

MUNICIPAL YEAR 2014/2015 - REPORT NO. **86**

MEETING TITLE AND DATE:
Cabinet 22nd October 2014

Agenda - Part: 1	Item: 13
Subject: Contract for the provision of agency workers	
Wards: All Key Decision No: 3966	
Cabinet Member consulted: Cllr.Stafford	

REPORT OF:
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1. EXECUTIVE SUMMARY

- 1.1 This report seeks support and approval to access the Eastern Shires Purchasing Organisation (ESPO) MSTAR framework for the provision of temporary agency workers across all job categories. This framework will enable the Council to preserve and potentially increase efficiencies, effectiveness and value for money.
- 1.2 This is a key decision for the Council and has been reviewed and endorsed by the Strategic Procurement Board and CMB.
- 1.3 The ESPO MSTAR framework agreement consists of multiple lots with a number of providers appointed to each lot. Lot 1a Managed Service Provision for Corporate Staff is relevant to Enfield's requirement and allows the Council to call off a single vendor neutral provider to deliver the Council's agency worker requirements.
- 1.4 The Provider offering Best Value is recommended.
- 1.5 It is the Council's intention to create an internal temporary bank of staff that can be used to cover short-term temporary positions to complement the agency workforce. As the Council moves forward with the Enfield 2017 Transformation Programme opportunities on the internal bank of staff can be offered to redeployees as an alternative career path.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Council access the ESPO MSTAR framework through an access agreement with ESPO and directly contract with the Provider named in Part 2 of this report via call-off for a period of three years (plus the option of up to a further twelve month period from the commencement date) until 31st January 2019.

3. BACKGROUND

- 3.1 The existing contract for the provision of agency workers through a single supplier Vendor Neutral contract was tendered in 2010 (as a restricted tender) and awarded to Matrix Supply Chain Management (SCM) on 1st Feb 2011. This contract expires on 31st January 2015.
- 3.2 The existing contract was tendered via OJEU as a framework agreement open to all London Boroughs wishing to call-off. This allowed the Council (and the other councils calling-off this framework: London Boroughs of Lambeth, Redbridge, Waltham Forest, Wandsworth and Enfield Homes) to achieve significant economies of scale.
- 3.3 As the current contract expires on 31st January 2015, the Council needs to re-procure to ensure there is on-going provision for agency workers.
- 3.4 The Council will be looking to downsize its workforce over the next four years and the numbers of agency workers required by the Council will reduce over this time.
- 3.5 Whilst major steps are being taken to cut down reliance on agency workers, it is acknowledged that in some cases the use of agency workers is unavoidable. For example:
- Social Care with Care Workers being needed at short notice to cover staff absence and maintain statutory responsibilities. Currently 40% of the headcount (238 out of 593) is attributed to front line workers.
 - There are many 'on-the-minute' shift jobs required in the Manual provision.
 - There are also industry standards in certain Professional and Technical professions where permanent employment is not the market industry norm and professionals move from project to project with a variety of organisations.
- 3.6 It should be noted that 33% of the current agency workforce are residents in Enfield.
- 3.7 A number of contracts and frameworks in the market that Enfield could access have been explored (see section 4 of this report).
- 3.8 It is recommended that Enfield access the Eastern Shires Purchasing Organistaion (ESPO) MSTAR Framework Agreement.

- 3.9 The MSTAR framework agreement was let by the Eastern Shires Purchasing Organisation (ESPO) as a national framework accessible to local authorities and public sector bodies (amongst others). The framework agreement was let on 11th April 2011 and expires on the 10th April 2015 with no option for a further extension (as has already been extended for a further period of one year). The agreement consists of multiple lots with a number of providers appointed to each lot. Lot 1a Managed Service Provision for Corporate Staff is relevant to Enfield's requirement and allows the council to call off a single vendor neutral provider to deliver its agency staff requirements. The management fee and gainshare model within the MSTAR framework agreement are more favourable than those in Enfield's current contract with Matrix SCM which provides potential for savings. Part 2 of this report sets out the pricing models and potential savings from the new contract.
- 3.10 The charging model is simple, transparent and has the potential to deliver savings. This framework makes provision for the Council to access the required services via a direct call off or via a mini competition.
- 3.11 As the core specification meets the needs of the Council, it is recommended that a direct call off with the Provider named in Part 2 is undertaken based on their pricing, as opposed to undertaking a mini competition, which is permitted under the framework.
- 3.12 The Provider named in Part 2 of this report will work to a vendor neutral model consistent with the current contract. Vendor Neutral agreements generate competition by releasing recruitment orders to tiered agencies in a procured supply chain simultaneously (in order of tiers). This enables the agencies to openly compete for the booking. This level of competition within the contract generates competitive charge rates whilst also delivering the highest quality of worker. The Provider focuses on managing the effectiveness of the supply chain both in terms of quality and cost, and tiering them in accordance of overall performance. Reviews happen monthly, and the agencies are re-tiered quarterly to ensure optimum performance and best value.
- 3.13 The Provider named in Part 2 of this report will have a contract with each agency, ensuring compliance of certain terms and conditions set out in the framework. These terms and conditions include aligning to the standard costs set out in the pricing part of the framework, a requirement to meet the Council's recruitment standards in terms of vetting (e.g. Disclosure & Barring check for working with the vulnerable, evidence of professional qualifications, full work history, at least two references), additionally to provide photo ID available to view via the system prior to the start date of a worker, appropriate testing, personal protective equipment where necessary, equality of opportunity and compliance with legislation. These checks are all audited before a candidate can commence work.
- 3.14 Waltham Forest, Lambeth, Redbridge and Wandsworth Councils may also be able to benefit from the reduced rates and the resulting savings if they are able to access the ESPO MSTAR framework (subject to their own internal approvals).

