

JOINT VENTURE FOR THE DELIVERY OF SCHOOL IMPROVEMENT AND INCLUSION SERVICES

Report of the Executive Director for Children and Young People's Services

Please note that the following recommendations are subject to approval by the Cabinet and confirmation under the provisions of the Council's Constitution before taking effect.

Recommendations: that Cabinet

1. notes the progress on the procurement of a partner to create a joint venture for the Learning & Development Partnership as more particularly outlined in paragraph 2 below;
2. confirms the basis for its decision on 10 March 2010 to approve a procurement exercise for a partner encompassing the following, namely either:
 - a. a Joint Venture, for profit company with a private sector partner, with the Council as minority partner with such Joint Venture Company being able to meet the characteristics of the preferred options set out at paragraphs 5.1, 5.2, 5.3 and 5.4 of report CY/10/30 and endorsed by due process with stakeholders; or
 - b. where a company vehicle is not proposed, then such alternative vehicle would need to provide specific and distinctive benefits and ensure that the following features are preserved:
 - i relevant DCC staff will transfer out of DCC under TUPE Regulations and become employees of the joint venture;
 - ii the joint venture will be able to trade freely with private sector organisations and individuals as well as the public sector;
 - iii the joint venture will be able to distribute profits to its owners; and
 - iv robust constitutional and governance structures capable of offering equivalent minority protection to DCC, including board representation, will exist.

1.0 BACKGROUND

- 1.1 Cabinet on 10 March 2010 (Minute 153, report CY/10/30) gave approval to commence a procurement exercise for the appointment of a partner for the Learning & Development Partnership (LDP) to create a joint venture for the delivery of school improvement and inclusion services. A new project board was established to oversee the procurement exercise and ensure the continuing alignment of the joint venture concept to the needs of DCC and Devon school stakeholders at a time of significant change in national education policy.
- 1.2 The existing Cabinet Resolution of 10 March 2010 simply gives approval to *'the procurement of a partner to create a joint venture company for the delivery of school improvement and inclusion services, noting that this would include the transfer of staff under TUPE Regulations'*.

This does not appear to fully cover the nature of the joint venture vehicle as identified in the report that was provided to Cabinet. The report provided to

Cabinet also identified alternative vehicles as referred to at Recommendation 2b above. In the minutes of 10 March 2010 there does not appear to be any disagreement from Cabinet with the report and it appears that the resolution may have been inadvertently truncated.

2.0 PROGRESS

2.1 Due to the novel nature of the joint venture, additional market testing was carried out before the launch of the formal procurement process. This confirmed the availability of credible potential partners with an appetite for the joint venture concept and the range of specialist services. To ensure the greatest mutual advantage for DCC and the joint venture partner, and following specialist legal and procurement advice, the Competitive Dialogue procurement procedure was adopted for the project.

2.2 The procurement was launched in November 2011 with an open advertisement in the Official Journal of the European Union and attracted interest from a wide range of potential partners. Following a formal pre-qualification stage, six private sector organisations have been invited to participate in dialogue. The six organisations have all demonstrated a track record in public service delivery allied to commercial discipline and financial capacity and are as follows:

- Babcock International Group plc
- Capita Business Systems Ltd trading as Capita Strategic Children's Services
- Mott MacDonald Ltd
- Nord Anglia Education Ltd
- Prospects Services Ltd
- Serco Ltd trading as Serco Education and Children's Services

2.3 It is anticipated that the dialogue and tendering process will be concluded in autumn 2011, leading to a further report to Cabinet once the dialogue has been concluded and tenders received and evaluated. The target date for contract award is the end of December 2011, with the joint venture likely to start operation in April 2012.

3.0 CONCLUSION

3.1 Cabinet is asked to note the good progress made so far and is also asked to confirm and expand upon its earlier decision so that in particular the scope of proceeding with the joint venture were a non-company structure to be proposed is made very clear.

4.0 SUSTAINABILITY

4.1 A key aim of the project is to secure sustainable services for the Council and Devon schools. The options appraisal concluded that the preferred option showed good potential for sustainability.

5.0 EQUALITY AND DIVERSITY

5.1 Two Equality Impact and Needs Assessments have been carried out during the course of the project; a further assessment will be carried out before the joint venture arrangements are finalised.

6.0 RISK MANAGEMENT

- 6.1 The project maintains a risk register that is reviewed at every meeting of the project board. Additional assurance is being provided by Devon Audit Partnership. The most recent audit opinion is that project governance and management is of Good Standard.

7.0 LEGAL CONSIDERATIONS

- 7.1 The selection of the Competitive Dialogue procurement procedure has been reviewed and endorsed by specialist legal advisers.

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ELECTORAL DIVISION: ALL

Local Government Act 1972

Background Papers: CY/10/30 (Cabinet)

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