

**Bolsover District Council****Executive****15<sup>th</sup> January 2018****Commissioning Support for the Bolsover Partnership****Report of the Leader and Portfolio Holder – Strategic Planning and Regeneration**

This report is public

**Purpose of the Report**

The contract for the provision of commissioning support provided to the Bolsover Partnership by an external independent provider is due to come to an end in March 2018. The aim of this report is to review the options available to continue to provide appropriate commissioning and procurement activity within the Partnership Team on behalf of Bolsover Partnership.

**1 Report Details**

1.1 The role of the Partnership Team has proved valuable in terms of leveraging in additional resources and working with partners to contribute towards improving the profile of the District and contribution to the Council's corporate aims. Over the years, the team's structure has also evolved with wider public sector involvement together with the diverse and bespoke skills base within it.

1.2 Why is the service externally provided?

The role of commissioning within the Partnership Team is currently externally provided to ensure independence regarding partnership spending in accordance with and alongside Bolsover's Sustainable Community Strategy. This is a partnership strategy which brings partners together to jointly drive activity to achieve agreed outcomes.

1.3 The management of commissioning, together with the administration of external funding opportunities and internal budgets is a key role of the Partnership, ensuring the independent oversight of formal financial processes. Details of the prioritisation of this work are provided in Appendix 1 of this report.

1.4 Over the years, the Partnership Team has administered a number of significant funding streams, including Single Regeneration Fund (£10m), Neighbourhood Renewal Fund (£9.5m) and Working Neighbourhoods Fund (£7m). In times of diminishing resources, the Partnership has levered resources to maximise funds and to ensure positive impact in local communities. A good example of this was the

Community Cohesion project where funding was secured from a range of partners including Derbyshire Constabulary, Derbyshire County Council, Public Health, Community Safety Partnership and Hardwick Clinical Commissioning Group. Following this work, and the work of the NG20 Partnership, £1.26m was secured from the Controlling Migration Fund (Department of Communities and Local Government).

- 1.5 Page 5 of the Partnership’s bi-annual report presented to Executive on 4<sup>th</sup> December 2017, outlines the range of funding streams used to deliver priorities within the Sustainable Community Strategy over the period April to September 2017 as follows:

<b>Funding</b>	<b>Amount/Timescales</b>
Public Health	£269,000 in 2017/18. Future years likely to be reduced on a tapering basis.
BIG Lottery Talent Match	£42,000 income per annum for local co-ordination (until December 2018) but the overall budget for TM in Bolsover, Bassetlaw, Chesterfield and NED is around £1.047m over 5 years
Raising Aspirations	£184,000 in 2017/18 – BDC leads the procurement and manages funding on behalf of 7 Derbyshire Public Health localities. Anticipate a contract of a similar value in 2018/19
Residual Working Neighbourhoods Fund	£81,647 – allocated to the Council’s Apprenticeship programme and underwriting of I-Venture 2019
Business Growth Fund	£200,000 over 2 years. £71,200 spent to date
Controlling Migration Fund	£1,264,000 to September 2019.
Grants to Voluntary Organisations	£115,000 per annum
Partnership Funding for Health Priorities	Reserves of circa £374,000
Accrued Partnership income	Reserves of circa £70,568
LEP Funding	Working with SCR to secure £5m devolution monies for an early intervention employment pilot. To be matched with £6m ESF creating an £11m fund across the SCR
Prime Minister’s Challenge Fund	£50,000 (£11,740 remaining for 2017/18)

- 1.6 The contract for the provision of commissioning support to the Partnership Team was last tendered in April 2015. At that time, there was little interest with 2 submissions received. Taking this into account, and the current adequate provision, it is deemed appropriate to extend the existing contract for the reasons outlined below:

- Seeking tenders would cause a period of uncertainty with Partners and Stakeholders
- Excellent track record to date of current provider

- Loss of well established relationships which would be broken bringing in another company
- Potential loss of good working practices
- Current provider has excellent knowledge and experience of the District
- Current provider has demonstrated innovative benefits e.g. developing commissioning approaches and embedding social return on investment tools
- Loss of links with outside key agencies where this company has managed funding on their behalf leveraging in resources for the Partnership

1.7 With regard to arrangements to end the contract, the contract allows for the termination at the point of there being no funding to administer or commission. There is also provision in the current contract that should the individual currently providing the support be unable to perform, that the services are still provided by the company to ensure provision continues.

