

REPORT TO:	CABINET 16th MARCH 2015
AGENDA ITEM:	Appendix 1 to Agenda Item 19
SUBJECT:	PROCUREMENT OF INDEPENDENT FOSTERING AGENCY FRAMEWORK
LEAD OFFICER:	Paul Greenhalgh, Executive Director People
CABINET MEMBER:	Cllr Alisa Flemming, Cabinet Member for Children, Families and Learning And Cllr Simon Hall, Cabinet Member for Finance and Treasury
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT:	
<p>The provision of quality independent foster care agencies (IFA) as described in the report enables the Council to meet the key aspirations of the Community Strategy 2013-18 to protect vulnerable people (Goal 2).</p>	
AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS:	
<p>The Council's Commissioning Strategy (2012 -2015) sets out the approach to commissioning and procurement and puts delivery of outcomes at the heart of the decision making process.</p> <p>The development of the following commissioning and procurement strategy supports the achievement of a number of corporate priorities and supports the Administration's ambition to protect the most vulnerable and to enhance the life chances of Looked After Children.</p>	
FINANCIAL IMPACT	
<p>This report recommends approval of the Procurement Strategy as set out below. The anticipated total contract value will be £69.9m for the lifetime of the framework including the one year extension. This will be funded from the Councils revenue budget and the spend on UASC (approximately £58.1m) is reclaimed from the UK Border Agency Grant.</p> <p>The procurement approach described in this report anticipates an approximate saving of up to 10%.</p>	
KEY DECISION REFERENCE NO.: not a key decision	

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is asked to approve the strategy identified within the detail of this report to procure suppliers to be appointed under a framework agreement for a term of three years plus a one year extension to deliver independent fostering placements for Looked After Children.

2. EXECUTIVE SUMMARY

- 2.1 This report seeks Cabinet approval of the Procurement Strategy for the tendering of Independent Foster Agencies (IFA) to be appointed under a framework agreement for a term of three years to deliver independent fostering placements for Looked After Children/young people (the IFA Services).
- 2.2 The existing Framework Agreement for the provision of IFA Services expires in August 2015 and the re-procurement of these services is needed to secure the continuity of provision.
- 2.3 The procurement of a new IFA Framework Agreement, against a stringent and detailed service specification, will ensure the IFA services continue to provide high quality care for Looked After Children.
- 2.4 The proposed Framework Agreement is intended to create greater competition facilitating more choice and flexibility in the range of provision. The learning from the existing Framework has been used to inform the approach.

3. DETAIL

3.1 INTRODUCTION & BACKGROUND

- 3.1.1 The Council has a statutory requirement to provide accommodation for children who are in its care and to improve outcomes and actively promote the life chances of children they look after. The responsibility of local authorities is to act as the best possible parent for each child they look after.
- 3.1.2 Foster care provides an opportunity for Looked After Children to grow up in a safe environment with a family and to learn to take account of the needs of, and interact with other family members.
- 3.1.3 There are two groups of Looked After Children, children who are born in the UK, known as indigenous children and children who are in our care having applied for asylum in the UK who do not have a parent or anyone with

parental responsibility to care for them, known as unaccompanied asylum seeking children (UASC).

- 3.1.4 The foster care provision includes local authority foster carers and external foster care agencies known as Independent Fostering Agencies (IFA). The use of in house foster carers is the preferred means as it significantly more cost effective with an approximate annual cost of £18k per placement, compared to £43k through an IFA
- 3.1.5 In recent years there has been a continual increase in the numbers of indigenous looked after children in the borough and as there has not been sufficient capacity in the in-house foster care provision, this has led to an increased use of IFA's.
- 3.1.6 This procurement contributes to the Croydon Challenge Project for Looked After Children which aims to reduce the demand on IFAs. This is primarily being achieved through increasing the number of available in house foster carers through the outsourcing of the recruitment and assessment function. As the capacity of the in house provision increases, it is anticipated that the volume of local IFAs will reduce which will achieve a significant cost saving. Of the 417 indigenous children Looked After in the borough, 84 children are placed in IFA placements, with the aim that this will reduce over the coming years.
- 3.1.7 In addition, Croydon has a large and increasing number of unaccompanied asylum seekers (UASC) with approximately 226 current UASC IFA placements. The number of UASC IFA placements has increased significantly in 14/15 which is expected to continue during the lifetime of the framework. These placements contribute to 83% of the total spend on the Framework which is reimbursed through the UK Borders Agency Grant.
- 3.1.8 In light of this trend, the forecast demand for the coming four years is significantly higher than estimated on the original framework, which will be met wherever possible through in house provision, there remains an ongoing need for the provision of Independent Foster Agency placements.

