

Chichester District Council

CABINET

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Leisure Services Management Contract

1. Contacts

Report Author:

Jane Hotchkiss, Head of Commercial Services

Tel: 01243 534790 E-mail: jhotchkiss@chichester.gov.uk

Gillian Keegan, Cabinet Member for Commercial Services,

Tel: 01798 344084 E-mail: gkeegan@chichester.gov.uk

2. Executive Summary

The report sets out the Leisure procurement process undertaken and the criteria used to assess the technical and commercial aspects of the tender returns. The process followed has confirmed that the savings identified in the option appraisal and the Council's Strategic objectives as indicated in paragraph 4.8 could be achieved. It is therefore recommended that Cabinet recommends to Full Council that the Management of the Leisure Centres and the Sports Development Services is outsourced. It further recommends that, in the event that Council approve the principle of outsourcing, Contractor B (see Part 2 report for Members only) is appointed.

3. Recommendations

3.1. That Full Council be recommended that the management of the Leisure Centres and Sports Development Service is outsourced.

3.2. Subject to approval at Full Council to outsource the management of the Leisure Centres and Sports Development Service, that contractor B as indicated in the Part 2 report is approved as the preferred contractor.

3.3. Subject to approval of recommendations 3.1 and 3.2 Cabinet:

(a) Recommends to Council that the Head of Commercial Services be authorised, following consultation with the Cabinet Member for Commercial Services and Head of Finance & Governance Services, to conclude capital negotiations and agree the principle of funding the capital works as indicated in 4.2, 4.3 and 7.1-7.5 of the Part 2 report.

(b) Resolve that the Council self-insure instead of requesting a Performance Bond and Pension Bond from the contractor resulting in additional savings as identified in 7.6 and 7.7 of the Part 2 report, subject to the Head of Finance and Governance Services being satisfied in accordance with his delegation under the Constitution.

4. Background

- 4.1 In April 2014, Cabinet resolved to conduct an Options Appraisal (OA) to analyse the various management options for the Council's leisure services. The key objective of the OA was to investigate, analyse and advise on the options open to the Council in relation to the future management and operation of its sport and leisure facilities.
- 4.2 In September 2014 the results of the OA were presented to Cabinet. The OA included a full operational review of the scope of services and identified areas for development to increase revenue. It considered the potential management options open to the Council and a suitable evaluation model to assess the options, given the Council's strategic and financial objectives. Each option was then evaluated against the current in house service delivery model.
- 4.3 The OA identified that significant revenue savings could be achieved by the Council if it were to consider the option of procuring an external trust/private sector partner. Should the Council procure an external trust/private sector partner, further savings on support costs could also be expected.
- 4.4 Council, at their meeting on 23 September 2014, approved the Cabinet's recommendation that a procurement exercise be undertaken to test the market for future management of leisure services. The Project Initiation Document (PID) was also approved.
- 4.5 Funding of £105k was also released to assist with the project including the appointment of specialist leisure consultants, legal and VAT advisors.
- 4.6 Following advice from the appointed leisure consultants a competitive dialogue process was followed to ensure that European and the Council's own procurement regulations were followed. A competitive dialogue process allows the Council to enter into dialogue with bidders to develop solutions to meet its needs and to gain a greater understanding of their proposals.
- 4.7 A Task and Finish Group (TFG) was established by the Cabinet Member for Community and Commercial Services to ultimately recommend a preferred tenderer to Cabinet. A representative from the TFG was also asked to provide the link back to the Overview and Scrutiny Committee (OSC). The aims and objectives of the TFG were to consider the:
 - scope of the leisure management procurement exercise;
 - procurement route to follow for the project;
 - project timetable;
 - tender returns for the Leisure Management Procurement
- 4.8 The outcomes for the project were that any management option must actively contribute to the Council's strategic objectives including increasing participation for adults and children, supporting initiatives to improve health and wellbeing and providing quality and affordable facilities across the district. In addition, the project must contribute towards the Council's deficit reduction programme, securing the future provision of quality leisure facilities and services for the benefit of the local community.

