

CABINET

20 SEPTEMBER 2011

Title: Tender for the Provision of Temporary Agency Staff Contract	
REPORT OF THE CABINET MEMBER FOR FINANCE, REVENUES AND BENEFITS	
Open report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Divisional Director: Sue Lees, Divisional Director of Assets and Commercial Services	
Accountable Director: Tracie Evans, Corporate Director of Finance and Resources	
Summary: In readiness for the expiry of the current contract for the provision of temporary agency staff on 30 September 2011, the report presents proposals to tender in collaboration with up to eighteen other London Boroughs/ALMOs for a new contract using a national procurement framework called MSTAR. At the present time the Council has a contract with Matrix SCM to provide a "Neutral Vendor" agency staff service. A neutral vendor approach is where the Council contracts with a single managing agent who manage a host of 1 st and 2 nd tier agencies to provide the required candidates. An options appraisal was carried out by the Procurement team in consultation with Council Officers which is attached as appendix 1 of this report in which a Master Vendor solution has been recommended for the Council's next contractual arrangement. This arrangement will be confirmed as part of the next steps in procurement, following consultation with all key stakeholders. A Master Vendor approach is where the Council contracts with one single agency who will aim to provide all required disciplines. The Master Vendor will endeavour to supply all staff directly and in the event of not having a suitable candidate available will work within their own network to satisfy the demand. The Council can - with the Master Vendor's agreement - nominate one or more specialist agencies to work for the master vendor. MSTAR is a nationally accessible managed service framework which the Council has access to. The Council would take part in a mini competition as part of a collaboration being led by LB of Tower Hamlets using the MSTAR framework and will include up to eighteen other London Boroughs/ALMOs. Elevate will support this procurement and Tower Hamlets by running an eAuction as part of the process. The timeline for the collaborative procurement is set and the Council needs to converge its contract end time with that of the collaboration. It is therefore recommended that the existing contract with Matrix SCM be extended for 6 months to allow for the procurement and implementation. It will also ensure	

that there continues to be an existing contract in place for the Council and its temporary agency staff.

The detailed specification for the Council's procurement will be developed in consultation with key stakeholders within the Council. The Public Accounts and Audit Select Committee will also be consulted as part of this process. An evaluation panel for the Council's part of the tender will be formed to include representation from all key stakeholder areas.

Recommendation(s)

The Cabinet is recommended to agree:

- (i) To the extension of the existing Matrix contract for a period of six months from 1 October 2011;
- (ii) That the Council participates in the MSTAR framework for the procurement of a contract for the provision of temporary agency staff;
- (iii) To authorise the Corporate Director of Finance and Resources, in consultation with the Divisional Director of Legal and Democratic Services, to award contracts for the provision of temporary agency staff using the MSTAR framework; and
- (iv) Whether it wishes to be further informed or consulted on the progress of the procurement and the award of the contract.

Reason(s)

The decision to retender the Council's temporary agency staff contract is due to the expiry of the existing contract. The decision will enable the Council to procure a new contract on the best terms available in the current market and should lead to a reduction in cost, better supplier performance and greater opportunities for local people and suppliers in order to deliver against the Council's priority objective of a 'well run organisation'.

1. Introduction and Background

- 1.1. At the present time the Council's has a contract with Matrix SCM to provide a "Neutral Vendor" agency staff service.
- 1.2. In essence the contractor acts as a portal between the Council and supplying staff agencies, whereby Matrix receive a request for an agency member of staff from the Council and forward this to their known and approved suppliers who submit CVs of the most suitable candidates in terms of knowledge and experience.
- 1.3. The contract was established in 2006 and has a duration of five years with an option to extend for a further period of up to two years. Its benefits were to be:
 - Single point of contact – the Neutral Vendor manages all contact between the Council and the supplying agencies.

