
Decision Maker: EXECUTIVE

For Pre-Decision Scrutiny at the Children, Education and Families PDS Committee on 4 October 2022

Date: 6 October 2022

Decision Type: Non-Urgent Executive Key

Title: CONTRACT FOR DYNAMIC PURCHASING SYSTEM FOR EDUCATION AND CHILDREN SERVICES

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Chief Officer: Richard Baldwin, Director of Children, Education and Families

Ward: All Wards

1. Reason for report

- 1.1 The Council currently holds a contract with ADAM for the delivery of a Dynamic Purchasing System (DPS) for the procurement of supply teachers, teaching assistants, tutors, and other services to Education and Children's Services.
- 1.2 This contract was extended in March 2022 at an annual value of £20k. This extension is due to end on 2nd March 2023. This report sets out the commissioning intentions.
- 1.3 This report seeks authorisation to commission ADAM through calling off of the g-cloud framework at a maximum cost of £25k per year for a total of 4 years with an initial term of 2 years followed by two extensions of 12 months each. The DPS is likely to procure services to the total of around £700k per annum. This brings the total expenditure going through the system for the duration of contract as £2.9M.

2 RECOMMENDATION(S)

- 2.1 Executive is recommended to approve the procurement strategy outlined in this report to award a new contract to ADAM for them to run and manage DPS for the Home and Tuition Service. This would be via a direct award calling off of the g-cloud framework.

- 2.2 It is proposed that the Service will have an estimated annual value of £25k **p.a.** for the DPS system and a projected total of £700k of services being purchased through the system per annum. the approximate full life value of the service would be **£2.9M**. The new contract would commence on **2nd March 2023** and terminate on **1st March 2027**
- 2.3 In addition, Executive is recommended to delegate authority to the Chief Officer for the authorisation of the two 12-month extension options.

Impact on Vulnerable Adults and Children

1. Summary of Impact: There is no direct impact on vulnerable young people. The contract supports the provision of locum staff to assist the hiring and payment of these staff who will work to strengthen the educational attainment of children in care.
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Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Children and Young People Excellent Council:
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Financial

1. Cost of proposal: £25k per annum contract £700k per annum resultant spend :
 2. Ongoing costs: As above
 3. Budget head/performance centre: R14303, R14338 and R11056
 4. Total current budget for this head: £25k for the contract plus funding for the tutoring
 5. Source of funding: Core budgets/DSG
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Personnel

1. Number of staff (current and additional): This will be variable dependent on demand and only in term time.
 2. If from existing staff resources, number of staff hours: This method of accessing locum staff on "when required" basis has successfully been used for a number of years.
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Applicable: Executive Decision
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Procurement

1. Summary of Procurement Implications: There are no procurement implications. The proposal has been shared and discussed with our procurement team who support the proposed way forward.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The beneficiaries from the contract will be vulnerable young people who cannot access education at school due to significant/long-standing illness, or who are temporarily out of school due to behaviour problems.
 2. In any one year between 70-100 young people access this type of support.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: The PDS will seek the views of Councillors in relation to this issue.

3. COMMENTARY

- 3.1 The Council holds a contract with ADAM for the delivery of a Dynamic Purchasing System (DPS) for the procurement of supply teachers, teaching assistants, tutors, and other services to Education and Children's Services. This includes home and hospital education provision and tuition for Children Looked After.
- 3.2 The DPS allows services to meet their agency or temporary staffing needs in a compliant manner via procurement through the DPS system. Agencies and providers sign up to the DPS system and are pre-quality assured. Services submit their requirements on an as needed basis through the DPS and providers bid for the work for each requirement.
- 3.3 Education and Children's Social Care Services have an ongoing need to procure supply teachers, tutors, and other teaching staff, primarily for the Home & Hospital Tuition Service and the Children Looked After tuition service.
- 3.4 The DPS allows services to meet this requirement in a compliant way, ensuring suitable competition is undertaken through the DPS for every individual requirement.
- 3.5 Home and Hospital Provision and the Virtual School are currently working together to look at a proposal to bring some of this work in house over the next few years. If this plan is successful we will still need the DPS system moving forward, however the amount of procurement that flows through it may reduce.

