

COMMISSIONING AND PROCUREMENT SUB-COMMITTEE 16 September 2015

Subject:	East Midlands Regional Provider Framework for Looked After Children placed in Independent Foster Care and Residential Care.		
Corporate Director(s)/ Director(s):	Katy Ball, Director of Procurement and Children's Commissioning Candida Brudenell, Strategic Director of Early Intervention		
Portfolio Holder(s):	Councillor David Mellen, Portfolio Holder for Children's Services		
Report author and contact details:	Anne Partington, Service Manager, Placements Service 0115 8764722 / anne.partington@nottinghamcity.gov.uk		
Key Decision	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
			<input type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Total value of the decision: £37,000 (based on 2014 / 15)			
Wards affected: All	Date of consultation with Portfolio Holder(s):		
Relevant Council Plan Strategic Priority:			
Cutting unemployment by a quarter			<input type="checkbox"/>
Cut crime and anti-social behaviour			<input type="checkbox"/>
Ensure more school leavers get a job, training or further education than any other City			<input type="checkbox"/>
Your neighbourhood as clean as the City Centre			<input type="checkbox"/>
Help keep your energy bills down			<input type="checkbox"/>
Good access to public transport			<input type="checkbox"/>
Nottingham has a good mix of housing			<input type="checkbox"/>
Nottingham is a good place to do business, invest and create jobs			<input type="checkbox"/>
Nottingham offers a wide range of leisure activities, parks and sporting events			<input type="checkbox"/>
Support early intervention activities			<input type="checkbox"/>
Deliver effective, value for money services to our citizens			<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
The East Midlands Regional Provider Framework for Looked After Children placed in Independent Foster Care and Residential Care, was implemented in April 2011 and has been extended to 31.12.15. Nottingham City Council entered into a formal agreement as part of this framework, along with 5 other local authorities in the region and currently uses it to commission placements with external agencies for Looked After Children. The framework has been under review throughout 2015, with the aim of re publishing it in February 2016 with all 9 nine Local Authorities in the region being committed in principle to the agreement.			
Exempt information:			
The appendix to this report (Analysis 2015) is exempt under paragraph 3 of section 12A to the Local Government Act 1972, as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information, because the information is sensitive to other local authorities financial commitments to looked after children.			
Recommendation(s):			
That the Commissioning and Procurement Sub-Committee supports Nottingham City Council committing to the new East Midlands Regional Children's Framework Agreement, with the following caveats in place:			
<ul style="list-style-type: none"> • A minimum of 6 local authorities also confirm their commitment • The process is developed to encourage providers to tender on best price and quality to 			

ensure the removal of the tiers doesn't result in a preferred provider list with no distinction between the quality and cost of provision

- The tendering and evaluation process is robust enough to ensure that those providers who are placed on the framework have passed rigorous scrutiny on their quality and cost.

That the Commissioning and Procurement Sub-Committee agree the funding of £37k annually with an additional £10K for 2015 / 16 for development costs as Nottingham's share of the Framework cost.

1 REASONS FOR RECOMMENDATIONS

- 1.1 The current East Midlands Regional Provider Framework for Looked After Children placed in Independent Foster Care and Residential Care has provided a structure for the commissioning of external placements for Looked After Children in Nottingham City since April 2011. This has supported the Placements Service in sourcing appropriate placements, taking into account, quality, price, location and children's individual needs. The Framework has driven reduced costs for Nottingham and enabled a platform to share information about the quality of providers.
- 1.2 The framework agreement has been developed throughout the review process to enable all local authorities within the region to be engaged, which increases the scope of the framework and the influence on the external market, but has also led to some fundamental changes in the specification. The local authority is keen to remain engaged but requires additional assurance in relation to the evaluation of tenders and the commitment of other local authorities.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 As of the 11th August 2015, there were 589 children in the care of the local authority. 219 of these children were placed in internal residential or fostering placements and 372 were placed with external providers of fostering, residential, semi-independent or other providers. The Placements Service is responsible for commissioning the external placements, managing the contracts with providers and providing assurance on the quality of provision.
- 2.2 The data at Appendix 1 provides information on Nottingham City's use of the East Midlands Regional Provider Framework for Looked After Children, compared to other local authorities since its implementation in April 2011.
- 2.3 As a summary, over the 4 year period, Nottingham City made a total of 1,388 placements through the framework and 111 placements off framework. During 2014 / 15, 482 placements were made on the framework at a cost of £16,719,750 and Nottingham City was responsible for 25% of the total foster placements made through the framework and 33% of residential. There is evidence that the average weekly cost of a placement is cheaper on framework, as detailed below.

