

**DELEGATED POWERS REPORT NO.****1741**

**SUBJECT: Acceptance of tender from Elliott Ltd for the supply and installation of 2 modular classroom units.**

**Control sheet**

**All of the following actions MUST be completed at each stage of the process and the signed and dated report MUST be passed to Governance Service for publishing**

<b>All reports</b>		
1. Governance receive draft report	Name of GSO Date	Paul Frost 4 <sup>th</sup> July 12
2. Governance Service cleared draft report as being constitutionally appropriate	Name of GSO Date	Paul Frost 11 <sup>th</sup> July 12
3. Finance clearance obtained ( <i>report author to complete</i> )	Name of Fin. officer Date	Anisa Darr 17 <sup>th</sup> July 12
4. Staff and other resources issues clearance obtained ( <i>report author to complete</i> )	Name of Res. officer Date	N / A
5. Strategic Procurement clearance obtained	Name of SPO Date	Martyn Carter 17 <sup>th</sup> July 12
6. Legal clearance obtained from ( <i>report author to complete</i> )	Name of Legal officer Date	Steven Strange 17 <sup>th</sup> July 12
7. Policy & Partnerships clearance obtained ( <i>report author to complete</i> )	Name of P&P officer Date	Julie Pal 13 <sup>th</sup> July 12
8. Equalities & Diversity clearance obtained ( <i>report author to complete</i> )	Name of officer Date	Julie Pal 13 <sup>th</sup> July 12
9. The above process has been checked and verified by Director, Head of Service or Deputy ( <i>report author to complete</i> )	Name Date	Lesley Meeks 17 <sup>th</sup> July 12
10. Signed & dated report, <u>scanned or hard copy</u> received by Governance Services for publishing	Name of GSO Date	Paul Frost 19 July 12
11. Report published by Governance Services to website	Name of GSO Date	Paul Frost 20 July 12
12. Head of Service informed report is published.	Name of GSO Date	Paul Frost 20 July 12
<b>Key decisions only:</b>		
13. Expiry of call-in period	Date	N/A
14. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet Members & Head of Service	Name of DSO Date	N/A

<b>Subject</b>	<b>Acceptance of tender for the installation of two modular classroom units at Summerside Primary School and Underhill Infants School</b>
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## Cabinet Member for Resources and Performance

Date decision comes into effect 19 July 2012

Officer Contributors	Bernard Gallagher, Building Services Team, Commercial Services
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Wards affected Woodhouse and Underhill

Enclosures None

Reason for exemption from call-in (if appropriate)	Not applicable
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Key Decision	No
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Serial No: 1740

## 1. RELEVANT PREVIOUS DECISIONS

- 1.1 Cabinet 3<sup>rd</sup> November 2011 Decision Item 6 – Proposed Phasing of primary school expansions and investment strategy to meet demand for secondary school places. Cabinet resolved to note the need for a secondary phase of primary investment to include both permanent and temporary expansions.

## 2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 2.1 The Corporate Plan 2012-2013 has a corporate priority of 'Sharing opportunities, sharing responsibilities'. One of the strategic objectives of this corporate priority is 'ensuring every school is a good school for every child', under which the Council will 'ensure sufficient primary and secondary school places are available to meet demand by delivering a programme of permanent and temporary expansions'.
- 2.2 One Barnet – A Sustainable Community Strategy 2010-2020: one of the strategic objectives of the strategy is 'investing in children young people and their families'

## 3. RISK MANAGEMENT ISSUES

- 3.1 A risk assessment has been carried out and is summarised in the following table:

Risk	Early Warning Mechanisms/ Hazards	Residual Risk		Consequences / Mitigating Actions
		Likelihood	Impact	
Insufficient funding to address unforeseen works	Experience based on carrying out similar projects, appointment of technical consultant	Low	Medium/High	Delay and additional cost. Adapt scheme/liaise with Children's Service
Planning permission refused	Early consultation with Planning Officers	Low	High	Classes would need to be accommodated within the existing schools, early consultation with the Planners and commitment to secure early notice of permission upon expiry of consultation period
Order not placed in time for summer holiday delivery	Monitoring of internal approval processes	Medium	Medium	Delayed start to school year for extra pupils, early consultation with school with regards to start dates / temporary classroom location in existing school
Supplier liquidation / insolvency	Monitoring of progress and performance	Low	Medium	Delay and additional costs approved Central Government supplier so low risk of insolvency
Health and Safety – Working on a School site that is operational	Regular site inspection / children and construction site	Low	Medium	Injury / Experienced Contractor, H&S Regulations and H&S plan agreed with Head-teacher and Business Manager.

Disruption to school if project overruns	Inspection report / site visits	Low	Medium/High	Works are planned to occur during summer holiday time
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- 3.2 If works are not carried out to accommodate additional classes for the coming academic year there is a significant risk that Barnet will not be able to meet its statutory duty to ensure that sufficient schools for providing education are available in the area.

#### **4. EQUALITIES AND DIVERSITY ISSUES**

- 4.1 Pursuant to the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between those with a protected characteristic and those without; promote good relations between those with a protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.
- 4.2 The proposed works will enhance the Borough's reputation as a good place to live and work and will assist in delivering a first class education to all pupils.
- 4.3 Both schools have a diverse pupil background serving the wider community which is reflective of the Borough's population.
- 4.4 Elliott Limited operate an equalities policy that has been approved by the Cabinet Office as part of their appointment as a Government Procurement Service (GPS) provider.

