

EXECUTIVE SUMMARY – EXTENDING THE POWERS OF THE COMMERCIAL SERVICES JOINT COMMITTEE








Summary of Purpose and Recommendations:

To give power to the Commercial Services Joint Committee to tender for work with other public bodies, up to a maximum cumulative annual value of £650,000.

Cost to Council: NIL

Within existing budget? Yes

Contribution to Corporate Plan (Minor/Moderate/Major/Neutral):

	+		-		+		-
	Moderate			Priorities			
	Moderate			Clean Streets and Public Spaces		Neutral	
		Neutral		Crime and Disorder		Neutral	
		Neutral		Housing		Neutral	
		Neutral		Managing our Finances	Minor		

Comments on Impacts on Corporate Objectives and Priorities:

The proposal seeks to build on the unique Test Valley Partnership, in terms of the corporate objective to foster innovation in service delivery. It will also enable the Partnership to use its resources more effectively, and obtain financial benefits for the two Councils.



Organisation of excellence



Working with public and partners



Economic well being



Social well being



Environmental well being

CABINET – 5 JULY 2004

COMMERCIAL SERVICES JOINT COMMITTEE – EXTENSION OF POWERS

1. Purpose of Report

- 1.1 To consider extending the powers of the Joint Committee to enable the Committee to tender for work from other public bodies and amend the constitution of the Joint Committee to reflect this, and
- 1.2 To amend the Financial Regulations of the Joint Committee to spend the resources required to complete contracts awarded to the Commercial Services Organisation (CSO).
- 1.3 This report was considered by Test Valley Borough Council's Executive on 23 June 2004.

2. Background

- 2.1 Test Valley and New Forest established the Joint Committee for Commercial Services with effect from September 2002 and established a constitution, (including financial regulations) together with a Commercial agreement.
- 2.2 The Constitution and Commercial agreement set out, amongst other things, delegations to the Director of Commercial Services but require that any new work should be authorised by the 2 authorities unless specifically authorised by the business plan approved each year.

3. Issues

- 3.1 The Commercial Agreement between New Forest District Council (NFDC) and Test Valley Borough Council (TVBC), which gave effect to the joint venture for commercial services between the 2 Councils established that

“Decisions to tender for, or enter into, a new contract taking effect after the Commencement Date, relating to any of the Joint Functions shall be made by the Joint Committee for referral to the Parent Authorities (if appropriate). In respect of any such new contract, the Joint Committee shall agree the tendering or negotiation strategy and the arrangements for the bearing of risks and responsibilities between the parties including which party is to be the contracting party, such party for the avoidance of all doubt, to comply with their Parent Authorities' Standing Orders as to Contracts and make recommendations to the Parent Authorities as appropriate”.

- 3.2 The Constitution for the Joint Venture requires that the Joint Committee "shall exercise its powers in accordance with the Business Plan approved as part of the annual budget process by the parent Authorities save in respect of any latitude allowed in accordance with the Financial Regulations applicable to the Joint Committee".
- 3.3 The Constitution does not allow The Director of Commercial Services to bid for work from other public bodies except as identified in the Business Plan.
- 3.4 One of the medium term visions for the Partnership agreed at its meeting on 19 September 2003 is to maintain a strong interest in the expansion of its customer base, subject to opportunities arising, there being a sound business case and a legal basis for undertaking any work.

4. Debate on Issues

- 4.1 The current delegations to the Director authorise the submission of tenders in accordance with the agreed business plan.
- 4.2 The Director would like the ability to bid for work from other public bodies (in accordance with the Local Government (Goods & Services) Act 1970) beyond that identified in the business plan, but within the core business of the Partnership's Constitution, to enable the CSO to grow and achieve the benefits of a larger organisation in accordance with its objectives.
- 4.3 The lead in time in the tender bidding process is usually tight and does not provide time to obtain Committee authority. However, having made a bid, unless there is a proviso included, the 2 Authorities in the Joint Venture are bound to deliver the Contract upon acceptance by the contracting body.
- 4.4 The inclusion of a proviso to make the bid subject to approval of the Council or Joint Committee puts the CSO at a distinct disadvantage in the bidding process and is therefore not recommended.
- 4.5 Care needs to be taken in bidding for work that this is not simply the creation of a trading arm of the Council nor a commercial decision to benefit the CSO as an organisation. The purpose is to enable the two authorities to better achieve its own functions. The Joint Committee provides the Control for this and any bids made will be reported to the Committee.
- 4.6 Making a successful bid will affect the resources required by the CSO and provides a risk to the 2 authorities that a contract may not be met or runs at a loss.
- 4.7 However, work should only be bid for to achieve a benefit. This will be to fully utilize the existing workforce or to provide a growth in the organisation to the benefit of the Councils and may assist in achieving a profitable situation.

- 4.8 It is recommended that the Joint Committee be authorised to tender for work from public bodies up to a maximum cumulative annual value of £650,000. The Joint Committee will be recommended to consider a delegation to the Director of Commercial Services (annexed) in order to allow some flexibility but recognising the exposure to risk and ensuring adequate controls are in place.

5. Financial Implications

- 5.1 There are no immediate implications. However, this increase in delegations will enable the CSO to use its resources more effectively and obtain financial benefits for the two authorities.
- 5.2 In the event that the CSO is successful in bidding for contracts it will require resources, in addition to its existing budget in order to carry out the contract works. It is therefore recommended that the financial regulations for the Joint Committee be amended to allow for this.

6. Crime and Disorder Implications

- 6.1 None arising directly from this report.

7. Conclusion

- 7.1 It is recommended that the Joint Committee be given power to bid for work from other public bodies. The intention is that the Joint Committee will delegate powers to the Director of Commercial Services subject to adequate controls.

8. Recommendations

- 8.1 that the Joint Committee be empowered to tender for work with other public bodies (being a public body within the Local Government (Goods and Services) Act 1970) up to a maximum cumulative annual value of £650,000;
- 8.2 that paragraph 6.2 of the Commercial Agreement be amended as appropriate to include provision for power to tender for new contracts to be delegated to officers, the wording to be agreed by the Heads of Legal Services of the 2 authorities; and
- 8.3 that the Financial Regulations of the Joint Committee be amended to authorise spending, by Commercial Services, in addition to existing budgets, up to the value of new contracts in order to purchase the materials equipment and staff necessary for the contract.

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Background Papers:

Published documents only.

The Director be authorised to

1. Tender for individual contracts with other public bodies (being a body within the Local Government (Goods and Services) Act 1970) as follows:
 - Up to £50,000 in consultation with the Heads of Finance of the 2 authorities.
 - Between £50,000 and £250,000 in consultation with the Chairman and vice-Chairman of the Joint Committee and the Heads of Finance of the 2 authorities
 - Above £250,000 and up to the maximum of £650,000 to be approved by the Joint Committee.

Subject in each case to report back to the Joint committee on successful tenders.

2. No contract shall have a term exceeding 5 years.
3. Incur expenditure outside the provision of revenue estimates, and in addition to that identified in the Commercial Services Business Plan, where that expenditure is required to satisfy the bid in the event that the tender is successful subject to:

The Director being satisfied that the income from the resulting contract at least matches expenditure.