

CABINET MEMBER MEETING

Agenda Item 16A

Brighton & Hove City Council

Subject:	INTERREG IV A 2 Mers Seas Zeeen, Graduate & Apprenticeship Placement Scheme (GAPS) Project & Avanta Work Programme Contracts		
Date of Meeting:	PEER CMM 7th July 2011		
Report of:	The Strategic Director of Place		
Contact Officer:	Name:	Joe Davenport	Tel: 29-3930
	Email:	Joe.davenport@brighton-hove.gov.uk	
Key Decision:	Yes	Forward Plan No: 23458	
Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that it was not realised that the two contracts were to be considered together, which put the total value above the level of director authority. There is an urgency to sign the contracts before delivery can begin and the Cabinet Member has agreed to the report being taken at the meeting.

Notification of the item was published as a Late Forward Plan Item to Edition 38 of the Forward Plan on the 29th June, once it became clear that it would be a key decision and the Chair of the Culture, Tourism and Enterprise Overview & Scrutiny Committee was informed.

1. SUMMARY AND POLICY CONTEXT:

1.1 This report provides the background and business case for the Council to enter into a legal agreement, as a local sub-contractor, to deliver Job Seeker work placements as part of the government's Work Programme initiative and to match fund this contract value with INTERREG IV A 2 Mers Seas Zeeen programme funding. The report seeks agreement for the Council to enter into binding contracts with Avanta concerning the Work Programme initiative and with the Regional Council Nord-Pas de Calais to provide lead partner management of the INTERREG IV A initiative.

2. RECOMMENDATIONS:

2.1 That the Cabinet Member for Planning, Employment, Economy and Regeneration authorises the Strategic Director of Place to enter into the INTERREG IV A 2 Mers Seas Zeeen programme agreement and (subject to the final issues set out in section 5.2 being agreed between the Council and Avanta) the AVANTA Work Programme contract.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Work Programme Delivery

- 3.1 There are currently approximately 1500 unemployed people in the 18-24 year old age range. This initiative seeks to place young people in this target group into subsidised work with employers across the region using government funding. It is hoped that this practical employment experience over 13 months will enable young unemployed people to raise their skill levels, boost their confidence and offer them a passport to long term employment. The Council has a positive history in supporting employment and training initiatives for disadvantaged communities and unemployed graduates in the City unable to compete successfully in a highly skilled labour market. This includes delivery of the Future Jobs Fund which facilitated 500 jobs for local unemployed residents and is estimated by the Council's City Employment Initiatives Team to have reduced youth unemployment by around 30%.

Avanta Work Programme Contract

- 3.2 In 2010 the Council's Employment Initiatives Team commenced preparation of a successful bid to place the Council as a delivery sub-contractor for employment and training opportunities for 18-24 year old jobseekers. Agreement is now being sought to formally contract with Avanta, one of 2 prime contractors delivering the government's new Work Programme.

Sub Contractor Delivery Role

- 3.3 The proposed contract with Avanta, obligates the Council to deliver work placements for 18–24 year old Jobseekers in the Brighton and Hove, Rother and Adur areas over a 5 year period. Jobseekers are referred to the Council by Avanta, who receive all referrals from Jobcentre Plus. The Council's role is to successfully place individuals against notified vacancies in locally based businesses, public and voluntary sector organisations. It is a payment by results contract:

- i) A first payment of £350 is paid to the Council by the prime contractor Avanta for each referral received.
- ii) Once the job seeker has completed 26 weeks of employment (not necessarily continuous) a further payment is made of £997.
- iii) Providing the job seeker remains in employment, up to 13 monthly payments of £148 are made to a total £1,924.

- 3.4 In all, this provides for a total potential payment of £3,271 for each job seeker successfully completing the 13 months of continuous employment. Both the job seeker and employer can choose to terminate the period without cost to them but creating a risk of financial penalty to the Council. The payment terms are significantly more onerous to the Council than under the previous work programme arrangements whereby full payment could be secured after 13 weeks of continuous employment and are untested.

- 3.5 The Council is known to be one of at least 4 sub-contracted delivery partners to the Work Programme initiative in the region for this cohort (work programme is in 7 sections), in effect competing with these other agencies to place qualifying job seekers into employment.

Financial Viability

- 3.6 The Avanta contract runs for 5 years with an option to terminate after 2 years. This option will need to be considered as part of future commissioning plans.
- 3.7 The agreement does not set any particular floor placement targets for the Council. The financial viability of the initiative therefore rests on the ability of the Council to secure income from Avanta for successful job seeker employment over and above the fixed costs of running the delivery team at £82,500 p.a. £17,000 of this cost will be attributed to Interreg Funding reducing the net cost to £65,500. For the project to break even, it will need to place (on average) around 35 job seekers per annum for the maximum 13 month employment period. Based on current experience, the volume of Job Seeker referrals for 18-24 year olds from Job Centre Plus over the 5 years of the project is estimated to average 77 p.a.