- An aggregation of demand for agency staff with a focus on fewer suppliers resulting in competitive pricing of agency mark ups and consistency in pay rates.
 - Automated ordering, timesheet authorisation, and invoice payment processes.
 - No vested interest outside of managing the arrangement.
 - The enablement of a single consolidated electronic invoice (driving approximately 40,000 invoices out of the payment system in 2007).
 - Management of supplying agencies to ensure that they have adequate processes for monitoring CRB checks, Right to Work permits, payment of National Insurance, etc.
- 1.4 An options appraisal was carried out by the Procurement team in consultation with Council Officers (attached as appendix 1 to this report) where a Master Vendor solution has been recommended for the Council's next contractual arrangement.
- 1.5 A Master Vendor approach is where the Council contracts with one single agency who will aim to provide all required disciplines. The Master Vendor will endeavour to supply all staff directly and in the event of not having a suitable candidate available will work within their own network to satisfy the demand. The Council can with the Master Vendor's agreement nominate one or more specialist agencies to work with the Master Vendor.
- 1.6 The Master Vendor will remain responsible for all interaction between the Council and any third party agency. Other benefits include:
- Possibility to attract further national Recruitment companies to the Borough's High Streets.
 - Master Vendors typically recruit upwards of 75% Borough residents for the Council roles.
 - Master Vendors will also utilise local Agencies to meet the Council's varied requirements
- 1.7 It is anticipated that a saving of between £50,000 and £100,000 per annum based on the overall existing costs can be obtained in current market conditions. It is also anticipated through better Supplier Relationship Management by Elevate and the Client, the Council can significantly reduce the overall spend in this category.

2. Tender Process

- 2.1. The MSTAR Framework is national in scope and has been established for use by the wider public sector (excluding Central Government and Health). ESPO is a Central Purchasing Body as defined by the EU Combined Procurement Directive 2004/18/EC. The Framework is open to the entire wider public sector, including but not limited to, local government, educational establishments, the Police, Fire and Rescue Service and registered charities within the UK. The framework commenced in April 2011 and continues for three years with an option to renew for a further period of one year. The Council was made aware of this contract through the East London Solutions procurement group which is a collaborative

arrangement with East London Boroughs to explore and utilise where possible joint procurement opportunities.

- 2.2. A mini competition will be conducted by LB of Tower Hamlets in accordance with the MSTAR framework prior to an e-Auction to negotiate price. Elevate will support Tower Hamlets by running the e-Auction as part of the procurement process.
- 2.3. The timeline for the collaborative procurement is set and the Council needs to converge its contract end time with that of the collaboration. It is therefore recommended that the existing contract with Matrix SCM is extended for 6 months to allow for the procurement and implementation. It will also ensure that there continues to be an existing contract in place for the Council and its temporary agency staff.
- 2.4. The MStar framework is split into two lots:
 - 1A: Neutral Vendor
 - 1B: Master Vendor

The mini competition and e-Auction will be conducted for both lots with different boroughs taking part in one or more of the lots. As per the recommendation from the options appraisal LBBDD will take part in lot 1B only, a Master Vendor.

- 2.5. The estimated value of the contract for all named contracting authorities has been set at approximately £177.9m per annum of which £12m relates to the London Borough of Barking and Dagenham (2010/11 Actual Spend). This is an indicative spend for the purposes of procurement and does not reflect the Council's programme of reducing reliance on agency staff. Should the Council wish to enter into a contractual arrangement with the successful bidder this will be on the basis of a three year contract with an optional 12 month extension. It is confirmed that the relevant provisions of the "Contracts Guidance Notes", "Contracts Rules", "Contracts Codes of Practice" and the "Financial Rules" of the Council's Constitution and the EU Procurement Rules will be fully adhered to.
- 2.6 As an existing procurement framework, this provides a quick and financially effective procurement method, which will be able to generate competitive rates from combining spend from a number of organisations.
- 2.7 Temporary Agency Staff is classified as a Part B Service and must therefore be awarded in accordance with the provisions of EU Regulations.

3. Specification Development

- 3.1 Officers will develop the detailed requirements for this procurement to ensure that:
 - The new contract is robust, and provides a solid framework for the delivery of temporary agency staff, with suitable clauses to ensure strong performance management.
 - The contract allows for the provision of suitable quality temporary agency staff to meet the varied specialist requirements across all Council services.
 - The contract is capable of supporting the Council in meeting the requirements of the new EU Temporary Agency Worker Directive.

- 3.2 A stakeholder group will be formed including representation of all Council departments. This group will develop and sign off the specification.
- 3.3 The Public Accounts and Audit Select Committee will be consulted as part of the process of developing the specification.

4. Tender Evaluation

- 4.1 The evaluation panel for the Council's part of the tender will consist of officers from Assets & Commercial Services, Procurement, HR, Elevate East London and Departmental representatives. Importantly, Council Member representation will be sought.
- 4.2 Contracts will be awarded on the basis of the best value for money offer to the contracting authority.

