

COMMITTEE: COUNCIL

DATE: 20TH JANUARY 2009

SUBJECT: BUILDING SCHOOLS FOR THE FUTURE –
NOMINATION OF THE SELECTED BIDDER

REPORT BY: CORPORATE DIRECTOR, CHILDREN & LEARNING

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IMPLICATIONS:

LEGAL	✓	STAFFING	✓
EQUAL, COH & INC	✓	COMMUNITY SAFETY	✓
FINANCIAL	✓	RISKS	✓

OTHER

CONSULTATIONS:

COUNCILLORS CONSULTED ✓	SCRUTINY COMMITTEE CONSULTED ✓
STAKEHOLDERS CONSULTED ✓	OTHER

WARDS AFFECTED: All

LEAD EXECUTIVE MEMBER: CLLR TAHIR KHAN

PURPOSE

On 18th December 2008 Executive approved the nomination of QED Wates as Luton's Selected Bidder for the Building Schools for the Future Programme. The purpose of this Report is for Council to note that nomination and the process to reach Financial Close

RECOMMENDATION(S)

1. Council is recommended to:-

- (i) note the nomination of QED Wates, by the Executive, as the Selected Bidder for participation with the Council and Building Schools for the Future Investments (BSFI) in the Luton Local Education Partnership and**
- (ii) note the Executive's commitment to achieving the timetable for Financial Close, of this procurement, in May 2009, which includes a requirement for the Executive to approve the BSF Final Business Case for the Sample Schools in March 2009**

BACKGROUND

- 2. The Council is rapidly progressing its BSF programme in order to access and secure in excess of £270m public capital funding to transform the secondary educational estate and learning outcomes across the Borough. Following Executive's approval of the Outline Business Case on 18th June 2007, and Partnership for Schools (PfS) and Department for Children Schools and Families (DCSF) approval in November 2007, Procurement of a Partner began on 30th November 2007 with the publication of a notice in the Official Journal of the European Union (OJEU) inviting expressions of interest from consortia to participate in a selection process under the competitive dialogue rules. The Procurement process is now nearing it's conclusion and following 11 months of solution development and dialogue with the Private Sector, the Executive was requested in December to appoint the Luton BSF Selected Bidder ("the Selected Partner").

REPORT

- 3. The Scope of the Selected Partner's involvement with the Council and BSFI in the Project is:
 - Set up a joint venture, development company - a Local Education Partnership (LEP), which will be active for 10 years
 - Rebuild or remodel all of Luton's 11 Secondary Schools as part of the Government's national BSF programme - *£200m of construction*
 - Extended services at all schools - *for the sample schools this includes a Community Library and Adult Education provision at Lea Manor High School and Youth Facilities and Multi Agency space at Lea Manor, Challney Girls and the 2 Academies*

- Provide a full managed Facilities Management Service to those schools for 25 years - *FM contract of @£10m pa for 25 years*
 - Provide a full managed ICT service to those schools for 10 years - *ICT contract of £17m*
 - Build new 2 Academies to replace 2 Secondary Schools - £60m
 - Other elements, as agreed by the Executive
4. Attached at Appendix A is the Executive Published Decisions. Attached at Appendix B are the Recommendations of the Performance, Resources and Assets Scrutiny Committee and the Children and Young People Scrutiny Committee.

Evaluation

5. The evaluation of the BSF Project Team and the recommendation of the BSF Project Board to the Executive was that the QED Wates proposal provided Luton with the most economically advantageous Bid, providing Luton outcomes and ability to deliver Transformation for our young people which exceeded our expectations. The Executive was, therefore, requested to approve QED Wates as Luton's Selected Bidder.
6. The Bid is within the bounds of the Outline Business Case parameters agreed by the Executive in June 2007. It also offers substantial Added Value to Luton including in excess of 138 Apprenticeships and Management Trainees over the next 4 years as part of the core offer; Continuous Improvement Savings of over £5m; a BREEAM (an environmental standard) rating of Very Good for the New Builds and Good for the Refurbishment project; a reduction in Carbon Emissions for the New Builds of over 60%; and a commitment through KPIs to utilising 60% Local Unskilled Labour, 75% Local Skilled Workforce, 80% of materials procured locally and 20% local Sub Contractors.
7. The Selected Bidder will delivery solutions which transform teaching, learning and social opportunities and achievements of the students and the community for the better. At Lea Manor the new street and the other remodelling will simplify the building improving circulation. Extensive refurbishment of the building's services infrastructure (heating, lighting, security,) is being undertaken which will result in a more reliable system and improved environmental conditions. The location of the Community facilities around the new street at the front of the site creates an exciting and vibrant 'Community Hub'.

