

**Report of Head of Projects and Programmes**

**Report to Chief Officer Employment & Skills**

**Date:** 8 December 2017

**Subject:** Commission a Dynamic Purchasing System for Employment and Skills provision

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 checked="" type="checkbox"/> Yes	<input 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 Best Council Plan 2017/18, sets out the Council's ambition for Leeds to have a strong economy and to be a compassionate city, tackling poverty and inequalities. Supporting residents into work, including apprenticeships, is an important contributor to this ambition. In 2016/17 the Employment and Skills service helped 6,204 people into work and 384 people into apprenticeships.
- 2 In the same year, 6639 local residents were supported to acquire new skills through the Council's Adult Learning Programme. Funded by the Education Skills Funding Agency (ESFA) through the Council's Adult Education Budget, this provision offers a broad and balanced programme of adult learning in Leeds. Managed by the Employment and Skills Service on behalf of the Council, the majority of provision is delivered by external suppliers including third sector organisations.
- 3 Following changes in national procurement rules, the Council is about to tender for suppliers to join a Dynamic Purchasing System (DPS) in order to be in a position to deliver future Employment and Skills provision in a more efficient and responsive manner. A DPS is an electronic tendering system for the application and selection of organisations that comply with minimum service requirements.
- 4 Dynamic Purchasing Systems do not operate in the same way as a traditional contract or framework in that it is an 'open market' product designed to provide access to join a list of pre-approved suppliers, which can be constantly refreshed to bring on new suppliers as needs change. Specific delivery call-off contracts are procured via Mini-Competitions between suppliers admitted to the DPS.

5 Establishing a DPS with multiple suppliers creates an environment which encourages fair competition and is designed to allow new suppliers to join at any time during the life of the DPS, facilitating a much more flexible and responsive delivery model. It would also enable the service to respond quickly to future funding opportunities.

6 A DPS also allows the ability to develop a longer term arrangement for 10 years (+1 year Council option) enabling us to develop stronger, long lasting relationships with suppliers and work with them to develop high quality provision that is aligned with Council priorities.

7 To ensure delivery of a broad and balanced programme, approval is also being sought to invoke contract procedure rules CPR15.2 in order to evaluate 100% on quality.

## 8 **Recommendations**

8.1 The Chief Officer Employment and Skills is asked to authorise:

- The commissioning of a Dynamic Purchasing System (DPS) to establish a list of pre-approved suppliers to be in a position to deliver future Employment and Skills provision. The DPS is a pre-approved supplier list and has no financial value.
- Invocation of contract procedure rules CPR15.2 to permit evaluation 100% on quality.

8.2 The Head of Projects and Programmes, Employment and Skills Service will be responsible for the implementation of the recommendations set out in this report and, the management of the DPS on behalf of the Council.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to seek approval for the commissioning of a Dynamic Purchasing System (DPS) of suppliers to deliver Employment and Skills provision.
- 1.2 To ensure delivery of a broad and balanced programme, approval is also being sought to invoke contract procedure rule CPR 15.2 to rescind the requirement for 40% evaluation on the price element and permit the DPS quality evaluation criteria to be raised to 100%.

## **2 Background information**

- 2.1 The Council is tendering for suppliers to join a ten year (+1 year Council option) Dynamic Purchasing System (DPS) in order to be in a position to deliver future Employment and Skills provision in a more efficient and responsive manner.
- 2.2 A DPS is an electronic tendering system for the application and selection process of organisations that comply with minimum service requirements. It does not operate in the same way as a traditional contract or framework in that it is an 'open market' product designed to provide access to join a list of pre-approved suppliers, which can be constantly refreshed.
- 2.3 Suppliers apply to join the DPS to be a position to bid for one or more specific "Categories" for different types of provision. Category specific call-off contracts will be awarded following Mini-Competitions between those suppliers admitted to the DPS, with each supplier deciding whether to compete on a case by case basis.
- 2.4 Establishing a DPS with multiple suppliers creates an environment which encourages fair competition and is designed to allow new suppliers to join at any time during the life of the DPS, facilitating a much more flexible and responsive delivery model. It would also allow the service to respond quickly to future funding opportunities.
- 2.5 A DPS also allows the ability to develop a longer term arrangement for ten years (+1) enabling us to develop stronger, long lasting relationships with suppliers and work with them to develop high quality provision that is aligned with Council priorities. It will particularly, allow us to work with existing third sector providers to develop longer term, sustainable business models.
- 2.6 The Adult Learning fixed framework will end on 31 July 2018 and a new framework is needed for delivery beyond the current academic year. The lessons learned from the Adult Learning commissioning framework, along with others such as the Re-Making Leeds framework are drivers to establish a new more dynamic commissioning approach that can engage new suppliers to meet both our current and future needs.
- 2.7 Ten "Categories" of provision will be defined in the DPS covering all aspects of Employment and Skills provision described in detail in Section 3.
- 2.8 Key drivers for the Council for this procurement are:
  - The Council is seeking to establish more flexible and responsive ways to commission current, new and future provision;