Quality will be weighted against price using the following criteria:

Pricing	50%
Quality	50% (to be distributed between criteria below)

- Quality of Staff
- Management of Agencies
- Ordering of Temporary Agency Workers & System Requirements
- Service Delivery & Provision of Temporary Agency Workers
- Managed Service Provider Personnel & Contract Management
- Invoicing & Payment Requirements
- Regeneration & Sustainability
- Management Information
- Implementation

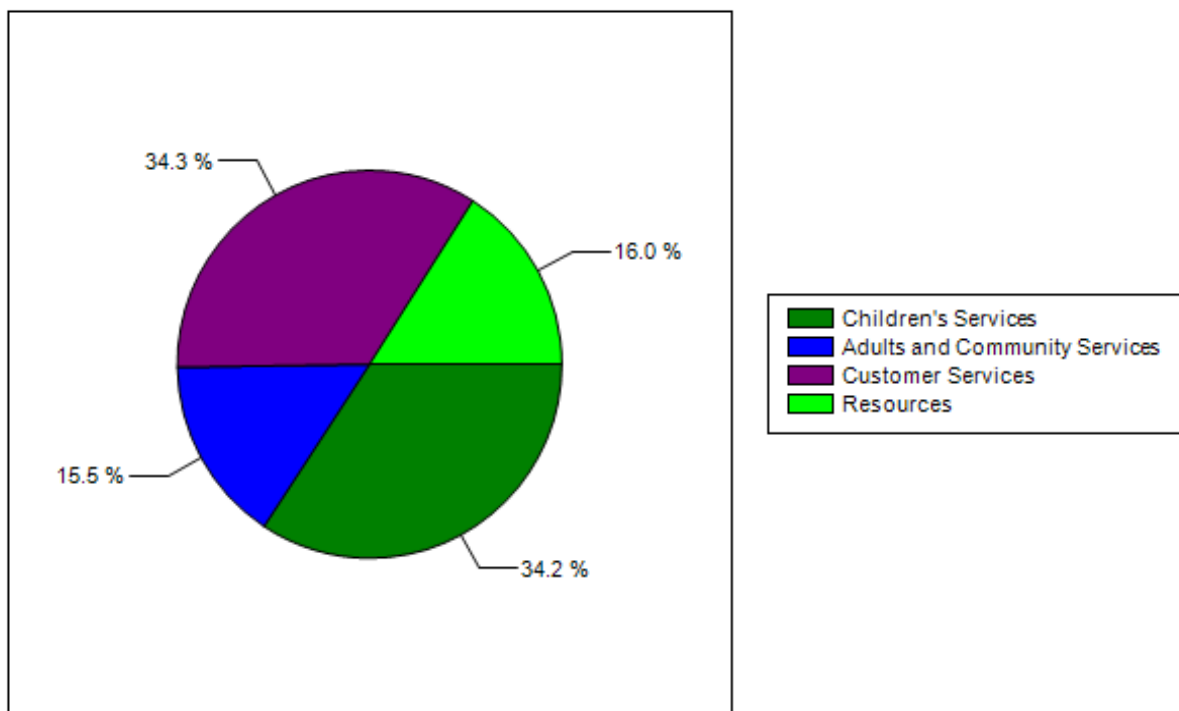
5. Financial Issues

Implications verified by: Tracie Evans, Corporate Director

- 5.1 The Council spent around £12m under the existing Agency contract in 2010/11. At this stage it is difficult to assess what the total potential value of savings may be under the proposed new arrangements until the outcome of the tendering process is complete, but provisional estimates suggest that a saving of between £50,000 and £100,000 per annum will be achieved on the management fee element of the contract. The level of savings will also be dependent upon the Council's future use of the contract, however based on the current size of the contract and the changing economic and employment situation, it is envisaged that significant cost reductions may be available. These savings will be reported as part of the regular reporting to Cabinet of procurement savings.
- 5.2 Through efficient procurement / supplier management and diligent clienting it is anticipated that the Council will reduce its overall cost of temporary agency staff.
- 5.3 Savings will be realised across the Council and in particular in the high usage areas. The table and graph overleaf shows the indicative spend by Directorate in June 2011 under the current arrangements:

