

# **Finance & Performance Management Scrutiny Panel**



**Date of meeting: 19<sup>th</sup> June 2007**

**Portfolio: Leisure and Young People**

**Subject: Value for Money/Leisure Management Externalization**

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## **Recommendations:**

**That the Finance and Performance Management Scrutiny Panel consider the Value for Money considerations of the Leisure Management Contract and comment accordingly.**

## **Background**

1. At the meeting of the Council's Overview and Scrutiny Committee on the 28<sup>th</sup> March 2002, a Report was considered outlining progress on implementing the Audit Commissions Best Value Inspectors Recommendations, arising from the Best Value Review of Leisure Management. One of the most fundamental conclusions of the Inspection was that the test of "Competition" had not been fully met. To this end, the Group asked to receive a presentation on the feasibility of the establishment of a Not For Profit Trust, to manage the Council's Leisure Centres and Swimming Pools.
2. However, as part of the Council's budget process for 2002/03, the then Executive Committee requested that wider options be considered as part of a more fundamental review of the Council's future role in the provision of Leisure Services. This matter was subsequently delegated to Policy Working Group One, who initially met in July 2002, to initiate the review process.
3. The Policy Working Group received a presentation from Leonie Cowen of Leonie Cowen Associates, a procurement expert, on the feasibility and implications of Alternative Management. Following the presentation, the Working Group determined that there appeared to be a number of Alternative Management Options, including Direct Management, Private Sector Contractor or the establishment of an In-House or External Trust.
4. During November, 2002 members of the Policy Working Group visited Maldon District Council and met with the private sector contractor who managed the Council's major facility at Blackwater Leisure Centre. Additionally, they visited Thurrock Council, who had elected to transfer the management of their Leisure Centres to an In-House Community Trust. Finally, the Members received a presentation by Greenwich Leisure Limited (one of the largest Leisure Trusts) on external Trust Management.
5. Policy Working Group Members considered the relative merits of each of the types of future Management Options and concluded that their preferred Option was to seek expressions of interest from "External Partners" who could either be a "Private Sector" Company or "External Trust".

## **The Council's Aims and Objectives**

6. From the outset, the Policy Working Group were keen to ensure that the Council secured maximum Value for Money. To this end they determined a number of Key Objectives to be achieved, through any move to Alternative Management.

- i) To manage the Council's Facilities by the most cost effective means possible, therefore reducing the level of revenue support necessary;**
- ii) To alleviate the financial risks to the Council and in particular to release the Council from the threat of punitive VAT penalties, deriving from exempt income;**
- iii) To invest in facilities, not only to ensure that their internal fabric is maintained to the current standards, but that capital refurbishments and new facilities are provided where possible; and**
- iv) To retain the accessibility, quality and diversity of leisure opportunities provided and to seek continuous improvement to the Service.**

7. In order to secure these Objectives and safeguard the Council's assets, a set of Contract Documents i.e., Invitation to Tender, Conditions of Contract and Specification of Works, were developed. These clearly set out the core expectations and the minimum standards that any future Management Partner must achieve. This was necessary to enable the Council to evaluate any Tender Bids in a consistent manner. The Contract Documentation was also important to assist in performance monitoring the future delivery of the Service.

## **Contract Strategy**

8. The Key Features of the overall Contract Strategy, developed by Members of the Ad Hoc Policy Working Group, were as follows:

- That a Hybrid Contract would strike the correct balance between encouraging innovation and safeguarding the Council's position in the event of Non Performance.
- That the Contract Strategy for the Tender of the Centres be based on one package of Four Centres, omitting Waltham Abbey Sports Centre. (Due to the type and level of use and the Dual Use Agreement with King Harold Secondary School, expiring in 2007)
- That there is a recognised link between the length of Contract Period and Levels of Investment/Management Fee, and therefore proposals be sought from external partners based on Contract lengths of a) 15 years, b) 7 years plus possible 3 years extension; and c) limiting the length of Contract at Epping Sports Centre to 3 years given the uncertainty at the time of the potential relocation to the St John's School site.
- Contractors were required to state levels of Guaranteed Investment over the Contract Period as well as the % level of any income share.
- That a Comparison be developed by the current Management Team, not only to meet the requirements of Full Council for a Financial Evaluation which would allow the identification of costs to the Council if it elected to retain the Service In-House, but also to allow the assessment of the realism of Contractors Financial

Projections.

