



DERBY CITY COUNCIL

COUNCIL CABINET
27 APRIL 2004

Report of the Director of Corporate Services on behalf of the PFI
Project Board

Derby Grouped Schools PFI – Appointment of Preferred Bidder

RECOMMENDATION

- 1.1 That Vinci Investments Ltd be appointed as the Preferred Bidder, and that officers be authorised to enter into negotiations with a view to establishing a final contract.

REASONS FOR RECOMMENDATION

- 2.1 The Council's interests are best served through appointing the consortium to design, build, finance and operate the schools in the Project – the Preferred Bidder – at the earliest appropriate time.
- 2.2 The analysis and evaluation of the bids received from Jarvis PLC and Vinci Investments Ltd on 12 December 2003 has now been completed, and the results of that process clearly indicate that of the two bids received, the bid submitted by Vinci Investments Ltd is the more robust and advantageous to the Council.
- 2.3 The Project Board gave thorough consideration to both the evaluation process and the outcomes at its meeting on Friday 23 April, and was unanimous in its support for the recommendation now being made to Council Cabinet.

SUPPORTING INFORMATION

- 3.1 At its meeting on 16 March 2004, Council Cabinet considered a Part 2 report, 'Grouped Schools PFI – Progress to date and next stages', in which the recommendation was as follows:
"That at the meeting to be held on 27 April 2004, Council Cabinet consider the recommendation of the Project Board to appoint the Council's Preferred Bidder for the Project."
- 3.2 That recommendation followed the meeting of Council Cabinet held on Tuesday 24 February 2004, at which Cabinet approved the recommendation of the Project Board that 'Jarvis PLC and Vinci Investments Ltd be nominated to proceed to the next stages of appointing the Council's Preferred Bidder for the Grouped Schools PFI Project.'
- 3.3 The implementation of that recommendation reduced the shortlisted bidders from three, to two, and the process of moving from two bidders to the proposed Preferred Bidder is now complete in all significant respects.

- 3.4 The process has involved the Council's Project Team, including the Council's advisors, in an increasingly penetrating analysis, evaluation and comparison of the key elements of the bids – technical and service delivery, financial, and legal – through a combination of clarification/negotiation meetings with each of the two bidders, and an associated programme of 'desk top' evaluation exercises, focussing on the bids received on 12 December 2003, and the bidders responses to the issues raised through the series of further clarification meetings.
- 3.5 The concluding stages of the evaluation process have also taken account of the 'best and final offers' from each bidder, arising from the series of meetings held with them during March and April, and received by the Council on 8 April 2004.
- 3.6 The evaluation process has allocated specific scores to the component parts of each of the three key elements, with those elements weighted in line with the specific objectives of the Project and the Council.
- 3.7 The scores for individual elements, including of course the views of the schools, have been fed into an overall scoring matrix for each bidder, and a further comparative table prepared, indicating the position of each bidder in relation to the other. These scoring matrices formed part of the documentation considered by the Project Board at its meeting on 23 April in coming to a recommendation on Preferred Bidder, and are included, together with a range of associated data and information, in a report within the private and confidential section of this agenda.
- 3.8 Subject to the approval of Council Cabinet to the recommendation in this report, a further programme of meetings/negotiations with Vinci will now take place during the next six weeks, during which the Council will be seeking to improve the position of the Vinci bids. That process will focus in particular on those elements of the bids of central importance to the successful delivery of the Project, but will also address less critical issues which may emerge from this point onwards. The conclusion of this process will culminate in a further report to Cabinet towards the end of June/early July, with a view to seeking approval to move towards commercial and financial close.

OTHER OPTIONS CONSIDERED

- 4.1 To defer the point at which a recommendation is made.

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Background papers:	None
List of appendices:	Appendix 1 – Implications

IMPLICATIONS

Financial

- 1.1 The Council is using the 'negotiated procedure' to secure the most economically advantageous bid to the Council overall. The competitive pressure between the two bidders has resulted in 'best and final offers', and the appointment of the Preferred Bidder will secure delivery of the Council's objectives within the financial parameters of the Project.

Legal

- 2.1 The Council is conducting the procurement of the Project under the European public procurement rules, and specifically under the 'negotiated procedure' set out in the Public Services Contracts Regulations 1993 ("the Regulations").
- 2.2 Pursuant to the Regulations, and in accordance with the Invitation to Negotiate (ITN) issued to bidders, the Council intends to award the contract for the Project on the basis of the most economically advantageous bid made to the Council.
- 2.3 Notwithstanding the initial bids received from the three shortlisted bidders on 12 December 2003, pursuant to the negotiated procedure, the Council is permitted to continue and/or suspend negotiations with any of the bidders, in order to seek the most economically advantageous offer. The ITN also makes it clear that bidders may be de-selected following evaluation of their bids.
- 2.4 The Council has previously suspended negotiations with some of the original five-longlisted bidders, in the shortlisting process that followed the submission of outline proposals in July 2003. The Council also suspended negotiations with the Derby Schools Partnership consortium, following a resolution of the Council Cabinet on 24 February 2004. Reducing the number of shortlisted bidders from two to one at this stage (effectively a Preferred Bidder), is a continuation of that process, and is permitted by the Regulations.
- 2.5 Designating one bidder as a Preferred Bidder is a necessary part of the PFI procurement process. Generally, bidders and their funders will not undertake the detailed due diligence work required, nor finalise their legal arrangements with consortium members, until they have some assurance that they will be awarded a contract for the Project.
- 2.6 That said, it is important to emphasise that the designation of a bidder as a Preferred Bidders does not commit the Council to entering into a contract with that bidder, and in this regard, the terms of the original ITN will continue to apply, and will be reiterated in any letter designating a bidder as a Preferred Bidder.

Personnel

- 3.1 The appointment of Preferred Bidder will entail further work on those personnel matters within the bids, which have already been the subject of a series of

discussions with the Bidder, and representatives of the non-teaching trade unions. Those matters will include the implementation of the Transfer of Undertaking Protection of Employment arrangements (TUPE), the development and operation of Interim Services, pension arrangements and health and safety.

Corporate Objectives and Priorities for Change

4.1 The Project accords with the Council's objectives of:

- **education** – where provision responds to peoples needs, so they can develop skills and knowledge all through their lives, leading to better life choices and chances
- **a healthy environment** – with reduced water, air and land pollution levels through encouraging people to cut waste, use public transport more and recycle more.

4.2 In addition, the Project reflects the following priorities for change:

- ...increase value for money from Council services
- tackle under-achievement in schools...
- respond to peoples needs appropriately... by investing in the Council's buildings to provide modern working environments for service delivery and employees.