Spend by Directorate in Month

	05-Jun-11	12-Jun-11	19-Jun-11	26-Jun-11
Children's Services	£38,983	£43,896	£45,389	£42,715
Adults and Community Services	£16,596	£18,219	£21,794	£20,784
Customer Services	£40,352	£45,047	£44,309	£41,408
Resources	£18,107	£21,438	£19,252	£20,943
Total	£114,038	£128,601	£130,744	£125,850



6. Legal Issues

Implications verified by: Eldred Taylor-Camara, Group Manager, Legal Services

- 6.1 The Council currently has a contract for the supply of temporary staff with Matrix SCM. The contract comes to an end on 30th September 2011, unless extended. The contract contains an option for the Council to extend the contract for a further period of up to two years from the expiry date. The Council will therefore be entitled to extend the contract for any period up to two years from 1st October 2011.
- 6.2 The report confirms that the MSTAR framework has been established by the Eastern Shires Purchasing Organisation for the benefit of most public bodies including local authorities. The Council is therefore eligible to sign up to or otherwise participate in the framework arrangements.
- 6.3 The report also states that under the terms of the MSTAR framework, participating authorities can procure services either by way of direct call off or by conducting a mini competition amongst providers on the framework. It is proposed that LB of Tower Hamlets, as lead borough on behalf of the named authorities, conduct a mini

procurement competition to achieve the benefits outlined in the report and appendix.

- 6.4 Provided the procurement is conducted in accordance with the MSTAR framework rules and the applicable EU procurement rules and principles, the Council will be entitled to procure the services via the framework.
- 6.5 In making its decisions, Cabinet needs to be satisfied that procurement via this route will deliver the savings and efficiencies identified in the report.

7. Other Implications

- 7.1 It is a condition of the MSTAR arrangement that the Managed Service Provider will support Customers in addressing the requirements of the Temporary Agency Worker Directive and will provide a cost effective, legal method of managing this transition. The Temporary Agency Worker Directive is European Legislation which provides temporary staff with the same rates of pay and conditions excluding pension and training as compared to permanent staff when they have been engaged for 12 weeks or longer. The Managed Service Providers have proposed economic and innovative solutions to managing resources using the legislation to the Customer's advantage. Any agreement in terms of benchmarking pay rates and monitoring conditions in the local market will take into account the provisions of the Temporary Agency Worker Directive and any other such relevant legislation which comes into effect which will be managed under the contract.
- 7.2 The Council takes rigorous measures in its employment practices to safeguard children and the most vulnerable members of our community. In contracting for the supplier of temporary agency staff the Council will ensure that robust processes are in place for checking documentation in terms of safeguarding.
- 7.3 Risk Management

The following risks and mitigations have been identified at this stage:

Risk Description	Impact Assessment	Impact (H/M/L)	Probability (H/M/L)	Mitigation and control
No decision taken on contract renewal	Inability to proceed, existing contract expires no formal arrangements to engaged temporary staff	H	L	Report to Cabinet seeking necessary permissions. MSTAR framework would mitigate the need to go out to OJEU tender
Cost savings being the sole focus	Could lead the Council into being led by savings when performance and quality service is key	H	H	Evaluation criteria focus on feedback from client/end users; HR input as to best practice today; other

	for next contract			Local Councils and the types of contract entered upon
Not building up a dedicated internal resource team to manage the contract that is put in place i.e. the capability and capacity not developed	lack of direction and focus for the supplier leading to a lack of value for money for the Council.	H	H	Clienting the contract is a responsibility of the Commercial Services team. Arrangements for contract monitoring will be established to ensure that user departments are actively engaged in managing the contract.
Not monitoring, reporting and managing the contract i.e. a loss of focus	Although there could be a team in place this soon starts to focus on business as usual and does not actively manage the supplier beyond the initial roll out phase i.e. no tracking of price discounts, volume or usage rebates, improvements in technology, best practice in the market etc.	H	H	Performance in the form of SLAs and KPIs need to be monitored, reported on to the steering group on a regular basis. Supplier meetings to occur monthly and review past month's performance, issues, upcoming developments. Working together closely with the supplier will give the Council the service that it needs. Cost savings benefits will accrue if this done

8. Background Papers Used in the Preparation of the Report:

- Temporary Agency Staff Options Paper (included at Appendix A).

9. List of appendices:

- Appendix A - Temporary Agency Staff Options Paper.