- 3.15 It is the Council's intention to create an internal temporary bank of staff that can be used to cover short-term temporary positions to complement the agency workforce. As the Council moves forward with the Enfield 2017 Transformation Programme opportunities on the internal bank of staff can be offered to redeployees as an alternative career path.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Crown Commercial Service Contingent Labour One (CL ONE) framework agreement was let on 19th June 2013 and expires on 18th June 2016. The Contingent LabourONE delivery approach is based around two delivery models which are split between three lots, each with a single appointed service provider. These consist of Lot 1 Neutral Vendor (providing interim managers and specialist contractors), Lot 2 Master Vendor (Clerical and admin roles) and Lot 3 Master Vendor (operational and support staff).
- 4.2 The agency margins under CL ONE Lot 1 are percentage based rather than fixed pence based which means there is potential for the cost of the contract to increase further. This framework therefore presents itself as a less attractive option both from a commercial and a practical point of view.
- 4.3 Considering the analysis, this contract is significantly more expensive and would require additional contract management as Enfield would effectively be managing three contracts instead of one
- 4.4 An alternative option is to undertake a full procurement process in accordance with EU procurement rules. This is likely to yield a similar result to that achievable via the ESPO MSTAR framework agreement but would involve significant officer time to go through the procurement exercise. This view is supported by the recent review undertaken by PWC.
- 4.5 The MSTAR framework agreement gives us the opportunity to secure a competitive management fee as set out in Part 2 of this report.

5. REASONS FOR RECOMMENDATIONS

- 5.1 Having considered all the above options in detail, the recommendation is to procure agency worker requirements via the ESPO MSTAR framework agreement. As the core specification meets the needs of the Council, it is recommended that a direct call off with the Provider named in Part 2 is undertaken based on their pricing, which is permitted in accordance with the framework..
- 5.2 As mentioned above, the pricing model and cost savings analysis can be seen in Part 2 of this report.

5.3 The Provider named in Part 2 of this report have the requisite experience of the recruitment agency market and already has an established supply chain of over 400 agencies and has experience of working with a number of other London Boroughs. Appropriate company, financial and other checks have been carried out by the Assistant Head of Finance and by Human Resources staff, including obtaining references from key clients. All referees are satisfied with all aspects of the service provided and recommend the Provider as a Vendor Neutral Management Agency.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

Noted in Part 2 of this report due to commercial sensitivity.

6.2 Legal Implications

6.2.1 The Council has power under the Local Government Act 1972 to appoint such officers as it thinks necessary for the proper discharge by the authority of such of their functions as fall to be discharged by them. The Council will be mindful of the Agency Workers Regulations 2010 which provide agency workers certain rights depending on their period of engagement.

6.2.2 The use of frameworks is permitted under the Council's Contract Procedure Rules. The Council may call-off from the MSTAR framework, subject to confirmation by the Assistant Director Procurement that the particular framework is acceptable to the Council. The MSTAR framework does permit direct call-offs in accordance with the User Guide and the Council may enter into a direct call-off at the prices and rates quoted in the Suppliers Tender. The MSTAR User Guide provides that if the core specification meets the needs of the Customers' organisation then the Customer may award directly to a Supplier based on the pricing provided by ESPO both in quantitative and qualitative format. The Council must act in compliance with the MSTAR framework terms when calling-off.

6.2.3 Any resulting call-off contract and access agreement will be in a form approved by the Assistant Director of Legal Services.

6.3 Property Implications

None

7. KEY RISKS

As outlined in Part 2 of this Report.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

8.1.1 As the recommendation is to contract with a Neutral Vendor Provider, this means that all agencies have the opportunity for business to supply workers to Enfield Council.

8.1.2 Procurement of the Provider named in Part 2 of the report will ensure that an effective service is maintained and delivered fairly, for a period of four years, in accordance with equalities legislation and the Council's procedures. The appointment of the Provider named in Part 2 for the supply of Temporary Agency Workers should ensure that any agency workers used by the Council are treated fairly and without discrimination during their assignment with the Council.

8.2 Growth and Sustainability

8.2.1 The contract will further encourage local agencies to supply agency workers therefore increasing job opportunities to the local community. Based on the current model 33% of agency workers live locally and therefore this contract has provided employment opportunities for Enfield residents.

8.2.2 The objective to increase opportunities for the local labour market will remain the same regardless of the outcome of the procurement.

8.3 Strong Communities

8.3.1 This contract will deliver interim and temporary resource to ensure that the Council has is able to deliver on its commitments to residents.

9. EQUALITIES IMPACT IMPLICATIONS

9.1 Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment/analysis is not relevant or proportionate for the approval to award a contract. However it is noted that the contract will ensure that there shall be no discrimination against any person with respect to opportunity for employment under the Equality Act 2010.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

10.1 Appointing the Provider outlined in Part 2 of this report will ensure that efficient recruitment of agency workers will continue and that information to support effective performance management will continue to be provided.

11. HEALTH AND SAFETY IMPLICATIONS

11.1 There are no Health & Safety implications specific to the award of this contract. However, during the contract The Employment Agency Standards Inspectorate (EASI) enforces the Employment Agencies Act 1973 (EAA) and supporting regulations. These include provisions that an employment agency involved in employing or placing workers should only supply workers to carry out tasks for which they are suitable. Failure to do this could leave the agency open to prosecution under EAA in the event of a serious incident.

12. PUBLIC HEALTH IMPLICATIONS

12.1 These financial arrangements will enable the Council to undertake its role and duties within the community.

Background Papers

None