- Increasingly, bids for Government funding require the Council to provide a list of named partners/suppliers as part of the bid. As a public sector organisation the Council is compelled to undertake a procurement exercise for such partners during the bid timescales, which too often do not allow sufficient time for such a procurement to take place and places the Council at a disadvantage. Having a DPS in place will allow the Council to respond much more quickly and allow us to maximise such funding opportunities.
- The current static three year Framework of Adult Learning suppliers 2014-17 is due to expire and future suppliers are being tendered for. A key advantage of a DPS is that new suppliers can join as new learning opportunities occur, allowing the service to effectively fill gaps where they emerge, and also respond to the changing needs of our learners.
- An increasing need to engage appropriate sector specialist support at relatively short notice to undertake sector specific research, training or professional services, including external audit, compliance with complex Ofsted and funding agency rules.
- An ongoing need to retain specialist information systems suppliers to support and extend existing specialist information systems.

2.9 The benefits of a DPS pre-approved list of specialist employment and skills suppliers are:

- The Council engages and retains the best sector specialist organisations with a view to developing long term professional relationships;
- The ability to meet funding bid timescales without having to undergo a full procurement exercise;
- Significantly reduced Council procurement, and also provider tendering overheads;
- A responsive capability to emerging needs quickly and competitively through mini-competitions between pre-approved suppliers;
- New specialist suppliers can apply to join the DPS throughout its lifetime.

### **3 Main Issues**

3.1 Following changes in national procurement rules, briefing notes were presented to Employment and Skills SLT and the Executive Member for Employment, Skills and Opportunity on the benefits of establishing a ten year Employment and Skills Dynamic Purchasing System (DPS).

3.2 The DPS will establish a pre-approved list of multiple suppliers to create an environment which encourages fair competition and also allow new suppliers to join at any time during the life of the DPS, facilitating a much more flexible and responsive delivery model.

3.3 The Employment and Skills Projects and Programmes service area have established a project team to develop the DPS for July 2018.

3.4 Subject to approval, the DPS will be commissioned in two phases Phase 1 in January – March 2018 and Phase 2 from April – July 2018 as follows:

3.4.1 The following Categories will be commissioned in Phase 1:

- CATEGORY 1 Apprenticeships End-Point Assessment
- CATEGORY 2 Unregulated skills or development training
- CATEGORY 3 Ofsted regulated Adult Education
- CATEGORY 4 Supply and Maintenance of MIS Systems
- CATEGORY 5 Professional Services and Support

3.4.2 The following DPS Categories will be commissioned in Phase 2.

- × CATEGORY 6 Employability Schemes and Specialist Employability Support
- × CATEGORY 7 Business Engagement Services
- × CATEGORY 8 Sector Research and Consultation Services
- × CATEGORY 9 Promotional and Events Services
- × CATEGORY 10 Apprenticeships Training

3.5 Subject to approval, the DPS tender will be advertised in advance through the YORTender and OJEU systems and all known Employment and Skills suppliers will be informed prior to tender publishing.

3.6 A DPS information day for potential suppliers is planned in for 17 January 2018 and this will be promoted through the above channels.

## **4 Corporate Considerations**

### **4.7 Consultation and Engagement**

4.7.1 The Executive Member for Employment, Skills and Opportunity was consulted in August and November 2017 on the proposals set out in this report. Briefing notes have also been prepared for Employment and Skills Lead Members, and Community Committee Champions.

4.7.2 The PPPU Category Manager and Procurement Legal Officer were consulted on the suitability and mechanisms of a Dynamic Purchasing System.

4.7.3 Senior managers in other Local Authorities that have already implemented DPS for Skills services, such as Liverpool and Kirklees, were consulted and provided valuable input on their experiences.

4.7.4 Senior skills delivery manager from all Local Authorities in the West Yorkshire Combined Authority were consulted on the proposal to make access to the suppliers on the DPS available from across the Leeds City Region. Some other Local Authorities are already building regional access into all their skills procurement contracts.

### **4.8 Equality and Diversity / Cohesion and Integration**

4.8.1 Attached as Appendix 1, an Equality diversity, cohesion and integration screening of the proposed DPS tender that was undertaken on 11 December 2017. No issues were identified as a DPS with multiple suppliers creates an environment which encourages fair competition and is designed to allow new suppliers to join at any time during the life of the DPS.

## **4.9 Council Policies and Best Council Plan**

- 4.9.1 The proposals set out in this report contribute to the Best Council Plan 2017-18 priorities around supporting economic growth and access to economic opportunities, supporting communities and raising aspirations, providing skills programmes and access to employment opportunities.
- 4.9.2 The objectives of the Council's Employment and Skills service programmes will also help to deliver outcomes under the Best Council Plan's More Jobs, Better Jobs Breakthrough Project, in particular supporting people into employment, the integration of skills support and health interventions including people with mild to moderate mental ill-health.
- 4.9.3 The long lifetime of the DPS facilitates the opportunity to ensure suppliers engage with the Council's long term vision and ambitions and align with Council priorities to target priority localities, initiatives and groups.