## **2 Options and Reasons for Recommendation**

2.1 Options for consideration:

- Do nothing - let the contract cease on the 31 March 2018
  - In terms of the risk there would be:
    - A disruption to service
    - An increased risk in terms of contract and budgetary control
    - The loss of specialist expertise
    - Missed opportunities in relation to other funding/service delivery opportunities
    - Contractually obliged to deliver some areas of work so additional/existing capacity will need to be identified to pick up those areas of work
  - Costs  
No financial costs, however, risk of non-compliance of funding requirements.
- Extend the current contract for 3 years to 2021 (to be reviewed annually)
  - Strengths
    - Continuation of service provision.
    - Overcomes requirement to undergo full tender process which can be costly and time consuming
    - Reduces risk of service disruption
    - Lack of in house expertise, particularly in respect of commissioning/procurement opportunities to add value to existing activity in terms of social value outcomes
    - Independence and transparency
  - Risks
    - Need to ensure the Council's Procurement Rules are adhered to
  - Costs
    - Circa £47,671 per annum (£143,013 over the 3 year extension)

- Exercise a full tender process on the open market
  - Strengths
    - Opens up competition and ensures best value
    - Secures added value and best practice
    - Provides Council/Partnership option to choose best provider
    - Encourages innovation
  - Risks
    - Disruption to service if awarded to another provider
    - Time consuming and costly
  - Costs
    - Depending on the scope of the works to be commissioned, likely to be in the range of between £45k to £50k per annum
  
- Create an Establishment Post within the Council
  - Strengths
    - Recognition of the importance of such a role
    - Longevity of service
    - Reduces requirement to undergo a procurement process
  - Risks
    - Risk of losing existing expertise and established relationships
    - Loss of independent service and possible compromising of transparency with partner organisations (i.e. everyone knows and trusts the service currently)
    - Longer term financial commitment for the Council versus a role currently funded via Partnership resources

### **3 Consultation and Equality Impact**

- 3.1 Consultation has been undertaken with the Council's Chief Executive Officer, Cabinet and Chair of Bolsover Partnership.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 Alternative options are outlined in paragraph 2 above together with their respective strengths and weaknesses.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

Any extension to the current contract must ensure compliance with the Council's Procurement Rules and IR35 obligations.

#### **5.2 Legal Implications including Data Protection**

- 5.3 The proposed contract is below the OJEU limit for Public Services Contracts and so is governed by the Council's Procurement Rules within the Constitution. Under 4.8.4 (i) of these Rules, there are a number of exceptions to the requirement to tender. One of these (c) is appropriate where 'the work to be executed or the goods or

services to be supplied constitute an extension to an existing contract and it is the view of the Senior Officer that it would not be in the interests of the service or the Council to tender the contract. The Senior Officer must ensure that a record of this is made on the project file'. In this case, the Senior Officer is of the view that it would not be in the interests of the Council or Partnership to tender and the reasons for this decision are detailed in section 2 of this report.

5.4 The existing contract is due to come to an end in March 2018 giving insufficient time to tender. In addition, it is important to ensure that there is no gap in service provision.

## 5.5 **Human Resources Implications**

5.6 IR35 legislation came into effect on 1st April 2017 and aims to address tax and NICs issues through the use of intermediaries and limited companies. Compliance with the legislation seeks to ensure that individuals, who provide services through their own limited company where they would otherwise have an employment relationship, pay broadly the same amount of tax and NICs as other employees.

