

Open Report on behalf of Debbie Barnes, Assistant Director Children's Services

Report to:	Councillor Patricia Bradwell
Date:	25 August 2011
Subject:	Approval to enter into a contract for KS4 (Solutions 4) Alternative Provision
Decision Reference:	01943
Key decision?	No

Summary:

Following a tender process during which the Providers did not meet the benchmark to win a Framework Contract, this report seeks to obtain approval to enter into a contract with two Providers for Services that deliver Key Stage 4 Alternative Provision to existing Year 10 pupils on the Solutions 4 Pupil Referral Unit (PRU) register currently in placement with the Providers, for the period of 1 academic year from 5 September 2011 to 19 July 2012, plus 5 mandatory training days.

This will enable an Action Plan (Appendix A) to be implemented to ensure continuity of the educational provision of the existing cohort of Year 10 pupils to support them to achieve their optimum academic aspirations of 5 A* - C GCSE equivalents and above through the implementation of robust quality assurance.

Although the costs for these placements has increased slightly, the overall effect from the tender process has been to reduce overall costs whilst at the same time increase aspirations, attainments and outcomes.

Recommendation(s):

The Executive Councillor is asked to consider the report and approve the recommendation to:

1. enter into two contracts with the Croft Centre and Oham Lakes for the provision of 13 & 2 placements respectively under block payment arrangements with an improvement plan to deliver Alternative Provision for the Solutions 4 PRU as outlined in Option 1A from 5 September 2011 to 19 July 2012 plus 5 training days and ;
2. authorise the Director of Children's Services to take all decisions necessary to implement the above contracts.

Alternatives Considered:

1. Option 1 A - To enter into direct negotiation with Croft Centre & Oham Lakes for contracts to ensure the continuity of Alternative Provision to a cohort of 13 & 2 Year 10 pupils respectively under a block purchase arrangement to support the delivery of the Foundation Learning Programme working to the new Terms and Conditions of the Framework Agreement and the new Service Specification. The contract will be for the academic year 5 September 2011 - 19 July 2012 plus 5 mandatory training days at a cost of £117,000.

Advantages

- i) To ensure continuity of education for the pupils placed at Croft Centre and Oham Lakes to enable them to reach the aspirations of 5 A* - C GCSEs or higher, of which the majority are on track to achieve with these Providers.
- ii) Ensure implementation of the Action Plan (Appendix A) to ensure robust quality assurance and development of the Provider's systems to the required standard that reflects the educational provision being delivered.
- iii) Undertake a review of the contractual options for the academic year 2012-2013
- iv) Ensure the Council meets its statutory function to provide education for these pupils.
- v) Costs are the same as the other providers delivering these services following the tender process.

Disadvantages

The Providers have not met the standards set out in the Alternative Provision tender, however the academic achievements of the existing pupil cohort at Croft Centre and Oham Lakes to date reflect that the Providers have the ability to deliver the educational offer for these pupils to achieve their academic aspirations and the implementation of an Action Plan will mitigate the need to disrupt these pupils' education during their final Key Stage 4 year.

2. Option 2 - Not to enter into a contract.

Advantages

- i) Non award would reflect the outcome of the tender
- ii) Placement costs would remain the same as Option 1.

Disadvantages

- i) This would significantly disrupt the educational continuity of a cohort of pupils, the majority of whom have been in placement for Year 10 with the

providers and 8 are already on track to achieve the 5A* - C GCSEs minimum qualifications.

ii) The Providers have demonstrated the academic structure is in place to deliver the Foundation Learning Programme to these pupils, but needs support through the Action Plan to develop robust processes, procedures and quality assurance to support the academic delivery.

iii) The outcome of the tender has identified a shortfall in County wide provision and non award of this contract would lose a facility where there is an identified need for the existing pupil cohort.

iv) Increase in staff time facilitating the re-placement of pupils, and potential increase in the transport costs to other providers.

Reasons for Recommendation:

Agreement to award the contracts for this academic year 2011/2012 is in the interests of the 15 pupils already in placement to enable them to achieve the highest academic aspirations possible with the minimum of disruption.

This will ensure the Council meets its statutory function to provide education for permanently excluded pupils and other defined Key Stage pupils, whilst supporting the providers through the Action Plan to develop better processes, quality assurance and procedures.