8. At Challney Girls School the department's heart spaces are generous, which will assist in encouraging the new learning pedagogy. The design also minimises corridors and provides the ability of the faculties to be readily segregated from the main street if this is required.
9. The FM service will provide a high quality service that meets the requirements of the Output Specification and delivers facilities that support Teachers and Learners for the next 25 years. The ICT service will help to transform the way that learning is undertaken delivering a world class solution for the young people of Luton.
10. QED Wates have proven that the delivery of Educational Transformation for Luton has been at the heart of all of their strategic decisions and is one of their philosophic drivers. The Luton team is confident that QED Wates can assist Luton Schools to deliver improved life chances for our young people.
11. The Selected Partner has also proven they have the ability to deliver Additional Services for the Council and its Partners. Initial discussions have taken place with the Marsh Farm Community Development Trust about the redevelopment of their CERC building, and with Housing and Community Living about the Joint Venture Partnership. Executive has, previously, agreed to Officers discussing with the BSF Bidders the delivery of the Aquatic Centre and the Primary Capital Programme.

Consultation

12. The BSF team includes stakeholders from throughout the Council, Partner Organisations, such as Schools, the Academies and their Sponsor, Barnfield College, and a range of experienced Advisers. The BSF Commission has been briefed throughout the process and the Project Board has met on a monthly basis. In addition, the BSF Director has given several briefings to the Liberal Democrat and Labour Strategy Groups. The Performance, Resources and Assets Scrutiny Committee and the Children and Young People Scrutiny Committee both reviewed and commented on the Executive Report on 17th December 2008 and a commitment has been given to provide regular ongoing updates to these Committees.
13. Young people within the Schools and School staff have been involved in the development process. Due to the commercial sensitivities of the competitive dialogue process, however, it was not possible to conduct a public consultation of the designs prior to choosing a Selected Partner. Therefore, this Consultation was conducted in the first 2 weeks of January 2009.

Procurement

14. The Luton BSF procurement is now becoming seen nationally as a model of Best Practice. Additionally, it is one of only a few projects running to the

timetable set out in the OBC; and the Luton BSF team is delivering this for approximately 2/3 of the procurement cost of the PfS advised procurement cost. This financial efficiency could, however, be eroded if Financial Close is delayed from the planned date, in May 2009.

Way Forward

15. Following the Executive's approval of the Project Board's recommendation, the BSF team and the Selected Partner will move towards Financial Close. This will entail the establishment of the Local Education Partnership (LEP), finalising the Legal Contracts between the Council and the LEP, gaining detailed Planning Permission for the Sample Schools and successfully running the final Financial Models. Additionally a Final Business Case (FBC) will be written and will need to be ratified by the Executive in March 2009 for submission to PfS, DCSF and Treasury, in order to be signed off to enable Luton to move to Financial Close in May 2009. Part of the FBC will be a requirement for Luton to demonstrate it has allocated the resources required to reach Financial Close and to manage the contracts successfully, post Financial Close.

Timetable delay risk

16. Failure to reach Financial Close in May 2009 has major programme and cost implications. Failure to reach this milestone in May will result in the new Challney Girls High School not being ready for occupation in January 2011. This may delay the occupation of the new school until September 2011 due to potential disruption at a critical time in the Academic Calendar. Because of the way the Private Finance Initiative operates, the Council would have to cover the costs of running dual facilities for the period between handover of the new School and September. Additionally, any delay to the Financial Close date due to a delay by the Council may see the Selected Partner claiming additional procurement and inflation costs. Failure to achieve this critical milestone is not currently foreseen and detailed planning has been undertaken to ensure that it is achieved.