INTERREG IV A GAPS Project Delivery

- 3.8 The Graduate & Apprenticeship Placement Scheme (GAPS) project has been successfully submitted to the INTERREG IV A 2 Mers Seas Zeeen programme for funding. The proposal places BHCC as the Lead Partner and the partnership includes partners from Social Affairs & Employment Rotterdam, Hampshire Economic Partnership, Medway Council, Brighton & Hove City College, IFRA-AKISUP (a French not for profit organisation) and Association for the Development of Citizen & European Initiatives (ADICE a French not for profit organisation). The budget for INTERREG IV A falls under European Regional Development Funds (ERDF) strictures. The initiative is a 2 year project ending in June 2013.
- 3.9 The key funding deliverables for Brighton & Hove includes:
- 2 conferences - €24,000
 - Funding for apprenticeship placements - €390,000
 - Hosting a web portal with regular updates - €120,000
 - Funding for an eCentre office - €32,400
- 3.10 It is anticipated that this funding will enable 96 18-24 year olds to complete apprenticeships over the lifetime of the GAPS project.
- 3.11 The project has 7 key aims:
1. Development of sustainable and flexible cross border 'skills and employment strategies' that successfully engage employers and lead to the creation of employment for young people;
 2. Enable young people to gain life/soft skills that increase their employability and meet employer skill demands;
 3. Creation of employment through apprenticeships;
 4. Research to quantify and evidence the success of GAPS activities to engage employers and young people with GAPS;
 5. To convince employers and young people the value of and gain commitment to GAPS activities and ensure they are sustainable and ongoing;
 6. To develop a web portal to host GAPS activities and act as a living productive legacy of the project;

7. An online 'GAPS tool kit' that can be used across the EU to support the development of skills and employment strategies in their localities.
- 3.12 This is the first INTERREG project of its kind that includes research analysis supported by local and international universities. This research will be used to inform the opportunity to establish the first European Apprenticeship programme.
- 3.13 In total the bid provides £100,000 to build a cross border website that will provide a large number of services and forums, as well as providing the legacy of the programme. The website will aim to provide a record of apprentice experiences and forums for employers to talk to each other and build new relationships. All employers across the partnerships will be able to put up work placement opportunities, and as the website will be written in all 3 partner languages, it will be accessible to anyone with the EU. Provision will be made for the website to be kept running after the project officially ends.
- 3.14 The allocation of the 50% match ERDF is as follows:

	50% ERDF
Brighton & Hove City Council (Lead Partner)	€521,174.50
Social Affairs & Employment Rotterdam	€667,050.00
Hampshire Economic Partnership	€77,815.00
Medway Council	€192,040.00
Brighton & Hove City College	€151,941.00
IRFA-AKISUP	€564,650.00
Association for the Development of Citizen & European Initiatives (ADICE)	€124,600.00
Total Project ERDF Liability for the Lead Partner	€2,299,270.50

- 3.15 Future audits of the project by the EU Commission will seek to verify that ERDF spend is wholly attributable to the agreed objectives and deliverables. Otherwise the Commission can reclaim funds from the Council as Lead Partner via the managing authority - the Regional Council Nord-Pas de Calais. The Council will seek to mitigate the risk of delivery failure by the partners by entering into memorandum of understanding which allows recovery of funding, if ever required, from the relevant partners member state.

Delivery Arrangements

- 3.16 At present delivery of the Work Programme and INTERREG IV A GAPS Project is premised on management and administration being provided by the City Employment Initiatives Team (CEIT) which comprises 1 employment engagement manager, a pre-support officer, an in work support officer and an administrator all of who are on short term BHCC contracts.
- 3.17 Within the budget of the initiatives, provision of £30,000 p.a. has been put aside for dedicated finance support to the two programmes to ensure clear financial management and reporting. This budget provision will also provide funding for a

First Level Controller (FLC) required as a condition of INTERREG funding. This may also provide support to other European funded programmes managed by the Council.

