

NORTH LINCOLNSHIRE COUNCIL

**LEADER OF THE COUNCIL –
REGENERATION, MARKETING AND
STRATEGIC FINANCE CABINET MEMBER**

**PROCUREMENT OPTIONS FOR THE MANAGEMENT CONTRACT AT THE NEW
ENTERTAINMENT VENUE**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To consider procedural options for the procurement of an external management contractor for the New Entertainment Venue.
- 1.2 The key points in this report are as follows:-
- Two options exist for the method of procurement of an external management company
 - Analysis of each option considers the advantages, disadvantages and risks associated with each.
 - A decision is required on the preferred option so that work can proceed on the engagement of a suitable contractor commensurate with the timescale required.

2. BACKGROUND INFORMATION

- 2.1 Council has previously approved (20 February 2008 (minute 1545 refers)) a project to develop a New Entertainment Venue on the combined site of the former Baths Hall and Scunthorpe Youth Centre. Work has progressed on both the design of the building, and the clearance of the site. Planning permission is currently being sought. The procurement process for the construction of the facility is well underway.
- 2.2 Cabinet agreed (10 December 2008 (minute 780 refers)) to proceed with the procurement of an external management company, in order to minimise any cost element to the Council, and secure the relevant management expertise.
- 2.3 In order to obtain the best management contractor, two methods of procurement are open to the Council. These are:-
- Normal procurement via a highly specific contract document process (usually referred to as a 'Restricted' procedure), or:-
 - Use of a 'Competitive Dialogue' procedure.

- 2.4 A constraining factor in this exercise is the required length of time to undertake the process (taking due note of procurement and/or EU regulations), and given the expected opening date in late October 2010. The earlier a management contractor is appointed the greater the likelihood of that contractor influencing the final equipment design and 'fit out'. Equally, it is expected that construction will start in July of this year, and that any operator will need a minimum of twelve months to effect programme implementation and book artistes.
- 2.5 The Council's business plan for the venue indicates a variety of activities, and a suggested mix as a starting point. Council costings are made on this basis, but it may well not offer the best commercial mix for maximising revenue. Discussion with potential operators could prove helpful in establishing the optimum way forward.

3. OPTIONS FOR CONSIDERATION

- 3.1 The council has the following options:

Option 1: Restricted Procedure

- 3.1.1 Normal Council procedure is to specify a product, and have everyone bid against that specification. Such a methodology requires that the Council is overly explicit in exactly what it requires within the venue.
- 3.1.2 In this position, it is possible that operators may take a view not to bid, or that bids submitted prove excessive in cost terms because of the restrictions placed on the operators. This could prove abortive, take valuable time from a tight timescale, and incur abortive costs. The initiative to involve a wide range of prospective bidders could also be lost.
- 3.1.3 The market may view seeking to specify a technical, financial and legal structure procured in this manner as favouring a particular solution, and thus discourage some economic operators from putting forward a solution. This implies a lessening of competition, and may not achieve a solution for the Council that represents best value.

Option 2: Competitive Dialogue

- 3.1.4 It is likely that there are a wide range and number of potential operating solutions for the new venue, covering a variety of legal, commercial and technical issues. These would require substantive discussion which would not be permissible under the restricted procedure. However, it may well allow the Council to identify and define the best means of satisfying its needs.

- 3.1.5 Such discussion will enable bidders to explore with the Council a range of issues and differing solutions, and to identify a solution which can be the subject of the final tender. This may well prove more acceptable to the Council in terms of satisfying its requirements, and avoid the risk for the bidder of investing considerable expense and effort in putting forward a solution that could prove unacceptable.

4. ANALYSIS OF OPTIONS

4.1 The primary concerns are:-

- Timescale being short,
- Encouraging not discouraging bidders,
- Optimising potential programme,
- Bringing operational expertise 'on board' at the earliest opportunity,
- Gaining input into final design, and
- Maximising income/minimising revenue costs to the Council.

4.2 The Competitive Dialogue Procedure offers the option, not available under Restricted Procedure, to reduce the number of participants after consideration of submitted solutions. This may enable the Council to assess the potential technical, financial and legal solutions available without putting bidders to the trouble and expense of submitting a fully worked up tender

4.3 For these reasons, it is considered that the use of the Competitive Dialogue process is justified in terms of regulation 18 of the Public contracts Regulations 2006. This process is likely to enhance competition amongst economic operators and also lead to the identification of a solution most likely to satisfy the Council's needs in this respect, ultimately delivering best value.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

5.1.1 Costings have been sought for the external advice likely to be required to undertake either of these processes. While awaiting final confirmation, it is likely that the costs associated with either procurement route will prove similar.

5.2 Staffing

5.2.1 A commitment is required from existing council officers, and further time from the Council's external advisers.

5.3 Property & IT

5.3.1 There are no direct property or IT implications associated with either of the options.

6. **OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)**

6.1 Statutory

6.1.1 The procurement process is covered by European Regulations and Local Government Requirements.

6.2 Environmental & Other

6.2.1 There are no direct environmental or other implications associated with either of the options.

7. **OUTCOMES OF CONSULTATION**

7.1 Consultation has taken place with the Council's procurement, legal and finance officers.

7.2 Subsequently views have been sought from specialist external finance/procurement and legal advisers.

7.3 In each case, the recommended procurement method was supported.

8. **RECOMMENDATIONS**

8.1 That the Cabinet Member approves the use of Competitive Dialogue in the procurement process for its preferred management operator at the New Entertainment venue

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Background Papers used in the preparation of this report:

- Minute 780(88) of Cabinet held on 10 December 2008, headed "Operational Management Options for the New Entertainment Venue, Doncaster Road, Scunthorpe"