

LONDON BOROUGH OF BRENT

Meeting of the Executive
17th January 2005

Report from the Director of Environment

For action

Wards affected: ALL

Report Title: Retendering of Leisure Management Contract

Forward Plan Ref: ES-04/05-271

1.0 Summary

- 1.1 This report relates to the re-tendering of the leisure management contract for the operation of Charteris and Vale Farm Sports Centres. The current contract expires on 31st April 2006 and this report requests approval from the Executive for the Director of Environmental Services to invite tenders leading to the award of a new contract commencing on 1st May 2006 as required by Contract Standing Orders 89 and 90.

2.0 Recommendations

- 2.1 That the Executive gives approval to the pre-tender considerations for the proposed leisure management contract for the operation of Charteris and Vale Farm Sports Centres and the criteria to be used to evaluate tenders as set out in paragraph 3.7 of this report.
- 2.2 The Executive gives approval to officers to invite tenders and evaluate them in accordance with the outline evaluation criteria referred to in 2.1 above and agrees the pre-tender considerations set out in the table at paragraph 3.7 of this report.

3.0 Detail

- 3.1 Vale Farm and Charteris Sports Centres are currently managed by Leisure Connection under a 7-year management contract which expires at the end of April 2006, although there is an option to extend it for a further 3 years by agreement on both sides.

Executive
(Date 17th January 2005)

Version 5
06.01.05

- 3.2 Leisure Connection had also been responsible for the management of Willesden Sports Centre (under a management fee payment arrangement under the same contract) until the centre was closed at the end of August 2004 to make way for the PFI contract.
- 3.3 In 2004 a Best Value Review of the sports service was completed. The review of the service included an analysis of the existing leisure management contract and an option appraisal was completed to determine what arrangements should be put in place from 2006 onwards. The resulting report highlighted a number of areas where the existing leisure management contract is weak.
- 3.4 The best value review was considered by the Executive in June 2004 and the decision was made to re-tender the contracts and not to extend the Leisure Connection contract for a further three years.
- 3.5 Re-tendering the contract will enable the production of an improved service specification resulting in a better quality service which is better aligned with Council priorities. The new specification will also align with the key themes and priorities in the Strategy for Sport and Physical Activity in Brent and will provide an opportunity for improved value for money to the Council.
- 3.6 The Best Value Review identified that the Bridge Park Community Leisure Centre and the Sports Development services should sit outside the leisure management contract. Therefore, the new contract will include only the Vale Farm and Charteris Sports Centres. For continuity of service, it is proposed that the two centres (Vale Farm and Charteris) are covered in the same contract (as at present), albeit with differing service specifications and contract terms where applicable.
- 3.7 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive. The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

Ref.	Requirement	Response
(i)	The nature of the service.	Leisure Management Services at Vale Farm and Charteris Sports Centres.
(ii)	The estimated value	Current value of the contract is £830k per annum which includes repayment of £2.4M investment
(iii)	The contract term	To be confirmed, but likely to be between 5 and 15 years
(iv)	The tender procedure to be adopted.	Most economically advantageous following a negotiated procurement route.
(v)	The procurement timetable	Adverts placed in OJEU and leisure publications – end January 2005 Expressions of interest returned –

Executive (Date 17 th January 2005)	Version 5 06.01.05
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Ref.	Requirement	Response
		<p>beginning March 2005</p> <p>Shortlist drawn up in accordance with the Council's approved criteria – April 2005</p> <p>Report to Executive including broad details of contract specification recommendations and names of companies to invite to the next stage – 18th April 2005</p> <p>Invite to tender – end April 2005</p> <p>Deadline for tender submissions – Mid June 2005</p> <p>Panel evaluation and clarification and negotiations – July to October 2005 Report to Executive recommending Contract award - November 2005</p> <p>Contract signed – December 2005</p> <p>Implementation period – Jan' to April 2006</p> <p>Contract start date – 1st May 2006</p>
(vi)	The evaluation criteria and process	<p>The process to be followed will be the appointment of the contractor who offers the most economically advantageous tender, rather than lowest price.</p> <p>Shortlists are to be drawn up in accordance with the Council's Contract Management Guidelines. A pre-qualification questionnaire will be issued to shortlist companies to be invited to tender. The outline tender evaluation criteria will include financial standing, technical capacity and expertise, demonstrated ability to provide services of a similar nature and the price.</p>
(vii)	Any business risks associated with entering the contract.	<ul style="list-style-type: none"> ▪ The operator does not perform and the contract is terminated early ▪ Change in market – depending on the term of the contract it is difficult to judge the market situation and a longer contract may have greater risks and require the Council to pay additional subsidy ▪ Non availability risk – poor management/maintenance of facilities

Ref.	Requirement	Response
		<p>could result in non-operation for significant periods of time and could result in additional subsidy from the Council</p> <ul style="list-style-type: none"> ▪ The contract may be awarded to a company with Trust status and there may be a change in the law which could have a financial impact on the Council if current rate relief available to Trusts is withdrawn ▪ Operational risk – the subsidy required is significantly higher than estimated in the tender plan
(viii)	The Council's Best Value duties	The competitive tendering exercise will assist the Council in achieving best value.
(ix)	Any staffing implications, including TUPE and pensions.	See paragraph 7.1, Staffing
(x)	The relevant financial, legal and other considerations.	See paragraphs 4 and 5.

