

**Invitation to Tender for 005600 – NEPO – Education, Health and Social Care**

**ITT Part 2 - Summary instructions and details of Contract**

Item	Contract details
OJEU reference	<b>293629</b>
Contract description	<p>This bespoke flexible procurement solution is under the Social and Other Specific Services EU procurement route ('Light Touch Regime'), and will be known as the Flexible Procurement Agreement (the Contract) for the provision of placements for:</p> <p><b>A) Department for Education registered, independent special schools and colleges; day placements, weekly boarder placements and 52-week residential placements. All placements in these settings for Children and Young People Pre-16,</b></p> <p><b>B) Department for Education registered, independent special schools and colleges; day placements, weekly boarder placements and 52-week residential placements. All placements in these settings for Children and Young People Post-16,</b></p> <p><b>C) Residential Children's Homes for Children and Young People aged 0 – 18 years,</b></p> <p><b>D) Ofsted Registered Residential Short Break Services for Children and Young People 0 – 18 years.</b></p> <p>In relation to Residential Children's Homes, where applicable, Homes must evidence that they are registered with the appropriate regulatory body; for example, Ofsted, Care Quality Commission or Care Inspectorate Scotland in order to be eligible to apply to the Flexible Procurement Agreement (the Contract).</p> <p>Non-premises based Homes, such as mobile settings and Homes that operate on a letting arrangement, that prior to May 2017, were required to be registered with Ofsted and are now categorised by Ofsted as unregulated, are still eligible to apply to the Flexible Procurement Agreement (the Contract).</p>
Quantity	The current volume of placements anticipated to move onto this Flexible Procurement Agreement (the Contract) is approximately 725 in total. Outlined below is the split in relation to the 11 local authorities:



	<ul style="list-style-type: none"> <li>• Darlington – Independent Schools and Colleges = 6, Children Homes = 16, Short Breaks = 0;</li> <li>• Durham – Independent Schools and Colleges = 120, Children Homes = 17, Short Breaks = 11;</li> <li>• Gateshead – Independent Schools and Colleges = 11 Children Homes = 11, Short Breaks = 0;</li> <li>• Hartlepool – Independent Schools and Colleges = 24, Children Homes = 8, Short Breaks = 6;</li> <li>• Middlesbrough – Independent Schools and Colleges = 11, Children Homes = 25, Short Breaks = 0;</li> <li>• Newcastle – Independent Schools and Colleges = 153, Children Homes = 42, Short Breaks = 0;</li> <li>• North Tyneside – Independent Schools and Colleges = 20, Children Homes = 15, Short Breaks = 6;</li> <li>• Redcar and Cleveland – Independent Schools and Colleges = 9, Children Homes = 23, Short Breaks = 7;</li> <li>• South Tyneside – Independent Schools and Colleges = 58, Children Homes = 35, Short Breaks = 1;</li> <li>• Stockton-on-Tees – Independent Schools and Colleges = 80, Children Homes = 43, Short Breaks = 3; and</li> <li>• Sunderland – Independent Schools and Colleges = 40, Children Homes = 55, Short Breaks = 0.</li> </ul>
Scope	<p>Newcastle City Council (“the Lead Authority”) is acting as the lead authority on behalf of the North East Procurement Organisation (NEPO) and its Member Authorities, in respect of the procurement of this Flexible Procurement Agreement (the Contract) for:</p> <p>A) Pre-16 Placements in Department for Education (DfE) registered independent special Schools and Colleges for Children and Young People; day, boarding and residential placements.</p> <p>B) Post-16 Placements in Department for Education (DfE) registered independent special Schools and Colleges for Children and Young People; day, boarding and residential placements;</p>



C) Placements in Residential Children's Homes for Children and Young People aged 0 – 18 years,

D) Placements in Ofsted Registered Residential Short Break Services for Children and Young People 0 – 18 years

The twenty organisations participating in this tender are:

- Together for Children Sunderland Limited, Civic Centre, Burdon Road, Sunderland, SR2 7DN;
- Darlington Borough Council, Town Hall, Feethems, Darlington, County Durham, DL1 5QT;
- The County Council of Durham, County Hall, Durham, DH1 5UL;
- The Borough Council of Gateshead, Civic Centre, Regent Street, Gateshead, NE8 1HH;
- Hartlepool Borough Council, Victoria Road, Hartlepool, TS24 8AY;
- Middlesbrough Borough Council, Town Hall, Corporation Road, Middlesbrough, TS1 9FX;
- The Council of the City of Newcastle upon Tyne, Civic Centre, Barras Bridge, Newcastle upon Tyne, NE1 8QH;
- The Council of the Borough of North Tyneside, Quadrant, Cobalt Business Park, North Tyneside, NE27 0BY;
- Redcar and Cleveland Borough Council, Redcar and Cleveland House, Kirkleatham Street, Redcar, Yorkshire, TS10 1RT;
- The Council of the Borough of South Tyneside, Town Hall and Civic Offices, Westoe Road, South Shields, Tyne and Wear, NE33 2RL;
- Stockton-on-Tees Borough Council, Municipal Buildings, Church Road, Stockton-on-Tees, TS18 1LD; and
- South Tees Clinical Commissioning Group, North Ormesby Care Village, 11 Trinity Mews, Middlesbrough TS3 6AL;
- Hartlepool and Stockton on Tees Clinical Commissioning Group, Billingham Health Centre, Queensway, Billingham, Cleveland TS23 2LA;



	<ul style="list-style-type: none"> <li>• Darlington Clinical Commissioning Group, Chair's Office, Dr Piper House, King Street, Darlington DL3 6JL;</li> <li>• North Durham Clinical Commissioning Group, The Rivergreen Centre, Durham, County Durham DH1 5TS;</li> <li>• Durham Dales, Easington and Sedgefield Clinical Commissioning Group, Sedgefield Community Hospital, Salters Lane, Sedgefield, Stockton-on-Tees, Cleveland TS21 3EE;</li> <li>• NHS Newcastle Gateshead Alliance Clinical Commissioning Group, Goldcrest Way, Newburn Riverside (Business Park), Newcastle upon Tyne NE15 8NY;</li> <li>• North Tyneside Clinical Commissioning Group, 12 Hedley Court, North Shields, Tyne and Wear NE29 7ST;</li> <li>• South Tyneside Clinical Commissioning Group, Monkton Hall, Main Hall, Monkton Lane, Jarrow, Tyne and Wear NE32 5NN; and</li> <li>• Sunderland Clinical Commissioning Group, Pemberton House, Colima Avenue, Sunderland Enterprise Park, Sunderland, Tyne and Wear SR5 3XB.</li> </ul>
<p>Insurance requirements</p>	<ul style="list-style-type: none"> <li>• Employers Liability £10 million (in respect of any one claim)</li> <li>• Public Liability £10 million (in respect of any one claim unlimited in the aggregate) Sexual abuse and molestation should be included in Public Liability cover £10 million. This cover may also be taken out as an extension to a Professional Indemnity policy or excess layers purchased from different Insurers.</li> <li>• Professional Indemnity £5 million (in respect of any one claim)</li> <li>• Medical Malpractice Cover £1 million (in respect of any one claim)</li> <li>• Residential Personal Effects Cover (where applicable) – the Provider will ensure all Children and Young People who are placed with them are insured to a minimum of £2500 in respect of any one claim for each Child or Young Person. This insurance will cover both accidental and non-accidental damage.</li> </ul>



	<ul style="list-style-type: none"> <li>• Commercial Buildings and Contents Insurance – the Provider will ensure all their Settings are adequately insured and maintain adequate insurance. This insurance will cover both accidental and non-accidental damage.</li> <li>• Comprehensive motor vehicle insurance to include business use – the Provider and its Staff should have in place adequate cover for the operation of vehicles in transportation of Children and Young People and their visitors.</li> <li>• Sub-Contractor insurance if appropriate - the Provider shall ensure that the same levels of insurance are maintained for any sub-contracted services.</li> </ul>
<p>Period of the Flexible Procurement Agreement (the Contract)</p>	<p>The Flexible Procurement Agreement (the Contract) shall commence on 1 February 2018 and shall be for an initial 3 (three) years terminating on 31 January 2021 unless terminated earlier in accordance with the provisions of the Flexible Procurement Agreement (the Contract) or the Lead Authority notifies the Provider in writing not less than 3 months prior to 31 January 2021 of the intention to take up the first of the three twelve month options to extend or the Lead Authority notifies the Provider in writing not less than three months prior to the end of the first and second twelve month options of the intention to take up the second and the third of the three twelve month options as detailed in the Flexible Procurement Agreement (the Contract). At the end of this six year period, if the Lead Authority intends for this Flexible Procurement Agreement to continue, then the Lead Authority will notify Providers in writing not less than three months prior to the end of the last twelve month option to extend. The Lead Authority will indicate what length of time it has been extended for and when the Lead Authority will notify Providers of any further extensions.</p>
<p>Procuring Officer</p>	<p>Any queries must be addressed to Rhonda Eagle and submitted electronically through the Electronic Tendering Portal <a href="http://www.nepo.org">www.nepo.org</a> at least 4 days before the tender return date to allow the Lead Authority to respond.</p>
<p>Submission Instructions</p>	<p>Tenderers should submit one electronic copy of their Tender (compatible with Microsoft Office or Adobe PDF) via e-Tender system.</p>
<p>Tenders to be sent to:</p>	<p>E-Tendering <b>only</b> through the Electronic Tendering Portal <a href="http://www.nepo.org">www.nepo.org</a> Tenderers <b>must not</b> send Tenders by postal methods or return a Tender by e-mail to the Lead Authority.</p>
<p>Date and time for Tender return</p>	<p>As stated on the e-Tender system.</p>

**A. Timetable**

A.1 This timetable is indicative only; the Lead Authority reserve the right to change it at its discretion.

<b>Stage</b>	<b>Date(s)and time(s)</b>
Flexible Procurement Agreement (the Contract) commencement date	<b>1 February 2018</b>
Issue of Invitation to Tender (relating to the third opening)	<b>1 June 2018</b>
Submission of Tenders	<b>As stated on the e-Tender system.</b>
Evaluation of Tenders	<b>Late June 2018</b>
Tenderer clarification meetings if required	<b>June/July 2018</b>
Notification of result of evaluation	<b>July 2018</b>
Expected date of award to be appointed to the Flexible Procurement Agreement (the Contract)	<b>July 2018</b>

**B. Checklist for Tenderers**

B.1 Please note: if Tenderers do not provide all of the items in the checklist this may cause the Tender to be non-compliant and not considered.

<b>No</b>	<b>Item</b>	<b>Included in Tender?</b>
1	All information asked for in section 5 including the Tender Response Form (Schedule 2)	
2	Emergency, Out of Hours and Key Contacts (Schedule 1(8))	
3	Form of Tender including Pricing Schedule (Schedule 3)	
4	Certificate of Non-canvassing and Non-collusion (Schedule 4)	
5	Selection Questionnaire (SQ) (Schedule 5)	

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  - 1(2) Minimum Core Service Offer
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  - 1(4) Individual Placement Agreement
  - 1(5) Quality Monitoring Self-Assessment Form
  - 1(6) Quality Monitoring Self-Assessment Policies
  - 1(7) Local Authority Contact Details
  - 1(8) Emergency Placements-Out of Hours and Key Contacts
  - 1(9) Temporary and Agency Staff Usage and Monitoring Form
  - 1(10) Individual Placement Agreement Variation Form
- 2 Tender Response Form
- 3 Form of Tender including Pricing Schedule
- 4 Certificate of non-collusion and non-canvassing
- 5 Selection Questionnaire (SQ)

**E. Important notice**

- E.1 The Lead Authority have issued this Invitation to Tender (ITT) to those expressing an interest in tendering, to allow them and their professional advisers to prepare a tender for this Contract and for no other purpose.
- E.2 The Lead Authority give this ITT and any other documentation that the Lead Authority send to Tenderers for this tender process, on the basis that they remain the Lead Authority's property and Tenderers must treat the contents as confidential. If Tenderers are unable or unwilling to keep to this rule they:
- must destroy this ITT and all associated documents at once; and
  - must not keep any electronic or paper copies.
- E.3 Tenderers must not take part in any publicity activities with any part of the media about the Contract or this ITT process without getting the Lead Authority's written agreement first. This includes the Lead Authority's agreement on the format and content of any publicity.
- E.4 This ITT is made available in good faith. The Lead Authority give no warranty as to the accuracy or completeness of the information contained in it. The Lead Authority also disclaim any liability for any inaccuracy or incompleteness. The Lead Authority reserve the right to cancel the tender process at any point. The Lead Authority are not liable for any costs resulting from any cancellation of this tender process or for any other costs that Tenderers may incur by tendering for this Contract.
- E.5 Tenderers will be deemed to fully understand the processes that the Lead Authority must follow under relevant European and UK legislation, particularly The Public Contracts Regulations 2015.
- E.6 All prospective Tenderers are advised that one of the Participating Organisations may submit a tender that would be considered alongside the tender process for external bidders. The Lead Authority reserves the right to evaluate the tender response and to appoint the Participating Organisation to the Flexible Procurement Agreement (the Contract).

**1. Background**

- 1.1 Further details of our requirements under the Flexible Procurement Agreement (the Contract), and other relevant information are given in the Service Specification at **Schedule 1(1)** and the Minimum Core Service Offer at **Schedule 1(2)**.
- 1.2 If Tenderers have any questions or need any clarification, please contact the Procuring Officer as detailed below, through the Messaging Facility on the Electronic Tendering Portal.

- 1.3 The Officer responsible for this procurement exercise is **Rhonda Eagle 0191 211 4949**. **Any queries must be raised in sufficient time to allow the Lead Authority to respond no less than four days before the tender return date**. Please do this through the through the Messaging Facility on: [www.nepo.org](http://www.nepo.org)
  - 1.4 Other than the person or people identified above, no Lead Authority employee or member of the Lead Authority has the authority to give any information or make any representation (express or implied) about this ITT or any other matter about the Flexible Procurement Agreement (the Contract).
  - 1.5 Please note that our responses to any queries or clarification requests may, at the Lead Authority's discretion, be circulated to all Tenderers.
  - 1.6 The Lead Authority reserve the right to issue extra documentation at any time during the tendering process to clarify any issue or amend any aspect of the ITT. Any extra documentation that the Lead Authority may issue will form part of the ITT. Also, it will add to and/or supersede any part of the ITT to the extent indicated.
  - 1.7 Tenderers must obtain at their own expense all the information that they need for the preparation of their tender.
  - 1.8 Under this Flexible Procurement Agreement (the Contract), Tenderers must keep to the Lead Authority's policies. Tenderers are advised to satisfy themselves that they understand all of the rules of the Flexible Procurement Agreement (the Contract) before submitting their tender.
  - 1.9 The tender must be received in line with the relevant instructions no later than the time and date shown.
- 2. Tender submission requirements**
- 2.1 Tenders must be written in the English language.
  - 2.2 Tenders must give responses referring back to the numbering format as set out in section 5 of this ITT.
  - 2.3 Only one tender is allowed from each Tenderer. If a Tenderer submits more than one tender; the Lead Authority will evaluate the one with the latest time of submission and disregard the other(s).
  - 2.4 The tender (including price) should remain valid for a minimum period of 90 days.
  - 2.5 The tender must not be qualified in any way.
  - 2.6 Any signatures must be made by a person who is authorised to commit the Tenderer to the Flexible Procurement Agreement (the Contract).

- 2.7 The Tenderer's full registered business name and main office address must be given on all documents.
- 2.8 If Tenderers believe that they are unable to submit a tender through the NEPO Electronic Tendering Portal or, if help or further information is required to be able to use the e-Tendering system, then please contact the Procuring Officer as outlined in section 1.3 above **no later than four working days before the submission date for the tender**. This is to allow for any technical queries to be investigated and resolved.

### 3. Contract documents

- 3.1 Where a Tenderer is placed upon the Flexible Procurement Agreement (the Contract) due to the outcome of the evaluation, they will enter into the Flexible Procurement Agreement (the Contract) with the Lead Authority. The Participating Organisations listed above will be able to access the Flexible Procurement Agreement (the Contract) and subject to the Selection requirements as set out in Schedule 1, clause A8 of the Flexible Procurement Agreement (the Contract) and the Placement Selection Criteria, call off from the Flexible Procurement Agreement (the Contract) by entering into Individual Placement Agreements directly with a Provider.
- 3.2 The resulting Flexible Procurement Agreement (the Contract) with the Lead Authority will consist of:
- Schedule 1 - The Flexible Procurement Agreement (the Contract);
  - Schedule 1(1) - Service Specification;
  - Schedule 1(2) - Minimum Core Service Offer;
  - Schedule 1(3) - Call-Off Alert;
  - Schedule 1(4) - Individual Placement Agreement;
  - Schedule 1(5) - Quality Monitoring Self-Assessment Form;
  - Schedule 1(6) - Quality Monitoring Self-Assessment Policies;
  - Schedule 1(7) - Local Authority Contact Details;
  - Schedule 1(8) - Emergency/Out of Hours Placements/Key Contacts;
  - Schedule 1(9) - Temporary and Agency Usage Reporting Form;
  - Schedule 1(10) – Individual Placement Agreement Variation Form.
- 3.3 The Flexible Procurement Agreement (the Contract), will be subject to English law and the exclusive jurisdiction of the English courts.
- 3.4 The Lead Authority are bound by procurement rules and cannot enter into any negotiations on the tender or Contract.
- 3.5 Any contract award will be conditional on the Flexible Procurement Agreement (the Contract) being approved under the Lead Authority's internal procedures and the Lead Authority being generally able to proceed. The Lead Authority will allow the statutory standstill period of a minimum of 10 calendar days to elapse before sending confirmation of contract award to the successful Tenderer(s).

#### 4. Tender evaluation

- 4.1 The Lead Authority are not bound to accept the lowest or any tender. The Lead Authority also reserve the right to accept the whole or any part of any tender submitted.
- 4.2 The Lead Authority will check each tender initially to make sure it has kept to the rules of the ITT.
- 4.3 The Lead Authority will evaluate tenders against the award criteria set out below.
- 4.4 The Lead Authority reserve the right to seek clarification from any or all of the Tenderers during the evaluation period. This may be in writing or by means of a clarification meeting. This is to help the Lead Authority to consider the tenders.
- 4.6 The Lead Authority will evaluate tenders to decide the **Most Economically Advantageous Tender** taking into consideration the following award criteria.
- 4.7 The Lead Authority will evaluate the tenders as a two stage process. The first stage is the award stage which considers the merits of the eligible tenders in order to assess which tenders can be appointed to the Flexible Procurement Agreement (the Contract).
- 4.8 All Tenderers who pass the award stage will be eligible to be assessed at the second stage the selection process. The Lead Authority will focus on the Tenderers' characteristics and suitability in principle to provide the requirements for the Flexible Procurement Agreement (the Contract). The Lead Authority only uses criteria that is linked to the subject matter of the Flexible Procurement Agreement (the Contract).
- 4.9 As part of the evaluation process the Lead Authority will obtain feedback from Parent and Carer representatives in relation to Question 2. Communication on the Tender Response Form (ITT Schedule 2). This feedback will be taken into consideration by the evaluation panel when determining Provider scores for Question 2. Communication.

#### 5. Award Stage

- 5.1 Strength of proposals to comply with the Lead Authority's Specification – evaluation will be made on the proposals set out in this Tender Response Form – Schedule 2 submitted in response to the Service Specification - Schedule 1(1). Tenderers will need to meet a minimum passing score of 40 out of 100 for each question.

**5.2 Failure to obtain a minimum score equal to or higher than 40 out of 100 for each question, will disqualify the Tenderer's whole tender submission.**

5.3 The scoring rationale behind the evaluation criteria is in accordance with the graduated approach set out in the following table.

Score	Classification
100	Exceptional response in all areas
90	Exceptional response with some minor shortcomings, or very good response with some exceptional elements
80	Very good response in all areas
70	Very good response with some minor shortcomings, or good response with very good elements
60	Good response in all areas
50	Good response with some minor shortcomings, or acceptable response with good elements
40	Acceptable response in all areas
30	Acceptable response with some minor shortcomings, or poor response with some acceptable elements
20	Poor response in all areas
10	Very poor response that is significantly below expectations in all areas
0	No response, or inappropriate response in all areas

## 6. Pricing proposals - Mandatory

6.1 Evaluation of pricing submissions **Pass/Fail**

6.2 Tenderers will need to submit their prices within the Pricing Schedule, Appendix to the Form of Tender (Schedule 3). The prices for the Core Costs and Additional Service Menu should be on or below the capped rates in order for their submission to be deemed a pass.

6.3 Any pricing submitted in excess of the capped rates stipulated in the Pricing Schedule, Appendix to Form of Tender (Schedule 3), will result in a fail.

6.4 Providers at the point of submitting their Pricing Schedule, Appendix to the Form of Tender (Schedule 3) as part of their tender response, and when responding to a Call-off Alert, can submit Core Costs and Additional Service costs lower than the capped rate stated within the Form of Tender (Schedule 3). All prices submitted must take into consideration any potential National

Minimum Wage liabilities that may arise during the first 12 months of the Flexible Procurement Agreement (the Contract). Providers must also ensure that the prices take into consideration their existing Pension liabilities to their Employees.

## **7. Selection Stage**

### **7.1 Demonstration of ability and experience - Assessment made against the Selection Questionnaire (SQ) - Pass/Fail**

7.2 Details of how each of the sections within the Selection Questionnaire will be evaluated are outlined within the SQ documentation (Schedule 5).

## **8. Call-Off from the Flexible Procurement Agreement (the Contract).**

8.1 The Placing Authority will identify the specific requirements for each placement, communicate those requirements (set in line with the Placement Selection Criteria Schedule 1, clause A8 to all eligible Providers appointed to the Flexible Procurement Agreement (the Contract). These further competitions will be run on the NEPO electronic tendering portal, and invite Providers within a specified time limit to submit a tender in writing for each specific placement to be awarded. This is known as a Call-off Alert.

8.2 The submitted Call-off Alert responses shall then be evaluated by the Placing Authority to select the Provider who's 'Setting' best matches the needs and requirements of the Child / Young Person as detailed in Schedule 1, clause A8.

8.3 Emergency or Out of Hours placements will be made either through further competitions or direct award as outlined in the Flexible Procurement Agreement (the Contract) Schedule 1, clause A8. Awards will be made in line with the Placement Selection Criteria Schedule 1, clause A8.

8.4 The Participating Organisations reserve the right to hold clarification meetings or discussions during Ordering/Call-Off Processes.

### **a. Direct Awards**

8.5 A facility for a Direct Award in relation to Parental Preference has been incorporated into the Flexible Procurement Agreement (the Contract). Where a Parent/Young Person has expressed a preference for a particular placement and the Provider is on the Flexible Procurement Agreement (the Contract), the Placing Authority may consult with the Preferred Provider in accordance with its duties under Section 39(2) of the Contract (Schedule 1 – Part B – Schedule A and Schedule B - Call off terms and conditions). This will enable the Placing Authority to determine whether any of the exceptions under Section 39(4) of the Contract (Schedule 1 – Part B – Schedule A and Schedule B - Call off

terms and conditions) apply. If none of the exceptions apply, the Placing Authority shall move to award a Call-Off Contract to the Preferred Provider without conducting a further competition under the Flexible Procurement Agreement (the Contract).

**b. Call-off Award Criteria**

8.6 We have outlined below the award criteria for the individual Call-off Alerts from the Placing Authority (refer to Schedule 1 clause A8 for details of all requirements):

**c. Mandatory Requirement (Pass/Fail)**

- Ofsted Rating;
- Pricing (except in the result of a tied score following consideration of quality award criteria, please see clause 12.4 below); and
- For Residential Children's Homes only – Confirmation of ability to support long-term plan.

**d. Quality Award Criteria (100% Weighted Score)**

- Geographical location;
- Needs of the Child / Young Person – Placing Authority's requirements on suitability;
- For Residential Children's Homes only – Risk Factors; and
- Placing Authority's additional requirements on suitability

8.7 This will be fixed and advised by the Placing Authority at the point of Call-Off Alert.

8.8 A cost for Contingency Arrangements will also be entered but not evaluated.

8.9 This will be fixed and advised by the Placing Authority at the point of Call-Off Alert.

8.10 In the event that there is a tied result following the evaluation of the quality award criteria, the Call-Off Contract will be awarded to the lowest priced response to the Call-Off Alert. If there is a tied result following evaluation of the quality award criteria and price then the Call-Off Contract will be awarded to the Call-Off Alert that has the highest score in relation to the quality award criteria sub-criteria 'needs of the Child/Young Person'.

**e. Parental / Young Person preference and any First Tribunal decision**

**8.11 Parental / Young Person preference – Schools placements only**

The Placing Authority shall then consider whether the Parent or Young Person (subject to having the requisite capacity) has expressed an informed preference for a particular Provider. Any informed preference expressed shall

be considered by the Placing Authority in light of their duty under Section 39(3) of the Children and Families Act 2014. In considering whether the exceptions listed at Section 39(4) of the Children and Families Act 2014 apply, unless one of the exceptions at Section 39(4) applies, the award will be made on the basis of Parental/Young Person choice. This award will be made before the Call-Off Alert is issued if it is known, but if it not known until after the point of Call-Off, the placement will still be awarded to the Parental Preference.

**f. First Tribunal decision**

If the Placing Authority is ordered by the First Tier Tribunal or on appeal to place a Child/Young Person with a particular Provider, whether on the Flexible Procurement Agreement (the Contract) or not, the Placing Authority must, and will, (subject to any successful appeal) make the Placement as ordered by the Tribunal. For the avoidance of doubt, the Placing Authority is under no obligation to use the Flexible Procurement Agreement (the Contract) in these circumstances.

**9. Information for bidders**

**a. Transport**

9.1 At the Call-Off Alert, the Placing Authority may request a quotation from the Provider for transport which is additional to the transport arrangements included in the Minimum Core Service Offer. A Provider is not obliged to provide transport (except as provided within the Minimum Core Service Offer) and will not be evaluated on the price of the additional transport. A Placing Authority requesting a quotation for transport will clearly express that request within the Call-Off Alert. The Placing Authority making the request will inform the successful Provider when accepting its offer for the Placement, whether it intends to take up the offer of transport at the price quoted.

**b. Openings**

9.2 The Flexible Procurement Agreement (the Contract) will remain constantly open for a period of 12 months from commencement date to allow Providers applications to join the solution or bring on new Settings. After the first 12 months, it will have a minimum of two scheduled openings per year after that but reserving the right to open more frequently depending on Market requirements.

9.3 We will publish a notice to the Market each time we open the Flexible Procurement Agreement (the Contract) so Providers not on the solution can apply to join.

9.4 Providers already on the solution can bring on new Settings at the opening if they wish to do so. Providers already appointed to the Flexible Procurement

Agreement will not need to wait for an opening if the Settings they wish to bring on are within their existing Ofsted registration.

**c. Geographical Restrictions to Lots**

In order to ensure the provision of appropriate Services on the Flexible Procurement Agreement (the Contract) the following geographical restrictions will apply to each Service area as indicated below, please take this into consideration when deciding which Lots to respond to within this Pricing Schedule.

**A) Department for Education registered, independent special schools and colleges; day placements, weekly boarder placements and 52-week residential placements. All placements in these settings for Children and Young People Pre-16,**

- Lots 1 – 9 No geographical restrictions.

**B) Department for Education registered, independent special schools and colleges; day placements, weekly boarder placements and 52-week residential placements. All placements in these settings for Children and Young People Post-16**

- Lots 10 – 18 No geographical restrictions.

**C) Residential Children's Homes for Children and Young People aged 0 – 18 years**

- Lot 19 – geographical restrictions in place as detailed below:

An unlimited number of Homes will be appointed to the Flexible Procurement Agreement (the Contract) from within the following Local Authority/County boundaries:

1. Darlington
2. Durham
3. Gateshead
4. Hartlepool
5. Middlesbrough
6. Newcastle City Council
7. North Tyneside
8. Northumberland
9. Redcar and Cleveland
10. South Tyneside
11. Stockton
12. Sunderland
13. Cumbria
14. Dumfries and Galloway
15. East Lothian
16. Humberside
17. Lancashire
18. Midlothian (including City of Edinburgh Unitary Authority)
19. North Yorkshire
20. West Yorkshire
21. Scottish Borders
22. South Lanarkshire

**C) Residential Children's Homes for Children and Young People aged 0 – 18 years**

- Lot 20 and 21 No geographical restrictions.

**D) Ofsted Registered Residential Short Break Services for Children and Young People 0 – 18 years**

- Lot 22 No geographical restrictions.

**10. Flexible Procurement Agreement (the Contract) Award criteria and Information needed**

- 10.1 You should take time to understand how your tender is going to be evaluated by reference to the evaluation criteria so that you can ensure that your information gives you the best opportunity of success.
- 10.2 This includes understanding all of the obligations you will have under the Flexible Procurement Agreement (the Contract) which will comprise:
- The Flexible Procurement Agreement (the Contract) Schedule 1;
  - Schedule 1(1) - Service Specification;
  - Schedule 1(2) - Minimum Core Service Offer;
  - Schedule 1(3) - Call-Off Alert;
  - Schedule 1(4) - Individual Placement Agreement;
  - Schedule 1(5) - Quality Monitoring Form;
  - Schedule 1(6) - QM Self-Assessment;
  - Schedule 1(7) - Local Authority Contact Details;
  - Schedule 1(8) - Emergency/Out of Hours Placements / Key Contacts;
  - Schedule 1(9) - Temporary and Agency Usage Reporting Form;
  - Schedule 1(10) - Individual Placement Agreement Variation Form and Pricing Schedule.
- 10.3 If there is anything that you do not understand about the ITT you should ask the Procuring Officer at the Lead Authority for clarification.

**11. Selection Questionnaire (ITT Schedule 5)**

- 11.1 If you want your tender to be considered you must complete the Selection Questionnaire (SQ), (Schedule 5). You must comply with all of the instructions and include the signed undertaking in your submission.
- 11.2 The Lead Authority will consider the information which you submit in your SQ to decide if you are capable to carry out the services under the Flexible Procurement Agreement (the Contract).

## **12. Tender information**

- 12.1 Please provide your proposals in the form of a Tender Response Form (Schedule 2) in line with the word limit for each question. Please detail how you will deliver the service in relation to the specification, regarding Outcomes for Children and Young People; Communication; Ethos and Practice; Qualifications and Workforce Development and Social Value giving consideration to the associated evaluation weightings and our expectations and objectives expressed throughout the Service Specification document Schedule 1(1).

## **13. Pricing**

- 13.1 Tenderers must complete the Pricing Schedule as set out in the Appendix attached to the Form of Tender (Schedule 3), to provide all of the obligations under the Flexible Procurement Agreement (the Contract).
- 13.2 All prices shall be stated in pounds sterling and exclusive of VAT. The pricing you enter into your Pricing Schedule (Appendix to the Form of Tender Schedule 3), is the whole core cost of the placement (which incorporates any element of Education Funding Agency funding for Schools placements).
- 13.3 Any pricing submitted in excess of the capped prices stipulated in the Appendix to the Form of Tender (Schedule 3), will result in disqualification.
- 13.4 Providers at the point of submitting their Pricing Schedule (Appendix to the Form of Tender Schedule 3) as part of their tender response and when responding to a Call-off Alert, can submit Core Costs and Additional Service costs lower than the capped rate stated within the Form of Tender (Schedule 3). All prices submitted must take into consideration any potential National Minimum Wage liabilities that may arise during the first 12 months of the Flexible Procurement Agreement (the Contract). Providers must also ensure that the prices take into consideration their existing Pension liabilities to their Employees.

## **14. Corporate requirements**

- 14.1 Legally the Lead Authority have to make sure that it keeps to a number of corporate considerations when providing its services. The Lead Authority is delivering its services when a contractor is delivering services on the Lead Authority' behalf. Therefore, the Lead Authority need to make sure that any contractor that is working for it carries out these legal requirements. The Lead Authority are looking for a commitment within Tenders to help it in the following duties. The Lead Authority does not consider that these requirements will be onerous and so pricing should not be affected in keeping to any of these obligations. However, if Tenderers believe there is a pricing impact, they should clearly identify this in the Pricing Schedule.

- 14.2 The Participating Organisations are committed to promoting Social Value in commissioned services and Providers will be expected to reflect how they will promote Social value within Services delivered under this Flexible Procurement Agreement (the Contract) in their form of tender (Schedule 2).

## **15. Equality and diversity**

- 15.1 The Lead Authority are committed to: Providing its services in a way that promotes equality of opportunity at every possibility. The Lead Authority expect the successful Tenderer to be equally committed to equality and diversity in its employment practices and service provision. The Lead Authority also expect that they will keep to all anti-discrimination legislation.