3.2 **CURRENT PROVISION**

- 3.2.1 The provision of independent foster care is currently procured through a number of agencies (IFAs) on a framework arrangement. The current framework was approved for a term of three years with the option of a 1 year extension, which will be exercised for the continuity of existing placements.
- 3.2.3 The learning from the current arrangement coupled with the progress made across the sector in recent years, has identified the need to develop a new approach for the future. This is aimed at maximising the opportunity to access and enhance best value IFA provision and to increase our commissioning/purchasing leverage with providers.

3.3 FUTURE IFA FRAMEWORK

3.3.1 The proposed commissioning approach beyond August 2015 is to develop a new framework agreement for independent foster agencies. This will be for a term of three years, with the option of a one-year extension.

3.3.2 The key principles of the Framework are included below:

- the ability to appropriately match children to high quality placements based on a strong/robust assessment of need;
- increased personalisation for placements as opposed to placing within a category of need;
- maintaining the ability to identify and provide suitable placements in an emergency situation;
- maintaining placement choice with assurance that we are matching on the best provision rather than purely price;
- transparency of placement offer;
- evidencing that placements are improving outcomes, reducing risk and/or level of need;
- Avoiding larger providers monopolising the market;
- encouraging market competition as a means of securing better value for money
- improved performance management information including tracking/monitoring and auditing for example price/quality/offer comparison.

Overview of the Framework

3.3.3 An overview of the key features of the framework are outlined below:

- One framework with three lots:
 - **Lot 1 - Standard placements**
It is the expectation that all children who require an IFA placement will be placed in this lot.
 - **Lot 2 - Specialist placements**
Examples of specialist placements are parent and child foster placements (to form part of an assessment of parenting capacity as directed by court) and placements for children with profound disabilities.
 - **Lot 3 - Emergency placements**
Emergency placements are defined as when the local authority have had little or no involvement with a child prior to removing the child to ensure its immediate protection. In these cases children will be placed in this category for a period of up to 2 weeks to allow for further information gathering and assessment of need. It is envisaged that the majority of children placed under this category will move to Lot 1 after the two-week period.

Each lot category will award to a capped number of providers

- Providers on the framework will be required to be able to offer placements under all 3 lots to ensure placement stability – only the rate will change to reflect the change in support offered in each lot
- Additional funding for specific needs would be negotiated via mini competition on an individual case by case basis when needed.
- Ability for the framework to be refreshed and new providers invited to join.
- Removal of providers if their take up of placements does not meet an agreed level.
- Emergency (term to be defined) placement rates will be time limited to enable the completion of the social worker assessment following which the rate will convert to either Lot 1 or Lot 2 (negotiated according to need). The placement will remain with the same provider, only the cost of the placement will change to reflect the needs of the placement, unless (in rare circumstances) the outcome of the assessment indicates a specific need for a change in placement

3.3.4 It is anticipated that the new IFA framework will be more cost effective by simplifying the banding of the placements and moving to a standard rate where all placements are made with exception of specific groups where there is an additional / specialist need. Benchmarking of prices has been undertaken which has identified an opportunity to reduce costs.

3.3.5 All placements will be made on the new framework except in rare circumstances where there are particular needs that cannot be met by providers on the framework.

3.4 **PROCUREMENT PROCESS**

3.4.1 The tenders will be returned electronically via the e-tendering portal. An evaluation panel will be established to assess each submission and will be evaluated in accordance with the Tenders and Contracts Regulation and Corporate Evaluation Guidance to ensure probity, value for money and that the most economically advantageous providers are chosen for the framework.