## **4.10 Resources and Value for Money**

- 4.10.1 The DPS itself is a pre-approved supplier list and has no financial value. Suppliers on the DPS will bid to deliver specific work in each Category through Mini-Competitions that will lead to the winning bidder(s) being awarded call-off contracts.
- 4.10.2 Over the lifetime of the DPS, significant savings are expected due to the reduced number of large singular procurements and also the competitive nature of the DPS will encourage multiple pre-approved suppliers to compete to deliver each required service.
- 4.10.3 The appointment and management of suppliers to a DPS will be informed by a robust contract management process led by the Employment and Skills Service which assesses suitability factors, and is aligned with the Council's priorities.
- 4.10.4 The Employment and Skills' Finance Manager was consulted on proposed commissioning of a DPS to ensure financial integrity.

## **4.11 Legal Implications, Access to Information and Call In**

- 4.11.1 Subject to approval of this decision, Employment and Skills suppliers will have the opportunity apply to join the DPS via the YORTender system, in accordance with the Council's Contract Procedure Rules and Financial Procedure Rules.
- 4.11.2 This is an officer delegated key decision which was notified in November 2017 on the Forward Plan for December 2017 and is subject to "call-in".
- 4.11.3 Officers in Legal Services and PPPU were consulted on the DPS terms and conditions and the suitability of a Dynamic Purchasing System to establish a pre-approved supplier list of Employment and Skills delivery suppliers.
- 4.11.4 Subject to approval of this decision, processing of potential suppliers DPS applications will be undertaken by officers in the Employment and Skills Service in conjunction with Legal Services and PPPU.

- 4.11.5 The DPS tender is for admittance to a pre-approved supplier list with subsequent Mini-Competitions for delivery. Authorisation is sought to invoke Contract Procedure Rules CPR15.2: *“The price element of evaluation will always be 40% or greater. Any decision to waive this rule by a Chief Officer will be in accordance with CPR27 and must be justified in the circumstances. Authorised Officers should always consider whether a ‘price –quality separated’ approach may be applicable. This involves the first stage being a quality assessment which tenderers either pass or fail. Tenderers who pass are then assessed purely on price”.*
- 4.11.6 Invoking CPR 15.2 applies specifically to the setting up the DPS and future admission onto the DPS. Price will also be evaluated by default in each future Mini-Competition for delivery call-off contract(s) under the DPS, unless CPR15.2 is invoked before the respective Mini-Competition.
- 4.11.7 Non-performing suppliers can be removed from the DPS to ensure the supplier base consists of only of high quality suppliers. Removed suppliers can be re-admitted upon re-applying once their circumstances have changed and they are to meet Council standards.

#### **4.12 Risk Management**

- 4.12.1 Advice on the DPS terms and conditions, as well as methodology and criteria to award call-off contracts for Employment & Skills provision, has been sought from the Procurement Governance and Regulation Manager.
- 4.12.2 All call-off contracts awarded under the DPS will be subject to robust financial and quality monitoring procedures led by officers in the Employment and Skills Service and in accordance with the Council’s financial and contractual regulations.
- 4.12.3 Subject to approval of this decision and subsequent award of call-off contracts to suppliers on the Framework, a privacy impact assessment will be carried out to ensure that the Council and its external suppliers remain compliant with the Council’s information governance policies and statute.

#### **5 Conclusions**

- 5.1 This report concerns the commissioning of a Dynamic Purchasing System (DPS) to pre-approve suppliers for ten Categories of the Council’s Employment & Skills Programmes.
- 5.2 A DPS with multiple suppliers creates an environment which encourages fair competition and is designed to allow new suppliers to join at any time during the life of the DPS.
- 5.3 Through open and competitive tender processes, organisations will become pre-approved suppliers eligible to bid in future Mini-Competitions to deliver call-off contracts under the Council’s Employment & Skills Programmes.
- 5.4 Significant savings are expected over the 10 year lifetime of the DPS due to the reduced number of large singular procurements and also the competitive nature of the DPS will encourage multiple pre-approved suppliers to compete to deliver each required service.

- 5.5 The long lifetime of the DPS facilitates the opportunity to ensure suppliers understand the Councils long term vision and ambitions and align with Council priorities to target priority localities, initiatives and groups.
- 5.6 The proposals set out in this report contribute to the Best Council Plan 2017-18 priorities around supporting economic growth and access to economic opportunities, supporting communities and raising aspirations, providing skills programmes and access to employment opportunities.
- 5.7 To ensure delivery of a broad and balanced programme, approval is also being sought to invoke contract procedure rules CPR15.2 in order to evaluate 100% on quality.

## **6 Recommendations**

- 6.1 The Chief Officer Employment and Skills is asked to authorise:
- The commissioning of a Dynamic Purchasing System (DPS) to establish a list of pre-approved suppliers to be in a position to deliver future Employment and Skills provision. The DPS is a pre-approved supplier list and has no financial value.
  - Invocation of contract procedure rules CPR15.2 to permit evaluation 100% on quality.
- 6.2 The Head of Projects and Programmes, Employment and Skills Service will be responsible for the implementation of the recommendations set out in this report and, the management of the DPS on behalf of the Council.

## **7 Background documents<sup>1</sup>**

- 7.1 There are no background documents

---

<sup>1</sup> 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.