- 3.18 As Lead Partner, the FLC will be responsible for validating the progress reports for the other partners. The Council will also need to make provision for audit of files, including copies of partner invoices, until 31 December 2025, as set out in the Programme Manual. The officer undertaking the FLC role will complete the FLC training course delivered by the programme secretariat, at DCLG offices.
- 3.19 The INTERREG IV A GAPS Project and the Avanta Project delivery costs will be carried by the project funding and it is anticipated that this will be without additional cost to the Council as follows:

GAPS project

- Project co-ordinator (1 x FTE)
- Comms manager (0.5 FTE)
- Budget manager (0.5 x FTE) comms and budget role to be combined into 1 x FTE
- Employer engagement manager (0.5 x FTE) would link with the EEM role for Work Programme to become 1 x FTE
- Administrator (1 x FTE)

Work Programme

- Employer engagement manager (0.5 x FTE)
- Pre work support officer (0.5 x FTE)
- In work support officer (0.5 x FTE)
- Administrator (1 x FTE)

- 3.20 On an interim basis, the CEIT has been directly managed by the Strategic Director of Place. The Strategic Director of Place is bringing forward re-organisation plans for strategic planning, economic development, employment and regeneration to better serve the new cabinet portfolio. The re-organisation will address the need to better integrate policy, commissioning and major initiatives and to ensure that management and delivery of the contracted Work Programme and INTERREG IV A GAPS Project is robust. The Strategic Director of Place is also reviewing synergy with other employment and training initiatives in the city.

4. CONSULTATION

- 4.1 Consultation on the initiative within the Council to date has been limited and there is a need to strengthen oversight and governance of the initiative to ensure delivery mechanisms are robust and aligned to employment and regeneration initiatives within the Council and with other employment and training agencies operating in the City.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The contract for the INTERREG project is valued at €4,598,541 Euros over two years involving 6 partners.

The Council element of the project requires the Work Programme to generate approximately £300,000 per annum, through Avanta, as well as provide the match funding required to deliver the INTERREG programme.

The programme's expected costs and income would generate a small surplus, however, alongside this it is proposed to set aside a risk provision of up to £100,000 from the subcontracted delivery of the Future Jobs Fund to offset any underperformance that may occur during the first 2 years of the delivery. The provision will be reviewed each financial year.

If there was an under performance from the work programme then this would be the first call on the contingency fund. However there is a clear historical record of high level achievement in delivering job creation and apprenticeships. In addition, the decision to fulfil many of the required 52 weeks placements by signing 12 month long apprenticeships with potential employers should minimise any risk associated with achieving the target income of £314,000.

The expected costs /income in each of the first two years based on an estimated euro exchange rate is:

Budgeted Annual Costs	Inc (£)	Exp (£)	Bal. (£)
Anticipated Annual Income (Avanta)	314,016		
Delivery Costs (non match funded)		65,500	
Delivery Costs INTERREG Matched		468,276	
Total Net Expenditure			219,760
INTERREG Funding	234,138		
Surplus / Contingency			14,378

The Avanta contract runs for 5 years with an option to terminate after 2 years. This option will need to be considered as part of future commissioning plans.

As lead partner for the INTERREG project there is a legal liability for the full amount of match funding money, estimated at £2.021 million, if the Managing Authority were to ask for full repayment of the programme. A partnership agreement will be in place that places the financial risk of each partner within their own area, and any repayment due to their mismanagement of funds would be legally reclaimable from them.

This INTERREG project has 4 out of 7 public sector partners, and all of the partners have previously or are currently involved with other INTERREG projects. Once the partnership agreements are in place the authorities' maximum liability over the two year period would be approximately £468,276.

INTERREG funding is claimable 6 months in arrears so in agreeing to this programme forward funding, estimated at £117,069, will be required in the first year to support the Council's programme.

As lead partner the Council will be responsible for submitting claims to INTERREG on behalf of all partners and in receiving payment for passing on in accordance with partners authorised claims; a small operational team will be responsible for managing any associated risks. Payments will be made in Euros and processes will be put in place to minimise the risks on currency rate fluctuations.

Finance Officer Consulted: Nigel Manvell

Date: 04/07/11

Legal Implications:

- 5.2 Local authorities have statutory powers to promote economic development in their areas. The legal framework for this project will be a subsidy agreement to be entered into with the Regional Council Nord-Pas de Calais, which is the 'Managing Authority' for the INTERREG programme; a partnership agreement as referred to above; and a contract to be entered into with AVANTA.

Signing the subsidy agreement with the Managing Authority for the INTERREG project makes the Council legally and operationally responsible for the implementation and management of the project. This agreement sets out that the Lead Partner is liable to the Managing Authority up to the total value of the INTERREG funding, in the event of a request for repayment. The subsidy agreement is governed by French law.

The partnership agreement formalises the division of mutual responsibilities and rights of partners, and must be concluded among all project partners before the first payment request is submitted on 1st March 2012. This agreement will set out the responsibilities and rights of partners, including the responsibility of each partner to reimburse repayment monies relating to their non-fulfilment of obligations.

