

Report of 11-19 Framework Agreement Project Team

Report to Director of Children's Services

Date: 16th September 2016

Subject: 11-19 Offsite Education - Permission to Procure: Request to undertake a new competitive tender exercise for new providers of 11-19 Offsite Learning and waive CPR (Contract Procedure Rule) 15.2



Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The provision of Learning Programmes for 11-19 Learners, in Off-Site Settings, is significant in Leeds with 7,000 learner days per year provided by a total of 29 providers from the FE, private and voluntary sectors. The value of the work approaches £2 million per year. The programmes are purchased by schools, SILCs (Specialist Inclusive Learning Centres) and PRUs (Pupil Referral Units) from their budgets.
2. A framework agreement has been in place since September 2013. The agreement expires on 31st August 2017.
3. This report seeks permission to procure a new framework of providers to deliver offsite education providers. The new agreement will start on 1 September 2017 and will be in place for 4 years; expiring on 31st August 2021.
4. The existing framework agreement has provision for an annual refresh process. The 'refresh' process allows for providers to change their learning offer adapt their prices on an annual basis. The process also includes the ability for new contracts to be awarded. New contracts awarded during the 'refresh' process form a new framework that sits alongside the existing frameworks. All frameworks are viewed as one by schools making purchasing decisions as providers on all Framework Agreements will be in one list. The project team are seeking permission to implement the same 'refresh' process with the new framework agreement.

5. The Project Team are seeking to undertake an evaluation of tender submissions for the new Framework Agreement where submissions are scored 20% on price and 80% on quality. This has been the basis for evaluation on the previous framework agreement.
6. The programmes of learning are purchased by schools and SILCs from their budgets. There is no central funding from Leeds City Council for the purchase of this provision for young people.

Recommendations

1. The Director of Children's Services is recommended to approve:
 - Permission to procure a new framework of providers for offsite education provision.
 - Permission to implement an annual refresh process to allow contract holders to amend their offer and prices on annual basis and to invite new providers to the framework on an annual basis.
 - Approve the waiver of the contract procedure rule CPR 15.2 – Tender evaluation - in order to evaluate tender submissions on the basis of 20% for price and 80% for quality.
 - Note that the officer responsible for implementation is the Commissioning Officer by November 2017.

1 Purpose of this report

1.2 The purpose of this report is to seek approval from the Director of Children's Services to:

- Procure a new framework of providers for offsite education provision.
- Implement an annual refresh process to allow contract holders to amend their offer and prices on annual basis and to invite new providers to the framework on an annual basis.
- Waive contract procedure rule CPR 15.2 – Tender evaluation - in order to evaluate tender submissions on the basis of 20% for price and 80% for quality.

2 Background information

2.1 The provision of Learning Programmes for 11-19 Learners, in Off-Site Settings, is significant in Leeds with 7,000 learner days per year provided by a total of 29 providers from the FE, private and voluntary sectors. The value of the work approaches £2 million per year. The programmes have historically been purchased by schools, SILCs and PRUs from their budgets. There is no central funding from Leeds City Council for the purchase of this provision for young people.

2.2 Personalisation of provision is a challenge in the commissioning of learning opportunities for young people. In terms of the Learning Programmes in Off-Site Settings the actual component qualifications required are diverse, with the need for specific units to be chosen, to allow for the tailoring of the qualification to meet individual young people's needs and making every young person's experience unique. This is therefore not a commodity that one provider can challenge another over in terms of potential business loss. The expectation of flexibility from providers, to offer bespoke qualifications per learner, is essential to meet the overarching requirements set out in the Apprenticeship, Skills, Children and Learning Act 2009.

2.3 A framework agreement of providers has been in place since September 2013. The agreement expires on 31st August 2017.

2.4 Personalisation and purchase of provision present a challenge to schools however, schools have embraced the Framework Agreement and are using it as intended in order to purchase individually tailored packages to meet young people's needs. It is used as a tool by schools to develop a learner focussed curriculum. Schools select providers from the Framework Agreement to make best value purchases. The framework lists packages of learning according to subjects and they are then ranked by price.

2.5 A Project Team is in place in order to review and plan the commissioning of 11-19 Offsite Learning. This team includes Officers from the 11-19 Off-Site Learning Support Team and the Commissioning & Market Management Team in Children's Services, as well as Officers from the Procurement Unit.

3 Main issues

3.3 The existing framework agreement has provision for an annual refresh process. The 'refresh' process allows for providers to change their learning offer adapt their prices on an annual basis. The process also includes the ability for new contracts to be awarded. New contracts awarded during the 'refresh' process form a new framework that sits alongside the existing frameworks. All frameworks are viewed as one by schools making purchasing decisions as providers on all Framework Agreements are published in one list that is re-ranked after the 'refresh' process.

3.4 Providers will be made aware, in the tender documents, that the framework will be refreshed annually so that new courses and providers could be added to the offer to schools in this highly dynamic environment. Ongoing, and considerable, government reforms to education require a flexible procurement model in order to ensure that the Framework offer continues to meet the needs of both the schools and the young people. The 'refresh' approach allows the council to mitigate the risk of challenge by being open and transparent regarding the potential changes that may occur throughout the life of the framework.

3.5 The following steps will be taken in order to mitigate the risk of challenge from providers appointed to the framework agreement:

- Inclusion of change of control procedures within the tender documents.
- Existing providers are granted the opportunity to review their prices and ensure that their costs remain competitive. The review opportunity will take place at the same time as the refresh. This will reduce the risk of providers seeking to claim they had been discriminated against.
- During the process a risk log will be maintained and updated throughout.