	On Framework		Off Framework	
	Fostering	Residential	Fostering	Residential
Number of placements made	384	98	9	37
Average Cost per week (includes core, enhanced and	£950	£3,433	£1305	£3,622

complex)				
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- 2.4 Northamptonshire County Council manage the framework and the cost of this is shared between the local authorities who are part of the consortium, based on the amount of placements made. In 2015 / 16 the cost to Nottingham City was £36, 975.34, 26% of the total cost of £140, 000.
- 2.5 Nottingham City Council is likely to remain a significant user of the East Midlands Regional Provider Framework for Looked After Children and has been fully involved in the review and development of the framework. Significant changes include:
- The framework will run for 4 years, but will be opened on an annual basis to allow providers to join
 - The framework allows for both mini competition and call off systems to operate for commissioning individual placement and introduces the possibility of commissioning block contract beds through mini competition
 - Removal of the tiering of providers, providers will be placed on the framework in ranked order if they pass the qualification and awards processes.
 - Removal of the levels of service provision (core, enhance & complex) in favour of a standard price, with additional services provided / required being offered on a menu of options.
 - Specialist provision will be commissioned based of Ofsted registration criteria (e.g. Autistic Spectrum Condition with challenging behaviours; Learning Disability; Complex Emotional & Behavioural Difficulties; Complex Health Needs).
 - Removal of complex discounts in favour of managing down the cost and minimising complex administration systems
 - Improvements in the collation of performance data
- 2.6 All 9 local authorities in the region have been involved in the development of the framework and have made indicative commitment to their ongoing use of following implementation from 01.02.16.
- 2.7 The framework was published for tender on 24.08.15 with a return deadline of 02.10.15 and Nottingham City Council are committing resources to the evaluation process throughout October and November 2015 to ensure this process is robust.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Without the East Midlands Regional Provider Framework, Nottingham City Council would need to invest resources in developing a local framework for residential and fostering providers to ensure robust management of the quality and cost of provision being commissioned. Our influence, particularly in relation to the cost of placements would be minimised and there would be a reduction in the infrastructure of support providing by working as a consortia with other local authorities.

4 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

5 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND INCLUDING LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

- 5.1 **Procurement Comment** - The Procurement Team has been consulted and procurement advice has been provided in the development of these proposals. The proposal to commit to the joint regional framework as recommended is supported from a procurement perspective. A robust tendering and evaluation process should ensure that those providers who are placed on the framework have passed rigorous scrutiny on their quality and cost. The Procurement Team will support the tender process as required.
- 5.1 **Legal Comment** - The proposed legal framework is an innovative solution to the procurement of foster parents (through the auspices of fostering agencies) and for appropriate accommodation at children's' homes. It is designed to enable providers to join the framework annually during the life of the framework; whilst also using techniques for calling off individual specific contracts as would be found in an orthodox framework arrangement. It is, in technical terms, a blend of a dynamic purchasing system and a framework arrangement. It is the ability of providers to join annually during the four year life of the framework where the provider satisfies a minimum threshold as to quality and price that is the unusual feature and the mechanism to do so that is innovative.
- 5.2 The framework makes use of the greater latitude afforded to social (and other services) under article 76 Public Contracts Regulations 2015 (known as the Light Touch Regime). Procurements under this regime are still required to comply with the principles of EU procurement law. It is considered that this innovative approach is likely to survive a challenge but almost inevitably innovation can invite criticism.
- 5.3 The legal documentation was produced by shared legal service of Cambridgeshire and Northamptonshire (LGSS Law Ltd) under pressure to fit in with a tight timetable. There are a number of matters that would welcome correction. They appear to be mainly to be ones where there is potential conflict between the wording of the framework agreement and that of the standard call-off contracts or a failure to follow through a matter from one document to the other. They are not substantial and do not appear to affect the commerciality of the agreements. Thus, they should be able to be corrected during the procurement process and a challenge successfully resisted provided due attention is paid to procedural fairness and transparency by Northants procurement team.

6 SOCIAL VALUE CONSIDERATIONS

- 6.1 Consideration has been given to how the services being commissioned could improve the economic, social and environmental well-being in Nottingham. By virtue of the type of services being commissioned, social improvements are expected to be delivered, particularly for the children and young people receiving the services, but also for the wider economic well-being of Nottingham.
- 6.2 It is anticipated that improved outcomes for Nottingham's Looked After population will be achieved by enabling an increased number of children and young people to remain living locally in high quality care provision.
- 6.3 There is potential to create increased employment opportunities for local citizens due to residential care provision either being established or expanding in the Greater Nottinghamshire area.

6.4 Considerations to support compliance with the Public Services (Social Value) Act 2012, will be embedded throughout the procurement process.

7 REGARD TO THE NHS CONSTITUTION

7.1 N/A

8 EQUALITY IMPACT ASSESSMENT (EIA)

Has the equality impact been assessed?

- (a) not needed (report does not contain proposals for new or changing policies, services or functions, financial decisions or decisions about implementation of policies development outside the Council)
- (b) No
- (c) Yes – Equality Impact Assessment attached

Due regard should be given to the equality implications identified in any attached EIA.

9 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

Regional Framework Analysis 2015

10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

11 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT

Jo Pettifor – Procurement Team Manager, Nottingham City Council
Brian Stewart – Solicitor, Nottingham City Council.
Katy Ball – Director Procurement & Children’s Commissioning