

Notice of KEY Executive Decision

Subject Heading:	Alternative Resource Provision at the Nelmes Primary School – Authority to award a contract for the designing and building of the works associated to the erection of a new ARP at the School.
Cabinet Member:	Councillor Robert Benham – Cabinet Member for Education, Children's and Families and Deputy Leader of the Council
SLT Lead:	Tim Aldridge – Director of Children's Services
Report Author and contact details:	Ian Saxby – Head of Technical Services Telephone: 01708 433529 Email: ian.saxby@onesource.co.uk
Policy context:	<u>Communities</u> We want to help our residents to make positive lifestyle choices and ensure a good start for every child to reach their full potential. We will support families and communities look after themselves and each other, with a particular emphasis on our most vulnerable residents.
Financial summary:	This report seeks authorisation to award a construction contract in the sum of £1,116,442.68. Total costs of the scheme are estimated at £1,250,000 funded from the SEND Grant Allocation.
Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more.
Date notice given of intended decision:	8 th August 2019

Key Executive Decision

Relevant OSC:	Children & Learning Overview and Scrutiny Committee
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Key Executive Decision

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

That the SLT Member approve the award a contract to Haynes and Smith Ltd, for the designing and building of the new ARP edifice at the Nelmes Primary School, for the reasons set out within the body of the report, at a contract sum of £1,116,442.68, for a period of 50 weeks, with an estimated commencement date of August 2019. The proposed form of contract to be the JCT Design & Build Contract 2016 with the Council's Supplemental Amendments.

AUTHORITY UNDER WHICH DECISION IS MADE

3.3 Powers of Members of the Senior Leadership Team

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

Contract powers

- (a) To approve commencement of a tendering process for all contracts above a total contract value £500,000.
- (b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3.
- (c) To sign contracts on behalf of the Council which do not require sealing under paragraph 4 of Article 10 of this constitution.

STATEMENT OF THE REASONS FOR THE DECISION

Seven contractors from Construction Line were invited to tender on the basis of a Single Stage JCT Design and Build Contract 2016 with amendments. Four offers were returned and these have been assessed by a panel of officers from Technical Services and the strategic procurement unit on a 30/70 quality /price basis as follows:

	Technical %	Cost %	Ranking	Tender Cost
Contractor A	25.2%	42.2%	4	£ 1,850,475.13
Haynes and Smith	16.8%	70.0%	2	£1,116,442.68
Contractors C	19.2%	62.0%	3	£1,130,551.74
Contractor D	25.6%	66.5%	1	£1,193,897.00

The 1st ranking MEAT bidder have withdrawn due to full capacity.
The 2nd ranking MEAT (Haynes and Smith Ltd) bidder are also the most economical one;

Therefore the tender submitted by Haynes and Smith Ltd is considered to be the most economically advantageous tender and is therefore recommended for approval.

NELMES ARP – Tentative Programme of the Works

Key Executive Decision

<i>Contract Award</i>	<i>August 2019</i>
<i>Commencement of the Works</i>	<i>September 2019</i>
<i>Envisaged End of Works</i>	<i>August 2020</i>
<i>Handover and Contract Closure</i>	<i>September 2020</i>
<i>School in Occupation</i>	<i>January 2021</i>

OTHER OPTIONS CONSIDERED AND REJECTED

An option of undertaken an OJEU tender process was considered, but was rejected as the value of the contract was under the EU Threshold. Other suitable framework agreements were also considered, but rejected as it was considered better value for money to adopt the chosen route.

The building works are relatively straightforward and comfortably within the competence and capability of local contractors. This procurement route has resulted in value for money as evidenced by the comparative costs being evaluated by the EFA to be in the lower quartile of bids received.

