

Date: 6th April 2016
BY EMAIL AND POST

City Treasurer: Richard Paver
Telephone No: 0161 234 3564
Fax: 0161 274 7015
E-mail: r.paver@manchester.gov.uk
PO Box 532, Town Hall, Manchester M60 2LA

[REDACTED]
Manchester Active Lifestyles CIC
[REDACTED]
[REDACTED]

Dear [REDACTED]

Re: Expression of Interest received from Manchester Active Lifestyles Community Interest Company under the Community Right to Challenge scheme

I refer to the expression of interest submitted on behalf of your above named company, which was received by the Council on 1 December 2015 (with supplementary material being submitted by you on 5 January 2016). Please find below the Council's decision in respect of your expression of interest. I apologise for the delay in providing you with notification of this.

Your expression of interest was for your company to "provide and deliver a range of Local Authority sports based services". In particular your application focused on the following areas: Major Sporting Events, Sports Development and School Swimming.

Your expression of interest was considered by the Council's Commercial Board so that, in accordance with the Council's Community Right to Challenge Procedure, it could make a recommendation to me as to whether I should accept, reject or seek to modify your expression of interest. The Commercial Board recommended that I should reject your expression of interest.

I have considered your expression of interest (and supporting material), along with the Commercial Board's recommendation and the reasons it gave for making it. In reaching my decision I have been conscious of the law and guidance relating to the Community Right to Challenge, namely:

- The Localism Act 2011 (Part 5, Chapter 2);
- The Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012;
- The Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012; and
- Community Right to Challenge Statutory Guidance (published by the Department for Communities and Local Government)

In accordance with the Council's Community Right to Challenge Procedure I have also consulted with the Executive Member for Culture and Leisure (as the "relevant Directorate Executive Member" for the service area concerned).

I have determined that your expression of interest should be **rejected**.

Section 83(11) of the Localism Act 2011 provides that the Council may reject an expression of interest only on one or more grounds specified by the Secretary of State in regulations. Additionally, Section 84(8)(b) requires that reasons for a rejection decision are given to the applicant. I therefore detail below the reasons for my decision to reject your expression of interest and identify the relevant grounds for rejection under the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012.

Your expression of interest was submitted within the period (1 November to 1 December) that the Council had specified as the time during which expressions of interest may be submitted. You also submitted supplementary material (including your business plan, additional information report, and unaudited financial statements for the year ended 31 July 2015) outside of the specified period. While the Council is not obliged to consider additional material submitted outside of the specified period, on this occasion it was decided that your supplementary material would be taken into account.

While I was satisfied that your company (now constituted as a community interest company) was a "relevant body" for the purposes of the Community Right to Challenge legislation and that the service your expression of interest related to constituted a "relevant service", I determined that your expression of interest should nonetheless be rejected on the basis of the following grounds for rejection under the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012:

- The expression of interest does not comply with one or more of the requirements specified in section 81(1) of the Localism Act 2011 or in regulations made by the Secretary of State under section 81(1)(b) –
 - In particular the requirement set out in the Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012 that an expression of interest must include "evidence that demonstrates that by the time of any procurement exercise the relevant body submitting the expression of interest will be capable of providing or assisting in providing the relevant service" was not met.
- The relevant body provides information in the expression of interest which, in the opinion of the relevant authority, is in a material particular inadequate or inaccurate.
- The relevant authority considers, based on the information in the expression of interest, that the relevant body or, where applicable,
 - (a) any member of the consortium of which it is a part, or
 - (b) any sub-contractor referred to in the expression of interest,is not suitable to provide or assist in providing the relevant service.

I have concluded that the above grounds for rejecting your expression of interest apply because:

- You did not present evidence of your company having a track record of delivery and there is insufficient evidence that a company of its size would be able to manage delivery of the service in question, notwithstanding your proposal to transfer (under TUPE Regulations) the holders of certain specified Council staff roles to your company.
- There is insufficient evidence that your company is on a sound enough financial footing to be suitable to deliver the service.
- There is insufficient evidence of how your company would provide the HR/OD, legal, financial, audit, health and safety, and other support functions necessary to deliver the service.

Although not a factor in deciding to reject your expression of interest, I would highlight that a number of elements of the service you refer to have already been contracted out to other providers. Even if your expression of interest had been accepted, any procurement exercise would in any case have been delayed so as to take account of existing contractual obligations and commissioning cycles.

Finally, to be of assistance I would suggest that your company may be better placed tendering for small works packages such as the forthcoming tenders for sports coaching and instruction. This could offer your company the opportunity to grow, develop and demonstrate its delivery capability. Any such tender that you submit would be considered in the usual manner by the Council.

Yours sincerely



Richard Paver
City Treasurer