## **Tender Process**

9. On the basis of the above Contract Strategy and Documentation, Adverts were placed in the National Leisure Media, seeking Expressions of Interest. Fourteen Companies responded and nine returned the Pre-Tender Questionnaire.

10. From these, a Member Panel short-listed 5 Contractors, who they felt had the best blend of experience, financial standing and approach to the future delivery of the Service.

11. Contract Documents were issued to Tenderers on the 10<sup>th</sup> June 2004. In the intervening period, the Companies made several site visits to the Council's Leisure Centres. In addition, a Meeting was held with the Officer Project Team, to afford Tenderers an opportunity to seek clarification on any points regarding the Conditions of Contract, Specification or Form of Tender.

12. However, in late July, two of the short listed Contractors, Greenwich Leisure Ltd., and D. C. Leisure notified the Council, that they would not be submitting Tenders. The reasons given at the time was their inability to resource the Tender process and the pursuit of other opportunities. Formal Tenders from the remaining three Companies were returned by the due date of 20<sup>th</sup> August 2004, i.e. from Sports and Leisure Management (SLM), Leisure Connections and Hertsmere Leisure Ltd. The Leisure Portfolio Holder opened the Tenders on the 23<sup>rd</sup> August and the Bids were formally recorded.

13. As a result of the responses received, it was apparent to the Council that there were a number of omissions in all three Tenders. The Contractors therefore sought the opportunity to make adjustments to their Tenders. In an attempt to ensure that the Final Evaluation was undertaken on the most complete information and although an exemption to Standing Orders would be required, (in the event of a Contract being awarded), all Tenderers were given a further opportunity to amend their Bids by the 26<sup>th</sup> October 2004. It is these figures, which formed the basis of the Financial Evaluation undertaken by the Head of Finance.

14. The Final Stage of the Tender Process, was the formal Member Interviews held on the 3<sup>rd</sup> November 2004. Each Contractor was invited to give a presentation on how they could deliver the Council's Key Objectives, demonstrating what Added Value they could bring to Service Delivery. After the Presentation Members asked a series of questions around the main considerations of the Tender.

## **Evaluation Methodology and Criteria**

15. Contractors were invited to submit a number of key pieces of information as part of their Tender. These ranged from Financial Projections and Method Statements to copies of Company Policies, Bonds and Guarantees. These formed the main qualitative criteria for the Evaluation. In addition, feedback from Site Visits and the result of the Member Interviews was also included. Members of the Multi-Disciplinary Officer Project Team, were also tasked with undertaking a technical evaluation, of the elements of the Tender within their area of professional expertise.

16. A Maximum Score was established for each for the main sections within the Contract i.e. Objectives and Overall Contract, Finance, Resourcing and Staffing Issues, Operating the Contract, Quality of Service, Health and Safety, Marketing and Asset Management. The maximum total that could possibly be achieved being 1000 points. Each company's score was then calculated as a proportion of each areas potential maximum and totalled. The Company with the highest total score being assessed as offering the most compliant Tender with the highest level of Quality.

17. Amongst the Council's Key Objectives with respect to Alternative Management, was a desire to reduce the level of revenue support necessary in the future. As such, Tenderers were also asked to submit projections of their Total Expenditure, Principal Income and thus the level of Management Fee required from the Council over the Contract Period. In the event, the financial evaluation concluded that the Preferred Contractor, SLM would deliver in the region of £1.1million of revenue savings over the 7-year term of the Contract against the prevailing In House Management Cost Projections.

18. In addition the Contractors were asked to declare any Guaranteed Investment over the period and if income exceeded their Principle Income Projections, the % level of Income Share that would be returned to the Council.

19. As previously agreed by Members the outcome of the Evaluation was then geared on a ratio of 40% Quality and 60% Price (Management Fee).

### **Investment Proposals**

20. One of the Key Objectives sought within the Alternative Management process, was to retain the quality of the Council's Assets and to seek Capital Investment in New Facilities and Services. As such, each Contractor was asked to submit proposals and to guarantee the level of investment over the respective Contract Periods.

