

## CABINET

15 December 2015

<b>Title:</b> Contract for Provision of Agency and Temporary Staff	
<b>Report of the Cabinet Member for Finance and Central Services</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> Yes
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<b>Accountable Divisional Director:</b> Martin Rayson, Divisional Director for Human Resources and Organisational Development	
<b>Accountable Director:</b> Claire Symonds, Strategic Director for Customer, Commercial and Service Delivery	
<b>Summary:</b>  The Council's current contract for the provision of Agency and Temporary staff, currently with Adecco, expires in June 2016. Following an assessment of the Council's future requirements, this report sets out the rationale for the proposed renewal of the contract via a Managed Service Provider, through the Eastern Shires Purchasing Organisation (ESPO).  The proposals in this report have been endorsed by the Corporate Procurement Board.	
<b>Recommendation(s)</b>  The Cabinet is recommended to:  (i) To approve the re-procurement by the Council of a contract for the provision of Agency Staff, through the ESPO framework Lot 2 – Managed Service Provider in line with the recommendations outlined in this report, on an initial term of three years with an option to extend by a further period of one year;  (ii) Indicate whether Cabinet wishes to be further informed or consulted on the progress of the procurement and /or the award of the contract; and  (iii) Delegate authority to the Strategic Director of Customer, Commercial and Service Delivery, in consultation with the Cabinet Member for Finance and Central Services, the Strategic Director of Finance and Investment and the Head of Legal and Democratic Services, to award and enter into the contract and any period of extension.	
<b>Reason(s)</b> To comply with EU Procurement Regulations and the Council's own Contract Rules in securing cost effective services for the provision of Agency and Temporary Staff.	

## **1. Introduction and Background**

- 1.1 In September 2011 the Cabinet agreed to procure a contract for the provision of agency staff through the ESPO framework, more commonly known as MStar.
- 1.2 The tender was a collaboration across London, initially managed by the London Borough of Tower Hamlets. The London Borough of Barking and Dagenham, through Elevate's Corporate Procurement function, conducted the e-auction which set the margin costs for the duration of the contract and the extension period.
- 1.3 Adecco was the successful bidder and was awarded a contract as the Managed Service Provider (MSP) for the Council.
- 1.4 The contract commenced on 11 June 2012 for an initial period of three years. In February 2015 the Procurement Board recommended that the contract be extended for 12 months (as was allowed for under its terms) and this was agreed, under delegated authority, by the Chief Finance Officer. The current contract end date is 10 June 2016.
- 1.5 A detailed options appraisal has been undertaken and full details of this are set in Section 3 of this report.

## **2. Proposed Procurement Strategy**

- 2.1 **Outline specification of the works, goods or services being procured.**  
The service specification is consistent with that used to procure the original contract in June 2012, with the following exceptions:

**One Stop Shop for Temporary Staff** - The Council requires a single Organisation to manage its own pool of direct staff and a 2nd Tier of quality agencies to provide specialist staff in order to meet the Council's diverse requirements in terms of person specification, job type, location and overall cost (basic wage, margin, savings rebate, Agency Welfare Reform costs (AWR), NI, Tax etc).

**2nd Tier Agency Management** - The successful Organisation must be able to attract and maintain a high level of quality 2nd Tier agencies particularly for historically hard to recruit to positions, such as Class 2 Drivers, Motor industry fitters, senior social care workers, School Catering Senior roles etc.  
The Organisation should have a preferred and established supply chain, but must maintain the ability for the Council to recommend the on-boarding of local or known quality agencies and to ensure that they commit to the same terms and conditions of supply as the MSP.

**On Site Representation** - The MSP will be required to have an On-site presence Monday to Friday from 0900 to 1800. This will enable Hiring Managers to speak directly to the MSP face to face or by internal communication (telephone or email), this will enable the MSP to understand the Council's requirements as well as the MSP getting to know the Council's staff and how they work and integrate in order to ensure the best candidate fit is achieved.

It would be recommended that the location should be the Town Hall in Barking with time spent Job Shop to ensure as many local residents have access to the Council's short term roles in addition to out of Borough candidates.

**On Line Portal** - The MSP will be required to provide an online portal. The portal will allow hiring Managers to upload their requirements with full detail for the MSP to commence with sourcing the temporary worker for the role. In addition the portal acts as an information tool with the capability to track assignments once in post including all end dates, extension periods, changes in pay rates etc. The portal must have the capability to produce bespoke reports as and when required.

