

Procurement strategy - Contract for Alternative Provision in H&F

1. PROCUREMENT SCOPE – WHY THE PROCUREMENT IS NEEDED

- 1.1. The Cabinet report seeks approval of the Procurement Strategy to award TBAP Academy Trust a contract to ensure the continuation of delivery of Alternative Provision School Places in Hammersmith and Fulham. Established in 2013, the TBAP Multi-Academy Trust supports learners in multiple sites in the borough who are experiencing difficulty with or have been excluded from mainstream education and is the current provider of this provision in H&F.
- 1.2. This procurement is using the negotiated procedure without prior publication in line with regulation 32 of the Public Contracts Regulations 2015 (the 'PCR'). The PCR states that this procedure can be used where the services can be supplied only by an economic operator because competition is absent for technical reasons and no reasonable alternative or substitute exists.
- 1.3. The Council has a statutory responsibility to ensure that there is an adequate supply of good quality Alternative Provision (AP) and that all children and young people of compulsory school age have access to a school or a form of Alternative Provision. This includes offering a continuum of support, including short-term (one term maximum) intervention for pupils at risk of exclusion and full-time/longer-term placements as an alternative to permanent exclusion. The DfE requires Local Authorities to commission AP places for children who have been permanently excluded from the sixth day of their school exclusion.
- 1.4. Previously, AP was delivered via a legacy block arrangement with TBAP as a shared service (Tri Borough) across multiple sites. On H&F becoming sovereign, officers reviewed arrangements and found markedly over commissioned numbers, differential rates for pupil cohorts and insufficient performance management and outcome measures of outreach and re-integration.
- 1.5. A review of AP commissioning in June 2019 showed the overwhelming need to invest in outreach to reduce the numbers of children being permanently excluded. It also identified the need to have the flexibility to place children in different AP settings to meet their needs.
- 1.6. By awarding the contract to the existing provider; this will ensure the continuation of this statutory provision to provide alternative provision for excluded H&F children, support schools with in-school and out-of-school interventions. It will allow for H&F and TBAP will work together to achieve the long-term goal of regularising the arrangement towards implementing a participation-based funding model and the difference between the places commissioned and the placements used will be reinvested into essential outreach services provided by TBAP. It will also achieve the safe level of reduction in AP places and costs in line with the review of Alternative Provision.

2. MARKET ANALYSIS

- 2.1. There is no suitable or appropriate alternative or substitute in the borough that could deliver this service. Whilst the Council do commission a small number of alternative provision places from Westside school for vulnerable students; overall spaces are limited, and this provision would not have the capacity to deliver the requirements of the full AP service in H&F.
- 2.1.2 By not approving an award to TBAP Multi Agency Trust the Council would have to spot purchase from private or out of borough provision in order to meet its statutory responsibility to ensure that there is an adequate supply of good quality Alternative Provision. This would mean a certain loss of between 90 to 100 education places .
- 2.1.3. Out of borough funded provision would not have the capacity to offer AP to all H&F learners as most places are commissioned by the host borough for their vulnerable resident children and there would be limited space for the H&F Cohort.

3. PROCUREMENT ROUTE OPTIONS AND CONSIDERATIONS

- 3.1. This approach will ensure that the Council is purchasing services through a controlled and secure route rather than through spot purchases of places.
- 3.2. It is anticipated that awarding a contract to TBAP will provide certainty of future costs, stability of on-going places and agreed savings by reducing the number of places and the expectation of significantly investing more in outreach services over the life of the contract period.

