



Proposal

Prepared by:

Hugh Carr, Head of Strategic Procurement, Scotland Excel

Prepared for:

Danny Gallacher, Chief Executive, Seemis Group LLP

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Purpose

SEEMiS Group LLP delivers an integrated national education management information system (MIS) for Scottish Local Government (education establishments and Headquarters) and associated supporting organisations (SQA, ScotXed etc).

Owned by its members, SEEMiS was initially established on behalf of the 12 Strathclyde Region councils. However, since 2014, SEEMiS offers a complete solution that spans all the essential requirements of an Education MIS geared to the needs of Scottish Local Authorities.

Since 2014 a challenging programme has been undertaken to review and stabilise SEEMiS's product offerings.

Whilst the products are now relatively stable it is clear that the current SEEMiS solution will become increasingly less fit for purpose over the next three to five years due to:

- The increasing inability to support the current product and the underlying obsolete software
- The inability to meet changing demands leading to users seeking alternative solutions
- A severe risk of increased maintenance resources being required to keep the product available
- The drive from the user base for more accessible and personalised digital solutions.

As the organisation pursues the delivery of a solution that will support an expanded operating model, a key enabler will be the implementation of a robust strategic sourcing model. As such, this proposal provides a high level overview of the benefits associated with partnering with Scotland Excel, with the associated outline cost model.

Procurement Route

Analysis of procurement options appears to have been undertaken already, ruling out a complete outsourcing and favouring a partnership approach. Some market research and engagement has been conducted. A key outcome of this was that a number of those consulted commented that there was significant risk in such a proposal which made it unlikely that they would consider bidding. It is also clear that there would not be a standard model for contracting for this type of arrangement and significant work would need to be done to specify the risk positions in the contract as well as deciding how to evaluate those complex financial elements during tender.

Preferred Options Appraisal

Competitive procedure with negotiation analysis

The new competitive procedure with negotiation has been suggested as a possible procedure to conduct the procurement. This may be appropriate and would certainly give some flexibility within the tender process to discuss crucial technical elements of the contract and refine tenders through several rounds of negotiation and subsequent tenders. SEEMiS have indicated that advice to date has indicated a 6 month timescale to complete this process, however, this depends on a number of factors and logistical challenges, which could represent significant risk. The following stages outline the high level plan for this type of procedure as may be applied to this requirement.

- **Preparation of the OJEU advert and the initial documents that accompany the OJEU advert**

This is key in order to be able to manage the procedure to its conclusion in a structured and compliant way. Whilst the process is designed to allow an element of flexibility, minimum requirements must be detailed at this stage and linked to the authority's needs. This would allow selection of suitable candidates to participate in the procedure. If there is the intention of reducing the number of candidates invited to participate in the initial tender it must be done at this stage in a way similar to scoring of a PQQ for a restricted procedure. If this is the intention, then those selection criteria and the criteria for reducing the number to be invited to participate must be defined carefully and included in the OJEU notice also as well as any methodology for reducing the numbers. This would also require time to evaluate and make recommendations as to who was to be subsequently invited to participate. This may require governance approvals within SEEMiS depending on individual/committee authority etc. It may be prudent to notify those not selected at this stage and manage any recourse from this process at an early stage to remove any residual risk, but specific legal advice would be required to confirm the best position in this regard. Advice would also be required around the level of detail that requires to be included in terms of contractual conditions which would need to be included at this stage and which could be left open to the negotiating process. This is crucial for setting out the scope and rules for subsequent negotiations.

Depending on the state of current documentation and whether the intention is to reduce the number of candidates, this stage of the procedure could take 2-4 months to arrive at a list of candidates to be invited to initial tender.

- **Invitation to submit initial tender documentation**

Carried out in accordance with the criteria in the contract notice. Whilst there are potentially some timescale reductions possible, the high risk and complicated nature of this procedure would suggest that at least the normal 30 days tender period was allowed. This

would need to be considered carefully as it may take organisations some time to prepare documents and obtain internal approval to make an offer. There would then be a period of tender evaluation and potential areas for negotiation identified.

It is possible to award a contract following the initial tender, but only if the contracting authority has indicated this in the contract notice. However, it is most likely that a round of negotiations would then be held to improve the content of tenders, discuss any technical/specification changes which may allow tenderers to improve their offers etc., however, crucially the minimum requirements and award criteria must not be negotiated. In this respect the CPN procedure is probably more limited than the competitive dialogue procedure. In addition to the negotiation and resubmission of tenders which can be conducted over multiple rounds leading to a final tender, the authority may reduce the number of tenderers to be involved in each subsequent round, substantially by applying the award criteria. Again, this would need to be set out fairly early in the procedure, ideally at contract notice publication and a procedure and relevant governance put in place for taking relevant exclusion decisions and informing candidates at a relevant time as per the selection discussion above to minimise risks of disruption to the process.

