

CABINET

16 February 2015

Title: Procurement of an Alternative Education Provision Service for Year 11 Children	
Report of the Cabinet Member for Education and Schools	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
Report Author: David Larbi (Inclusion officer ; Alternative Provision)	Contact Details: Tel: 020 8227 2327 E-mail: david.larbi@lbbd.gov.uk
Accountable Divisional Director: Jane Hargreaves, Divisional Director; Education	
Accountable Director: Helen Jenner, Corporate Director of Children's Services	
Summary: <p>This report concerns the need to tender for an Alternative Education Provision (AEP) for Year 11 children, which will then identify a provider to deliver this service from September 2015 for a period of up to five years (a three year contract with provision to extend for a further two years).</p> <p>Under the Education Act 1996 the Council is under a duty to provide alternative education for children and young people that are of compulsory school age and have entered the authority with no allocated school place or for those children who require some form of alternative provision outside the mainstream setting.</p> <p>This service is, and will continue to be, funded entirely from the Dedicated Schools Grant (DSG) High Needs Block (HNB).</p> <p>The current contract will expire on 31 August 2015. To ensure continuity of service and enable the timely recruitment of teachers, the new contract must be in place prior to the end of May 2015.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree for the Council to proceed with the procurement of a contract for an Alternative Education Provision (AEP) for a period of five years (three years with an option to extend for a further two years dependent upon funding and satisfactory performance) in accordance with the strategy set out in this report;(ii) Delegate authority to the Corporate Director of Children's Services, in consultation with the Cabinet Member for Education and Schools, the Chief Finance Officer and the Head of Legal and Democratic Services, to award and execute the contract and other documents on behalf of the Council following the appointment of a	

provider; and

- (iii) Indicate whether Cabinet wishes to be further informed or consulted on the progress of the procurement and the award of the contract.

Reason(s)

To enable the Council to discharge statutory duties and to assist the Council in achieving its Community priority of “Enabling social responsibility - Ensure children and young people are well-educated and realise their potential, whilst ensuring that every child knows that they are a part of, and have a responsibility to contribute to building a strong, empowered and cohesive community.

1. Introduction and Background

- 1.1 Under the Education Act 1996 the Council is under a duty to provide alternative education for children and young people that are of compulsory school age and have entered the authority with no allocated school place or for those children who require some form of alternative provision outside the mainstream setting.
- 1.2 This report requests approval to tender for an Alternative Education Provision (AEP) for Year 11 children, which will then identify a provider to deliver this service from September 2015 for a period of up to five years (a three year contract with provision to extend for a further two years)
- 1.3 The previous procurement exercise was approved by the Executive Meeting held on 22 December 2009. An open tender was used to identify a provider; the service was advertised on 9 March 2010. Lifeline were the successful organisation and were awarded the contract commencing 1 September 2010. This contract will expire on 31 August 2015. To ensure continuity of service and enable the timely recruitment of teachers, the new contract must be in place prior to the end of May 2015.
- 1.4 Following an evaluation of the service, in addition to working towards achieving in Maths, English and IT, the provider will be asked to work with students to achieve a qualification in science.

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured.

The service will provide an alternative education provision for year 11 pupils who are unable to attend school. The service will provide 25 hours education per week, for 29 weeks for 30 pupils who have been referred for the following reasons:

- New to Barking and Dagenham
- Lack of school place

The service will aim to provide tailored support around a pupil’s needs, both educationally and more widely (including any special educational needs which may not have been adequately identified and met).

Due to the size of the venue – the maximum number of pupils that can be

accommodated is thirty (30). The current provider delivers from two classrooms each providing space for up to fifteen (15) pupils to be educated.

The service will be expected to deliver a series of academic performance targets. In summary these are as follows:

- Functional Skills Maths L1/L2 equivalent: 80% pass of those entered
- GCSE English/ or equivalent: 80% pass of those entered
- GCSE IT/ or equivalent: 80% pass of those entered
- Entry Level subjects: 80% pass at Entry Levels 1/2/3
- Basic Adult skills (Numeracy/Literacy): 80% pass
- Possibly part GCSE ICT or Citizenship (Where appropriate):60% pass the qualification
- Attendance: 85%
- Progression: 85%
- Those progressing into training, education or employment target: 85% of total cohort

Records will be maintained of final destinations to avoid this cohort becoming NEET (Not in Employment, Education or Training).

