

Report of Interim Head of Service – Learning

Report to Deputy Director – Learning

Date: 03/05/2019

Subject: Request to waive contract procedures rules 8.1 and 8.2 to award a contract, without competition, to North Yorkshire County Council for delivery of a Learning Improvement Advice service



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 type="checkbox"/> Yes	<input checked="" 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. This report is seeking permission to waive contract procedures rules 8.1 and 8.2 to award a contract, without competition, to North Yorkshire County Council for delivery of Learning Improvement Advice consultancy.
2. The contract will be for the provision of two Learning Improvement Advisers for an average of two days per week to work within Children and Families Learning Improvement services. This arrangement is the preferred option to ensure high quality and essential learning improvement advice is in place rapidly.
3. The contract will commence on 11th March 2019 and will be for a period of 21 weeks, expiring 31st July 2019.
4. This is a call of contract, with a maximum value of £44,720. This value is inclusive of all other costs including travel expenses.

Recommendations

- 1 The Deputy Director – Learning is recommended to waive contract procedure rules 8.1 and 8.2 to award a contract, without competition, to North Yorkshire County Council for delivery of Learning Improvement Advice consultancy. The contract will commence on 11th March 2019 and will be for a period of 21 weeks; therefore expiring on 31st July 2019. The maximum value of this call off contract will be £44,720.

Purpose of this report

- 1.1 The purpose of this report is to seek permission to waive contract procedure rules and award a contract to North Yorkshire County Council for delivery of Learning Improvement Advice consultancy from 11th March 2019 to 31st July 2019.

2 Background information

- 2.1 Leeds continues to be ambitious in wanting all children and young people in the city to have every opportunity and the support needed to reach their potential. Earlier this year, the Council reviewed the structure across Children and Families to make sure that, given the current context, services are focused on getting support to children and families at the right time and in the right way.
- 2.2 There is currently a gap in capacity within the Learning Improvement Service which, if not filled, could disadvantage schools.

3 Main issues

Reason for contracts procedure rules waiver

- 3.1 This contract will be for two Learning Improvement Advisers to work within Children and Families Learning Improvement services for an average of two days per week. This arrangement is the preferred option to ensure high quality learning improvement advice is in place rapidly and to undertake essential work. Contractors will deliver the core offer as outlined in the Learning Improvement Strategy.
- 3.2 This contract will ensure there is additional capacity within the Learning Improvement service to cover some of the roles that have not been backfilled over the past two years. The Contractors will ensure schools have appropriate contact and that the local authority continues to know its schools.
- 3.3 This is the preferred option because there has been insufficient time for advertisement in recruiting to full time posts. In addition, the local authority has not had contact with some schools this year due to lack of resource. There is significant risk to the outcomes of children and young people if the resource fails to be replenished.

Consequences if the proposed action is not approved

- 3.4 If approval is not granted to award this contract to North Yorkshire County Council it will not be possible to deliver our core offer to schools.

Advertising

- 3.5 This contract opportunity has not been advertised for the reasons set out in this report. The contract value is below current EU threshold, so there is no requirement for the contract to be advertised on the European Journal.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Finance have been consulted to ensure compliance with financial regulations.

4.1.2 Procurement have been consulted to ensure compliance with contract procedure rules and EU regulations.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An equalities impact screening has been completed and is attached to this report. This shows no impact on equality, diversity, cohesion and integration.

4.3 Council policies and Best Council Plan

4.3.1 This service supports the ambitions of the Best Council Plan and the ambitions of a Child Friendly City.

4.3.2 The contract directly supports the following priorities of the Children and Young People's plan:

- Increase the number of children and young people participating and engaging in learning
- Improve achievement and attainment for all
- Improve at a faster rate educational progress for children and young people vulnerable to poor learning outcomes

4.4 Resources and value for money

4.4.1 This is a call of contract, with a maximum value of £44,720 for a period of 21 weeks.

4.4.2 This contract is for the provision of two Learning Improvement Advisers, fully inclusive of all other costs including travel and expenses, management and other overheads.

4.4.3 This contract will allow Children and Families Learning Improvement Services to deliver the core offer to schools and children in the city.

4.4.4 The quality and performance of the service will be monitored by the Deputy Director - Learning.

4.5 Legal Implications, Access to Information and Call In

4.5.5 This report seeks permission to waive contract procedure rules 8.1 and 8.2 to award a contract to North Yorkshire County Council without competition.

4.5.6 The value of the contract is a maximum of £44,720 and is therefore a significant operational decision and as such is not subject to call in. There are no grounds for

treating the contents of this report as confidential under the Council's Access to Information Rules.

- 4.5.7 Awarding this contract direct to the provider in this way could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that it has not been wholly transparent. In terms of transparency it should be noted that case law suggests that the Council should always consider whether contracts of this value could be of interest to contractors on other EU member states and, if it could, the opportunity should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising would be appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc.) and the geographical location of the place of performance. In giving the work to this provider without competition there is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity.
- 4.5.8 The Deputy Director – Learning has considered the above and, due to the nature of the services being delivered and the relatively low contract values is of the view that the scope and nature of the services is such that it would not be of interest to providers in other EU member states.
- 4.5.9 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.

Risk Management

- 4.5.1 There is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity. The Deputy Director – Learning is asked to accept this request for the reasons stated in paragraphs 3.1 to 3.7.

5 Conclusions

- 5.1 This reports seeks a waiver of contract procedure rules 8.1 and 8.2 for learning improvement advice within Children and Families Learning Improvement services. This is the preferred option to ensure high quality learning improvement advice is in place rapidly to fulfil the core offer to schools, to ensure schools have appropriate contact and that the local authority continues to know its schools.

6 Recommendations

- 6.1 The Deputy Director – Learning is recommended to waive contract procedure rules 8.1 and 8.2 to award a contract, without competition, to North Yorkshire County Council for delivery of Learning Improvement Advice consultancy. The contract will commence on 11th March 2019 and will be for a period of 21 weeks;

therefore expiring on 31st July 2019. The maximum value of this call off contract will be £44,720.

7 Background documents¹

7.1 N/A

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.