


London Borough of Hammersmith & Fulham		 h&f hammersmith & fulham
CABINET 5 February 2018		
AWARD OF A LEARNING DISABILITY FLEXIBLE SUPPORT CONTRACT FOR AN ORGANISATION TO DELIVER CARE AND SUPPORT SERVICES TO PEOPLE WITH LEARNING DIFFICULTIES WITHIN HAMMERSMITH AND FULHAM		
Report of the Cabinet Member for Health and Adult Social Care – Councillor Ben Coleman		
Open Report		
A separate report on the exempt part of the agenda provides exempt information in connection with this report.		
Classification - For Decision		
Key Decision: YES		
Wards Affected: ALL		
Accountable Director: Lisa Redfern, Director for Adult Social Care		
Report Author:	Contact Details:	
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1. EXECUTIVE SUMMARY

This report sets out the commissioning background and subsequent procurement exercise undertaken to enable the award of a contract to Yarrow Housing Ltd to provide a range of care and support services for people with learning disabilities (LD) living within Hammersmith and Fulham.

The recommended contract award will deliver the commissioning and procurement strategy outcomes to transform the approach to service delivery, provide residents with greater choice and control over their care and support arrangements, and improve their satisfaction with the support they receive.

The new contract will put in place an Individual Service Fund (ISF) model where a third party (the provider) holds a residents' money on their behalf. The ISF provider will then work with residents, their family, carers, and advocates to co-produce and agree a plan of support that reflects the person's preferences and choices around how their care and support needs and health and wellbeing outcomes and aspirations in life should be met. The provider will then support the individual to put these arrangements in place, which may include the provider delivering some of the care and support required.

There are currently two block contracts for supported housing and residential care for 55 people with LD which expire end June 2018.

Current Provision
Residential care and supported living block (9 homes, 43 units): Yarrow Housing Ltd
Supported living (3 homes, 12 units): Metropolitan

This report recommends the award of a contract with a three-year duration and the option to extend for two further periods, each of up to two years.

The contract has a value over its initial three-year term of £9,517,418. If extended for a further two years, it has a value of £15,445,550 and if extended for a further two years has a total value of £21,178,149.

The procurement strategy for these services was approved via a Leader's Urgency report in May 2017 and the funding for these services is provided from the existing Adult Social Care budget.

2. RECOMMENDATIONS

It is recommended that Cabinet:

1. Approves an award of contract to Yarrow Housing Ltd for a period of three years with the option to extend for two further periods of each of up to two years for the initial period of 1 July 2018 to 30 June 2021 at a total cost over these three years of £9,517,418 and a maximum lifetime cost over the seven years of £21,178,149.
2. Agrees to delegate to the Director of Adult Social Care in consultation with the Cabinet Member for Health and Adult Social Care the decision to extend the contract for each of the two-year extension periods after the initial three-year term.

3. REASONS FOR DECISION

Most Economically Advantageous Submission

In accordance with the Competitive Procedure with Negotiation as set out in the Procurement Strategy, the Procurement Board developed a Specification and an Invitation to Tender (ITT) to identify a Delivery Provider. The evaluation process found the selected tenderer's submission to be the most economically advantageous submission that met the required quality thresholds. Details are provided in Appendix A (Commercial and Technical Evaluations).

Contract Standing Orders

Contract Standing Orders provide for Cabinet Members to award contracts with a value of up to £4,999,999 where the actual contract value is within a 10% tolerance of the estimated contract value as set out in the Procurement Strategy & Business Case previously approved by Cabinet.

The Procurement Strategy & Business Case was approved via the Leaders Urgency Report in May 2017

As the contract value exceed £4,999,999 the contract award decision requires Cabinet approval.

4. BACKGROUND & COMMISSIONING RATIONALE

The Housing Strategy for residents with learning disabilities highlights a growing need for supported living and accommodation. Increasingly people with eligible needs have mobility or behavioural issues requiring specific support. Work is underway to improve access and choice. The strategic provider partner would be expected to improve support pathways, expanding choice and access to accommodation.

The Procurement Strategy and Business Case recommendations for this procurement recommendations were approved via the Leaders Urgency Report in May 2017 to:

- Approve the strategic approach for the procurement of support and services to promote choice and control for people with learning difficulties; and
- Approve the procurement of a delivery provider contract using the competitive procedure with negotiation.
- Note the proposed contract term of seven years.