#### **5. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 5.1 The funding for this scheme will be met by the Children's Service Pupil Places Programme. There is currently a budget of £440k for these two projects within the overall temporary expansion programme.
- 5.2 Revised Project Cost Profile is as follows:

Elliott Ltd – supply, installation and connection of 2 classroom units	£342,554
Technical Fees	£23,807
Surveys, Planning and Building Control Applications	£12,000
Commercial Services Project Management fees	£10,276
Project Contingency	£50,000
Total	£438,637

- 5.3 Planning applications have been made at both sites for the installation of the units and the Cabinet Office GPS framework has been used to tender the works and select a supplier. The returned tenders are identified in the accompanying exempt report.
- 5.4 The classroom units will be fitted out to provide for the teaching of the national curriculum including all required IT equipment.
- 5.5 The classroom units will conform to the latest Building Regulations regarding insulation, air tightness and thermal performance.
- 5.6 Any underspends on completion of the projects will be re-invested in other projects within the Children's Service.

## **6. LEGAL ISSUES**

- 6.1 Under Section 14 of the Education Act 1996, Local Education Authorities are required to ensure that sufficient schools for providing primary and secondary education places are available in their area.
- 6.2 Procurement processes must comply with the European procurement rules and the Treaty obligations of transparency, equality of treatment and non discrimination as well as the Council's Contract Procedure Rules.
- 6.3 A framework is an agreement between a client and contractor or contractors, or consultant or consultants (depending upon the nature of the framework), the purpose of which is to establish the terms governing particular call-off contracts that may be awarded during the term of the framework, in particular with regard to price and quantity. The advantage of establishing framework agreements is that as long as the original framework agreement has been advertised and let in accordance with the EU procurement rules, there is no requirement to advertise any subsequent call-off contracts let under the framework agreement even where those call-off contracts exceed the stipulated financial threshold for works and services.
- 6.4 In accordance with the Council's Contract Procedure Rules, there will be a need for the Council and the successful bidder to enter into a written contract to document the terms for supply and installation of the classroom units and associated works.

## **7. CONSTITUTIONAL POWERS**

- 7.1 The Council's constitution in Part 3, Responsibility for Functions, Section 3.2 – details the responsibilities of Cabinet Members. Section 3.3 provides that Cabinet Members can: a) discharge the Executive functions that fall within their portfolio; and b) authorise the acceptance of tenders or quotations in accordance with the Council's Contract Procedure Rules.
- 7.2 Constitution, Part 4 –Contract Procedure Rules, section 6.11 provides as follows:

“6.11 Before promoting the procurement of a new or joining a pre-existing framework agreement, the Director of Commercial Services must be satisfied that such an approach represents the most economically advantageous solution for a service work, supply or utility provision and complies with the relevant EU Rules and Regulations on the use of such agreements.

Before procuring or entering into a framework agreement, the Director of Commercial Services shall be satisfied that:

- 6.11.1 the term of the arrangement shall be or is for a period of no longer than four years duration;
- 6.11.2 the terms and conditions of the arrangement do not compromise the Council's contractual requirements;
- 6.11.3 the parties to the arrangement are recognised public bodies or providers from the private sector;
- 6.11.4 full, open and proper competition in respect of the creation of the framework agreement has taken or will take place in accordance with the Relevant EU Rules and/or Relevant Contract Procedure Rules
- 6.11.5 the framework is to be accessed in accordance with procedures defined by the framework contract owner;
- 6.11.6 Preference should be given to use of any Government Procurement schemes e.g. Government Procurement Service

7.3 The Director of Commercial Services has confirmed that the framework agreement represents a prudent, efficient and economical way of ensuring compliance with procurement rules; and the Director of Commercial Services has given approval to join the framework agreement.

7.4 Council Constitution, Contract Procedure Rules, Paragraph 5.5 (Table 5.1) – sets out authorisation and acceptance thresholds for works, supplies or services. Cabinet Members are authorised to accept tenders up to a value of £499,999 where the tender represents value for money and is the best available option for the Council.

## **8. BACKGROUND INFORMATION**

- 8.1 The Governing Bodies at both schools have agreed to take an extra 'temporary bulge' class from September 2012 to help the Local Authority meet its statutory duty to provide enough school places for school aged children within the Borough.
- 8.2 Following discussions between officers and school senior management the extra classes could only be provided by providing modular classroom accommodation as both schools do not have existing spare capacity within the schools present accommodation to take another 30 pupils.
- 8.3 All eight suppliers on the GPS Framework RM875 Modular Building Systems (Educational Units Call-Off Purchase) were invited to submit proposals. Only four framework providers submitted formal proposals by the closing date.
- 8.4 Framework agreements are referenced at section 6.11 of the Contract Procedure Rules, as set out at paragraph 7.2 above. On the basis of the information contained in the report the relevant provisions of the Council's Contract Procedure Rules have been met.
- 8.5 The award criteria was based on both cost (40%) and quality (60%) and tenders were assessed by the Project Manager from the Building Services Team and the Technical Consultant

8.7 The final award scores out of 100 taken from the scoring matrix with tender costs were:

- Elliott Limited - 99.98
- Supplier A - 96.76 - £425,000
- Supplier B – 88.85 - £521,720
- Supplier C – 82.91 - £354,462

The identity of the firms referred to above is detailed in the accompanying exempt report.

## **9. LIST OF BACKGROUND PAPERS**

9.1 None.

## **10. DECISION OF THE CABINET MEMBER(S)**

**We authorise the following action:**

**10.1 That, subject to the completion of all necessary legal and other documentation, the tender of £342,554 from Elliott Limited for the supply, installation and connection of two modular classroom units at Summerside Primary School and Underhill Infants School be accepted.**



**Signed**

**Cabinet Member for Education, Children  
and Families**

**Date**

**19 July 2012**



**Signed**

**Cabinet Member for Resources and  
Performance**

**Date**

**19 July 2012**