5.7 Under the regulations, the Employer is responsible and held accountable for deciding if off-payroll working rules apply. If the rules apply, the Employer, must deduct employment tax and Class 1 NICs and pay and report them to HM Revenue and Customs (HMRC). Employers can be charged interest and penalties on any Income Tax or NICs owed for failing to apply the off-payroll working rules. If circumstances show that an Employer did not exercise reasonable care in completing tax and National Insurance contributions this may also result in a penalty.

5.8 The Council's Partnership Manager has confirmed that the current contractor has indicated that they are compliant with the requirements of IR35.

## 6 **Recommendations**

6.1 In accordance with 4.8.4 of the Council's Procurement Rules, it is recommended that the current contract with Phoenix Regeneration Ltd be extended for a further 3 years (to be reviewed annually).

## 7 **Decision Information**

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p><i>BDC:</i>      <i>Revenue - £75,000</i>    <input checked="" type="checkbox"/>                    <i>Capital - £150,000</i>    <input type="checkbox"/></p> <p><i>NEDDC:</i>    <i>Revenue - £100,000</i>    <input type="checkbox"/>                    <i>Capital - £250,000</i>    <input type="checkbox"/></p>	<p>Yes</p>
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<input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	All through the Sustainable Community Strategy aims and objectives with partners

## 8 Document Information

Appendix No	Title
1	Prioritisation of Work Areas
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Pam Brown, Partnership Manager BDC Karen Hanson, Joint Strategic Director	Extension 2499 Extension 7053

**Prioritisation of Work Areas**

**Appendix 1**

<b>Work area</b>	<b>Importance/ added value</b>	<b>Skills/capacity within team and/or practicality of delegating</b>	<b>Ranking</b>	<b>Timescales</b>
<p>Manage external funding and commissioning activity:-                      Public Health £269,000                      Raising Aspirations £184,000                      I-Venture £85,000                      CMF £568,000                      BGF £100,000                      Residual WNF Talent Match £42,000                      Total £1.248m</p>	<p>High – significant budgets and ongoing requirements to manage through Partnership</p>	<p>Limited. Ongoing requirement expected for this work</p>	<p>1</p>	<p>Ongoing</p>
<p>Contract development and management:-                      17 Contracts being managed currently</p>	<p>High – to meet priorities within SCS</p>	<p>Availability of some skills and capacity offering potential to delegate some, but not all, activities</p>	<p>1</p>	<p>Ongoing</p>
<p>Talent Match co-ordination:-                      £42,000 income per annum for local co-ordination but the overall budget for TM in BDC/NED is around £1.047m over 5 years</p>	<p>Medium – but obligation to fulfil through local co-ordination role until December 2018</p>	<p>Limited – strategic input increasing as programmes seeks sustainable future. Operational elements already well resourced</p>	<p>3</p>	<p>Contractually committed until December 2018</p>
<p>SCR / D2N2 representation:-                      Operational Lead for Bolsover for the Employment Pilot, plus attendance at SCR LA Officers meetings.</p>	<p>High – opportunities for collaboration through LEPs; funding opportunities and changes ahead with Brexit</p>	<p>Economic Development involved with D2N2 already. Possible scope for ED to become involved with SCR</p>	<p>2</p>	<p>Currently ongoing for the foreseeable but future of SCR uncertain</p>

Attendance at D2N2 Employment and Skills meetings		skills/employment activity		
Mobilising the Local Integration Board and supporting delivery of SCR employment pilot	Medium – possible closer collaboration with NEDDC required depending on who is successful at tender	After March 2018, this could be an area of work that is picked up by ED, particularly if NEDDC successful with tender	3	Ongoing for 4+ years although work should be less intensive after March 18
Supporting relevant pillars of the government's Industrial strategy – particularly skills and procurement	Medium/High – opportunities for increasing social value outcomes from: 1. Procurement activities across Council departments 2. Skills/jobs opportunities from planning	New area of work but greatest scope for adding value. Skills within CEPT and ED to support this activity	1	Ongoing
Bi-annual reporting	Medium/high – raising awareness amongst partners of activities	Implement new reporting structure and delegate tasks to Lucy/Rhi	3	Ongoing