4.3 Subject to the outcome of the procurement exercise, it is envisaged that providers will require approximately two years to review, evaluate and implement personalised approaches and start to deliver any efficiencies. The development of the provider market and any potential innovations will take further time to develop. The contract term, will encourage provider investment in the service, allowing the full benefits of the transformation to be realised and to create an attractive offer for a limited provider market.

5. PROCUREMENT PROCESS

The Competitive Procedure with Negotiation was used and an advert for the tender was placed on 24 June 2017 on the following portals;

- The Council web site;
- The Official Journal of European Union (OJEU) reference 2017/S 119-239821; and
- Contracts Finder

Bidders expressed an interest and received all tender documentation through the Council's e-procurement portal. A bidders meeting was held on 11 July 2017 to further clarify the tender documentation, methodology and the outcomes sought by the council. Notes taken at this meeting alongside subsequent FAQs were then distributed to the bidders prior to the closing date.

Qualification Evaluation

The closing date for expressions of interest was 23 October 2017, and a total of 70 organisations accessed the procurement documents along with supplier selection questionnaire (SSQ) via the portal. TUPE information was made available to all bidders who requested this information subject to signing a confidentiality agreement.

The SSQ comprised compliance for completing the required documentation and the suitability assessment questionnaire. The documentation was clear that these elements only need be completed once per organisational or consortium bid.

Compliance and suitability were pass/fail elements of the SSQ.

A summary of the responses is set out below.

Response Summary	
Number of organisations downloading the procurement documents	70
Number of organisations submitting SSQs	9
Number of organisations excluded in qualification evaluation phase.	0
Number of organisations excluded in technical evaluation phase	4
Number of organisations invited to tender	5
Number of organisations submitting a tender	3

One organisation opted out of the process, giving the following reasons;

- TUPE staff costs at the point of the transformation period
- Funding mechanism presented risks for ongoing funding
- The move to ISF presented challenges around misallocation of funds, fraud and overspend
- Concerns around housing management and property risk.

Clarification questions received up to and including 19 September were also sent to all organisations invited to tender. A total of three organisations submitted tender responses for evaluation by the tender return deadline:

ITT Tender Evaluation

The tender documentation set out the methodology to be used to assess the submissions, background to the contracts and the requirements of the council in relation to quality and performance.

The contract award criteria was of the Most Economically Advantageous Tender (MEAT), and applied a price/quality split of 40% price and 60% quality.

Tenderers were required to complete and return the tender documents as set out in the ITT, which formed their tender submission:

The evaluation comprised of assessment of the following two elements:

- Element 1 Technical – Quality Assurance Method Statements
- Element 2 Commercial – Value for Money and Pricing Matrix

Technical Evaluation

The technical questionnaire included qualitative method statements as well as a mobilisation and transformation plan, which were assessed by members of the tender evaluation panel involved in the process.

Members of the tender evaluation panel, selected for their particular skills and expertise in the service, reviewed specific elements of the tender submission. Members included council officers and resident representatives on the Learning Disability Partnership Board. Three resident representatives were involved in the evaluation. This included a current resident of the service.

Each member of the evaluation panel completed their evaluation independently using scoring sheets. The panel were required to provide detailed rationales to support their scoring of the method statement questions and to ensure that any subsequent differences in opinion could be explained, to facilitate required discussions to achieve mutual agreements in terms of moderating scores.

Each method statement was scored by a panel of officers and undertaken in accordance with the evaluation model outlined within the ITT, applying a scoring mechanism of 0 – 5, with 0 being the lowest and 5 being the highest score. Any method statement not receiving a minimum score of 3 resulted in a failed bid. A final score was arrived at by then applying the weighting for each question.

The submission from Yarrow Housing was the only bid that received a minimum score of 3 and above for each method statement, and was the only bid to pass the technical evaluation.

The final quality scores were reached following a consensus scoring process. This addressed any variance in the initial scores between the different evaluators. The process ensured that the views of different professionals on the quality of the submissions resulted in a consensus score that they were all content with. This resulted in a single score for each element as summarised in table. Full details are contained within the exempt part of this report, Appendix A.

Commercial Evaluation

The evaluation of the pricing matrix was undertaken at the same time as the technical evaluation. In addition to setting out the financial proposal the pricing matrix included the following:

- Extent to which the price was contingent
- Combined financial proposal
- Block price
- Hourly rate
- Risk reward assessment
- Price sustainability assessment
- Financial standing assurances

The pricing evaluation focused on ensuring bidders had a clear understanding of the requirements of the commissioning model and that any assumptions made were discussed and clarified to ensure pricing reflected commissioning intentions. The pricing score reflects the final pricing submissions.