2.2 Estimated Contract Value, including the value of any uplift or extension period.

The contract value will be £190,000 per annum (£950,000 for the life of the contract including the extension period).

2.3 Duration of the contract, including any options for extension.

Three years with an option to extend for a further two years (five years in total).

2.4 Is the contract subject to the (EU) Public Contracts Regulations 2006? If Yes, and contract is for services, are they Part A or Part B Services.

Yes the contract will be subject to the (EU) Public Contracts Regulations 2006. The service is a Part B Service.

2.5 Recommended procurement procedure and reasons for the recommendation.

We are seeking to identify a provider to deliver an alternative education service which will deliver academic and vocational qualifications for year 11 learners in accordance with European and Council Procurement Rules.

The value of the Service will be in excess of the threshold for application of the Public Contracts Regulations 2006 (the Regulations). It should be noted, however, that this Service is classified as a Part B Service under the Regulations and not subject to the full application of the Regulations. Accordingly the procurement shall be undertaken in accordance with the requirements of the Regulations for Part B Services and the Council's Contract Rules and Code of Practice.

The conditions of contract to be entered into between the Council and the successful tenderer are yet to be agreed and Legal Services shall advise on the

implications thereof upon receipt of instructions.

In deciding whether to award contract, the Council must comply with the principles of administrative law including taking into account all relevant considerations, the outcome of the valuation of each of the tenders and their financial implications. In particular in order to comply with the Council's fiduciary duty and duty to ensure Best Value, the Council must be satisfied that the tenders represent value for money for the Council.

Interested parties will be invited to tender on the basis of a compliant open tender process. Tenderers will be given distinct details on price/quality and criteria weightings. All submissions will be evaluated against a pre-determined evaluation criterion of quality 40% and price 60%.

Stage one of the Procurement exercise

Method statements and cost to be evaluated against the following criteria

- Service Delivery 40%
- Management & Staffing 10%
- Evaluation 20%
- Communication 10%

The evaluation panel will include representation from the following areas:

- Head of Specialist Alternative Provision
- Inclusion Officer - Alternative Provision
- Head teacher
- Commissioning Officer
- Member of the SAP Management Committee

Tenders will be made aware of all criteria and sub criteria in advance.

Each method statement question response will be marked in accordance with the scoring matrix set as scoring evaluation 0-5. Submissions will score marks where the proposed solution is adjudged to correspond with the criteria description in the scoring matrix. Any bidder and/or scores a 0, 1, 2 on any of the quality assessment will be disqualified from the process.

Each submission will be scored by members of an Evaluation Panel using the objective evidence and the professional judgement of the members of the Evaluation Panel. Following the panel's evaluation, moderation will take place in which each evaluator's score is compared with the score of other evaluators and a consensus view will be taken to agree the scores to be awarded – the 'moderated' score.

Each Bidder's overall score for each question will be calculated by adding all questions scores to produce a final score for the technical (quality) section in respect of the applicable Core Criteria (technical) weighting of 70%.

Scoring evaluation	Score
Excellent response, fully meets and expands upon the expected requirements	5
Good response, meets the expected requirements and requires no additional information	4
Satisfactory response and generally meets requirements, may require additional clarification or information	3
Does not meet the expected standard, would require significant further clarification or additional information	2
Unsatisfactory response, has not addressed the question/ method statement, suggests the supplier would have difficulty meeting Council standards	1
No response to the question or the response is highly inaccurate.	0

Stage two of the Procurement exercise

Once bids have been evaluated against the criteria listed above, the highest scoring prospective partners will be invited to visit LBBD to attend a Presentation and interview session.

A maximum of three of the highest scoring providers will be put forward to this stage stage.

There will be a total of 20% allocated for this stage.

Evaluation of cost

The cost element of the tender will be evaluated as follows:

1. What is the total price quoted; this should be a fully inclusive cost without the need for additional charging.
2. Please include a breakdown of what is included in this cost.
3. Details of what is included in the quotation and any additional required functions that will not be done by you should be clearly outlined.

Costs scoring

Core Criteria - Price

The Bidders price and financial information will be marked in accordance with the scoring methodology set out in this section

The pricing responses will be scrutinised and any concerns for deliverability of the pricing section i.e. low market cost abnormalities will be raised with the Bidder and detailed explanation sought. Where the Bidder cannot provide a credible explanation of costing, the Council reserves the right to reject that tender.