3.4.2 Specifications are being developed and will form the basis for competitive open tender. The specification is focused around and delivery will be measured against the provider's ability to achieve positive outcomes for Looked After Children and in Lot 2 (Specialist Placement) to evidence successful impact of additional support in reducing risk and need thereby reducing associated additional costs.

3.4.3 The maximum number of providers required in each category will be specified in the tender. It will be important to ensure that the Framework provides

sufficient capacity to meet the Council's needs.

- 3.4.4 Social value selection criteria will be included in the tender documentation on the basis of the Council's priorities, in particular the involvement of SMEs within the bids, the use of volunteers, providing expertise to third sector organisations and arranging fundraising events for charitable purposes.
- 3.4.5 Under the single-stage 'Open' procurement process tenderers will be required to submit responses to the usual suite of questions relating to matters such as company and financial information, insurance, equalities, health and safety, safeguarding, environment and so on. These responses will be evaluated on a pass/fail basis to determine if the tenders should be given further consideration. Those tenders that pass the initial evaluation will then be subject to a further qualitative evaluation of their ability to meet the Council's service requirements. References offered as part of their tender response will be taken up by the Panel. This will be to confirm detail of the provider having met key requirements of that referees service specification with particular regard to training standards, safety, safeguarding etc.
- 3.4.6 It is proposed for a weighting 60% quality 40% price to be applied to the evaluation. This approach is based on the rationale that once providers are through the quality threshold at tender stage, the subsequent call-off process would have a greater weighting to price. There will be two call-off processes: standard placements will involve calling off by best tendered price and for specialist prices by mini-competition which involves a competitive process within the relevant lot – either by price or by quality and price.
- 3.4.7 Potential bidders will be required to ensure all staff employed are paid in the delivery of the services to Croydon, at least in line with the London Living Wage.

3.5 **PROCUREMENT TIMETABLE**

- 3.5.1 Assuming agreement of the Procurement Strategy, it is intended that the tender would be advertised on 17th March 2014 with a closing date of 7th April 2015.
- 3.5.2 It is intended that the invitation to tender will be advertised on the Croydon Council procurement portal and OJEU and Contracts Finder.
- 3.5.3 As required by EU procurement regulations, the invitation to tender will explain how tenders will be evaluated and scored. An Evaluation Panel will be appointed to carry out the tender evaluation.
- 3.5.4 The tender evaluation will be completed by the 18th June 2015 and a request for approval to award submitted to Cabinet thereafter. It would be the intention to complete the agreed appointments to the framework at the earliest opportunity to enable the Framework to commence.

4 DURATION AND VALUE OF THE FRAMEWORK AGREEMENT

- 4.1 It is intended that appointments to the Framework Agreement should be for a term of 3 years with a 1 year extension. This is the maximum period normally permissible under public procurement regulations but it is sufficient to enable a close and continuing relationship to be established with providers over the period.
- 4.2 The estimated value of call-off contracts from the Framework over 4 years is up to £69.9m.

5 CONTRACT MANAGEMENT AND COMPLIANCE ARRANGEMENTS

- 5.1 It is vital that IFA providers operate in strict compliance with the Service Specification and the terms and conditions of the call-off contracts, given the nature of the service and the needs of its users.
- 5.2 Funding for a contract manager has been approved to oversee this framework as well as the Semi Independent Accommodation Framework and the Recruitment and Assessment of foster carers contract. The prime purpose of this role is to ensure the contracts are effectively mobilised, that appropriate performance management, commercial process management (including risk management), supplier relationship management and governance is in place and applied over the life of the contract.
- 5.3 Contract management and compliance arrangements will be specified in the Framework Agreement and call-off contracts and will include compliance audits at providers' premises, quarterly contract review meetings, intermediate ad hoc meetings as required, and service user satisfaction surveys.
- 5.4 The terms and conditions of the contract will specify the actions that will be taken by the Council and by the providers in the event of non-compliance by the provider. They will also specify in what circumstances a contractual default may be recorded against the provider and the sanctions available to the Council in the event of non-compliance including, ultimately, termination of call-off contracts and/or termination of participation in the Framework Agreement.