Evaluation Outcome

The overall result of the evaluation is set out at Exempt Appendix B.

Negotiated Procedure

As noted in 5.16 only one bid received a minimum score of 3 and above for each method statement and therefore only one bid passed the technical evaluation.

As two bids failed to meet minimum requirements in some areas and the bid submitted by Yarrow Housing Ltd met and exceeded the Council's requirements in a number of areas. The project board overseeing the procurement took the decision not to hold negotiations with Yarrow Housing Ltd. It was considered that negotiations would be unlikely to yield further gains and that the costs of negotiating would outweigh any marginal gains on the technical / quality aspects of the bid.

Bidders were written to on 23 October to advise them the Council would not be proceeding to the negotiation stage and would now be preparing recommendation of contract award reports.

6. CONSULTATION

The engagement and co-production process of the Flexible Support model has involved people with people with learning disabilities throughout, including both registered residential and supported housing residents. Meetings were held with learning disability providers and voluntary sector stakeholders during 2016 and 2017 to get feedback on the Flexible Support model and procurement strategy.

Residents of Yarrow were involved in the Flexible Support pilot during 2016 and gave feedback regarding how easy it was to choose the support they wanted, and also as members of the Pilot Project Group.

The current award timetable allows a full six months before the end of the current contracts to safely mobilise to the new Flexible Support arrangements. The mobilisation stage will involve full co-production with both residents of the services and their families.

A series of meetings took place through October and November with families of residents, and residents who are living in Yarrow and Metropolitan accommodation based services. The meeting was used to listen to views and further discuss personalisation and ISFs and the Council's aims to work with residents to maximise choice and control. This will be a follow up to the model already piloted in some of the Yarrow services. Families and residents will be updated throughout the mobilisation.

Following the report of the Disabled People's Commission, the Council is formally committed to co-production with Disabled people of all services it provides to them. A co-production approach to contract mobilisation will be

agreed with the Learning Disability Partnership Board and members of the Disabled People's Commission including the development and agreement of the contract performance indicators. The effectiveness of co-production will be regularly reviewed by The Board as part of the overall management of the contract.

7. EQUALITIES IMPLICATIONS

The recommendations contained in this report will in the long-term have a positive impact on protected characteristic groups. In the short term, there may be some disruption to service delivery as responsibility for one of the services transfers to Yarrow Housing Ltd. In order to mitigate this disruption and any negative impact on residents, a Steering Group of residents, carers and family members will be established to work with officers and ensure the provider's implementation plan is robustly monitored.

We expect the impact of the new model of service delivery on residents to be positive, given that resident representatives on the Learning Disability Partnership Board consulted with local people with learning disabilities about what was most important to them. Regard was given to this when developing the service design to ensure a service which recognises and meets the range of needs.

Implications verified by Peter Smith, Head of Policy & Strategy, tel. 020 8753 2206

8. RISKS IMPLICATIONS

As part of the technical evaluation tenderers were required to submit mobilisation and transfer plans. The plans submitted by Yarrow Housing Ltd was evaluated as adequately addressing all implementation and transformation issues.

Meeting the Council's Objectives and satisfaction from the Service User, risk of meeting the needs and expectations of the Client. Attaining best value from Market Testing of Services and ensuring a smooth and efficient implementation. These key risks form part of the Council's Corporate Risk Register. The Adults Social Care Service and Contracts and Commissioners review risk periodically and have worked to ensure that risks have been mitigated during the procurement. Service Resilience will be reviewed in collaboration with the Council's Service Continuity Officer to provide additional assurance on service delivery.

Implications signed off by Michael Sloniowski, Principal Consultant HCD Policy and Strategy.

9. LOCAL SOCIAL AND ECONOMIC VALUE (BUSINESS IMPLICATIONS)

The contract will enable the provider to promote local business opportunities for care and support providers, including small and medium enterprises, and voluntary sector organisations who could partner and work with the strategic providers to deliver choices in support to people with care and support needs.

The development of ISFs under this contract will promote micro commissioning and stimulate the market, particularly for small providers who may wish to form partnerships with the strategic provider to deliver individually tailored support.