However, ultimately, as set out in EC Regulation No 1080/2006 of 5 July 2006, 'if the lead beneficiary does not succeed in securing repayment from a beneficiary, the Member State on whose territory the beneficiary concerned is located shall reimburse the certifying authority for the amount unduly paid to that beneficiary.'

The programme provides a template partnership agreement (Appendix 5). Part A cannot be altered, but part B is to be defined by the partnership and can include as many clauses as is necessary for the partnership, but can in no way limit the clauses in Part A. Under the programme rules, the partnership agreement can be governed by either the law of the country where the Lead Partner is located (England), or where the Managing Authority is located (France). In this case, we would seek to have the partnership agreement governed by English law and therefore be under the jurisdiction of the English courts.

The Work programme element of the project is to be delivered through a 'flow down' contract with Avanta. In brief, Avanta have contracted with DWP to provide

specified services subject to agreed terms and conditions, and their legal obligations under that contract will flow down to the Council.

The services which Avanta requires the Council to deliver are described in the flow down contract with Avanta. The Council will be legally and operationally responsible for the provision of those services in accordance with the contract. Liability under the contract will be covered by the Council's insurance (a maximum liability of £5million has been agreed). The contract is governed by English law and under the exclusive jurisdiction of the English courts.

The Council is currently finalising its negotiations with Avanta on the draft contract. There are a few important outstanding issues which should be agreed prior to conclusion of the contract. These concern term/termination of the contract and confirmation of the service description.

The recommendation in section 2 is proper to be referred to the Cabinet Member for approval as the decision to enter into these contracts is a key decision for the Council. In addition, in accordance with Contract Standing Order 3.1, authority to enter into any contract worth more than £500,000 must be given by either Cabinet or the relevant Cabinet Member.

Lawyer Consulted: Isabella Hallsworth Date: 01/07/2011

Equalities Implications:

- 5.3 Job creation schemes such as these prioritise those in long term unemployment and skills development opportunities would be accessible to all those local young residents who meet the referral criteria of the programmes.

An EIA has not been carried out as this point, as this is a priority government programme, and the council can only see those who are referred by the Prime Contractor onto its programme.

Sustainability Implications:

- 5.4 Both projects contribute to the sustainable development of the city economy by providing employment and training to local people.

Crime & Disorder Implications:

- 5.5 In creating employment for 18-24 year olds the programme, particularly where it may be combined with other initiatives may contribute to crime reduction.

Risk Management Implications:

- 5.6 **Avanta Contract:** Total financial exposure to the Council is in the region of £82,500. If the initiative were to be loss making the Council is able to exit the contract after 2 years. However, a failure in forecast revenue generation from this contract may cause match funding questions to be raised by the EU Commission managing authority for ERDF.

INTERREG IV A GAPS Contract: Exposure to the Interreg contract is substantially greater in that the Council is pledging to provide 50% match funding to €521,174.50 of ERDF. As 'Lead Partner' the Council is also potentially liable to the managing authority Nord-Pas de Calais for the entire €2,299,270.50 of partnership ERDF. The Council will seek to mitigate the risk of delivery failure by the partners by entering into memorandum of understanding which allows recovery of funding, if ever required, from the relevant partners member state.

Young people job placement liabilities: Where a young person is being put into an unpaid work placement, then these are subject to health and safety checks.

Reputational: Both contracts involve a significant element of risk and reward. Unemployed 18-25 year olds are a key area of concern for the city and the Council has an opportunity to demonstrate leadership in addressing this issue.

Staffing: There are currently 8 staff based in the Employment Initiatives Team. Staff are currently employed on temporary contracts extended until September 2011. One of the staff is on a freelance contract.

Corporate / Citywide Implications:

- 5.7 The projects provide opportunities for joint working with public agencies across the city and the INTERREG IV A GAPS may helpfully raise the positive profile of the City on the national and European stage.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 There are no alternative options that can be considered in regard to the project.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 As the total contract value is over £500,000.00, it is a constitutional requirement that the Lead Cabinet Member can evaluate the risks versus the outcomes and then make the decision to sign the contracts or not based on that assessment.
- 7.2 The contracts will create much needed employment not only across our city for our disadvantaged residents, but at a national and international level. It will provide an ongoing legacy and provides excellent sustainability options.

SUPPORTING DOCUMENTATION

Appendices:

1. INTERREG Bid
2. INTERREG subsidy Contract
3. Work Programme flow down Contract
4. Work Programme Letter of Derogation
5. Template of an INTERREG partnership agreement

Documents in Members' Rooms

1. N/A

Background Documents

1. N/A