3.8 There are a number of key issues that need to be considered in more detail over the next few months as the specification and contract documents are finalised. The intention is that these issues and officer recommendations will be reported in detail to the April 2005 Executive. In general terms these issues will include :

Improvement in the specification

3.9 To improve the level of service at the two centres a new specification will be written that will align closer to the corporate objectives and help achieve the priorities within the Strategy for Sport and Physical Activity. Improving the existing specification will require consideration to areas such as:

- the centre's minimum opening hours,
- the pricing policy and role of the leisure card,
- the provision of free swimming for identified target groups
- targeted programmes of use
- marketing
- consultation with users and non users
- equalities issues
- quality standards
- benchmarking
- health and safety requirements

Future capital and repairs and maintenance works

3.10 There are four potential areas for investment within the centres that will provide an improved service:

1. Capital investment creating new sports facilities and generating additional income

2. One off capital investment in repairs and maintenance to bring the facility 'up to standard'
3. Annual investment in repairs and maintenance during the lifetime of the contract
4. Capital cost of large equipment e.g. fitness equipment

3.11 There are a number of redundant facilities within the existing centres that could be developed to provide new opportunities for sport. Examples of these improvements could include converting the bar area at Vale Farm into an area for sport, installing a dedicated 'junior gym', installing specialist gym equipment, providing a health suite (steam and sauna) and developing the disused athletics track. How this could best be funded and the financial benefits to the Council as well as the contractor still needs to be determined.

3.12 A recent condition survey has identified both future capital requirements and ongoing future repairs and maintenance needs. There is currently no capital budget to undertake the capital requirements and members will need to decide whether such works should be directly funded by the Council or wrapped up in the contract. Under the new Prudential Code the Council may chose to fund these capital works itself as the repayment costs are likely to be less than would be recharged if the contractor was required to fund the capital works.

3.13 The condition survey identified ongoing R & M needs to ensure the building is adequately maintained during the period of the contract. There is no allocated revenue funding to ensure the provision of a detailed repairs and maintenance programme and a decision will be required on the level of repairs and maintenance required annually, how this is funded and who will be responsible for carrying out the work.

3.14 There may be a need to consider the provision of equipment within the centres. It will need to be agreed who will provide and maintain this equipment.

Investment in Information Technology

3.15 The current IT within the two centres is very outdated and provides minimal management information on users. The centres need significant investment in both IT software and hardware so that more detailed management information can be provided

The length of new contract

3.16 The method selected to allow the various investment requirements will play a determining factor in the length of the new contract. A contract requiring considerable capital investment by the contractor will be likely to need to be offered over a longer period of time than a contract requiring little or no investment.

New Sports facility in South Kilburn

- 3.17 The South Kilburn Masterplan includes a proposal for a new sports centre in South Kilburn in 2014, however the NDC are keen to bring this construction date forward. Charteris Sports Centre is a 'small local facility' located within a residential area with minimal opportunity for extension. It is believed that there may be some structural issues with the facility; these will be identified in the condition survey report. Initial feedback from Corporate Property suggests that the closure of Charteris Sports Centre and sale of land may provide the Council with a large capital receipt. Depending on the life of the new contract for Charteris and Vale Farm, a break clause or similar mechanism may be required within the contract documentation.

Clearer performance management

- 3.18 The current contracts have little detail in relation to service standards and performance measurement. This will be addressed within the new specification and linked to a payment mechanism that incentivises the contractor to perform.

User Consultation

- 3.19 To ensure the new specification recognises the views of users and addresses the barriers faced by non users, a variety of recent and current consultation and research will be referred to. The production of the Strategy for Sport and Physical Activity reviewed a wide range of consultation that had been undertaken since 2002 and the results of this consultation will be referred to again.
- 3.20 A second user survey has recently been completed at the two sports centres and the results of these two surveys will provide a profile of current users, levels of satisfaction and areas for improvement. Consultation sessions specifically related to the retendering of the contract will be held in January with individual users and sports clubs based at Vale Farm and Charteris. In addition, non user research is planned in the new year to help identify the barriers that restrict or prohibit people's use of the Council's sports centres.

Pricing Review

- 3.21 A pricing review is currently underway and the results of this will be fed into the revised contract specification. This will also include a review of the existing leisure card scheme. Members will receive a separate report on this pricing review.

Condition Surveys

- 3.22 Condition surveys have been carried out at Vale Farm and Charteris sports centres and the results of this will help identify the level of capital and repairs and maintenance investment required to bring the centres up to standard as well as making recommendations to the specification with regard to annual repairs and maintenance.