6 CONSULTATION

- 6.1 In September 2014 a Provider Event was held with existing providers on the framework. At this event providers were given the opportunity to contribute to solutions for the Croydon Challenge and the design of the new framework. The key points from providers were:
- Improved communication: build commissioner/provider relationships, discuss and resolve issues, placement feedback to develop provision
 - Reduce provider overhead costs such as providing free training
 - More tailored nuanced banding, bespoke purchasing
 - Increase standard placement price will result in less use of complex placements

7 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 7.1 It is anticipated that the total spend on the framework for the four year period will be £69.9m. Of this, £11.8m will be on the placement of indigenous children, and the remaining £58.1m which will be paid through the UKBA grant subsidy will be on UASC placements, and funded from the grant received from the UKBA for UASC.

Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2015/16 £'000	2016/17 £'000	2017/18 £'000	2018/19 £'000
Revenue				
Expenditure				
Local	£3.7m	£3.1m	£2.5m	£2.5m
UASC	£10.8m	£13m	£15.6m	£18.7m
Income				
UKBA grant	(£10.8m)	(£13m)	(£15.6m)	(£18.7m)
Net expenditure	£3.7m	£3.1m	£2.5m	£2.5m

7.3 The effect of the decision

This decision will allow the procurement of a framework agreement with a number of service providers to deliver the Council's requirements for Independent Foster Care services with a total value of £69.9m. The budget for the service in 2015/16 is just over £3.4m therefore if fully utilised there is a cost pressure of £300,000 in the first year of the framework. This will still represent a cost saving against current unit costs.

7.4 Risks

There is a risk that the assumptions the model has been based on do not come to fruition; it may not be possible to achieve the weekly rates for local standard placements as predicted; there may be continued increase in demand and there may be a higher demand than expected for additional support. If these assumptions are not achieved further work will need to be undertaken to drive down both costs and demand for the service.

7.5 Options

The service has considered the option of a Dynamic Purchasing system; and in the medium term this is seen as an option the Council would like to consider. This will however require time to implement and will need to be considered as a wider model for service delivery in the wider Peoples Department

This proposal to develop a new framework agreement is considered to be the optimum approach in the current circumstances.

7.6 Future savings/efficiencies

The procurement strategy detailed in this report which is to deliver a single framework for all independent fostering provision, is expecting to generate savings of up to 10%.

Approved by: Lisa Taylor – Head of Finance and Deputy S151 Officer

8. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

The Council Solicitor comments that the procurement process as proposed in this report would meet the requirements of the Council's Tenders and Contracts Regulations and the statutory duty to demonstrate best value under the Local Government Act 1999

Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor & Monitoring Officer

9. HUMAN RESOURCES IMPACT

- 9.1 This paper makes recommendations involving changing service providers which may invoke the effects of the Transfer of Undertakings (Protection of Employment) 2006 Legislation. However, where the activities of the new service are “fundamentally not the same”, TUPE may not apply, as provided for by the 2014 amendments to the Transfer of Undertakings (Protection of Employment) 2006 Legislation. The application of TUPE or otherwise would be determined between the service providers.

Nevertheless, this would remain a change of service provision for which the Council is the client; on that basis, the role of the Council would usually extend no further than facilitating the process. There is no other substantial Human Resource impact for LBC staff.

(Approved by: Deborah Calliste, HR Business Partner, on behalf of the Director of Human Resources)

10. EQUALITIES IMPACT

- 10.1 An Equality Analysis has been undertaken and concluded that there are no significant impacts on any protected groups that would result in a change to the commissioning of an Independent Fostering Agency Framework.

11. ENVIRONMENTAL IMPACT

- 11.1 All tenderers will be asked to describe the measures they have in place to minimise the impact of their business on the environment.

12. CRIME AND DISORDER REDUCTION IMPACT

- 12.1 There are no particular crime and disorder reduction impact issues

13. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 13.1 The Council current contracted arrangements expire in August 2015. The development of a new framework is likely to be more cost effective and therefore there is an appetite to transfer to a new framework at the earliest opportunity.

14. OPTIONS CONSIDERED AND REJECTED

- 14.1 See 7.5

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BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

None