The total tender figure for the work submitted by each bidder will be scored on the extent to which they compare to the Bidder submitting the lowest tender figure. The lowest tender submitted will score full marks based upon the 60% core criteria weighting. The other bidders will be scored according to the following calculation:

Bidder A Score = (Lowest Tender figure/Bidder A Tender Figure) x 60% (the core weighted percentage).

The contract will be awarded on the basis of the most economically advantageous tender meaning the tender offering the best overall value for money will be selected.

Expected Tender Timeline

Cabinet Approval	16 February 2015
Advertise and send out tender pack	1 March 2015
Receive tenders back	13 April 2015
Presentation and Interview sessions	23 April 2015
Approval and award of contracts	11 May 2015
Recruitment of teachers	18 May 2015
Contract commences	1 September 2015.

2.6 **The contract delivery methodology and documentation to be adopted.**

Service to be delivered by an external provider. Documentation to be adopted will be the Council's standard terms and conditions.

2.7 **Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract.**

Outcomes - The identification of a new provider with the ability to deliver GCSE's will contribute to the Councils drive to increase the number of children in Further Education, Employment or Vocational qualifications.

Savings - Prior to this provision being delivered by the current provider; the cohort of young people being supported would have been placed at Barking College at a considerably higher cost than currently being spent. To deliver through Barking College would cost approximately £7000 per child, equivalent to an overall cost of approximately £210,000.00 for 30 young people. In addition, the previous original contract value for the delivery of this service was £209,940 per annum. This saving should be further considered within the context of the current growing child population and, thus, increasing demand.

2.8 **Criteria against which the tenderers are to be selected and contract is to be awarded**

Overall quality/price weighting: Quality 40% / Price 60%.

The contract will be awarded on the basis of the most economically advantageous tender meaning the tender offering the best overall value for money will be selected.

2.9 **How the procurement will address and implement the Council's Social Value policies.**

Under the Education Act 1996 the Local Education Authority is under a duty to provide education for children and young people that are of compulsory school age. In addition where pupils have been excluded or for some other reason are unable to

attend School under section 19 (1) of the above mentioned Act the Local Authority is under a duty to make alternative arrangements in respect of any children that cannot attend School.

This provision will improve education opportunities for young people by providing alternative education placements outside of the usual settings.

This service will ensure that the Council is able to meet their statutory duties under the Equality Act 2010 and to ensure the provision of equality of access to the curriculum for all children including disabled children and those with special educational needs.

3. Options Appraisal

3.1 The following options have been considered:

Option 1 - The Council takes over the running of the service

This option would mean sending young people to Barking College at a cost of approximately £7000 per person.

Option 2 - Let the current service contracts expire and do nothing

This was not an option as the Local Education Authority is under a duty to provide education for children and young people that are of compulsory school age.

Option 3 - Access an open framework/collaboration

At the time of submitting this report, there are no active open frameworks or collaborative contracts that Children's Services is aware of that would be accessible to the Council. In fact the current Provider has been approached by other Local Authorities enquiring if they can purchase places on this service.

Option 4 - Tender the service

Going out to tender enables us to advertise this opportunity widely and award the contract on the basis of the most economically advantageous tender meaning the tender offering the best overall value for money will be selected.

3.2 Previously this cohort of young people would have been placed at Barking College at a considerable higher cost than that paid currently.

3.3 It has been identified that schools do not have the capacity to support all new arrivals onto their roles. It is felt that this flexible option helps the Council to meet its statutory duty of providing education to all children.

4. Waiver

Not applicable

5 Equalities and other Customer Impact

- 5.1 This service will be available to all year 11 young people. This is to enable the Council to fulfil its obligation to provide education to all children of statutory school age.

6. Other Considerations and Implications

- 6.1 **Risk and Risk Management** - The procurement exercise will assist in assessing the financial stability of any prospective provider. Credit checks will be made and once financial stability has been established the main risk will be the quality of the service to be delivered. Tenderers ability will be assessed during the tender and will cover areas such as: experience, management, equality and safeguarding.

