- Achieve a BREEAM Excellent certification – an internationally recognised scheme to measure the environmental performance of buildings
- Certify the building as Passivhaus – an internationally recognised measure of low energy use
- Achieve a minimum biodiversity net-gain of 10%

Consultation:

Cabot Learning Federation have been engaged from the start. Site visits have been undertaken by the NSC project team and the CLF leadership team to both the site of the new school as well to the site of the existing Winterstoke Hundred Academy. CLF have advised the NSC team of their vision for the new school and how they intend to operate the two sites, and this has been converted into an Education Brief. This brief has been used to guide the early stages of the design process and will be referred to going forward. As well

as taking a steer from the education brief senior staff from CLF have been involved in key meetings with the design team and been involved in the making of early key decisions.

The Service Lead for Strategic Planning and Governance within NSC attended the same site visits as outlined above and contributed to the Education Brief and key meetings to date.

A member of the NSC team attended the Locking Parklands Community Stakeholder Meeting on the 1st October 2020 and updated the local community about the project. We will be maintaining attendance at these quarterly meetings throughout the project. Once the design of the school building is at a suitable advanced state (approximately spring of 2021) it is our intention to organise stakeholder events with the residents of Parklands and Locking to discuss these and receive feedback.

Risk Management:

Risk	Impact	Mitigation
Scope change for specification of school between appointment of contractor and completion of pre-construction phase	Increase of project costs	Project Team to continue to involve CLF and ensure scope and specification is not amended.
Sustainability/environmental aspects of build withdrawn from specification in order to reduce costs and stay within budget	Building does not support NSC target to be carbon neutral by 2030, with future cost implications to improve school's energy performance and reduce its environmental impact	Make prospective bidders aware of NSC commitment to sustainability and Carbon Neutral targets, and establish sustainability as a central part of the design and specification
Design by appointed contractor is not adequate and NSC is unable to resolve design issues with them	NSC either accept inadequate design or procure another design from a different contractor on SCF framework, resulting in delays and extra costs from initial design and subsequent re-design	Project Team and Employer's Agent to work closely with D&B contractor from an early stage to ensure design is satisfactory.
Contract insufficiently protects NSC from increased construction costs during project due to delays from unforeseen events	Costs may increase over course of project alongside unforeseen delays	JCT contracts with amendments used, to ensure the council is protected.
Total build price increase between quotation and build due to only overheads and profits being given at the mini comp 2 stage	Value for Money not demonstrated	Procurement of Employer's Agent to audit the Contractor's costs and the Contractor's procurement process; undertake cost benchmarking of the price; and ensure that the revised cost is based upon changes to the assumptions made in the original tendered cost for the detailed design and construction.
Completion date of September 2023 is not achieved	Insufficient school places	Work closely with the contractor to ensure they keep to programme. Delay damages built into the contract.

Equality Implications:

An initial screening exercise has been carried out as part of the HIF development business case process to identify protected characteristics that the Equality Act 2010 requires us to consider, in relation to the highway and school infrastructure.

The protected characteristics most pertinent to the highways scheme are age, disability and religion or belief. The school shares the same conclusions, with the addition of sex. Provisions will be made to maximise equality between those who share a protected characteristic and those who do not.

A full equality impact assessment will be undertaken as part of the highway and School development proposal.

Corporate Implications:

The provision of key enabling infrastructure and educational facilities and the improvement of the transport network widely supports the Corporate Plan objectives in all areas of Prosperity and Opportunity, Health and Wellbeing and Quality Place.

Appendices:

N/A.

Background Papers:

Procurement plan

<https://www.n-somerset.gov.uk/sites/default/files/2020-09/20-21%20DE123%20signed.pdf>

Commissioning plan

<http://apps.n-somerset.gov.uk/cairo/docs/doc29685.pdf>

Acceptance of HIF Forward Fund Grant Heads of Terms with Conditions


<https://apps.n-somerset.gov.uk/Meetings/document/report/NSCPM-38-570>

HIF Business Case Development and Submission approval

<http://apps.n-somerset.gov.uk/cairo/docs/doc28834.pdf>

Signatories:

Decision Maker(s):



Signed:

Title: Director of Children's Services

Date: 15.12.20

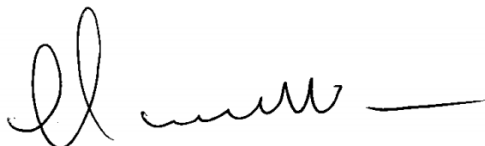
With Advice From:



Signed:

Title: S151 Officer

Date: 14.12.20



Signed:

Title: Head of Strategic Procurement

Date: 15.12.20

Footnote: Details of changes made and agreed by the decision taker since publication of the proposed (pre-signed) decision notice, if applicable: