

**MEETING TITLE AND DATE:**

**Cabinet 12<sup>th</sup> December  
2018**

**REPORT OF: Jeremy**

**Chambers**

Director of Law &  
Governance

**Agenda – Part: 1**

**Item: 8**

**Subject: Tender Award**

**Contract for the provision of agency  
workers -supplying all job categories  
(excluding schools)**

**Wards: All**

**Key Decision No:4720**

**Cabinet Member consulted: Cllr Maguire**

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**1. EXECUTIVE SUMMARY**

- 1.1 This report seeks support and approval to appoint Matrix Supply Chain Management (SCM) to manage a supply chain of agencies to provide agency workers to the Council in all job categories (except schools). This is via a framework that the Council can access called MSTAR2.
- 1.2 Seven providers were invited to tender in the form of a mini competition to further reduce the pricing offered. Three providers submitted tenders to be evaluated comprising of a cost and quality assessment.
- 1.3 The provider offering the Most Economically Advantageous Tender is recommended.

**2. RECOMMENDATIONS**

- 2.1 That Matrix is appointed for the supply of agency workers. This will be for a period of two years (with the option to extend for a further two, one year periods) until 31<sup>st</sup> January 2021).
- 2.2 That delegation is given to the Cabinet Member to sign off any contract extensions beyond the initial two year period.

### **3. BACKGROUND**

- 3.1 The existing contract for the provision of agency workers was awarded directly to Matrix Supply Chain Management (SCM) on 1st February 2015. This contract expires on 31<sup>st</sup> January 2019.
- 3.2 As the current contract expires on 31st January 2019, the Council needs to re-procure to ensure there is on-going provision for agency workers.
- 3.3 It is important to note the purpose of a supply chain management company is to manage the agencies that supply workers to the Council- they do not directly supply workers themselves. A supply chain management company has more buying power than a single organisation would be able to procure.
- 3.4 Whilst major steps are being taken to cut down reliance on agency workers (departments are responsible for reducing the numbers of agency workers in their areas by either finding ways to cover the work differently/not at all/recruiting permanently), it is acknowledged that in some cases the use of agency workers is unavoidable. Such areas as Social Care with Care Workers/Social Workers being needed at short notice to cover staff absence and maintain statutory responsibilities; similarly the General Industrial and Driving categories of workers are required at last minute to cover absences and seasonal work. 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.
- 3.5 Therefore whilst the expectation is for the agency spend to diminish over the course of this next contract, it is acknowledged that there will still be a need for the provision of agency workers in order to keep flexibility in the workforce.
- 3.6 Research was undertaken by Human Resources with regular advice and input from Corporate Procurement in order to identify a means of achieving best value in the on-going provision of agency workers. A number of options were presented to the Strategic Procurement Board which approved accessing an existing framework to secure a neutral vendor provider via a mini competition to ensure the Most Economically Advantageous Tender.
- 3.7 Corporate Procurement analysed the available Frameworks in the market (see section 4 of this report) and advised that MStar 2 offered the most favourable terms.
- 3.8 Seven providers were invited to bid and three providers submitted proposals. Part 2 of this report sets out the pricing models and potential savings from the new contract.

- 3.9 A group of key stakeholders that frequently engage agency workers formed an evaluation panel alongside Human Resources.
- 3.10 The tender period closed on 17<sup>th</sup> October 2018. The Council determined, after a rigorous evaluation procedure that the provider named in Part 2 of this report, represented the Most Economic and Advantageous Tender and therefore seek approval to award the contract to this provider.
- 3.11 The recommended provider is a supply chain management company with the requisite experience of the temporary agency market, procuring and managing a chain of recruitment agencies and of working with London Boroughs.
- 3.12 The recommended provider named in the Part 2 report will work to a vendor neutral model, the same model to which the Council currently works in 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, keeping rates (costs) down by standardising them and increasing the potential through open competition for the highest quality of worker. The recommended bidder focuses on managing the effectiveness of the supply chain both in terms of quality and cost and tier them in accordance of overall performance. Reviews happen monthly, and the agencies are re-tiered frequently to ensure optimum performance and best value.
- 3.13 The provider named in the Part 2 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 their winning bid, 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, BPSS etc), 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 It was specified in the Invitation to Tender documents the need for the Service provider to engage and work proactively with the supply chain to engage with the local community and to increase work opportunities for local people and increase diversity in this workforce. Please see Section 8 of this report for further details.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Alternative Frameworks such as Yorkshire Purchasing Organisation (YPO) and OneSource were considered. OneSource was rejected as it only allows for a Master Vendor model which would not be financially advantageous to the Council. YPO was considered to be less advantageous to the Council than ESPO.
- 4.2 Another consideration was for the Council to undertake its own tendering exercise. It was considered that if the Council were to tender independently this would create a risk of not sustaining the current savings made under the current agreement as there would not be little buying power available to the providers. The risks associated with undertaking a full procurement process in accordance with EU procurement rules are predominantly financial, in terms of resource and time; it is likely to take approximately 12 months. The council would be unlikely to procure better rates than those already contained in the frameworks available to us.
- 4.3 The consideration to take this in-house and run this ourselves was rejected due to the limited options available at this time for the software to facilitate this. The next generation of agency contract frameworks will have this option included and should be explored in the next tender process.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 Having considered all the above options in detail, the recommendation is to procure agency worker requirements with the winning provider named in the Part 2 report via the ESPO MSTAR2 framework agreement for an initial two year contract period. This is due to the fact that there is a further MSTAR 3 framework being tendered by ESPO currently which may allow for further savings to be made via new models of agency worker provision. It is hoped the MSTAR 3 contract will provide a system to create an internal talent bank of temporary workers.
- 5.2 The winning provider named in the Part 2 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 for 10 years.