- 4.9 A Pre-Qualification Questionnaire (PQQ) to select bidders to participate in full dialogue was undertaken between October 2014 and February 2015. The PQQ was based on CDC's standard pre-qualification questionnaire including health and safety and financial assessments with additional leisure specific questions. The PQQ focussed on six key areas which the organisations had to provide detailed responses to. The areas to be evaluated were: Background Information; Financial / Insurance Information; Health and Safety; Environmental Management; Equal Opportunities and Further Information.
- 4.10 The Council received 11 PQQ's and following evaluation the five highest scoring parties were invited to submit detailed solutions (ISDS). The ISDS was split in to technical and commercial criteria.
- 4.11 The technical criteria (40% of the score) requested responses to the following 9 method statements, further details of which can be found in Appendix 1:
- capital investment proposals including repairs and maintenance schedules
 - rural provision and outreach work with targeted communities
 - partnership working and funding opportunities
 - Wellbeing activities and exercise referral schemes
 - Customer satisfaction
 - Contract performance management and key performance indicators (KPI's)
 - Use of digital technology to promote participation
 - Energy Efficiencies
 - Staffing structures and training
- 4.12 The commercial criteria (60% of the score) considered:
- Payment including benefit of capital investment and equipment replacement
 - Viability of business plan
 - Added value investment proposals
 - Other legal and commercial proposals
 - Profit/surplus share proposals
- 4.13 Of the five companies invited to tender, three returned an ISDS. Evaluation of the ISDS submissions resulted in two contractors progressing to the next stage of Invitation to Submit Final Tenders (ISFT).
- 4.14 There were a number of key issues discussed with each of the bidders. Two competitive dialogue meetings were held with both contractors. These meetings

included representatives from the Council's Senior Leadership Team and Project Officers. The meetings were also attended by the Cabinet Member for Commercial Services and Chair of the TFG.

4.15 The Management Team and Bid Manager of each contractor delivered a formal presentation to the TFG, the Leader of the Council, the Council's Senior Leadership Team and Project Officers. The two companies were then invited to submit their ISFT. Both companies complied with the procedure and submitted valid returns to provide the management of the services for a ten year period with a provision to extend for a further five year period.

4.16 The process outlined in the approved PID was followed and has confirmed that the savings identified in the OA could be achieved should the Council decide to outsource the services. In addition the tenderers demonstrated that the Council's strategic objectives identified in paragraph 4.8 could be achieved.

5. Outcomes to be achieved

- 5.1. The outcomes set for the procurement process were that any management option must actively contribute to the Council's strategic objectives including increasing participation for adults and children, supporting initiatives to improve health and wellbeing and providing quality and affordable facilities across the district.
- 5.2. In addition, the project must contribute towards the Council's deficit reduction programme, securing the future provision of quality leisure facilities for the benefit of the local community.
- 5.3. Identify a long term sustainable solution for the future provision of Council leisure facilities by transferring risk and improving the revenue position of the service.
- 5.4. Reduce the cost of operating the Leisure centres and sports development service whilst continuing to offer high quality sport and leisure provision for the district.

6. Proposal

- 6.1 The results of the evaluation process were presented to the TFG in December 2015. In considering outsourcing, the TFG acknowledged the high performance and quality of the current service provision and the desire to continue this in future.
- 6.2 The TFG agreed that the proposals would contribute towards the Council's deficit reduction programme and help to secure the services for the benefit of the local community for at least a 10 year period. They also acknowledged the advantages of outsourcing as follows:
 - A contractor can provide significant savings to the annual revenue costs of delivering the services. These are achieved mainly by the contractors having charitable status enabling them to make savings from Business Rates and VAT.