## **16. Expectation of the Tenderer**

- 16.1 Tenderers should note that the Lead Authority will ask the successful Tenderer(s) to contract with the Lead Authority to make sure that they keep to these obligations. The Lead Authority will, if suitable, monitor this throughout the Flexible Procurement Agreement (the Contract) period.

### **16.2 Keeping to equality legislation**

The Lead Authority need service providers to demonstrate that they keep to equality rules in employment legislation. The levels of compliance become more demanding depending on the number of employees employed by the organisation. Organisations employing less than five employees face minimum requirements, whilst organisations employing 50 or more employees need to meet more comprehensive criteria. The Lead Authority may work with contractors during the Contract Period, to make sure they keep to the rules of employment legislation.

### **16.3. Level 1 (less than five employees)**

Organisations with less than five directly employed people will be expected to meet the suitable level of compliance for the delivery of the Contract. If recruitment increases the size of the organisation to five or more employees, the organisation will be expected to meet the appropriate level of compliance.

### **16.4 Level 2 (5 to 49 employees)**

- 16.4.1 All organisations with between 5 and 49 employees must achieve criteria (a) - (d) listed below.
- a) All organisations must have an equality policy for race, gender, disability, age, sexual orientation and religion or belief that covers at least:
- recruitment, selection, training, promotion, discipline, grievance and dismissal;

- discrimination, harassment, and victimisation, making it clear that these are disciplinary offences within the firm;
  - identification of the senior position with responsibility for the policy and its effective implementation; and
  - how Tenderers communicate the policy to your employees.
- b) Effective implementation of the policy in the organisation's recruitment practices, to include open recruitment methods such as the use of job centres, careers service or press advertisements.
- c) The policy should either be reviewed to reflect changes in legislation or within a three-year period whichever occurs first.
- d) To monitor the gender, disability and ethnicity of job applicants. The Lead Authority would also encourage organisations to monitor the age, sexual orientation and religion or belief of staff.

### **16.5 Level 3 (50 or more employees)**

16.5.1 All organisations with 50 or more employees must achieve criteria (a) - (d) in level 2 and the extra criteria (e) - (j) listed below:

- e) Give written instructions to managers and supervisors on equality in recruitment, selection, training, promotion, discipline, grievance and dismissal of employees.
- f) Give equality training to managers and any employees responsible for recruitment and selection.
- g) As well as criterion 4 (Level 2), carry out monitoring on the number of employees from different gender, disability and ethnic groups by grade when:
- in post;
  - applying for posts;
  - taking up training and development opportunities;
  - promoted;
  - transferred;
  - disciplined and dismissed;
  - a grievance is raised; and
  - leaving employment.

16.5.2 The Lead Authority would also encourage organisations to monitor for age, sexual orientation and religion or belief.

- h) If the above monitoring reveals inequalities, organisations will be expected to take steps to address imbalances.
- i) For (g) and (h) above, annual monitoring and reporting is needed about equality issues within the workforce.

- j) Organisation's recruitment advertisements and publicity literature should state that equal opportunities practices are in place.

## 17. Clarification meetings

- 17.1 The Lead Authority reserve the right to hold clarification meetings as the Lead Authority consider appropriate, both before and after Tender submission.

## 18. Freedom of Information Act and Environmental Information Statement

- 18.1 The Lead Authority are subject to The Freedom of Information Act 2000 (Act) and The Environmental Information Regulations 2004 (EIR).
- 18.2 As part of our duties under the Act or EIR, the Lead Authority may need to disclose information about the procurement process or the Contract to anyone who makes a reasonable request.
- 18.3 If Tenderers think that any of the information given in their tender is commercially sensitive (meaning it could reasonably cause prejudice to the organisation if disclosed to a third party); then Tenderers should clearly mark this as '**Not for disclosure to third parties**'. Tenderers should also give valid reasons in support of the information being exempt from disclosure under the Act and the EIR.
- 18.4 The Lead Authority will aim to consult with Tenderers and consider comments and any objections before the Lead Authority release any information to a third party under the Act and/or the EIR. However, the Lead Authority will be entitled to decide in our absolute discretion whether any information is:
- exempt from the Act or the EIR; or
  - to be disclosed in response to a request of information.

The Lead Authority must make our decision on disclosure in line with the provisions of the Act or the EIR and can only withhold information if it is covered by an exemption from disclosure under either.

- 18.5 The Lead Authority will not be held liable for any loss or prejudice caused by the disclosure of information that:
- 18.5.1 has not been clearly marked as 'Not for disclosure to third parties' with supporting reasons (referring to the relevant category of exemption under the Act or EIR where possible);
- 18.5.2 does not fall into a category of information that is exempt from disclosure under the Act or EIR (for example, a trade secret or would be likely to prejudice the commercial interests of any person); or
- 18.5.3 where it is in the public interest to disclose this and there is no legal duty to withhold it.