4. DESCRIPTION OF SERVICE AND SUMMARY OF THE BUSINESS CASE

- 4.1 The Virtual School have a statutory duty to promote the education of children who we look after. As part of this duty providing one to one tuition to help them to catch up is an important part of this statutory work. In addition there are times when children are out of school temporarily or without a school place due to placement moves or other reasons. In this case one to one tuition needs to be put in place. In the Home and Hospital Service the statutory duty applies to children with a medical need who are unable to attend school. Education provision must be put in place and sometimes a one to one tutor is the best way to do this.
- 4.2 We currently have around 330 Children Looked After. Usually somewhere between 70 and a 100 young people in any one year would benefit from this service. Because it is based on individual need it is unpredictable. However, this will not affect the costing of the licence fee for the DPS and there is no commitment through the current contract to purchase a certain number of hours of tuition. In Home and Hospital Tuition there are 84 young people.
- 4.3 The current DPS for the procurement of supply teachers was established in March 2020 at cost of £20k per annum. This is the licence fee for the DPS and not the actual money passing through the system.
- 4.4 Performance of the DPS is generally good. A review of the system has taken place and issues identified. We have worked with ADAM to address these issues. However these improvements have only just taken place and it will take a period of monitoring to ensure that these are working well for us. The proposed procurement will provide a good opportunity to test the market to see if other providers can meet the needs better.

Service Profile / Data Analysis

4.5 The cost of the current DPS is £20k per annum and this covers the licence fee. The actual money passing through the DPS can be seen below, but the contract does not include this amount of money and any DPS system would work in the same way – tuition companies would propose the same price whichever DPS system we use:

4.6

Cost Centre	Total Cost 2020/21	Usage by %	Total Cost 2021-22	Usage by %
Home and Hospital - 121565	394,807	53%	423,610	67%
SEN - 136598	55,743	8%	19,933	3%
CSC - 808180	285,552	39%	185,296	30%
Total Cost	736,102	100%	628,839	100%

4.7 As can be seen from the table above the DPS is well used with over £629k passing through the system so far this year. The DPS is currently used equally by Education and Children’s Social Care. There is the potential that this will reduce over the next few years with a proposal that we take some of the work in-house. However, there will be at least an estimated core of £200,000 flowing through the system even in that eventuality and so a DPS system of some sort will continue to be required.

4.8 The current DPS system has had its limitations but some of these have been worked through with ADAM, the current provider. We have been able to identify further improvements to allow better quality assurance and the service specification will reflect these needs.

Commissioning options

4.9 In order to establish the best direction of travel for this contract various other commissioning options were considered and investigated:

a) **Bring the service in-house.** This option has many benefits, allowing for greater quality through quality assurance and through training staff. However, it is never going to be a full solution due to the children we have placed at distance where spot purchasing will always be required from local services. Therefore we would always need the services of a further procurement mechanism.

b) **Carry out a competitive tender and award to one provider for all or the majority of the tutoring.** This option would involve not creating a DPS or a framework but instead having just the one provider to meet the majority of the service needs. This is not a feasible option as one provider cannot meet all the needs of the service due to the wide variant of services needed and the locations.

In addition we met with our current most used provider “Supply and Demand” who provide around 70% of our services to find out whether they could meet all our needs in the areas and subjects and provide for all of our children’s needs and they stated they could not as they only operate in London and the South East and also cannot meet the needs of our most challenging children. We also asked whether they would be able to offer a preferential rate if they were the only provider and they were clear they could not.

c) **Create a Framework.** This would create a list of providers to be able to utilise just like a DPS but would need to be managed internally in its entirety including the invoicing. There is currently no capacity within the service to manage such a task. We would need to employ a full time member of staff to manage this as it would be time consuming to do the spot commissioning, plus invoicing and record keeping, which is currently managed by the DPS. With oncosts this would be around £30,000, higher than the annual cost of the DPS.