21. SLM proposed a range of improvements and indicated that the investment will be made irrespective of the Contract Period. In the first year they committed to provide £916,000, in addition to the Council's contribution to provide a 2 Storey Fitness Suite and Movement Studio at Ongar Leisure Centre. In addition to the Health and Fitness Facilities, SLM also proposed a refurbishment of the Swimming Pool Changing Areas.

22. At Waltham Abbey Swimming Pool SLM, again in year one, committed to invest £372,000 in extending the Fitness Suite and providing new internal access. Due to the age of the New Loughton Leisure Centre and the uncertainty of the future of Epping Sports Centre, SLM's investment was limited to IT improvements at a guaranteed cost of £25,000 and £20,000 respectively. Overall, SLM offered the highest level of guaranteed investment.

### **Building Maintenance**

23. In order to safeguard the Council's Assets, it was decided that any incoming Contractor would be awarded a Lease, which required them to accept a range of responsibilities for Repair and Maintenance. The Cabinet also agreed that the Council would retain responsibility for the main structure of the Leisure Facilities e.g. roofs, external walls etc., and also for car parks and grounds maintenance. This would retain greater control of any future major repair costs, reduce risk to the Contractor and ultimately management fee levels.

24. The Contractor therefore is responsible for the maintenance of plant and equipment as well as day-to-day routine maintenance, planned programmes of work and the refurbishment/alteration of internal areas. The Council as part of the Tender Documentation, provided a comprehensive survey of the current condition of the Council's Buildings and a detailed assessment of future repair and maintenance liabilities.

### **Income Share**

25. In the event that Contractors either performed above their expectations or benefited from some form of windfall, the Contract allows for a share of income to be returned to the Council. As part of the Tender process, Contractors were given the opportunity to state the % level of income share above their declared Principal Income Levels.

26. Leisure Connections did not offered any Income Share whilst SLM proposed 30% and

Hertsmere 20%. Examination of the Income Projections from SLM showed that they anticipate significant increases on both Fitness and Swimming. They claimed these could be achieved through marketing, promotion and investment in upgraded facilities.

### **Tender Evaluation Conclusions and analysis of Risk**

27. With respect to the Overall Evaluation of the Bids, based on Quality and Price for the 15-year option the most advantageous Tender was submitted by Hertsmere Leisure. However, on the 7-year option there was no significant difference in terms of the scoring between Hertsmere and SLM.

28. As the Council had been seeking a "Partner" to manage and develop the Service in the future, to an extent they were not compelled to award the Contract to the Lowest Tenderer, but rather to choose the Company they felt could best meet the Objectives of the Alternative Management process, expose the Council to the Lowest level of Risk and maximise Value for Money.

29. On this basis the Council appointed SLM as their Preferred Contractor subject to final negotiations on the specific terms of the Contract. These were concluded satisfactorily and SLM were appointed for a 7-year Contract Period (3 years at Epping sports Centre), with a Contract Commencement date of 3<sup>rd</sup> January 2006.

### **The overall Experience to Date**

30. A significant amount of joint planning took place in late 2005 which resulted in a smooth transition at the commencement of the Contract, with minimal disturbance to the Service, Users and Staff who TUPE Transferred.

31. The Contract is practically monitored on a day-to-day basis by a Client Officer, who undertakes Site Inspections etc. In addition, a monthly "Core" Meeting is held with the SLM Contract Manager and Key EFDC Staff from Leisure, Finance and Building Maintenance. Finally, the Council has appointed five Members to sit on the "Contract Monitoring Board" which has successfully met on three occasions.

32. The Contractors Performance is monitored against the Key Performance Indicators, both quantitative and financial within the Contract. (*Attached at Appendix 1 is a note of how the Performance Indicators are practically monitored*) To date the Contract is operating well with only one Default Notice issued, with respect to water quality monitoring.

