

**PROCUREMENT OF DESIGN, MANAGEMENT SERVICES
AND CONSTRUCTION FOR MAJOR PROJECTS**

1. Purpose

This report considers the current position in relation to the procurement of the contractors and service providers required to deliver the Council's major projects. It also considers the additional work which needs to be undertaken in order to enable the Council to make final decisions as to whether to commit to the construction of those projects, and in particular how the necessary professional services and construction works for the projects can be procured.

2. Recommendations/for decision

Cabinet committee is recommended to approve the following:

- 2.1 Subject to approval of the business case for this project, which is to be submitted for approval by the Cabinet at its meeting on 9 November 2010 (and at the subsequent Council meeting if this is required), to approve the PMO and the Council's professional team preparing contract documentation with a view to tendering a design and build contract for the Aqua Vale project, to be let using the IESE framework contract.
- 2.2 Approve the PMO and the Council's professional team preparing contract documentation with a view to tendering a design and build contract for the Waterside project, to be let using the IESE framework contract (this project has already been approved by the Cabinet and is included in the capital programme, and hence does not require additional approvals).
- 2.3 Subject to approval of the business case for this project, which is to be submitted for approval by the Cabinet at its meeting on 9 November 2010 (and at the subsequent Council meeting if this is required), to approve the PMO and the Council's professional team preparing contract documentation with a view to tendering a design and build contract for the NEA project, to be let using the IESE framework contract.
- 2.4 Approve the use of a separate enabling works contract and approve the fee expenditure identified in confidential Appendix A of this report
- 2.5 Note the updated fee requirements for the various projects, as identified in confidential Appendix A.
- 2.6 Approve the appointment of a contract administrator, a design monitor and a quantity surveyor/cost consultant for the Waterside project and also for the NEA project, and authorise the PMO to carry out a procurement exercise to make these appointments.
- 2.7 Approve the appointment of the NEA professional team as set out in confidential Appendix A, and request the Cabinet approve the waiving of the relevant requirements of the Contracts Procedure Rules for the reasons set out in this report, in order to allow the appointment of the NEA professional team where this is identified as being required in confidential Appendix A, at the estimated cost for each appointment shown in that Appendix.



3. Background

- 3.1 Earlier this year the planned town centre regeneration programme at Waterside became delayed and the Council faced the option of waiting for a further scheme to be developed or to proceed using its own resources. The Cabinet decided to continue with that development and to pick up where possible on the existing arrangements with both retailers and advisors. This project, combined with the existing work on the Theatre, the proposed phase 3 development of new offices for the Council, the refurbishment and extension of Aqua Vale and the proposal by the National Enterprise Academy to locate its HQ in Aylesbury, means there is potential for a significant development programme to occur in Aylesbury Town Centre.
- 3.2 Significant progress has been achieved in a short period of time with all projects carrying significant momentum at this point in time. However, this momentum in turn presents challenges and this report accordingly considers the actions and approvals now needed to complete the existing procurements, and to successfully procure the remaining professional services and contractors in order to construct the various projects. This will put the Council in a position to make a final decision to proceed in each case.
- 3.3 In April 2010 Cabinet approved a series of procurement events to maintain the capital programme delivery. The major decisions from this were:
- To establish a Programme Management Office (“PMO”) to lead the major projects team and to deliver the capital programme projects.
 - To procure a design and project management team for Waterside through a mini-competition using the SEEDA Enabling Infrastructure & Development Consultants Panel – Lot 2 Development Management and Consultancy
 - To procure project advisors to the National Enterprise Academy and Aquavale projects through mini-tenders via the ‘Buying Solutions’ Framework for Project Management and Full Design Team Services, Framework Agreement Code RM 457.
 - To procure ongoing design and construction to Phase 3 offices using the existing IESE framework contract
- 3.4 Subsequent to these decisions the following action has been taken:
- The PMO has been set up successfully following a formal tender through the OGC Buying Solutions ‘Management Consultancy and Accounting Services - Programme and Project Management Consultancy’ framework contract RM662/L9, the successful tenderer being AMTEC.
 - Documentation was prepared for the SEEDA mini competition. However following a review of the proposed project management arrangements and identification of the follow-on work required as a result of the termination of the Warner development, the appointment of the existing ‘Warner team’ was approved by the Major Projects Cabinet Committee at its meeting 2 June 2010, with a view to enabling the submission of a planning application for the development. The required waiver of the relevant Contract Procedure Rules was approved by the Cabinet at its meeting on 20 July 2010.
 - A competitive tender was conducted for the appointment of a project management and design team for the NEA project. However, the funding status was not fully established

within expected timescales and as a result no contract was awarded. To maintain progress on the project until financial certainty could be achieved the Major Projects Cabinet Committee at its meeting on 29 July 2010 agreed to appoint Mace to manage the project up to submission of a planning application. This approach was approved by the Cabinet at its meeting on 14 September 2010. Since that time an appointment process for the architects to the NEA has been conducted by Mace in conjunction with the NEA.