Once a provider has been chosen and approval given, written contractual arrangements will contribute to ensuring a quality service. The contract will be monitored by Council Officers who will liaise with the Councils Legal Team in order to resolve any contractual issues that arise during the life of the contract. Quarterly monitoring meetings will be conducted with providers having to complete and submit monitoring forms before any monitoring meeting.

- 6.2 **TUPE, other staffing and trade union implications** - There will be no TUPE implications for Council staff as the current service is not delivered by the Council. There will be possible TUPE implications for the current external provider Lifeline. TUPE details supplied by the current provider will be included in the tender pack.

The process follows is described below:

1. The incumbent provider will be requested to provide TUPE information to the Council before the tender commences;
2. The advert and tender documentation will clearly state that TUPE may apply;
3. The Council will make it clear to tenderer that TUPE issues will need to be dealt with between the incumbent provider and any new provider;
4. At all stages of the procurement process providers will be made aware that they should obtain their own independent legal advice in relation to TUPE.

- 6.3 **Safeguarding Children** - The chosen provider will be required to conform to all the Councils local safeguarding procedures. These will be explicitly dealt with in the contract which will be drafted by the Council's Legal Department.

- 6.4 **Property / Asset Issues** - This service is delivered from The Vibe, Becontree Avenue, Dagenham. A licence will be issued under the terms of the agreement; however the council will reserve the right to revoke that licence.

7. Consultation

- 7.1 Consultation will take place through the circulation of the cabinet report. The draft report after being circulated to the relevant group manager, Divisional Director and the Divisional Director for Commissioning and Safeguarding will be sent to the Councils Legal, Finance and Corporate Procurement Team for comment

- 7.2 The draft report will then be put forward at the procurement Board meeting on 12

January 2015, before being sent to Cabinet on 16 February 2015.

- 7.3 Following approval by the Corporate Procurement Board the cabinet report will be sent out for further consultation to the required consultees as listed at the beginning of this report.

8. Corporate Procurement

Implications completed by: Euan Beales, Category Manager, Elevate East London

- 8.1 The services to be procured are classified as Part B and as such are not required to adhere to the mandated requirements as set out in EU Legislation.
- 8.2 Within the report the evaluation criteria split has been outlined as 40% quality and 60% price, in this instance and if the specification of requirement is tight enough then the recommended split would be 70% Price and 30% quality.
- 8.3 The route as described in this report is sound and can be justified, and I fully support the recommendations.

9. Financial Implications

Implications completed by: Patricia Harvey, Interim Group Manager, Children's Finance

- 9.1 Resources will be from the Dedicated Schools Grant (DSG), High Needs Block (HNB). The total budget for 2014/15 is £26.8m including agreed carry forward allocation with Schools' Forum of DSG £2.4m. Any over/underspends will be contained within the DSG for 2015/16 and subsequent years.

10. Legal Implications

Implications completed by: Daniel Toohey, Principal Corporate and Commercial Lawyer

- 10.1 This report is seeking permission to tender the contract for the Provision of Alternative Education for Year 11 Children.
- 10.2 The service to be procured in this report is classified as a Part B service under the Public Contract Regulations and therefore not subject to the strict tendering rules in the Regulations. However in conducting the procurement, the Council still has a legal obligation to comply with the relevant provisions of the Council's Contract Rules and with the EU Treaty principles of equal treatment of bidders, non-discrimination and transparency in procuring the contracts.
- 10.3 The report sets out in paragraph 2.5 the tender timetable for the procurement of this service. The contract is to be advertised in March 2015 with a view to appointing the successful bidder and awarding the contract in May 2015. The EU Treaty principles noted above generally encourage the advertisement of contracts in a manner that would allow providers likely to be interested in bidding for the contracts identify the opportunity and bid for the contracts, should they wish to do so.

- 10.4 In keeping with Regulation 30 this report stipulates in clause 2.5 the evaluation criteria to be used in assessing the tenders. The evaluation will be on a quality:cost ratio of 60:40.
- 10.5 In line with Contract Rule 47.15, Cabinet can indicate whether it is content for the Chief Officer to award the contract following the procurement process in consultation with the Chief Finance Officer.
- 10.6 In deciding whether or not to approve the proposed procurement of the contract, Cabinet must satisfy itself that the procurement will represent value for money for the Council.

Background Papers Used in the Preparation of the Report: None

List of appendices: None