Depending on the number of rounds of negotiation, this stage of the process could take between 3 and 6 months

- **Submission of final offer**

The final stage is obviously submission of best and final offers (BAFO) with a period of evaluation and clarification that lead to the conclusion of the negotiation, and award of the contract. This must be based on the award criteria stated in the contract notice and must be a genuine competition (although the requirement to have three bidders to ensure competition in previous regulations is now largely removed, so two tenderers may be considered sufficient). It is also likely that there will be a complex financial model to apply in this case which may be based on life-cycle costing if complex financial proposals are made to take account of the inherent risk in the partnership for a commercial partner.

It is likely to take 1-2 months to complete the necessary procedural elements and there are likely to be considerable clarifications which need to be made and incorporated in to the contract with the successful partner in order to make a recommendation to award.

This recommendation would then be subject to SEEMiS governance processes for approval and regulatory standstill before final preparation of contract documents could be undertaken and the contract concluded successfully.

Summary and Recommendations

Whilst it is technically possible taking the minimum timescales within the regulations to construct a programme which appears to suggest 6 months as a timescale, the regulations broadly ignore time spent by the authority preparing and analysing documents and also require setting of some timescales based on the complexity of the subject matter of the contract. This coupled with likely governance arrangements, for both SEEMiS and potential partners tendering for high risk contracts suggests that a timescale of 8 – 10 months is more realistic and depends entirely on the level of negotiation required to get to BAFO stage.

In addition, some elements of the procedure depend on preceding stages e.g. if you spend more time on the initial stage and restrict the number of participants, you may have a simpler tender stage, on the other hand if you want to advertise quickly and not reduce number at qualification, you will potentially have more tenders to assess and subsequently negotiate and/or have to discount. These key procedural elements really need to be defined in strategy at least at the time of contract notice to ensure equal treatment of tenderers and a robust auditable process for a relatively new procedure.

Resource requirements & cost plan

Outline requirements most likely delivered by a procurement lead supported by a coordinator or equivalent. Based on the above summary, the exercise may last for up to 12 months, and as such the cost profile should reflect this. Outline resource and cost forecast as follows:

Procurement Lead (1xFTE):	Category Manager	c. £60,000
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Role: Provide advice on strategy and regulatory issues, design of procedure, design and drafting of contract/tender documents, manage tender/evaluation/negotiation/award processes.

Support (1xFTE):	Procurement Coordinator	c. £38,000
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Role: Administration of regulatory systems i.e. PCS, PCS-T. Administration of tender/evaluation process/queries, preparation of regulatory documents (standstill documentation etc.)

Legal support (0.2 – 0.5xFTE):	Senior Solicitor	c. £15-30,000
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Role: Essential legal advice to SXL on compliance. Potential contractual/procurement advice to SEEMiS if required. Managing formal legal processes for SXL e.g. service of notices for standstill etc.

Additional Expenses:	c. £22,000
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Outline total:	c. £135-150,000
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*Note: all sums are provisional and detailed cost breakdown will be agreed on agreement of the commission.

In addition, it is anticipated that throughout the development phase in year 2 there will be a requirement for procurement/commercial support. Requirements would be agreed as appropriate, and as such it is suggested that a nominal sum of £50,000 be allocated to this.

Dependencies/Assumptions

A significant number of assumptions have been made in developing this proposal, and as such, further detailed planning would be needed to identify and forecast relevant project management milestones. Prior to commencement of the procurement process, Scotland Excel would submit a project plan and risk matrix for review and approval.

In addition, the role that Scotland Excel would perform must be agreed at the outset in order to satisfactorily conclude responsibilities and therefore accountabilities. Legal responsibilities, and liabilities, will need to be agreed and documented prior to commencement, potentially through SEEMiS' existing associate membership SLA, or a bespoke agreement. Scotland Excel has professional indemnity insurance across the current activity delivered for member authorities. However, the provision and level of cover required will also need to be agreed prior to commencement.

The procurement route has been assumed based on the early work carried out by SEEMIS and this will need to be confirmed as the chosen procedure for the estimates above to be relevant

This proposal is based on initial discussions and will obviously require refinement in order to ensure that all of SEEMiS' requirements are addressed.