PRE-DECISION CONSULTATION

Consultation has taken place with a number of relevant key stakeholders. In addition to this, consultation has taken place with the finance, legal and the Strategic Procurement Unit. Local residents were also consulted via the Planning Process and members were invited to approve the scheme as part of the Cabinet/ Full Council process.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Ian Saxby

Designation: Head of Technical Services

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. This report is seeking the SLT Member's approval to award the contract to Haynes and Smith Ltd, for the designing and building of the new ARP edifice at the Nelmes Primary School, for the reasons set out within the body of the report, at a contract sum of £1,116,442.68, for a period of 50 weeks, with an estimated commencement date of August 2019. The proposed form of contract to be the JCT Design & Build Contract 2016 with the Council's Supplemental Amendments.
2. The Council's Contract Procures Rules ("CPR") 4 and 13 (Constructionline) set out the strategy for the procurement of Works contracts of below the EU threshold (currently **£4,551,413.00** as of January 2018) in value to be submitted to a Member of SLT for approval of such contracts. The details of the evaluation compliance with the CPRs, for the award of this contract are set out with the body of this report.
3. Following the assistance of the Procurement unit, the client department has undertaken a tender process which is allowable under the Public Contracts Regulations 2015 ("PCR 2015") and the Council's Contract Procedure Rules, including the award selection using the MEAT criterion. The most economically advantageous tender (MEAT) criterion enables the contracting authority to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision.
4. The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do, together with the power under section 111 of the Local Government Act 1972 to do anything ancillary to or which facilitates any of its functions. The contract may be procured in accordance with these powers.
5. The Council's Contract Procedure Rule 3 provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the Council. The body of this report confirm the relevant financial implications arising from the Council's award of the contract.
6. The SLT Member will be aware of the Public Sector Equality Duty (PSED) set out in section 149 of the Equality Act 2010. At each stage, in exercising its function (and in its decision making processes) the council must have due regard to the need to:
 - a) eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it;
 - c) foster good relations between person who share a relevant protected characteristic and those who do not share it.

The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7. The Legal and Governance officers are available to assist the client department in finalising the terms and conditions of the contract

FINANCIAL IMPLICATIONS AND RISKS

Estimated Costs

NELMES ARP

Costs post Tender

D&B Tendered Value	£ 1,116,500
Revised FF&E	£ 25,500
Revised Tech. Serv. Fees	£ 108,000
Revised Total	£ 1,250,000

Funding for Scheme

Original Budget for Nelmes ARP Project	£ 1,100,000
Additional Virement from Unfunded SEN Allocation	£ 150,000
Total Funding for the Nelmes ARP Project	£ 1,250,000

The additional expenditure is largely due to an increase in project scope that has become a requirement as determined by Sports England in the planning conditions.

Risks

As with most capital schemes, there is a risk that the scheme could overspend due to issues arising during the build process, this risk is mitigated via a contract administration procedure as set out within the JCT Design and Build 2016 (with Amendments) that provides constant monitoring and final cost forecasting. Any issues arising can be funded from the client contingency sum.

There exists a risk of delays as with any major building project, but this will be mitigated by a scrutinised critical path programme issued to the Contract Administrator and all the shareholders and reviewed against the on-site progress at four weekly and ad hoc meetings.

As with all contracts there is a risk to contractor delivery/continued operation. However the contractor selection process has partly mitigated this risk, along with careful project management in the future.

**HUMAN RESOURCES IMPLICATIONS AND RISKS
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no implications associated with this decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

These proposals do not have any equalities and social impact implications and risks.

BACKGROUND PAPERS

None

Key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

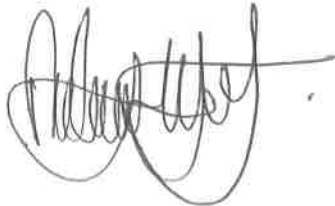
Proposal agreed

Delete as applicable

~~Proposal NOT agreed because-~~

Details of decision maker

Signed



Name: Tim Aldridge, Executive Director of Children's Services

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 13/08/2019

Signed J. F. [Signature]