4. RISK ASSESSMENT AND PROPOSED MITIGATIONS

- 4.1. Transitioning to the new approach is not without risk. The urgency of stabilising the HNB overspend means there is limited change or investment funds to pump prime or to run new services in parallel with the existing AP places that are occupied by pupils. Therefore, the revised agreement has been designed to incentivise TBAP to shift funding and resources incrementally into outreach as the number of AP places reduces.
- 4.2. In parallel the commissioning mechanisms are also being regularised in line with the ESFA guidance over the funding term.
- 4.3. To ensure the transformation of the relationship between the Council and TBAP it is crucial that the new Service Level Agreement is robust and holds the provider to account.
- 4.4. As the statutory guidance states; responsibility of the alternative provision rests with the commissioner. The proposed SLA builds in monitoring and quality assurance of the AP provided by TBAP. The previous SLA had insufficient monitoring protocols in place.

- 4.5. There is a high risk of supplier failure should the TBAP H&F provision become financially unviable and close. Previous intervention by ESFA raises concerns about the financial management and viability of the organisation that has necessitated the action.
- 4.6. The table shown the anticipated impact and possible mitigation. The department has confirmed that a budget is available, and need has been established in accordance with the Council's Ruthlessly Financially Efficient Priority.

Risk Impact	Mitigation	Action /Resources
<p>TBAP closure</p> <ul style="list-style-type: none"> - Loss of Education place for H&F learners circa 90-100 	Place in AP outside of borough	<p>Spot purchase from other providers</p> <p>Estimated cost £3m</p>
<p>TBAP closure</p> <ul style="list-style-type: none"> - Community safety impacts of disruption to Education for AP cohort 	Dedicated YP support team funded from the council to provide purposeful activities and temporary education whilst new school placement is found	<p>Minimum ratio of 4:1 staffing to pupils in community settings approx. 20 staff required</p> <p>Possible agency staff anticipated cost £100k – 120k a month (in addition to spot purchase costs)</p>
<p>TBAP Closure</p> <ul style="list-style-type: none"> - Exclusions rise as outreach offer in withdrawn 	Outreach commissioned from other providers or with Schools directly.	Cost neutral
<p>TBAP Closure</p> <ul style="list-style-type: none"> - No out of school intervention programme available and increase in Permanent exclusions 	Fund schools to include onsite exclusion units for 6 day plus fixed term exclusion	Possible agency staff anticipated cost £55k for at least one member of staff per secondary school.
<p>TBAP Closure</p> <ul style="list-style-type: none"> - Learners will need to access AP out of 	Pay for taxi services to transport learners	Possible taxi costs of £200k

borough and face contextual safeguarding issues		
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- 4.7. Further implications of not awarding the contract to TBAP include having to negotiate with other AP providers outside of boroughs. This has contextual safeguarding implications, transportation cost implications and monitoring/QA implications.

5. **FINANCIAL INFORMATION**

- 5.1. Alternative Provision is funded from the High Needs Block (HNB) of the Dedicated Schools Grant DSG. This budget is overspending in H&F with a cumulative 2017/18 brought forward deficit of £7m on a 17/18 HNB budget of £21m.
- 5.2. The significant reduction in overall AP spending as is considered in this contract award is in line with the HNB recovery plan targets. Negotiations have taken place with the TBAP, who despite a significant overall reduction in their funding remain fully committed to providing a service to H&F schools.
- 5.3. It is anticipated that the phased reduction in places will achieve significant savings over the next 2 years of £701,360 reducing the deficit of the High Needs Block (HNB) further in second phase savings. The total savings including the reduction of EHCP funding for SEN places and the reduction of post-16 top-up could be approximately £1.2m by the end of academic year 2021/22.
- 5.4. The proposed TBAP SLA incorporates a three-year funding model and will achieve a reduction in costs of £441,609 on the delivery of Alternative Provision over the three-year period from 2019/20 to 2021/22. This saving is reduced to £261,609 when the costs of the alternative provision commissioned at Westside AP Free School are included as part of the council's overall AP costs.

6. **COMPETITION PROCESS**

- 6.1. This procurement strategy is for the direct award of the Alternative Provision contract to TBAP Multi Agency Trust.