Implications for Business completed by: David Burns, Interim Head of Economic Development 020 8753 6090 (Regeneration, Planning and Housing Services)

10. CONTRACT AWARD

There will be three stages to the contract following contract award:

- The Mobilisation Period – the time limited period of handover from the existing Delivery Provider to the new Delivery Provider and the replacement care and support service as set out in the specification
- The Transformation Period – the 12-month period following the Mobilisation Period during which the Delivery Provider will be required to: enhance the rights of customers by commencing the process of reregistration of the two registered residential care homes as supported housing accommodation (to enhance the security of tenure and rights of residents) with the permission of the Care Quality Commission (CQC); transform 100% of the service delivery to Individual Service Funds with associated management and reporting requirements; and commence local market shaping and development, as detailed in the specification
- The Market Shaping Period – the period following the Transformation Period, when the Delivery Provider shall develop and shape the local provider market to ensure that residents have improved choices to meet their needs, as detailed in the specification.

During the Market Shaping Period, the Provider will be required to submit quarterly ISF monitoring returns to the Council detailing how the ISFs has been spent to deliver Customer outcomes.

The Council will monitor and evaluate the Provider's progress in achieving the delivery outcomes and quality standards against Key Performance Indicators (KPIs). The KPIs will be used to identify the need for intervention as well as areas for service improvements. They will also be used to benchmark performance against local and national services and strengthen accountability to local people and residents.

Outcome monitoring will include independent evaluation of residents' satisfaction levels. The co-production approach referred to above will require agreement with residents on how this independent evaluation is to be undertaken.

After Year 2 the KPIs and the performance mechanism will be reviewed with the Provider as part of a pre-programmed change control mechanism within the contract to ensure they remain relevant.

11. LEGAL IMPLICATIONS

With reference to the recommendations under section 2 of this report, the principles of awarding a contract in accordance with Regulation 76(1) of the Public Contract Regulations 2015 (“the Regulations”) allow the Council to determine the procedure to be applied to award a contract and take into account the specificities of the service in question. However, the procedure must ensure compliance with the principles of transparency and equal treatment of economic operators.

The procurement exercise undertaken to award a contract, subject to the approval of the recommendation under this report, was the Competitive Procedure with Negotiation in accordance with regulation 29 of the Regulations. There was only one compliant tender submitted to meet the Council’s requirements. Therefore, officers’ made the decision as permitted under the Council’s invitation tender not to engage further into the negotiation stage of the process and concluded the tender exercise post evaluation of the submitted tenders.

The tenderer, Yarrow Housing Ltd, who is recommended for the award of contract, has submitted the most economically advantageous tender in accordance with the Council’s evaluation criteria.

Should Cabinet be minded to approve the recommendation in this report Officers are to ensure that in accordance with regulation 50, a Contract Award Notice is issued in the Official Journal of the European Union no later than 30 days after award of the contract, following the decision to award.

Legal comments prepared by: Sharon Cudjoe, Solicitor, (sharon.cudjoe@rbkc.gov.uk 020 7361 2993)

12. FINANCIAL IMPLICATIONS

The total contract values are £9,517,418 for the initial 3-year period and up to £21,178,149 for the maximum lifetime cost over the seven years.

The budget available over the seven-year period is £21,459,072.

The contract values vary year on year during the lifetime of the contract due to the need to transform and develop the way services are delivered.

A cash flow statement is shown below, which demonstrates the annual spend each year compared to budget. In years one to three of the contract there will be overspend against the budget, which is recovered during years four to seven of the contract.

The year one ASC budget of £2,923,628 equates to the current expenditure on the services being re-procured. The year one 3.3% inflation and £50,000 additional Corporate Resources are part of the 2018/19 budget planning process and are already incorporated into the ASC inflation and growth assumptions. There is no inflation or growth assumptions for future years.

There is a risk of £326,171 overspend against the initial three-year contract period. If this materialises, the overspend will be managed within the overall ASC budgets.

Finance comments prepared by: David Hore, ASC Finance Manager (david.hore@lbhf.gov.uk 020 8753 4498)

13. COMMERCIAL IMPLICATIONS

The author of the report is requesting approval for the recommendation of an award of contract with an initial term of three years and with the option to extend for two further periods of each of two years at a total cost over the maximum seven years of £21,459,072.

The service forming the subject of the contract falls under the definition of social and other specific services as contained in Regulation 74 of the Public Contracts Regulations 2015 ("the Regulations"). As the value of the contract exceeds the threshold of £589,148 for this category of service the procurement is "regulated" and subject to the provisions of the Regulations.

The procurement has demonstrated full compliance with the Regulations, including the requirements with regard to publicising the opportunity in OJEU and Contracts Finder.

Procurement comments verified by Joanna Angelides, Procurement Consultant, (Joanna.angelides@lbhf.gov.uk 0208 753 2586)

LOCAL GOVERNMENT ACT 2000 **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

None.