d) **Use the Tower Hamlets DPS system which is already in existence.** The London Borough of Tower Hamlets have created their own DPS for home tutoring which is open to other Local Authorities to join. The costs of joining and using this system is a one off payment of £500 and then they take a 0.5% fee off of each placement made for the running costs. Assuming £700k of spend, this would work out at £3,500 per year. This on the face of it seems much cheaper than using ADAM, except with this system they only provide the commissioning system and do not provide any monitoring, reporting, or invoicing service. This would mean that the two services would need to employ a full time member of staff to manage the system including the finance. With on costs this would be £31,879 giving a total of £35,379 per year.

e) **To re-commission ADAM through the g-cloud framework.** This is the preferred option. This system would cost £25k per annum – which is an increase of £5k on the original price from February 2020.

However, ADAM have said they would be happy to explore a £21k year one price then a 5% annual uplift in price per annum i.e. £21,000 in year 1 of the new contract with 5% annual price uplift thereafter, which would generate a saving enough to cover the costs of improvement to the system. There have been a few limitations with the system around reporting and most of these have been ironed out over the last year or so through working with their development team. There are further improvements that could be made to support with simplifying the commissioning process and further improving the ability to quality assure the services provided. ADAM would be able to make changes to the current system for a start up fee and we would allow an extra £3k for this work.

4.10 Options (a) and (b) are not viable. Options (c), (d), and (e) are roughly similar in terms of costs however option e will provide the best reporting system and wouldn't be dependent on recruiting additional staff, it can be managed within the current administrative capacity.

5 CONTRACT AWARD RECOMMENDATION

5.1 **Recommended Provider / Framework:** ADAM via the g-cloud framework

5.2 **Estimated Contract Value (annual and whole life) – £2.9M**

5.2 **Other Associated Costs** – set up costs est. £3k – although this would be off-set if a graduated price increase could be agreed

5.3 **Proposed Contract Period** – 4 years (2+1+1)

5.4 As identified in paragraph 4.9 above the recommended option is to award the contract to ADAM via a direct award calling off of the g-cloud framework.

5.5 The g-cloud framework is a Government run initiative where computer based solutions are delivered. The g-cloud has established framework agreements with service providers and lists those services on a publicly accessible portal known as the Digital Marketplace. Public Sector

organisations can then call off of the services listed on the Digital Marketplace without needing to go through a full tender process.

- 5.6 This option represents the best value for money and also provides the reporting and invoicing functionality which the Service requires. It doesn't require the recruitment of any further staff and the continuity and expertise will ultimately be of great benefit to our Children Looked After.

6 MARKET CONSIDERATIONS

- 6.1 There are many tutoring agencies of variable quality in the market. However, the choice of the DPS system would not affect which agencies we would use for the tuition. However, we would want any DPS system to be able to have functionality to be able to help us with quality assurance.
- 6.2 We know that tuition agencies will not be any cheaper whether we use a DPS system or not. However without a DPS system we would need a member of staff to manage a framework. The alternative DPS run by Tower Hamlets does not offer a cheaper deal for the tuition. The DPS system itself is cheaper but does not offer quality monitoring reporting or invoicing system.

7. STAKEHOLDER ENGAGEMENT

- 7.1 Tuition companies often complain of the DPS system. However consultation with other Local Authorities' Virtual Schools who use similar systems indicate that this is a frustration generally with the work that has to be put in for relatively small value Service Level Agreements where they often do not get the work. In addition there is the practice that some agencies use of undercutting other companies without actually checking whether a tutor can be provided. This leads to delay for our young people in getting a tutor in place.
- 7.2 Foster carers do not directly use the system but understandably complain if there are delays in getting the tuition in place. This though does seem to be a common problem across the sector.
- 7.3 The current system is rather clunky, but that was in the original design. We would ensure that the new specification was more straightforward and involved less administration time.

8. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 8.1 This decision has been judged to have no or a very small impact on local people and communities.
- 8.2 Marking Bromley Even Better 2021/31: Our vision is for Bromley to be; ***'a fantastic plan to live and work, where everyone can lead healthy, safe and independent lives'***. This paper contributes to enabling our ambition; 1. For children and young people to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home. We seek to 'Maintain a relentless focus on improving outcomes for Bromley's looked after children and care leavers. In order to meet the pledge the Council has made to these young people, we will continue to develop our partnerships across the Council, NHS, DWP and housing providers to: increase the choice of high quality placements; improve our education offer; help young people maintain good health and wellbeing; and increase housing and employment opportunities. This DPA systems enables the borough access to Tutors for Children Looked After.

9. POLICY CONSIDERATIONS

- 9.1 The statutory guidance outlined in section 4 is the driver for the procurement. There are no other policy considerations

10. IT AND GDPR CONSIDERATIONS

- 10.1 The Council, as part of its ongoing commitment to sustaining an evolved approach to data protection and information management, requires the following to be considered and evidenced for all contractors providing a service for or on behalf of the Council;
- Privacy By design and by default – adequate system and process controls must be ensured as part of the base design and implementation of the system
 - A Data Protection Impact Assessment to be carried out to ensure the protection of the rights and freedoms of data subjects as well as protect the councils statutory and regulatory processing obligations. The assessment must address the provider's need to evidence appropriate information security and management controls to safeguard personal and sensitive personal data
 - The provider is required to take all reasonable steps to assist the Council in complying with obligations regarding the rights of the Data subject – any exercise of the rights of the data subject must be actioned within 30 days where legally obliged to comply.
 - All systems hosted by the provider or their subcontractors must have adequate information security and management tools and processes in place.
 - Providers must be able to evidence they have necessary GDPR compliance including, but not limited to; policies, training, register of processing activities, and the appointment of a data protection officer where required.
 - Contractually SLAs must be agreed to for breach notification and reporting
 - Data Sovereignty – providers that use hosted or cloud-based services must ensure they are in UK Data Centres
 - Adequate Disaster recovery agreements must be in place to ensure the service reliant on the application are brought back on line in a reasonable timescale.
 - Exit strategy: explicit determination of what happens to the information collected and stored by providers after the contract finishes must be identified, documented and actioned as appropriate.
- 10.2 Any project to implement the system must engage ISD and BT by raising a CCN in a timely manner to ensure sufficient time to manage network changes and integrations with existing applications and infrastructure. A representative from ISD should be appointed to the project board to provide guidance on the process and feedback to the ISD Team and BT.

11. PROCUREMENT RULES

- 11.1 This report seeks to make a direct award of the DPS via the g-cloud framework to ADAM HTT Ltd. The contract will commence on the 3rd March 2023 for the period of 2+1+1 years. This cost of this contract is outlined in 5.2.
- 11.2 This process has been carried out within the guidelines of the framework.
- 11.3 The Council's Contract Procedure Rules require the following for authorising an award via a framework for a contract of this value; the Approval of Executive is required due to the spend as outlined in 5.2 on this DPS following Agreement by the Chief Officer, the Assistant Director

Governance & Contracts, the Director of Corporate Services, and the Director of Finance must be obtained.

- 11.4 In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 11.5 As the contract value is over £25k a Contracts Finder Award notice will need to be published. A FATs notice will be published as this contract is above threshold.
- 11.6 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

12. FINANCIAL CONSIDERATIONS

- 12.1 The proposed contract for the DPS system is estimated at £25k per annum, and £100k over the whole life including the extensions
- 12.2 This cost can be contained within existing budgets, the cost of which will be shared amongst the users in proportion to their use.
- 12.3 Although the contract itself is only £25k per annum, as detailed in paragraph 4.6 above, the DPS system leads to significant spend in tutors across CEF estimated to be £700k+ per annum.

13. PERSONNEL CONSIDERATIONS

- 13.1 The contract is the usage of DPS and therefore there is no impact on staff.

14. LEGAL CONSIDERATIONS

- 14.1 This report demonstrates a compliant procurement.
- 14.2 Crown Commercial Services publishes a standard call off contract for G-Cloud 12 framework. Officers may wish to consult with Legal Services if they require any advice on the relevant terms and conditions.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	None.