7. **SELECTION AND AWARD CRITERIA**

- 7.1 N/A – The provider that it is proposed to be awarded the contract to deliver Alternative Provision has already been identified and is the current provider of AP in H&F.

8. **CONTRACT PACKAGE, LENGTH AND SPECIFICATION**

- 8.1 The contract term will be for the period 1st June 2020 until 31st August 2022 for the total sum of £6,313,311.
- 8.2 From year 2; H&F reserve the right to withdraw the difference between place commissioned and places used if TBAP cannot demonstrate how the funds are being rediverted into Outreach activity in mainstream schools.
- 8.3 The service specification supports the delivery of the aims of the AP review and shift activity from funding AP places to prevention; outreach and direct support to pupils in mainstream schools.
- 8.4 This service specification and SLA is written in line with the current guidance for the commissioning and funding Alternative Provision Academies. Currently, there are no guidance mechanisms for the recoupment of place funding for OOB usage. In the event the ESFA guidance changes during the life of this SLA, Hammersmith & Fulham Council reserve the right to review the SLA to ensure it remains compliant.
- 8.5 The specification sets out the Council requirements that Contractors find creative and mutually acceptable ways in which Social Value can be further enhanced during the life of the contract.

9. CONTRACT MANAGEMENT

- 9.1. The Council commissions Alternative Provision on behalf of its School Community. Arrangements for oversight of the SLA will include a termly head oversight and evaluation forum, where management information about AP usage and outcomes in line with this SLA will be reviewed.
 - 9.1.1. TBAP will provide a quarterly report on progress against targets and key performance indicators for discussion at contract review meetings. They will also provide financial reporting and other areas to monitor contract compliance.
 - 9.1.2. TBAP will be expected to produce and present a comprehensive annual update and impact report on the progress of developing and delivering the Service to the Authorised Officer in a format to be agreed between the Council and Provider.
- 9.2. A Council nominated officer will have day to day responsibility for the operation of the SLA, including arranging and coordinating submission dates for management information, monitoring the progress of the AP Development Plan and payment arrangements. It is expected that this officer will have open access to all TBAP settings and information relating to this contract and the service delivered to H&F pupils.
- 9.3. The Council recognises that TBAP will already have procedures and structures in place to ensure that high quality education can be provided and where possible, these strengths will be incorporated into the monitoring of the effectiveness of TBAP

9.4. Outreach services will have a performance framework to measure effectiveness. Performance will be reviewed annually and inform the decision to continue funding into the next year of the SLA. Regular monitoring of Outreach will give both TBAP and the Council early indication of its effectiveness and inform the decision to recommission year on year.

9.5. The floor and outreach targets below represent the minimum standard that Hammersmith & Fulham expect TBAP to achieve. Delivery of these and the agreed outreach KPIs is to be reported to the TBAP Trust Board on a termly cycle

Performance Area	Indicator/Measure	2019-20	2020-21	2021-22
Area 1 Attendance	Children are in full attendance of their 25 allocated hours as measured by both AM and PM. Full 25 hours are provided by TBAP.	70% AM/PM attendance figures.	75% AM/PM attendance figures.	85% AM/PM attendance figures.
Area 2 Attainment outcomes	Children are making good or outstanding progress against their individualised learning journeys	85% of children making at least good progress	90% of children making at least good progress	95% of children making at least good progress
Area 3 Reintegration to mainstream education	Most Children in KS1-3 should be reintegrated back into mainstream school within two terms of admission to TBAP and sustain this place for a further four terms.	25% reintegration rate	30% reintegration rate	45% reintegration rate
Area 4 Progression to further education, training	Children should go onto further education or training after KS4. TBAP to ensure that year 11 have an offer for the September after they leave and will be tracked in line with school destination measures.	90% Offer for September	95% Offer for September	98% Offer for September
SDP	Evidence that TBAP provides a good standard of education as measured against the Ofsted Framework and supported by an effective School Development Plan.			