

Report of the Assistant Director (Property Services)

The New Council HQ – response to questions posed by the A&G Committee

Summary

- 1 This report responds to a number of questions raised by the A&G Committee relating to the contract management arrangements for this major council project.

Background

- 2 At its meeting 13 May 2008 members of the Audit & Governance meeting agreed that the Assistant Director: Property Services should be invited to the June meeting of the committee to answer specific questions of concern regarding the contract management of the New Council HQ project. These are:
 - a. the form of contract.
 - b. the provisions for variations, claims, arbitration and bonding;
 - c. the extent of nominated suppliers and nominated sub-contractors;
 - d. business continuity in the event of business failure by the main stakeholders;
 - e. business continuity in the event of the loss of the project leader
 - f. arrangements for member steering and the regularity of reports.
 - g. re-confirmation that the project still meets the governance criteria of the best solution, at the right time and at the best cost for residents

Information

- 3 The response to each question is as follows:
- 4 *a) the form of contract.*

The form of contract will be the Engineering Construction Contract Option D (Target Contract will Bills of quantities). This form of contract is endorsed by

the (Office of Government Commerce) as the contract satisfies the Achieving Excellence in Construction (AEC) principles.

The contract was developed in the late 1980s to stimulate a fundamental change in the civil engineering design and construction. The second edition was published as a response to Sir Michael Latham's report 'Constructing the Team' (1994). Recently, this form of contract has become widely used by employers, contractors and consultants wishing to embrace the principles of partnering envisaged in 'Constructing the Team'.

The current version of the contract embraces good project management tools such as:

- risk registers

- collaborative discussions to mitigate problems and risk

- clear division of function and responsibility

- and key performance indicators.

This should result in reduced risk to an employer of cost and time overruns and of poor performance of the completed project. It should also lead to a much increased likelihood of achieving a profit for the contractor and his subcontractors and suppliers.

In addition, prior to selecting this contract we held a workshop with constructors and consultants who CYC have engaged with recently to discuss the merits of this form of contract and alternatives. The workshop agreed that the NEC suite of contracts were appropriate for this and other major projects.

A formal contract will be completed following agreement of the Target Price this autumn. The tendering process completed in late 2006 identified a suitable construction partner who would support the designers in the development of the scheme.

5 *b) the provisions for variations, claims, arbitration and bonding?*

Clauses do exist within the contract for the above.

The focus of the contract is to resolve disputes before they escalate. If a dispute arises the parties are referred to Adjudication for settlement. Referral to an Adjudicator can occur at anytime during the contract with the emphasis on parties to settle disputes as they arise. Arbitration procedures can only be undertaken following completion of adjudication and is the last result to the settlement of disputes.

Bonds

Currently we do not propose to have a performance bond, though discussions are ongoing to incorporate a parent company guarantee. Some elements of the construction (piling, structural floors – Cobiax, curtain waling) have

significant design input from the contractor and his supply chain. Collateral warranties will be agreed with each subcontractor or supplier.

Retention

To improve the contractor's cash flow the project will be retention free until completion. At completion a sum of £250,000 will be held until the Defects Certificate has been issued.

Incentivisation

A fundamental difference with this form of contract is the inclusion of Incentivisation. The purpose of the clause is to encourage effective management control.

The contractor and the consultants will receive a share of any savings or pay a share of excess when the final cost exceeds the target price. The target price will be adjusted for any compensation events.

6 *c) the extent of nominated suppliers and nominated sub-contractors*

No nominated suppliers or sub contractors are currently proposed. Shepherds and the designers have investigated numerous technical solutions and suppliers. These discussions continue. Shepherds propose to keep these options open as long as possible to maximise the value from the market.

Shepherds have consulted the design team on the composition of the tender lists for each (elemental) package. Sub contract tenders will be released and returned in the next two months.

7 *d) business continuity in the event of business failure by the main stakeholders;*

Prior to their appointments a financial appraisal was undertaken. Although this only provides limited protection.

Business failure of a consultant is reduced following agreement of the Target Price as the emphasis is on construction not design.

8 *e) business continuity in the event of the loss of the project leader*

The project has a robust project management structure and is able to respond to the loss of any of its component parts. The project has recently suffered the loss of the lead architect following his promotion to the New York office. RMJM have replaced him with minimal impact to the project.

9 *f) arrangements for member steering and the regularity of reports.*

The Project Champion, Sponsor and Project Manager meet with the Member Steering Group on a regular basis.

10 *g) re-confirmation that the project still meets the governance criteria of the best solution, at the right time and at the best cost for residents*

The Executive report dated 17th June provided the Members with the latest update. The report re-iterates the benefits and the financial and operational business case for undertaking this project.

Options

- 11 a) To accept the responses outlined above
- 12 b) To request further information

Analysis

- 13 There is no analysis of these options

Consultation

- 14 There has been no specific consultation to support the content of this report.

Corporate Priorities

- 15 The new Council HQ will provide a building for the organisation that will enable improved services to respond to all of the council's priorities.

Implications

- 16 The following information is provided:

- **Financial**

- 17 There are no financial implications

- **Human Resources (HR)**

- 18 There are no HR implications.

- **Legal**

- 19 There are no Legal implications.

- **Crime and Disorder (C & D)**

- 20 There are no C & D implications.

- **Information Technology (IT)**

- 21 There are no IT implications.

- **Property**

- 22 Property implications are discussed within the report

Risk Management

- 23 The project is being managed effectively in terms of risk and the choices made regarding contract management have been made with the objective of minimising risk

Recommendation

- 18 That Members accept the responses given to the Committees questions

Reason: To ensure the effective management of one the council's major projects and an imperative.

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Wards Affected:

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Background Papers:

Exec:xxxxApropofl&p

APPROPRIATIONS

PROPERTY	HOLDING FINANCIAL ACCOUNT	CURRENT HOLDING STATUTORY POWER	PROPOSED HOLDING FINANCIAL ACCOUNT	PROPOSED HOLDING STATUTORY POWER	VALUATION
Haymarket Car Park (Part)	Housing Revenue Account	Part II Housing Act 1985	General Fund	S120 Local Government Act 1972	£850,000
17/21 Piccadilly	Housing Revenue Account	Part II Housing Act 1985	General Fund	S120 Local Government Act 1972	£750,000
Peasholme Hostel site	Housing Revenue Account	Part II Housing Act 1985	General Fund	S120 Local Government Act 1972	£500,000
4 Fishergate site	General Fund	S120 Local Government Act 1972	Housing General Fund	Part II Housing Act 1985	£500,000
Arc Light Centre, Union Terrace Car Park	General Fund	Sec 28 Road Traffic Regulation Act 1967	Housing General Fund	Part 11 Housing Act 1985	£335,000