- The feasibility study for works to refurbish and extend Aqua Vale was reviewed and approved in 2007. A limited appointment of the original project team, to be led by Faulkner Browns, was put forward and approved by the Major Projects Cabinet Committee at its meeting on 29 July 2010. The required waiver of the relevant Contract Procedure Rules was approved by the Cabinet at its meeting on 14 September 2010. These appointments will take the project to Stage E and it is currently anticipated that a planning application will be made during November. Further detail in relation to this scheme is contained in the separate report which is being submitted to this meeting in relation to the Aqua Vale project.
- In addition to the above a number of small scale appointments have been made to successfully deliver the planning application for the Waterside retail, public realm and PMO work over the period.

3.5 In order to progress the project beyond its current position, and to comply with the Council's Contract Procedure Rules and procurement law, some appointments in relation to the NEA project need to be considered and if approved a recommendation needs to be made to the Cabinet to obtain the required waiver of the relevant Contract Procedure Rules. In addition if the Council is to be in a position to proceed with the other projects significant procurement work now needs to be commenced in order to allow construction to commence (when approved by the Council where this is necessary).

3.6 The current status of the appointments for Aqua Vale, Waterside, NEA and Enabling Works projects is set out in confidential Appendix A to this report.

3.7 Ongoing arrangements for Aqua Vale, Waterside, NEA and Enabling Works are discussed in the individual sections below

4. Aqua Vale

4.1 This Committee has already approved Faulkner Browns as the lead consultant for the professional team required to take this project up to Stage E design, and subject to approval it is intended that Amtec will act as project managers should the scheme proceed to construction under the terms of their PMO appointment. Full details of the current appointments and estimated expenditure are set out in confidential Appendix A.

4.2 Additional services will need to be procured from some of the specialist design consultants in order to enable the scheme to be brought to tender stage, and will be procured directly under the existing arrangements with those consultants. The business case for the Aqua Vale project makes provision for fee expenditure of up to £531,000, and subject to this being approved the required additional fees would be covered by this provision. Some specialist legal support is also required in connection with the proposed use of the IESE framework contract, and it is proposed to procure this through the ACSES call-off framework contract for such services.

4.3 Further information with regard to the proposed use of the IESE framework in order to procure construction contractors for all the projects is given below

5. Waterside

5.1 Recent discussions on the final design of the access ramp and other site issues have increased the design work to be undertaken at Waterside. Further information has also now been received from Buckinghamshire County Council and the Environment Agency which has meant a review of highways works and flood protection provision. In addition agreement has yet to be reached with the Aylesbury Canal Society on vacation of their land.

5.2 In order to prepare for construction, work has continued with design and procurement activity in parallel with progress on the planning application. The PMO is now anticipating undertaking the preparation of the necessary Employers' Requirements during November and December. It is envisaged that a design and build construction contractor will be appointed, again using the IESE framework contract.

5.3 Given the scale of this project a contract administrator, a design monitor and a quantity surveyor/cost consultant will be required to provide technical support to ensure the design and build construction works are carried out to the Council's requirements. It is intended that these will be appointed through a competitive process to comply with the Council's Contract Procedures Rules.

6. National Enterprise Academy

6.1 A range of 'pressures' exist on the NEA project. These include:

- Meeting the timescales for Skills Funding Agency funding;
- Addressing the aspirations of the NEA its staff and students;
- Achieving the opening time envisaged by the Peter Jones Foundation;
- Ensuring the Council has satisfactory pre-let conditions agreed with the NEA;
- Approving a funding package to meet the needs of all stakeholders;
- Creating a design which meets the aspiration of AVDC and of the NEA.

6.2 In order to meet these many and varied challenges the Council will need to consider how approvals to this scheme are made both now and in the future. At present the Council, as the 'developer' is required to appoint and approve all service contracts and it is envisaged AVDC will be the appointing body for the construction. Confidential Appendix A sets out the proposed service contracts for this project and approval is sought to confirm their appointments.

