

REPORT TO: Executive Board Sub Committee

DATE: 18 June 2009

REPORTING OFFICER: Strategic Director - Environment

SUBJECT: Award of the HBC Bridge Maintenance Partnership Contract to Balvac Ltd

WARDS: Borough-wide

1.0 PURPOSE OF THE REPORT

- 1.1 To report the circumstances of the award of the HBC Bridge Maintenance Partnership Contract to Balvac Ltd following the collapse of Wrekin Construction Company Ltd.

2.0 RECOMMENDATION: That

The circumstances of the award of the HBC Bridge Maintenance Partnership to Balvac Ltd are noted.

3.0 SUPPORTING INFORMATION

- 3.1 Item ES Item ES52 of 04 December 2008 Executive Board Sub Committee documents the delegation of authority to accept the most advantageous tender for the HBC Bridge Maintenance Partnership to the Strategic Director Environment in consultation with the Executive Board Member for Planning, Transportation Regeneration and Renewal.
- 3.2 Further to the above, Item ES85 of 12 February 2009 Executive Board Sub Committee outlines the circumstances of the original award of the HBC Bridge Maintenance Partnership Contract to Wrekin Construction Ltd.
- 3.3 This Contract is to undertake all planned major bridge maintenance in the Borough by a single partner contractor for a minimum period of 4 years with a minimum estimated works value of £12m over the 4 year period.
- 3.4 Following a competitive tendering process, undertaken in compliance with Public Contracts Regulations 2006, the most acceptable bid in terms of quality and price was evaluated to be that submitted by Wrekin Construction Ltd.
- 3.5 The financial viability of Wrekin was accepted based upon information returned by the Council's independent Equifax credit intelligence service both in August 2008 (when shortlisting) and December 2008 (before award in January 2009). On both occasions a suggested contract limit of

£5m was reported which was greater than the estimated maximum annual works budget of approx £4m.

- 3.6 Following Strategic Director approval of their appointment, Wrekin were issued a letter on 13th January 2009 which authorised commencement of preparatory, procurement and mobilisation activities in advance of the formal Contract being established, subject to reimbursement should the Council eventually decide not to enter into a contract with them.
- 3.7 On 10th March 2009 HBC were made aware that Wrekin had entered into Administration. At that point the Contract was still in a preliminary stage with procedure, process and programme being agreed. Wrekin had not commenced any work on site nor established any site facilities. They had not placed any subcontracts nor purchased plant, equipment or materials required for our Contract.
- 3.8 Wrekin have not received any payment from HBC in connection with the Bridge Maintenance Partnership contract.
- 3.9 HBC entered into correspondence with Ernst & Young (who had been appointed as Administrator) and their specialist advisors outlining the following:
 - There is no formal Contract with Wrekin. The formal Contract documents had not yet been returned by Wrekin and therefore had not been engrossed under seal.
 - HBC's letter of intent did not commit the Council contractually.
 - In order to avoid being in breach of Public Contracts Regulations 2006, HBC did not feel it prudent to consider any novation of Wrekin's offer to another organisation, regardless of whether they were part of the original tender invitation or not.
 - HBC's preferred course of action was to offer the Contract to the organisation whose overall tender submission was evaluated to be the second most advantageous. This organisation had already confirmed that their tender remains open for acceptance.
- 3.10 As a result, Strategic Director approval was granted for award of the Bridge Maintenance Partnership Contract to Balvac Ltd whose tender submission was a close second to that of Wrekin.
- 3.11 Balvac are part of the Balfour Beatty Group of companies and Balfour Beatty have forwarded a Parent Company Guarantee to increase client confidence as regards Balvac's ability to execute the Contract.
- 3.12 On 31/03/09 Balvac were issued with a letter authorising commencement of preparatory, procurement and mobilisation activities in advance of the formal Contract being established.
- 3.13 Although it has not been raised as an issue, there is a possibility that the Administrator may eventually pursue the Council for reimbursement of

Wrekin's procurement and mobilisation costs. However as outlined in 3.7 above, it would appear that at worst these would be confined to a very limited amount of staff time only (say £10k maximum).

3.14 It is considered that the course of action outlined in this report has mitigated the adverse effects to the bridge maintenance programme to an absolute minimum whilst remaining in compliance with Public Contracts Regulations. We are confident that we can retrieve the delay in delivering the work created by Wrekin's demise and deliver the remaining programme of work effectively and efficiently.

3.15 Balvac have now commenced establishment of a site compound in Runcorn from which a major work package to paint and refurbish the suspended span of the Silver Jubilee Bridge will be managed.

4.0 POLICY IMPLICATIONS

4.1 The works include delivery of at least four years of the Council's Maintenance Strategy Plan for the Silver Jubilee Bridge Complex and Associated Structures.

5.0 OTHER IMPLICATIONS

5.1 Resource Implications

The Contract will be funded from the Council's capital budget in the form of direct capital grant for Bridge Strengthening and Maintenance on the Primary Route Network awarded through the Local Transport Plan settlement.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 The SJB Complex forms part of the strategic route through the Borough. Implementation of an effective and economic programme of maintenance is essential to ensure the continued availability of the crossing and thereby avoid compromising the Council's ability to deliver any of its strategic priorities.

7.0 RISK ANALYSIS

7.1 Financial Exposure of the Council.

Balfour Beatty Group have provided a Parent Company Guarantee in respect of the performance of Balvac. A Performance Bond and a 5% retention clause are also a requirement of the contract.

7.2 Budget Control

The tender documentation allows routine and common activities to be priced based upon a schedule of rates. However, the unique nature of

the structures in the SJB complex dictates that the costs of some works may be determined through negotiation on a target, lump sum or at-cost basis. The form of Contract to be employed and the tender evaluation process takes into account consideration of these issues.

The tender invitation and evaluation process has allowed HBC to confirm that Balvac has the appropriate level of expertise and experience to deliver the project within the proposed management structure. It has also allowed confirmation of their ability to work openly and co-operatively with the client to react to necessary change during works to maximise opportunities to provide value for money.

The NEC (ECC) suite of contracts promotes flexibility through inclusion of options related to partnering and is recommended by the OGC as a suitable form of contract for public sector procurement.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 The Pre-Qualification Questionnaire has allowed HBC to confirm that Balvac has an acceptable equality and diversity policy in place.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Halton Borough Council Bridge Maintenance Partnership Tender Report (Nov 2008) and Appendices	Bridge Maintenance Section, 2 nd Floor Rutland House	Mike Bennett