1. Background

Solutions 4 is a Pupil Referral Unit (PRU) for Key Stage 4 (KS4) pupils only, years 10 and 11 aged 14 – 16 years old. Its statutory function is to provide education for permanently excluded students, and those KS4 students who fit the following categories:

- Pupils permanently excluded from school and those receiving fixed-term exclusions of more than 6 days
- Pregnant schoolgirls and school aged mothers
- Anxious/vulnerable pupils
- School refusers, phobics and young carers
- Pupils unable to attend school because of medical reasons
- Any pupils moving into the local authority (casual admissions) who are unable to find a school place because of insufficiency of school places within the local authority
- Children who, because of entering public care or moving placement, require a change of school and are unable to access a school place
- Pupils with statements of special educational need (SEN) whose placements are not yet agreed; and pupils awaiting assessment of SEN

- Asylum seekers and refugees who have no school place

A procurement exercise has been undertaken starting in March 2011 to implement a new Service Specification for the delivery of Key Stage 4 Alternative Provision incorporating the Foundation Learning Programme and designed to meet the NI 075 the indicator for pupils to achieve the minimum 5 A*– C GCSEs. The contracting arrangements are based on a new Framework Agreement for spot purchase of placements and to include some block contracting arrangements under the Terms and Conditions of the Framework Agreement.

The tender was advertised widely through national circulations to ensure maximum exposure regarding the new Service and all ten existing providers delivering Alternative Provision under the old contracting arrangements in Lincolnshire were invited to tender. Nine of the existing providers went through the process, plus a number of new providers. The overall number of providers that have been successful in making it through onto the Framework Contract is lower than expected and it has not been possible to award all of the original block placements that were available. Negotiations are currently being finalised to award the Framework contracts and block contracts under the Terms and Conditions of the Framework Agreement to providers who successfully met the tender requirements.

The tender was conducted applying set evaluation criteria and agreed benchmarks for the evaluation of the Invitation to Tender (ITT) submissions and award of Framework Agreement contracts, and subsequent invitations to interview for those providers who had met the benchmark scores for consideration of block contracting arrangements.

The Croft Centre's and Oham Lakes' ITT submissions did not meet the benchmark to go on to the Framework Agreement. Following discussions with the Providers and the Acting Head of the Solutions 4 PRU, and meetings with the Head of Service for Additional Needs and Head of Service for Commissioning (Adult's and Children's Services) regarding the existing cohort of pupils placed at the Croft Centre and Oham Lakes, it was recommended that an Action Plan be devised based on the fact that these pupils were receiving a good standard of education and the plan would support the development of the processes, quality assurance and procedures to ensure the pupils continuity of education.

Due to revisions in the previous block contracting arrangements during 2009/2010 the Croft Centre block funding had been reduced by 50% from 40 to 20 placements due to the termination of a contract not directly related to Key Stage 4 provision that was no longer required. To ensure the Provider can continue to meet the needs of the cohort of pupils in placement and implement the Improvement Plan it has been recognised that a block payment arrangement needs to be offered for this academic year to ensure business continuity, safeguarding arrangements, and stability of pupil placements with the required number of teaching staff.

The second Provider Oham Lakes only have two pupils. No further placements will be made with this provider during this contract. Should on or either of the pupils

require a change of placement during the life of the contract, the contract fee shall be amended accordingly.

As the services to be provided under the contract are Education they are Part B services for the purposes of the Public Contracts Regulations 2006. They are therefore not subject to the full advertising requirements of the EU procurement regime.

However the Council is subject to obligations under the EU Treaty of openness transparency and non-discrimination which would normally require an advertisement unless the Council considers that the contract would not be of interest to a potential provider in another EU member state.

In this case it is not considered, due to the value and length of the interim contract that it would be of interest to such a potential Provider.

The Council's Contract Regulations would normally require competition for a contract of this value. Entering into such a contract by direct negotiation requires approval from the Executive Councillor where the value of the contract exceeds £75,000 but does not exceed £250,000.

2. Conclusion

The award of two contracts for one academic year applying the new terms and conditions contained within the Framework Agreement and Service Specification, with specific payment arrangements in place shall safeguard the continuity and quality of the educational provision for the existing pupil cohort.

There will be robust monitoring of the Action Plan and regular reports back to the Head of Service for Commissioning and the Head of Service for Additional Needs to ensure a strategy is in place with regards to review of the potential to work with the Provider regarding future contractual options post July 2012, dependent on quality outcomes.

3. Legal Comments:

The Council has the power to adopt the recommendation. The Council would not thereby be in breach of its procurement obligations for the reasons given in the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor.

4. Resource Comments:

The recommendation in this report is for one year only. It is the lowest cost option and most importantly, it will secure the most appropriate provision for these particular students. The Directorate has sufficient budget to meet these costs. The recent tendering process will in due course deliver reduced costs, improved

standards and outcomes, and therefore better value for money.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

n/a

d) Policy Proofing Actions Required

n/a

6. Appendices

These are listed below and attached at the back of the report

Appendix A	Croft Centre & Oham Lakes Action Plan
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7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Katherine Hartoch, who can be contacted on 01522 554615 or katherine.hartoch@lincolnshire.gov.uk.