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Contract

## **Schools Information Management System (SIMS)**

Wrexham County Borough Council

F03: Contract award notice

Notice identifier: 2022/S 000-008939

Procurement identifier (OCID): ocds-h6vhtk-032986

Published 4 April 2022, 10:30am

### **Section I: Contracting authority**

#### **I.1) Name and addresses**

Wrexham County Borough Council

Commissioning Procurement and Contract Management Unit, Lampbit Street

Wrexham

LL11 1AR

#### **Email**

[procurement@wrexham.gov.uk](mailto:procurement@wrexham.gov.uk)

#### **Country**

United Kingdom

#### **NUTS code**

UKL23 - Flintshire and Wrexham

#### **Internet address(es)**

Main address

[www.wrexham.gov.uk](http://www.wrexham.gov.uk)

Buyer's address

[https://www.sell2wales.gov.wales/search/Search\\_AuthProfile.aspx?ID=AA0264](https://www.sell2wales.gov.wales/search/Search_AuthProfile.aspx?ID=AA0264)

#### **I.4) Type of the contracting authority**

Regional or local authority

#### **I.5) Main activity**

General public services

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## **Section II: Object**

### **II.1) Scope of the procurement**

#### **II.1.1) Title**

Schools Information Management System (SIMS)

Reference number

PROC21-165

#### **II.1.2) Main CPV code**

- 72000000 - IT services: consulting, software development, Internet and support

#### **II.1.3) Type of contract**

Services

#### **II.1.4) Short description**

Transition from existing contractual model of perpetual licence of SIMS to local authority with associated support services, to software as a service model contracting directly with individual schools to provide SIMS and associated support services.

#### **II.1.6) Information about lots**

This contract is divided into lots: No

### **II.1.7) Total value of the procurement (excluding VAT)**

Lowest offer: £200.64 / Highest offer: £10,957.44 taken into consideration

## **II.2) Description**

### **II.2.2) Additional CPV code(s)**

- 72260000 - Software-related services
- 72268000 - Software supply services
- 72261000 - Software support services
- 72300000 - Data services
- 72310000 - Data-processing services
- 72320000 - Database services

### **II.2.3) Place of performance**

NUTS codes

- UKL23 - Flintshire and Wrexham

### **II.2.4) Description of the procurement**

Prior to the award of these contracts, the current provider (ESS) had a contract with the local authority under which it provided a perpetual licence to the local authority for the purpose of providing SIMS to the schools in the local authority's area, with associated support services.

ESS has now served notice to terminate that contract and requires that, in order to continue provision of SIMS, individual schools must enter into direct contracts with ESS to receive SIMS as software as a service.

In order to bring about the transition, the local authority will enter into a Facilitation Agreement ("FA") with ESS under which nothing of value is received by ESS and no material services are provided to the local authority; it is purely an administrative arrangement to effect the transition. Each school in the local authority's area will enter into a School Contract ("SC") with ESS for the direct provision of SIMS as software as a service, at substantially the same cost as before.

The highest value SC is 10957.44 and the lowest value SC is 200.64.

The schools in the local authority's area whose governing bodies will enter into contracts

with ESS are as follows:

Acrefair Primary School

Acton Park Primary School

Alexandra Community Primary School

All Saints School

Barkers Lane Primary School

Black Lane Primary School

Borderbrook School

Borras Park Community School

Bronington V A Primary School

Brynteg Primary School

Bwlchgwyn Primary School

Cefn Mawr Primary School

Eyton Primary School

Froncysyllte Primary School

Garth CP School

Gwenfro Community Primary School

Gwersyllt Community Primary School

Hafod y Wern Community Primary School

Holt Primary School

Llanarmon Dyffryn Ceiriog Prim Sch

Madras V P Primary School

Minera Primary School

Park Community Primary School

Pentre Controlled Primary School

Penycae Community Primary School

Penygelli CP School

Rhosddu Primary School

Rhostyllen Primary School

Rhosymedre Community Primary School

Rofft Primary School The

St Annes RC Primary School

St Chads Church in Wales Aid Sch

St Christophers School

St Giles VC Church in Wales Primary School

St Marys Brymbo VA Primary School

St Marys C In W Primary School

St Marys C in W School

St Marys Catholic Primary School

St Pauls Church in Wales VA Primary School

St Peters Primary School

Victoria Junior School

Wats Dyke Primary School

Ysgol Cae'r Gwenyn

Gorwelion Newydd

Ysgol Bodhyfryd

Ysgol Bro Alun

Ysgol Bryn Tabor

Ysgol Cynddelw

Ysgol Gynradd Deiniol

Ysgol Heulfan

Ysgol Hooson

Ysgol Maes Y Llan

Ysgol Maes Y Mynydd

Ysgol Min Y Ddol

Ysgol Penrhyn New Broughton Primary School

Ysgol Plas Coch

Ysgol Sant Dunawd

Ysgol Tanyfron Primary School

Ysgol y Waun

Ysgol Yr Hafod, Johnstown

Ysgol Llan-y-pwll

Darland High School

Maelor School The

St Josephs Catholic and Anglican High School

Ysgol Bryn Alyn

Ysgol Clywedog

Ysgol Morgan Llwyd

Ysgol Rhiwabon

Ysgol Rhosnesni High

Ysgol Y Grango

The local authority publishes this notice on behalf of itself and the schools listed above but is not acting as a central purchasing body on behalf of the schools.