Risk Analysis

3.23 Re-tendering the leisure management contract is not without risk, and Members need to be aware of these. The following is a list of the key potential risks that officers have identified to date that may occur as part of the re-tendering process:

- Timetable cannot be adhered to and the new contract is unable to commence from 1st May 2006
- No bids are received at tender submission
- None of the bids received are affordable (see paragraph 4.2)
- Failure to identify all requirements within the new specification and contract documents
- No procurement costs have been identified for this re-tendering process (see paragraph 4.5)
- The operator does not perform and the contract is terminated early

4.0 Financial Implications

4.1 The current contract price is approximately £830,000 per annum. This includes the repayment of capital investment in buildings and equipment, and major repairs totalling approximately £2.4m over the seven years of contract. Under the capital regulations applying at the time this contract commenced, the authority could not fund this expenditure from its capital programme, and the work had to be funded by the contractor. Under the Prudential Code, authorities now have much greater freedom to fund capital works, providing they can show they can finance the capital repayment costs.

4.2 The re-tendering process will test the leisure market and provide a current leisure management contract price. Officers are aware though that recent tender awards for a variety of Council services have resulted in appreciably higher tender prices than the existing contract price and a provision will be sought through future budget setting to address this. In addition, when the contract (including the capital investment) was first tendered in 1999 the Council could not afford any of the conforming submitted bids.

4.3 Officers are aware that when the contract goes out to tender it is possible that a leisure management 'Trusts' or the 'Trust arm' of a private sector partner may bid for the contract. At present, a Trust should be able to receive 80% rate relief on the charge for the two leisure centres within the contract, and this saving could be passed on to the Council within the new contract price. Officers calculate that a potential saving of £88,000 could arise from awarding this contract to a Trust.

4.4 The cost of re-tendering the new contract is estimated at approximately £120k. £20k will be found from within existing budgets to commence work during 2004/05 but there is a shortfall of approximately £100k for 2005/6. This has been rejected as a growth item.

5.0 Legal Implications

- 5.1 The main power that the Council has to provide leisure facilities is under s19 of the Local Government (Miscellaneous Provisions) Act 1976. In addition to this power, the Council could use its powers under the Local Government Act 2000 (well being) to make the award.
- 5.2 As the award of the Leisure Management Contract (Vale Farm and Charteris) will be for “recreational, cultural and sporting services”, it falls within Schedule 1 Part B of the Public Services Contracts Regulations 1993. Those Regulations are accordingly of residual application only. Accordingly, and given the uncertainty over levels of investment that may be required and the implications that may arise for the Charteris Sports Centre from the implementation of the South Kilburn Masterplan, officers have concluded that it would be in the Council’s best interests to negotiate the award of this contract as set out in the pre-tender considerations in the table at paragraph 3.7 above.
- 5.3 Given the value of this contract under the Council’s Contract Standing Orders, this package includes the award of a Major Contract and therefore the approval of the Executive is required for the award, as sought by officers in this report. In addition, there will be local authority capital finance, leases/land disposal, charity and trust law that will need to be considered as the tender progresses.
- 5.4 The Borough Solicitor will be involved with the preparation of the tender documentation and in the shortlisting, evaluation, clarification and negotiation stages of this procurement.

6.0 Diversity Implications

- 6.1 Under the Race Relations (Amendment) Act 2000, public authorities are under a legal duty to eliminate unlawful racial discrimination, promote equal opportunities and promote good relations between people from different racial groups. In addition, the Council is also under a legal obligation to eliminate discrimination on the grounds of disability and gender. This duty of care extends beyond the services provided directly by the Council to include services that have been outsourced. The new contract documents, tender evaluation process and related contract monitoring procedures will incorporate equalities legislation and good practice guidelines in line with Council guidelines.
- 6.2 The Brent Strategy for Sport and Physical Activity identifies that the Council’s sports development work should focus on a number of target groups that are currently under represented in terms of participation in sport. These groups are: young people, people from black and minority ethnic groups, disabled people, older people plus women and girls. Mechanisms to encourage participation by these targets groups will be included in the tender specification including programme time, the provision of specified activities/sessions and targeted marketing.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no direct staffing implications for the Council as Leisure Connection currently provides these services. Members of Leisure Connection's staff involved in the provision of these services, however, are likely to be entitled to transfer to any new provider (should Leisure Connection not be awarded the future contract) under TUPE.
- 7.2 Leisure Connection has entered into leases of the premises with the Council, which should expire at the same time as the Leisure Connection contract does and Leases to the premises should then be granted to the incoming provider.

8.0 Environmental Implications

- 8.1 The re-tendering process and contract specification will enable the Council to embed its environmental policy requirements into the contract including a commitment to the implementation of environmental management systems such as ISO14001.

Background Papers

Report to Executive 16th June, 2004 titled Findings of the Best Value Review of the Sports Service

Contact Officers

Any person wishing to inspect the above papers should contact Gerry Kiefer, Sports Service, Brent House, 347 – 359 High Road, Wembley. HA9 6BZ Telephone: 020 8937 3710

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