3.6 It should be noted that the refresh approach has been used previously for the 13-19 Offsite learning agreement which was in place from 1st September 2010 to 31st September 2013 and for the 11-19 Offsite Learning Agreement that commenced on 1st September 2013 and expires on 31st August 2017. Refreshes were carried out and did not encounter any challenge from providers so there is no reason to suspect that they will do so in the future.

3.7 Historically bids to the framework agreement have been evaluated on 80% quality and 20% price. The price is included in the information on provision made available to schools, in order for schools to reach a decision on the provision to purchase. This contract is not a contract for a fixed value therefore the evaluation method cannot be based 100% on quality. Schools have consistently identified that they make choices on the provision of Offsite Learning for young people based on the component qualifications and the delivery model required to meet an individual young people's needs. Evaluating the tenders 40% on price and 60% on quality, would place too much emphasis on the price and would risk allowing providers offering a lower priced programme to be higher on the list than the quality of their provision would justify.

3.8 The project team are therefore seeking approval to waive contract procedure rule CPR 15.2 to evaluate tenders on 80% quality and 20% price basis.

- 3.9 There is increased pressure from Ofsted for providers to register as independent schools with the Department for Education if they meet certain criteria, however the council maintains its view that the 11-19 quality assurance service still has a significant part to play in ensuring the day-to-day quality of the provision on behalf of schools. The council also maintains that this is best provided on a city-wide basis to benefit from consistency and economies of scale, benefits that will be lost if the service is withdrawn and left to individual schools to make their own arrangements.
- 3.10 An event for providers is to be held on 19th October. At the event providers will be given more clarity on the requirements of Ofsted registration. The event will also be used to inform providers on the tender with the opportunity for them to raise questions.
- 3.11 The project team are looking to tender a new framework agreement. The agreement will be for 4 years; expiring on 31st August 2021. Schools will call off the framework according to need and best value decision.
- 3.12 The programmes of learning are purchased by schools and SILCs from their budgets. There is no central funding from Leeds City Council for the purchase of this provision for young people.
- 3.13 The tender evaluation will comprise of:
- Selection questions – first stage.
 - Written tender questions – second stage.
 - Health & Safety Audit – third stage.
 - Quality Assurance Process – final stage.
- 3.14 The evaluation panel will comprise of:
- Partnership Support Officer.
 - Partnership Manager.
 - Health, Safety and Wellbeing Advisor

4 Corporate Considerations

4.15 Consultation and Engagement

- 4.15.2 A project team has been established which include representatives from:
- Commissioning, Contracts & Market Management – Children’s Services.
 - Sufficiency & Participation – Children’s Services.
 - Procurement – PPPU.
- 4.15.3 Consultation has taken place with providers and schools at their respective annual networking events in Summer 2016 in order to confirm that the current offer is still relevant to and suitable for both groups.
- 4.15.4 As part of the ongoing quality assurance of the framework; a learner progress review is undertaken with each provider. Part of this review includes a group

discussion with the learners and a questionnaire to gain their feedback on the provision. The results are compiled into a report and the report is shared:

- With the provider; to enable them to adapt their working practices.
- With schools; to inform their purchasing decisions.

4.16 Equality and Diversity / Cohesion and Integration

4.16.5 An equality impact screening form has been completed and is attached as appendix 1.

4.17 Council policies and Best Council Plan

4.17.1 This contract will support the best council plan priorities of improving educational achievements and closing achievement gaps and providing skills programmes.

4.17.2 This contract will support Children's Services commitment to:

- Ensure children & young people do well at learning & have the skills for life.
- Reduce the number of young people not in education, employment and training.

4.18 Resources and value for money

4.19 Resource is required to manage the procurement process. This resource will include officers in the Sufficiency & Participation Team, the Commissioning & Market Management Team as well as Officers from the Procurement Unit and the Health, Safety and Wellbeing Team.

4.20 The ongoing quality assurance of 11-19 Off-Site Learning Providers required by the Framework Agreement will require allocation of resource in the form of officers from the 11-19 Off-Site Learning Support Team (Sufficiency & Participation) in Children's Services and the Health, Safety and Wellbeing Team. These officers will ensure providers meet the requirements in the Framework Agreement for safeguarding and the quality of teaching and learning, as well as ensuring good outcomes for young people accessing offsite learning.

4.21 Schools will make decisions to purchase from the Framework Agreement, based on the component qualifications and the delivery model required to meet an individual young person's needs. Schools will take account of the prices offered by different providers who are able to meet individual needs in order to ensure value for money in the provision they purchase. New providers appointed to the new Framework Agreement as a result of this tender process will be listed with the other providers that are already appointed to the various 11-19 Offsite Learning Framework Agreements.

4.22 The tender will be evaluated on price and quality: 80% quality and 20% price.

4.23 Legal Implications, Access to Information and Call In

4.23.1 As the value of the contract is over £250k p.a. the decision is subject to Call In under the provisions made in the Council Constitution.

4.24 Risk Management

4.24.1 A risk register is in place and managed by the project team.

5 Conclusions

5.1 Having considered the options and the potential challenges and risks associated, the view of the project team is that it is appropriate to undertake a tender exercise to award a new 11-19 Offsite Learning framework. It is considered appropriate for the evaluation to take place on the basis of 20% for price and 80% for quality. It is also considered appropriate to establish an annual refresh process as used in previous offsite learning framework agreements.

6 Recommendations

6.1 The Director of Children's Services is recommended to approve:

- Permission to procure a new framework of providers for offsite education provision.
- Permission to implement an annual refresh process to allow contract holders to amend their offer and prices on annual basis and to invite new providers to the framework on an annual basis.
- Approve the waiver of the contract procedure rule CPR 15.2 – Tender evaluation - in order to evaluate tender submissions on the basis of 20% for price and 80% for quality.
- Note that the officer responsible for implementation is the Commissioning Officer by November 2017.

7 Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.