- Due to the size of the contractors they are able to achieve savings through economies of scale.
 - In addition to a commitment to maintain and improve current services, including community services at the Grange, a contractor will achieve service improvements through the introduction of additional activities such as community outreach, health and wellbeing programmes, capital investment in the facilities and improved marketing and technology offers.
 - Staff are protected under TUPE Regulations and, as they will be working for a larger leisure organisation, additional opportunities for staff progression and training may be available.
- 6.3 The TFG acknowledged that the Council would need to monitor the contract closely to ensure that all performance and financial targets are met. They also noted the potentially negative impact on funding of other Council services should the leisure and sports development services remain in house and be funded at current levels by CDC.
- 6.4 Therefore the TFG recommend that the Cabinet consider the outsourcing of the management of the leisure centres and the sports development service.
- 6.5 The Senior Leadership Team fully supports the proposal to outsource the management of the Leisure Centres and Sports Development service as this meets all the outcomes identified in Section 5 of this report.
- 6.6 In addition it is proposed that the TFG continue in a monitoring role, to meet initially at least quarterly. This will be reviewed 12 months after the contract has commenced and OSC may also choose to review performance after a period of operation.

7. Alternatives that have been considered

- 7.1 Other alternatives were considered as part of the OA considered by Cabinet and Full Council in September 2014.

8. Resource and legal implications

- 8.1. All staff will be transferred under TUPE regulations ensuring that current terms and conditions will be protected. The contract requires that existing members of the Local Government Pension Scheme will continue and the contractor needs to provide a comparable scheme for new employees.
- 8.2. The Council will be required to monitor the contract closely to ensure that all of the performance and financial targets are being met and that the service is being delivered in line with the specification, contract documents and method statements. Provision within the Council's budget (see the Part 2 report Appendices 3 & 4) has been made for a Contract Officer.
- 8.3. The contractor will be responsible for all IT and telephone requirements and have costed this in their financial submissions

- 8.4. The assets will remain with the District Council and any retained Council repair/improvement responsibilities have been costed into the Council's budgets as well as maintaining a capital asset replacement programme. This programme has been reduced to reflect the contractors responsibilities but provision has been given to any potential capital investment that may be required at the end of the contract.
- 8.5. The contract makes provision for the facilities to be made available for rest centres and elections usage.
- 8.6. The Westgate and Grange car park will remain the responsibility of the Council. The customer refund will continue to be offered to the customers of the Westgate Centre. The Bourne car parking arrangements will remain the same as set out in the lease with WSCC.

9. Consultation

- 9.1 The TFG established by the Cabinet holder for Community and Commercial Services has met seven times during the process and has attended presentations by the final two tenderers.
- 9.2 Three reports have been taken to the Joint Employee Consultative Panel to explain the project and the process regarding staff consultation and TUPE. A further report to JECP will be taken should the decision be made by Cabinet/Council to outsource the service.
- 9.3 A Staff Representative Group was established to assist with communication to the staff working in the leisure centres and sports development teams. Staff representatives came forward from all levels of staff both operational and management. Updates were provided to the staff representative group and the meetings gave an opportunity for staff to raise concerns either from themselves or their colleagues. All staff involved in the process have been written to twice to inform them of the process and to update them on progress.
- 9.4 Westgate Leisure Management Meetings were attended to provide regular updates to the management team as well as meetings being held with the Sports Development and Health Development Managers.
- 9.5 Letters were sent to all clubs and organisations that use the centres on a regular basis explaining the project and process and inviting for them to make contact should they require further information or to discuss any concerns they may have. In addition, letters were sent to all partner organisations including sponsors such as University of Chichester and Natures Way Foods.
- 9.6 A press release was sent to all local media outlets and all Councillors and Parish Councils to inform the local community. Midhurst Town Council raised a few concerns regarding The Grange Community and Leisure Centre and these were addressed at a meeting in December attended by the Cabinet Holder for Commercial Services and Project Officers.

- 9.7 A newsletter with Frequently Asked Questions was developed and placed on the Council's website. In addition, over 1000 copies were made available in the leisure centres, library and Council offices.
- 9.8 An oral update was given to OSC on 17 November 2015 followed by a report and oral feedback from the Chair of the Task and Finish, the Cabinet Holder of Commercial Services to OSC on the 19 January 2016.

