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**PROPOSED EASTBOURNE ACADEMY**  
**PROCURING A DESIGN AND BUILD CONTRACTOR**

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**Responsible Cabinet Member - Councillor Don Bristow, Resource Management Portfolio**

**Responsible Director - John Buxton, Director of Development and Environment**

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**Purpose of Report**

1. To set out the process for procuring a design and build contractor for the proposed Eastbourne Academy and to waive contract procedure rules.

**Background**

2. Work is progressing to submit an Outline Business Case for the proposed Eastbourne Academy. Should the proposal for an Academy be approved the Government will provide funding for a new school to be built. The Government require their scheme for appointing a design and build contractor to be adopted as a funding condition.

**Information and Analysis**

3. The Council's Contract Procedure Rules require that every contract will comply with the Council's contract procedure rules, except those contracts arranged through Purchasing Consortia or the Office of Government Commerce. The proposed Academy procurement is to be arranged through the Partnership for Schools National Framework.
4. The Council's Cabinet has previously approved the change to an academy for Eastbourne School subject to the necessary approvals. If the change is approved there will be a new school built as a condition of the approval for the change to an academy.
5. The Government's academy programme was directly delivered by the Department for Education and Skills, working with the sponsors, up until the autumn of 2006. The DfES procured the design and construction of new academies and provided the funding for the building of the new schools.
6. In the Autumn of 2006 the DfES decided that local authorities should be responsible for the procurement of the design and construction of future academies. They are of the view that local authorities are better able to undertake the management of new build, particularly as the DfES intend to have a substantial programme of building academies.
7. The DfES have established an agency (Partnerships for Schools) to advise local authorities and provide project management for the overall academy programme. PfS are responsible for the guidance and criteria that apply to the design and construction of future academies. Local authorities are required to conform to the guidance and criteria in return for the DfES

providing the funding for new academies.

8. The available funding for an academy is formula based and to ensure that the total funding will pay for all the anticipated academies PFS have established a National Framework to deliver Academy building projects . This National Framework establishes a Panel of six Contractor Members (using the EU Public Sector procurement rules) who have a presence or local supply chains in the relevant regions including the North East. The Panel Members are required to enter a Framework Agreement with PFS. The agreement will ensure that they will adhere to PFS's benchmarking system, and will also be monitored by a regime of Key Performance Indicators.
9. The DfES require the Council to procure a design and build contract from one of the Panel Members. PFS will provide the Council with a list of six contractors from their list, the Council is then required to select two who will be required to produce detailed designs that will best achieve the sponsor's education vision and is within the funding allocation. Having completed the designs the Council, in consultation with the sponsors, will need to appoint the design/build contractor on a fixed price contract from one of the two contractors.
10. The dialogue with the two contractors, as their designs evolve, will include the cost of building the design. At the conclusion of the design evolution the design will be fixed and no further changes will be possible within the cost offered by the contractor. If the design that the Council and sponsors believe will be the best has a cost beyond the amount allocated by PFS under the formula it would be necessary to either amend the design or provide additional funds from either the Council or sponsors.
11. The Council, in consultation with the sponsors, will appoint the design and build contractor that provides the best new school that meets the requirements of the education vision within the funding allocation for the new school.
12. The timetable for the programme to have the new school ready for September 2009 is:

Planning application (outline)	May 2007
Planning permission	July/August 2007
Design brief	June 2007
Initial responses from contractors	June to August 2007
Select two contractors	September 2007
Detailed dialogue with two contractors	September to December 2007
Appoint design/build contractor	December 2007
Construction start on site	January 2008
Handover new school to sponsors	July/early August 2009
New school opens	September 2009
13. In order to obtain the funding for the building of the Eastbourne Academy (subject to the approval of the establishment of the Academy and subject to planning permission) the Council's normal design and construction rules need to be waived.

## **Legal Implications**

14. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

## **Section 17 of the Crime and Disorder Act 1998**

15. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## **Council Policy Framework**

16. The issues contained within this report are required to be considered by Council.

## **Recommendation**

17. That the relevant Council's Contract Procedure Rules be waived to enable the appointment of a design and build contractor for the proposed Eastbourne Academy.

## **Reason**

18. The Department for Education and Skills requires the Council to adopt their appointment procedure in return for the funding to build the proposed academy.

**John Buxton**  
**Director of Development and Environment**

## **Background Papers**

No Background papers were used in the preparation of this report.

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