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Award

LB Hillingdon - Deed of Variation in relation to leisure operating contracts of various leisure facilities

London Borough of Hillingdon

F15: Voluntary ex ante transparency notice

Notice identifier: 2024/S 000-007532

Procurement identifier (OCID): ocds-h6vhtk-0446e1

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Section I: Contracting authority/entity

I.1) Name and addresses

London Borough of Hillingdon

London

Hillingdon

London

Contact

Allison Mayo

Email

amayo@hillingsdon.gov.uk

Country

United Kingdom

Region code

UKI74 - Harrow and Hillingdon

Internet address(es)

Main address

www.hillingdon.gov.uk

I.4) Type of the contracting authority

Regional or local authority

I.5) Main activity

General public services

Section II: Object**II.1) Scope of the procurement****II.1.1) Title**

LB Hillingdon - Deed of Variation in relation to leisure operating contracts of various leisure facilities

II.1.2) Main CPV code

- 92610000 - Sports facilities operation services

II.1.3) Type of contract

Services

II.1.4) Short description

The London Borough of Hillingdon (the Authority) intends to enter into a deed of variation with Greenwich Leisure Limited (the Contractor) in relation to the leisure operating concession contracts for the Authority's four leisure facilities (the Underlying Contracts), for the adoption of an agency model for the future management of leisure facilities. The

Underlying Contracts were originally procured under Concession Notice 118316-2019, published on 13 March 2019.

II.1.6) Information about lots

This contract is divided into lots: No

II.1.7) Total value of the procurement (excluding VAT)

Value excluding VAT: £2,800,000

II.2) Description

II.2.2) Additional CPV code(s)

- 45212290 - Repair and maintenance work in connection with sports facilities
- 45259000 - Repair and maintenance of plant
- 50000000 - Repair and maintenance services
- 50324100 - System maintenance services
- 50700000 - Repair and maintenance services of building installations
- 55520000 - Catering services
- 71314200 - Energy-management services
- 72500000 - Computer-related services
- 72511000 - Network management software services
- 77314000 - Grounds maintenance services
- 79313000 - Performance review services
- 79342300 - Customer services
- 79952000 - Event services
- 90710000 - Environmental management

- 90910000 - Cleaning services

II.2.3) Place of performance

NUTS codes

- UK - United Kingdom

II.2.4) Description of the procurement

The Authority appointed the Contractor to provide the leisure services pursuant to Leisure Operating Contracts, Procurement Agency Agreements, and Leases, for the management and operation of the Council's leisure portfolio.

The Authority intends to enter a deed of variation with the Contractor to modify the Leisure Operating Contracts, the effect of which will be the following:

- To identify the agency agreement between the parties, the extent to which the Contractor will act as the Authority's Agent, and areas where it will act as Principal;
- Reference to the Contractor acting as the Agent of the Authority will be inserted into the definition of Leisure Services;
- To articulate a process by which the Contractor will communicate and transfer the customer income collected as the Agent;
- To extend the expiry date to 22 February 2035;
- The Council agrees to make available the sum of £100,000 per year improvements to the fabric or equipment within the facilities that will benefits users; and
- The modifications give effect to other ancillary changes to the Underlying contracts to adopt the agency model, that are not considered to be substantial.

II.2.11) Information about options

Options: No

II.2.13) Information about European Union Funds

The procurement is related to a project and/or programme financed by European Union funds: No

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

Explanation:

This VTN gives notice that the Authority is entering into a deed of variation (the "Contract") to extend the duration of existing leisure operating contracts between the Authority and the Contractor and to make certain changes summarised in this VTN. A procurement procedure is not necessary on the basis that the award of the Contract is permitted pursuant to regulation 43(1)(e) of the Concession Contracts Regulations 2016. The Contract will have the effect of modifying the Underlying Contracts in accordance with Regulation 43 of the Concession Contracts Regulations 2016.

The Underlying Contracts concern the provision of a range of management and related services, by the Contractor, in relation to five sports and leisure facilities. The Underlying Contracts will be varied for the adoption of an agency model for the future management of leisure facilities in relation to the outsourcing arrangements for the leisure facilities. Under the current structure, the Contractor acts as Principal in the supply of leisure facilities to the public, so that the Authority is not making the supplies of leisure services. Under the new agency model, the Contractor would make supplies to the public as an Agent of the Authority.

This modification is being made in accordance with regulation 43(1)(e) and 43(9) of the Concession Contracts Regulations 2016. Namely, the proposed modification is not substantial within the meaning of regulation 43(9) on the basis that:

1. the modification does not render the Underlying Contracts materially different in character - the proposed modification remains limited to the same type, scope and nature of services, where the operating cost risk remains with the Contractor, and the services will be delivered to the same facilities. The modifications only concern contractual changes to establish an agency model for VAT purposes and other ancillary modifications.

2. the Council has satisfied itself that the modification does not introduce conditions which would have (a) allowed for the admission of other candidates, (b) allowed for the acceptance of another tender, or (c) attracted additional participants in the procurement procedure - the change to an agency model for VAT purposes does not change the service requirement or the way in which those services are provided, and is unlikely to have changed the outcome of the procurement.

3. The modification does not change the economic balance in favour of the contractor in a manner which was not provided for in the contract – The Authority has satisfied itself that the new agency model and VAT arrangement does not impact on GLL's payment under the Underlying Contracts, which remains reflective of market costs and does not amount to an over-compensation of the services to be provided. The agency model will allow for a more certain financial position to the Authority and will provide a greater surplus share than previously anticipated.

4. As per our comments at 1. above, the modification does not extend the scope of the contract. For the reasons set out above, the proposed modification does not constitute a substantial modification and is permitted by regulation 43(1)(e) and 43(9) of the Concession Contracts Regulations 2016.

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: No

Section V. Award of contract/concession

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

3 February 2020

V.2.2) Information about tenders

The contract has been awarded to a group of economic operators: No

V.2.3) Name and address of the contractor/concessionaire

Greenwich Leisure Limited

Middlegate House, The Royal Arsenal

London

IG1 1LR

Country

United Kingdom

NUTS code

- UK - United Kingdom

The contractor/concessionaire is an SME

No

V.2.4) Information on value of contract/lot/concession (excluding VAT)

Total value of the contract/lot/concession: £2,800,000

V.2.5) Information about subcontracting

The contract/lot/concession is likely to be subcontracted

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

High Court of England and Wales

London

Country

United Kingdom

VI.4.2) Body responsible for mediation procedures

High Court of England and Wales

London

Country

United Kingdom

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures

The Contracting Authority will conduct itself in accordance with the Concession Contracts Regulations 2016.

VI.4.4) Service from which information about the review procedure may be obtained

Cabinet Office

London

Country

United Kingdom