10. Community impact and corporate risks

- 10.1 Operating and service risks - All of the operational risks associated with performance rest with the contractor including: health and safety; quality standards; public liability recruitment and management of staff and energy requirements. CDC will be responsible for auditing the contractor's Health and Safety compliance. Variations to the specification by the Council will remain a risk to the Council.
- 10.2 Maintenance - Any defects which are part of the capital investment by the contractor will remain the responsibility of the contractor. All non-structural planned and reactive repairs/ maintenance, plant, mechanical and electrical, fixtures and fittings, vandalism and pest control will be the responsibility of the contractor. Any structural repairs (not caused by the contractor) and subsidence will remain the responsibility of the Council. The Council will continue to set aside an annual contribution to the asset replacement fund, so in the event that there is a default on the part of the contractor, the Council will remain in a good position to take any remedial action if necessary. This will be reviewed on an annual basis.
- 10.3 Demand Risk – Changes in school/club usage, customer demand for activities and changes in volume of attendance will be the contractor's risk.
- 10.4 Equipment – The contractor is responsible for all equipment and stock plus any replacement equipment including fitness, sport, leisure, IT and office. Any upgrades required by the Council will remain the responsibility of the Council.
- 10.5 Financial Risks - The contractor will be required to continue to guarantee any performance if there is a change to the structure of the contractor. They would be responsible for all loss of income (excluding emergencies, force majeure, council step in without contractor breach, defects and any asbestos not identified in surveys). The risk of achieving income and profit levels identified in the bid will remain with the contractor. Surveys have been undertaken and there is no record of any asbestos at any of the sites. Condition surveys have also been undertaken at Westgate and Bourne which have been shared with the contractors.
- 10.6 Insurance – The contractor will be responsible for building contents, public liability and employment insurance. Any changes to costs will be the responsibility of the contractor. The Council will continue to insure the building.
- 10.7 VAT and NNDR – Any change in rate of VAT on any payments borne by the council shall be the risk of the council, and any change in VAT on costs borne by the contractor will remain with the contractor. Any changes to the scope of

VAT where Trust type structure is included will be a risk to the contractor. Any change to NNDR and changes in eligibility for the business rate relief is a risk allocated to the contractor.

- 10.8 Change in law – The risk associated with changes in law (qualifying ie specific to the leisure industry) which have a revenue impact will remain with the Council; changes in law (general ie change to all industries or services) which have an impact on revenue will be the responsibility of the contractor, including mandatory rate relief. With regard to capital expenditure changes in law (qualifying and general) will be a shared risk under the contract.
- 10.9 Inflation – The risk associated with an increase in inflation above that predicted in the contract will be a contractor risk. The contract states that prices shall increase as a maximum at the rate of inflation (CPI) for the contract period; any variation request to this will be addressed by a change protocol and agreed by the Council.
- 10.10 Contract and legal – The risk that the contractor makes incorrect assumptions due to inadequate diligence on unwarranted information and the loss or cost incurred by the council through default including the cost of running and re-providing service remains with the contractor.
- 10.11 Pensions and salaries – All pay increases including any living wage increases, redundancies, early retirement costs, discretions, augmentations or increasing a members period of membership and ill health retirements are the responsibility of the contractor. All costs associated with actuarial assumptions, mortality rates, inflation, regulatory change, discount rates and investment return remain the responsibility of the Council. The Council has sought advice from the actuary appointed by WSCC regarding the possible change in employee contribution rate, should the Council decide to outsource leisure provision. The advice received indicates that the outsourcing of the services would have no material impact on the pension scheme.
- 10.12 Contract Management – The risk that insufficient information is provided to adequately monitor the service delivery and that poor contract management procedure leads to delay in identifying and rectifying poor service levels is indicated as a risk to the contractor in the contract documents.
- 10.13 An equalities impact assessment has been undertaken and the outsourcing of the management of the leisure centres and sports development service should not result in any negative impact on the local community but should help to secure the Council’s discretionary public sport and leisure provision for the future.

11 Other Implications

	Yes	No
Crime & Disorder:		X
Climate Change:		X
Human Rights and Equality Impact:		X
Safeguarding:		X

12 Appendices

12.1 Appendix one – Method statement questions

13 Background Papers

None