## **6. COMMENTS FROM 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 MSTAR2 framework, subject to confirmation by the Assistant Director Procurement that the particular framework is acceptable to the Council and that the mini- competition has been run in accordance with the rules of the Framework.

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

### **6.3 Procurement Implications**

6.3.1 The Strategic Procurement Board approved the way forward as accessing an existing framework to secure a neutral vendor provider via a mini competition to ensure the best possible value.

6.3.2 Corporate Procurement analysed the available Frameworks in the market (see section 4 of this report) and advised that the Eastern Shires Purchasing Organisation (ESPO) MStar 2 offered the most favourable terms.

6.3.3 The Eastern Shires Purchasing Organisation (ESPO) is a recognised consortium set up to tender for National frameworks that are accessible to local authorities and public sector bodies and other. The MSTAR2 framework is still live expiring on 10<sup>th</sup> April 2019- therefore it is accessible for the Council to use for this contract.

6.3.4 The requirements of the framework is to run a further competition to ensure a fair and transparent process giving the seven suppliers under Lot 1 full advantage to bid.

6.3.5 Due diligence was carried out using the MSTAR2 documentation including the Terms and Conditions of the framework which all

suppliers under the framework would be aware of.

- 6.3.6 All documents including clarification and correspondence where required were done through the London Tender Portal to ensure that a full audit trail was captured.
- 6.3.7 The evaluation process was undertaken individually by five staff members using the criteria, weightings and scoring method in the documentation.
- 6.3.8 Corporate Procurement were responsible for putting the individual scores into the scoring matrix providing a final score for the project team. These scores were signed off as agreed and formal unsuccessful letters were issued to the two unsuccessful bidders and an Intention to Award letter was sent to the recommended bidder named in the Part 2 report.

#### **6.4 Property Implications**

None

### **7 KEY RISKS**

- 7.1 The key risk is if the bidder performs poorly during the contract. However as the preferred bidder is the current bidder, their performance is known and there have been no issues over the last few years. We will ensure the risk is further mitigated by having performance monitoring in place and will hold regular meetings.

## **8 IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

### **8.1 Good homes in well-connected neighbourhoods**

- The winning provider named in Part 2 will work to improve the employability skills of local residents as detailed further below.
- They will work to improve the diversity of the agency workforce supplied to the Council by for example partnering with local disability groups to increase work opportunities.
- In addition they will promote their digital demand site so residents can search for work opportunities in the local area.

### **8.2 Sustain strong and healthy communities**

- Improving employability skills of residents will support strong and healthy communities.
- The winning provider named in Part 2 have committed to a community initiative per quarter- e.g visiting the elderly community at risk of loneliness, food bank initiatives, specific local projects etc.

- They have also committed to partner with a local charity to assist with fundraising campaigns and awareness.

### **8.3 Build our local economy to create a thriving place**

- The winning provider named in Part 2 will work to encourage further small and medium sized enterprises (SME's) to join the supply chain. Currently approx. 37% of placements are with a local supplier and 38% are local placements.
- Approximately 80% of the whole supply chain to all their customers are via SME's and offer early payment terms to support them.
- The winning provider will work to improve the employability skills of residents from different community groups- e.g careers fairs, mock interviews, employability workshops etc.

## **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 AND DATA 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 HR IMPLICATIONS**

12.1 It is acknowledged that the Council will continue to require the provision of agency workers in order to ensure flexibility within the workforce. The winning Provider is able to ensure compliance to all relevant legislation and the Council's safeguarding strategy, working with suppliers to ensure quality workers are sourced quickly and efficiently.

## **13 PUBLIC HEALTH IMPLICATIONS**

13.1 A safe, effective and efficient arrangement to resource temporary staff vacancies will enable the Council to undertake its role and duties. It is to be noted that in the areas of caring for vulnerable people, continuity of care is an important quality of care which must not be overlooked. It is advisable to highlight in the job advertisements that Enfield Council promotes healthy workplace.

## **Background Papers**

None