LEGAL IMPLICATIONS

17. Delivery of BSF will require the Council to establish a Local Education Partnership (LEP) through a joint venture company arrangement and to enter into a 10 -15 year contractual agreement. The Council will also be required to sign with the Selected Partner the following 13 contracts:
 - Strategic Partnering Agreement;
 - Shareholders' Agreement;

- Management Services Agreement
 - PFI Project Agreement;
 - PFI Payment Mechanism;
 - ICT Services Contract;
 - ICT Payment Mechanism;
 - Design and Build Contract (Lump Sum Option);
 - Design and Build Contract (Target Cost Option);
 - Design Agreement (NEC Professional Services Contract, 3rd Edition, June 2005);
 - Novation Agreement (CIC/NovAgr 1st Edition);
 - Facilities Management Agreement(s); and
 - BSF Funders Direct Agreement.
18. Additional contracts may be required for additional projects such as the Housing project.
19. The legal implications detailed above have been agreed with the relevant solicitor in Legal Services on 9th January 2009.

STAFFING IMPLICATIONS

20. Facilities Management (FM) and Information and Communication Technology (ICT) staff will TUPE to the new providers under the contract. The TUPE consultation process has started.
21. The Unions were invited to participate in the procurement process but indicated their preference was to engage in detailed consultation with the Selected Partner. This detailed consultation between the Unions and the Selected Partner will be undertaken starting in February 2009.

EQUALITIES, COHESION AND INCLUSION IMPLICATIONS

22. Access to high-quality education buildings and facilities should be available to all children and young people, irrespective of their place of residence. The phasing of investment, also, takes account of deprivation and

performance issues, alongside those linked to asset planning, allowing BSF to have a greater initial impact in addressing inequalities.

23. The provision of extended services alongside BSF will support community cohesion by better meeting the needs of local communities.
24. All BSF schools will be Disabled Discrimination Act (DDA) compliant where possible, enabling mainstream schools to better meet the needs of their local communities by becoming more inclusive establishments.

COMMUNITY SAFETY

25. Investment in all Luton secondary schools should reduce the extent to which parental preference is influenced by the quality of buildings or facilities on offer in each school. Attendance at local schools minimises the need to travel, thereby reducing traffic congestion and making journeys to school safer for all.

FINANCIAL IMPLICATIONS

26. The bids have been assessed against the original business case (OBC), and the PfS approved Financial Affordability Model (FAM) to ensure overall affordability and compliance within Luton's approved budgets and Medium Term Financial Plan.
27. The current volatility in the financial markets, as a consequence of the 'credit crunch', has restricted the ability of the banks to guarantee the rates applicable to the project. Whilst this leaves an element of banking market risk with Luton, a letter has been issued by HM Treasury allowing the contracting Authorities to request a project refinancing should market rates become favourable when compared to the rate applicable at Financial Close. An interest rate contingency of 0.5% has been provided within the proposed selected bid.
28. The financial information now in place for the sample schools will be used as a benchmark in assessing the projected costs of later phases to ensure continued affordability of the programme.
29. The financial implications detailed above have been agreed with the Section 151 Officer on 9th January 2009.

RISK IMPLICATIONS

30. As detailed in sections 15, 16 and 27 above, there are still large risks implicit in the BSF programme. However, a large swathe of risks have now been eradicated by reaching this critical Milestone. These risks will continue

to be monitored, on a daily basis, by the BSF team and reported to, and managed on a monthly basis by, the BSF Project Board.

31. These key risks relate to the following:

- keeping to programmed timescales
- capacity to deliver,
- Planning Applications,
- overall affordability -in particular Banking terms, and
- delivery of education transformation.

COUNCILLORS CONSULTED

32. The evaluation report has been reviewed by the BSF Commission that includes cross-party and cross-agency representation. The Lead Executive Member for Children and Learning sits on the Luton BSF Project Board.
33. The Performance, Resources and Assets Scrutiny Committee and the Children and Young People Scrutiny Committee both reviewed and commented on the Executive Report on 17th December 2008.

APPENDICES

34. The information in the Executive Report is still exempt so is not appended to this report. The following annexes and appendices are attached to this report:

Appendix A Executive Published Decisions

Appendix B Recommendations of PR&A and CAYP Scrutiny Committees
17th December 2008

BACKGROUND PAPERS

35. Background information nationally on BSF can be found at: www.bsf.gov.uk or by typing in 'building schools for the future' into a relevant search engine. Local information can be found at www.luton.gov.uk/bsf