**Consolidated Weekly Billing** - Cash flow is an essential component of having a high quality 2nd Tier supply chain and in order to ensure service is uninterrupted the Organisation is required to submit to the Council a full and comprehensive consolidated bill. This should be formed of one (1) invoice per week, supported by evidence that enables validation. This will ensure the MSP is paid to the agreed terms, which in turn allows the MSP to pay its 2nd Tier, but most importantly it allows the Temporary worker to be paid on time.

**Manage Recruitment Process From Registration to Placement** - An essential part of the initial process is for the MSP to own and manage the full lifecycle of the candidate from ensuring they are registered giving full and correct details and evidence (work history or proof of eligibility to work etc) and to also conduct face to face meetings to enable the MSP to review if the candidate is suitable for the Councils working environment. This also gives the temporary worker consistent advice and will also enable the Council to build solid working relationships with the MSP in order to then identify what type of calibre of person will best suite each individual role and division.

**Single Point of Contact for the Council** - In order to have effective and timely communication, the Council will require a single point of contact with a very flat supporting structure both in terms of service delivery and escalation. This can be solidified through the on-site presence, an account manager and account director.

**Out of Hours Contact Point** - As with all Councils, the services provided do not consist of a 9 to 5 Monday to Friday week, and with this in mind it is imperative that the MSP establishes and maintains the ability for the Council and its staff to contact the MSP during Out of Hours and Public Holidays to ensure service covered or shortages are identified and dealt with before they become an issue.

**Conduct Regular Audit of 2nd Tier Agencies** - The MSP will be required to undertake regular independent audit aimed at own service provided to the Council and also their 2nd Tier supply chain for compliancy with UK Legislation and industry best practice, particularly in high risk areas such as Adult and Children's Social Care. The audit process must be robust, reportable, have consequences to the 2nd Tier to deter them from committing more than 1 breach, but more importantly, it must be agreed with the Council's Contract Manager and Senior Service Managers prior to implementation.

**Manage Specialist Pool of Staff** - The MSP will be required to support, manage and maintain sufficient numbers of kitchen workers for the Council's Catering services and cleaners for Building Cleaning Services. These are volatile services in

terms of service increase spikes, operating with minimum notice due to sickness and so on.

**2.2 Estimated Contract Value, including the value of any uplift or extension period.**

Initial 3 year term @ £12m per annum = £36m

Further 12 month extension period @ £12m

Total 4 year term = £48m

**2.3 Duration of the contract, including any options for extension.**

Initial term of three years, with a 12 month extension option subject to satisfactory performance and agreement by both parties.

**2.4 Recommended procurement procedure and reasons for the recommendation.**

The recommendation is that the Council joins the Pan London Collaboration under the MSTAR 2 Framework to procure this contract, in order to exploit the economies of scale available and benefit from reduced costs. It should be noted that the margins achieved within MSTAR1 were very competitive and although there is no guarantee that the Council will be able to achieve the same margin levels, the expectation is that this option will offer best value for money to the Council. Other options considered are set out in Section 3.

An e-auction will be undertaken and upon completion a recommendation will be issued by the London Borough of Newham advising LBBD of the successful bidder in Lot 2. We would expect to be notified in January.

**2.5 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract.**

Through the contract, LBBD will be able to drive efficiencies in the use of agency staff and ensure tighter control through visibility of agency usage and spend. In addition, the agreement will enable the Council to have static margins, which enables costs to be clear and transparent, allowing tighter financial control.

By having an "On Site" presence, the Council has the opportunity to communicate directly with the provider, which enables its needs to be better understood, reducing the amount of time being spent sifting and reviewing CV's that do not quite match the Council's needs.

**2.6 Criteria against which the tenderers are to be selected and contract is to be awarded**

The evaluation criteria as detailed in the ESPO framework terms and conditions for further competition are as follows:

Lot 2 – Managed Service Provider (MSP) 70% Price 30% Technical (Quality).

**2.7 How the procurement will address and implement the Council's Social Value policies.**

The Council will seek to agree, as part of terms and conditions to the award, that wherever possible, local residents should be offered the opportunity to apply for vacancies arising, which in turn should facilitate locals getting back into work or furthering their career prospects. Provision will also be made within

the contract specification for vacancies up to a certain level (equivalent to Scale 5) to be initially offered via the Borough's Job Shops.