### **In Summary**

33. Overall, the Council's Key Objectives have been met and Value for Money achieved, in the following ways:

1. Revenue Savings anticipated to be in the region of £1.1million over the Contract Period are being achieved. Income Share in second year of Contract anticipated, with an estimate of £50,000 included in the CSB.
2. In addition to the £1.1 million of operational savings achieved, over the Contract Period CSB Savings of £180,000 p.a. have also been delivered through reduction of support service costs. (£66,000, p.a. Leisure Admin and £114,000p.a. others, Legal, Finance, Human Resources etc).
3. The Financial Risk has been transferred to SLM, particularly with respect to underachievement of Income. Fee and Charge increases have remained in line with inflation, with many discounted promotions.
4. The Council no longer has any problems with respect to its exempt income levels and

the threat of additional VAT payments.

5. In the first year of the Contract £1.3m of additional external investment in new facilities has been achieved, which has improved the Quality and Range of the Service.
6. High standards of customer satisfaction have been maintained, with no Stage 2 Complaints from the Public received to date.
7. Quality Standards have been maintained with the retention of Chartermark and Quest Quality Assurance Accreditation achieved.
8. Participation has increased, particularly with respect to young people learning to swim and the number of people participating in Health and Exercise Initiatives.
9. The Council's assets have been improved by the Capital Investment and the buildings are being satisfactorily maintained.
10. Contract Compliance has been good, with only one Default Notice (in relation to a water test log failing) issued and seven improvement Notices issued, primarily in relation to speed of response to routine building maintenance and servicing of plant.

## VALUE FOR MONEY - MONITORING REGIME

There were Seven KPI's listed as part of the requirements of the Contract.

1. Facility Management
2. Human Resources Management
3. Health and Safety
4. Asset Management
5. Financial Accounting, Audit and Management
6. Activity Base

The CORE meeting is held once a month and attended by both SLM and EFDC Officers. Minutes are taken and are available for viewing. Copies of these Minutes are also sent to the Head of Leisure Services, Portfolio Holder for Leisure, Chief Executive and Audit Section.

There is also a Monitoring Board which convenes once a quarter and consists of Members where items are reported by SLM and Council Officers. These are Minuted by an Officer from Leisure Services and also distributed to the Chief Executive and Audit.

### **MONITORING OF KPI'S**

#### **1. FACILITY MANAGEMENT**

**Open Hours Programme:**

Any changes have to be discussed with the Council and permission given by the Council before Implementation.

**Usage:**

Participation figures are collated from source data by the Client Monitoring Officer. These are presented, in table format, comparing previous data to present, at both the CORE and Monitoring Board Meeting.

**Marketing and Advertising:**

All proposals must be discussed with the Leisure Marketing and Events Manager for approval before implementation. These are also discussed at the CORE Meeting.

**Consultation and Commitment:**

Any consultation initiatives are discussed at the CORE Meeting. This also enables joint projects between SLM and the Council to be undertaken.

#### **2. HUMAN RESOURCES MANAGEMENT**

This is a standard item at the CORE Meeting so that any changes are highlighted and commented on and action taken, if needed, to ensure the contract requirements are covered.

### **3. HEALTH AND SAFETY**

Monthly/Quarterly visits are made to the facilities to spot-check the operation. Feedback on the findings are made to the Contractor and also fed back to the CORE Meeting and Monitoring Board. Corrective action is taken where required.

### **4. ASSET MANAGEMENT**

The Client Monitoring Officer will visit the facilities once a month to monitor the operation and its affect on the asset e.g. cleanliness, access, etc. He will report back on the day and at the CORE meeting on findings, to ensure items are rectified.

The Building Maintenance Officer visits every 2 months to review the planned and unplanned maintenance being undertaken. He will attend the CORE Meeting and report back on findings and required rectification or attention to any issues.

### **5. FINANCIAL ACCOUNTING**

SLM provide the Council with the income figures on the 22<sup>nd</sup> Month for the previous month. This data is collated and put on a table, which again compares previous to present. The first 15 months figures show an increase in income due to the investment SLM have made in the facilities. Financial information reporting is part of both the CORE and Monitoring Board Agenda.

The first end of year figure audit has not yet been completed as it was agreed by both parties that the "1<sup>st</sup> year" would be 15 months covering 4<sup>th</sup> January 2006 to 31<sup>st</sup> March 2007.

### **6. MONITORING OF PERFORMANCE**

This ensures that the Leisure Objectives of the Service agree to the Contract. It also gives rise to new initiatives and promotions to ensure increased community use, reaching specific groups such as the elderly, young, disabled etc and furthering partnership issues.