6.3 In order to give effect to such an approval it will be necessary for the committee to request that the Cabinet approve the waiving of the relevant requirements of the Contracts Procedures Rules in respect of the architects, quantity surveyor, M&E /Utilities engineers and structural engineers. This is necessary in order to meet the wishes of the NEA in the case of the architects and quantity surveyor appointments and in order to ensure integration of this

project and the Waterside project in the case of M&E /Utilities engineers and structural engineers.

- 6.4 It is envisaged that a design and build construction contractor will be appointed, again using the IESE framework contract.
- 6.5 Similarly to Waterside, the PMO will deliver the project management support but a contract administrator, a design monitor and a quantity surveyor/cost consultant will be required to provide technical support to ensure the design and build construction works are carried out to the Council's requirements. It is proposed that these appointments should be made through a competitive process to comply with the Council's Contract Procedures Rules.

7. Enabling Works

- 7.1 The Waterside and NEA projects have been planned to commence on in early 2011. To minimise costs, to reflect the physical inter-linkage between the sites and to ensure that any planning and other delays which may occur are mitigated, there is now a need to bring together the enabling works for both sites into a preliminary contract.
- 7.2 The PMO is currently preparing a proposed package of work for consideration by the Committee. It is proposed to amend the services of specific Waterside design team members who had responsibility for the enabling works within that project to provide a combined service to the NEA project site as well. This will both save money and time as one team will be working across both sites, reducing the interface risk and maximising leverage value in relation to fees.
- 7.3 The works are anticipated to form two works packages: firstly, the diversion and provision works of EDF; secondly, a contract to provide hoardings and site works items.

8. Proposed methodology for the procurement of construction contractors

- 8.1 In all the above instances it is proposed to procure the construction contractor for each scheme by making use of the IESE framework contract. This framework contract has already been successfully used by the Council to procure the construction contractor for the construction of Phase 2 of the Gateway offices.
- 8.2 The South East Centre of Excellence (now IESE) is one of nine regional centres of excellence established in 2004. The aim of IESE is to enable local authorities in the South East region to improve the efficiency of their services. This has included the letting of the framework contract.
- 8.3 There are 12 national construction contractors appointed under the framework, all of whom are prima facie capable of meeting the Council's varying needs as regards these procurements. A mini-competition will be conducted between these contractors in order to determine which contractor the Council will work with in relation to a particular project.
- 8.4 Once the contractor has been chosen the framework uses a two stage process in order to enable the Council to reach the position in which a contract for execution of the works can be let.
- 8.5 In return for a fixed fee (bid as part of the mini-competition) the selected contractor will provide certain pre-construction services. These include:

- developing the optimal organisational structure, roles, duties and responsibilities for delivery of the project between the parties involved;
- advising the project team on the practical implications of the design proposals.
- assessing the ‘buildability’ of the project in general and also on an elemental basis, including advice on design, lead times, construction sequence and site arrangements;
- jointly developing a set of Employers Requirements and a cost plan with all parties, where the contractor adds preliminary costs and benchmark data from his specialist supply chain. The cost consultant shares the cost plan with the whole team. The cost plan is expressed in package allowances. This open process engenders a team approach and avoids later conflict on the build up of costs. The contractor will advise on the supply chain strategy and the execution of advance works and advance orders. He will advise on the breakdown of the works into suitable packages and manage the subcontractor bids and tender evaluations on an open book basis. The employer, project team and contractor agree on subcontractor selection prior to entering into contract.

the contractor’s representative and the client’s cost consultant then collaborate to build up to an agreed contract sum.

the contractor produces individual package tender reports in which the preferred subcontractor is recommended.

- time may also be set aside for value management exercises.

- 8.6 On conclusion of this process a final tender report is generated by the contractor’s representative and the client’s cost consultant which will include a contingency sum and provision for any outstanding contract risks to be managed. At this point the client is then in a position to decide whether or not to commit to the construction contract (the terms of which have been previously settled).
- 8.7 The framework contains provisions which allow for novation of the designer and other professional team appointments to the contractor (allowing the client ‘one point’ responsibility for the design and execution of the works), or for the Council to require the contractor to make use of particular designers and/or professional team members to carry the project to completion.
- 8.8 Use of the framework should enable the Council to rapidly identify the most suitable contractor and construction methodology for each of these diverse projects, whilst doing so in a competitive environment.