#### **II.2.5) Award criteria**

Price

#### **II.2.11) Information about options**

Options: No

#### **II.2.13) Information about European Union Funds**

The procurement is related to a project and/or programme financed by European Union funds: No

#### **II.2.14) Additional information**

Contract duration: 36 months

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## **Section IV. Procedure**

### **IV.1) Description**

#### **IV.1.1) Type of procedure**

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

This contract award notice is intended to be a relevant contract award notice pursuant to Reg. 93(2), (3) and (4) of the Public Contracts Regulations 2015. It is published on a wholly voluntary basis and without prejudice to the local authority's and the governing body of each individual school's position that no prior publication of a contract notice, and thus no competitive tender exercise, was required in respect of the Facilitation Agreement (FA) and/or the individual Schools Contracts (SC).

#### **IV.1.8) Information about the Government Procurement Agreement (GPA)**

The procurement is covered by the Government Procurement Agreement: Yes

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## **Section V. Award of contract**

A contract/lot is awarded: Yes

### **V.2) Award of contract**

#### **V.2.1) Date of conclusion of the contract**

18 February 2022

#### **V.2.2) Information about tenders**

Number of tenders received: 1

Number of tenders received from SMEs: 0

Number of tenders received from tenderers from other EU Member States: 0

Number of tenders received from tenderers from non-EU Member States: 1

Number of tenders received by electronic means: 0

The contract has been awarded to a group of economic operators: No

**V.2.3) Name and address of the contractor**

Education Software Solutions Limited

11 Kingsley Lodge, 13 New Cavendish Street

London

W1G9UG

Country

United Kingdom

NUTS code

- UKI - London

The contractor is an SME

No

**V.2.4) Information on value of contract/lot (excluding VAT)**

Lowest offer: £200.64 / Highest offer: £10,957.44 taken into consideration

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## Section VI. Complementary information

### VI.3) Additional information

continued from: iv.1.1 - ANNEX D - Justification for the award of the contract without prior publication of a call for competition

Neither the local authority nor the governing body of any of the schools listed above accepts that the FA and/or the individual SCs are within the scope of application of Part 2 of the Public Contracts Regulations 2015 (as amended).

The FA has no "value" as such but simply puts in place an administrative mechanism to manage the transition of contracts from local authorities to schools. It is therefore below the threshold set out in Reg. 5 (as reviewed pursuant to Reg. 5A) of the 2015 Regulations and thus Part 2 of the 2015 Regulations does not apply.

The governing body of each individual school is a separate contracting authority and each individual SC is a separate contract. The values of the individual SCs entered into in the local authority's area range between 200.64 and 10,957.44 in total over the three-year duration of each SC. Each such individual contract is therefore below the threshold set out in Reg. 5 (as reviewed pursuant to Reg. 5A) of the 2015 Regulations and thus Part 2 of the 2015 Regulations does not apply.

Further or in the alternative, neither the FA nor the individual SCs are subject to a requirement to carry out prior publication of a contract notice and/or any form of competitive tender, because the services can only be provided by one particular economic operator (ESS), because competition is absent for technical reasons pursuant to Reg. 32(2)(b)(ii) of the 2015 Regulations. This is because all of the schools in the local authority's area currently use ESS' SIMS product. It would take a minimum of [6 weeks] to transition from ESS' SIMS product to another product, including implementation, testing, training staff and migration of data. To avoid serious disruption to the school's functions, that transition has to take place over the long summer holidays. ESS served 90 days' notice to terminate the current arrangements, shortly before Christmas 2021. It would therefore not be possible, in the timescales imposed by ESS, for schools to tender for and purchase an alternative product and transition to it, without suffering serious disruption to essential services which would affect the ability of schools to continue to function and which may require schools to close.

Further or in the alternative, neither the FA nor the individual SCs are subject to a requirement to carry out prior publication of a contract notice and/or any form of competitive tender, because of urgency pursuant to Reg. 32(2)(c) of the 2015 Regulations. The provision of an information management system is essential to the running of a school and a school cannot function without it. The notice to terminate the

current contracts and the short timescale imposed by ESS were unforeseen by the local authority and the schools. Due to the short notice given by ESS, together with the time it would take to prepare and agree a specification and (following a tender exercise) to transition to a new product, the timescales for the open or restricted procedure, or competitive procedure with negotiation, cannot be complied with in the time available.

It is intended in the future to advertise a competitive tender exercise for SIMS on an all-Wales basis, with award and transition to the new contracts resulting from such tender to coincide with the end of the 3-year term of the SCs entered into with ESS. Pre-tender market testing is likely to commence in the near future.

(WA Ref:120133)

## **VI.4) Procedures for review**

### **VI.4.1) Review body**

High Court

Royal Courts of Justice, The Strand

London

WC2A 2LL

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+44 2079477501

Country

United Kingdom