

Scotland Excel

To: Executive Sub Committee

On: 23 August 2019

**Report
by
Director Scotland Excel**

Social Care Flexible Frameworks Governance

1. Introduction and Background

The regulations relating to the procurement of social care services allow for a more flexible approach to the procurement of these services, in comparison to other goods or services, known as the 'light-touch' regime. As such, Scotland Excel has more scope to choose the procurement methodology most suited to the market whilst fundamentally adhering to the EU Treaty principles of non-discrimination, equal treatment, transparency and proportionality.

In order to best meet the needs of children, young people and adults, social care frameworks must offer a wide range of services to enable choice and as such, the frameworks must offer flexibility. Utilising the flexibility of the light touch regime, Scotland Excel has responded to this requirement by developing 'Flexible Framework Agreements' which were advertised with specially drafted contract conditions to permit the addition of new providers during the duration of the framework term. They were approved for award by the Scotland Excel Executive Sub Committee on this basis.

The Flexible Framework Agreements adopted in social care are similar in many respects to a Dynamic Purchasing System (DPS) under the ordinary procurement regulations. These have been adopted by Scotland Excel where market conditions demand namely for waste and cycling proficiency services.

As the social care Flexible Framework Agreements are established under the 'light-touch' regime these are not subject to the same restrictions as a traditional DPS such as the requirement to run a further competition before awarding a contract or the strict timescales for responding to new applicants. Instead the operation of each Flexible Framework Agreement is varied to suit the specific market requirements and ultimately the needs of those utilising the services.

Scotland Excel currently has two Flexible Framework Agreements for social care services currently in operation. They are;

- Children's Residential Care and Education Services including Short Breaks (0517) which was approved by the Scotland Excel Executive Sub Committee at its meeting held on 23 March 2018 and commenced on 1 May 2018 and;

- Social Care Agency Workers (2017) which was approved by the Scotland Excel Executive Sub Committee at its meeting held on 29 June 2018 and commenced on 1 August 2018.

2. Addition of Providers to Existing Flexible Framework Agreements

The Children's Residential Care and Education Services including Short Breaks is the first Flexible Framework Agreement to admit new providers on the basis outlined above. As detailed within the Flexible Framework Agreement, new providers may be permitted to apply to be included for the third and fourth year of operation. It is anticipated that the process of adding providers for year three will commence in September 2019.

The Flexible Framework Agreement for Social Care Agency Workers also enables the addition of new providers to ensure sufficient service coverage across all geographical regions in Scotland. Scotland Excel can seek new providers to be added to certain lots or regions as required at a frequency as determined by the requirements of the purchasing authorities.

In order to ensure equal treatment of providers applying to join any Flexible Framework Agreement and to confirm that any new provider meets the required framework standards, Scotland Excel will replicate the initial procurement procedures at the point of application for new providers. This will ensure new providers are subject to the same minimum requirements and assessment as those who applied to participate in the framework from its commencement date.

Following evaluation of offers received, it is proposed that a report detailing the recommendation to award will be submitted to the Director of Scotland Excel (or Head of Strategic Procurement in the Director's absence) for approval.

In line with the agreed governance for existing DPS arrangements, it is proposed that the Executive Sub-Committee will be updated on the addition of providers to Flexible Framework Agreements on an annual basis via incorporation to the Annual Procurement Report.

3. Recommendation Summary

The Executive Sub Committee are requested to;

1. Grant Delegation of Authority to the Director of Scotland Excel (or Head of Strategic Procurement in the Director's absence) or their delegates to approve award recommendations for any new entrants for both the Children's Residential Care and Education Services including Short Breaks (05/17) and Social Care Agency Workers (20/17) Flexible Framework Agreements; and
2. Approve Scotland Excel's proposal that the Executive Sub-Committee be updated on the addition of providers to both Flexible Framework Agreements on an annual basis via incorporation to the Annual Procurement Report.