These aspects will be monitored throughout the contract period via Contract Management and Management Information.

Simultaneously, it will be recommended that the team servicing this contract is based locally and easily accessible for the Borough's residents.

The Service Provider will be required to work closely with local agencies which should contribute towards growth opportunities for small businesses and SMEs in the area.

The Agency Staff contract is expected to maximise local businesses growth opportunities and increase the household income of the Borough residents through a number of planned initiatives to engage local suppliers and residents.

### **3. Options Appraisal**

- 3.1 A comprehensive market review has been conducted in conjunction with an options appraisal. **Appendix A** includes further details of the main options considered but a summary of all options is set out below:

#### **Option 1 - Do Nothing (option rejected)**

In the event that the Council was to do nothing and the contract expires naturally at the end of the extension period, then as from 12 June 2016 the Council will be non-compliant with its own Contract rules and EU Legislation. This may lead to financial remedies and reputational damage occurring due to off contract spend and increase in the margins charged as there will be no contractual recourse.

#### **Option 2 - Extend the existing MSP Contract (option rejected)**

The current contract had an option for a further period of 12 months. This option has already been taken and there are no further options to extend.

#### **Option 3 - In-House Delivery Model (option rejected)**

This option has been discounted as the initial set up costs are estimated to be high and the current required skill sets are not available within the Council. This option would also need a long lead in time in order to provide a full service. The Council might also face a significant legal, financial and reputational risk, risk which is normally transferred to the service provider via a traditional outsourcing arrangement.

#### **Option 4 - Single Authority Competitive Tender in the Open Market (option rejected)**

This option has been discounted as the financial benefit may not be achieved as a single Authority going to market, due to the volumes available and time frame required compared to other available options.

### **Option 5 - Multiple Authority Competitive Tender in the Open Market (option rejected)**

This option has been discounted due to the fact that neighbouring Local Authorities are adhering to the Pan London collaboration and are not interested in conducting a separate exercise, where the opportunities for economies of scale will be more limited.

### **Option 6 - Access Alternative Open Frameworks (option rejected)**

After indicative benchmarking of the Crown Commercial Services (CCS) Non Clinical framework and using the service provision which would have the most impact (Social Care), the framework did not offer the Council value for money in terms of direct cost (margin).

### **Option 7 - MSTAR 2 Framework by ESPO Lot 2 Master Service Provider (recommended option)**

Eastern Shires Purchasing Organisation (ESPO) MSTAR2 framework allows the Council to take advantage of the economies of scale available as part of a Pan London collective through the use of a mini competition and e-auction.

The Council has three further options to choose from within the MSTAR 2 Framework, in terms of service delivery models. They are;

- **Neutral Vendor (Lot 1) – *This option has been rejected***

The Neutral Vendor option can create situations where 2 staff can be employed for the same job type on the same hourly rate, but the margins will be different and could cost the Council more for one member of staff than the other.

- **Managed Service Provider (MSP), (Lot 2) – This is the recommended option**

A Master Vendor approach is the current service delivery model used by the Council. Under this arrangement, the Council contracts with one single agency who will aim to provide all the required staff through their own talent pool and where necessary manage a Tier 2 supply chain to provide the specialist staff at the same agreed margins that are in place with the Master Vendor.

The Master Vendor is responsible for the end to end supply chain, from search and selection to payment of the staff; this includes hosting an online management and reporting e-portal.

The previous Pan London process proved very successful in terms of standardization of process, value for money and consistent development of a local service. The Council's current Agency Staff provision has been sourced via the Pan London Collaboration and has achieved a significant fall in off contract/non-compliant spend.

- **Hybrid (Lot 3) – *This option has been rejected***

One of the disadvantages of the Hybrid model is that it is perceived to encourage non-compliance, through council officers being able to approach a wide range of agencies which may result in retrospective failure to comply with Council's Procurement Rules and failure in candidates' audit compliance

## **4. Waiver**

4.1 A waiver is not applicable.

## **5. Equalities and other Customer Impact**

- 5.1 Due to the nature of the contract, the Service Provider will be required to align to the Council's equality and diversity policies. An on-site presence will ensure that the quality of service to all our staff and residents is easier to control and monitor.

## **6. Other Considerations and Implications**

- 6.1 **Risk and Risk Management** - Contract Management function is already in place and will ensure the Service Provider and all suppliers on supply chain are maintaining required standards of compliance. Regular Contract Management Meetings will be undertaken for performance monitoring and management. For the first 6 months post implementation, performance monitoring meetings will take place monthly and past this milestone, quarterly contract monitoring meetings will be arranged. Independent Audit reviews will also be scheduled on quarterly basis. On site presence will be recommended to ensure improved communication and fast remedial action in the event of issues arising. Management Information reporting will be provided to Council Officers on a regular basis with details on Contract KPIs and other required Management Information.
- 6.2 **TUPE, other staffing and trade union implications** – There may be relevant implications for the onsite post in the event that Adecco does not maintain its awarded status. This will need to be fully considered and discussed with Adecco prior to any information being released to potential bidders.
- 6.3 **Safeguarding Children** - Only suitable, qualified and vetted staff will be employed and supplied in the provision of this service

## **7. Consultation**

- 7.1 Consultation has taken place with the portfolio holder and the Corporate Management Team. Procurement Board have considered an extended version of this paper and all agree that the proposal set out in this paper represents the best option for the Council.

## **8. Corporate Procurement**

Implications completed by: Euan Beales, Head of Procurement and Accounts Payable

- 8.1 The recommended option outlined in the report is a Pan London Collaboration, whose requirements will be procured through a mini competition of the ESPO Framework named Mstar2.
- 8.2 The proposal is to evaluate responses in Lot 2 the "managed service provider" element, with a view to awarding to the provider who provides the best bid in terms of quality and price. Please note the commercial element will be conducted by way of an e-auction.

- 8.3 The use of the Mstar2 Framework satisfies EU Legislation and the use of the mini competition complies with the Council's need to ensure a full process is conducted. Based on the benchmarking data and the options appraisal this route to market is fully supported and should yield value for money based on the aggregated spend across London as opposed to the Council as a single entity
- 8.4 Corporate Procurement fully support the recommendations as outlined in this report as being the most beneficial route to market.

## **9. Financial Implications**

Implications completed by: Kathy Freeman, Group Manager, Corporate Finance

- 9.1 In last three years, the Council has spent the following amounts with via Adecco:

2014/15 - £ 12,455,036  
2013/14 - £10,143,030  
2012/13 - £7,311,607

- 9.2 The increase in spend above does not reflect an increase in engagement of agency workers, but relates to better compliance amongst Council officers to employ agency workers through the Adecco contract. This is illustrated in the figures below which shows total spend incurred by the Council on agency staff for the last 3 years, inclusive of the Adecco contract:

2014/15 - £15,193,670  
2013/14 - £15,138,701  
2012/13 - £13,337,407

- 9.3 On the whole, the Council does not budget specifically but agency workers, and the cost of agency staff is usually offset against underspends in direct employee budgets through vacancies.
- 9.4 The current contract incorporate a savings rebate based on the number of hours an Agency worker is employed. This has contributed to cash savings for the Council since the introduction of the current contract.
- 9.5 It is not possible to determine the full financial implications at this stage and this will need to be assessed after the contract is awarded and the new margins/rebates are determined.

## **10. Legal Implications**

Implications completed by: Bimpe Onafuwa, Contracts and Procurement Solicitor

- 10.1 This report is seeking approval to call-off a framework set up by the Eastern Shires Purchasing Organisation (ESPO) for the provision of temporary staff by a Managed Service Provider. The report also proposes that the Council join the Pan London Collaboration and conducts the procurement exercise in conjunction with other local authorities, in order to enjoy economies of scale.



- 10.2 The Public Contracts Regulations 2015 permits contracting authorities to call-off valid frameworks in order to procure goods, services or works, as required. Such frameworks would have been set up in accordance with the Regulations.
- 10.3 Nonetheless, when calling of this framework, the procurement exercise for this contract has to be in compliance with the principles of the Regulations. This procurement process therefore has to be transparent, non-discriminatory and fair. Clause 2.4 of this report indicates that there will be a call for competition amongst suppliers on the ESPO framework, while clause 2.6 explains that the evaluation criteria will be on a 70% price : 30% technical(price) basis. These show evidence of a fair tender exercise. .
- 10.4 So long as the strategy in this report is adhered to, and the procurement exercise is conducted transparently and fairly, due compliance with the procurement principles can be met. Legal Services therefore do not see a reason why the recommendations of this report should not be approved.

**Public Background Papers Used in the Preparation of the Report: None**

**List of appendices:**

**Appendix A – Options Appraisal**