

London Borough of Enfield

Portfolio Decision

Meeting Date N/A

Part 1

Subject: Contract Award for the provision of agency worker supplying all job categories (excluding schools)

Cabinet Member: Cllr Tim Leaver

Executive Director: Fay Hammond

Key Decision: KD 5519

Purpose of Report

- 1.1 Following a procurement process via an established and national Framework Agreement, this report seeks authority to approve the contract award of a Supply Chain Management company to manage a supply chain of agencies to provide agency workers to the Council in all job categories (except schools).

Proposal

- 2.1 To appoint the winning bidder named in the Part 2 Report (Confidential) for the supply of agency workers. The proposed call-off contract will be for a period of two years, with the option to extend for a further two years in one-year periods until 31st January 2027.
- 2.2 In addition, this proposal requests that delegation is given to the Cabinet Member to approve the two optional contract extension(s) of one year each beyond the initial two-year period.
- 2.3 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. The winning bidder is aware of the council's ambition and will support Enfield to drive down agency worker usage.

Reason for Proposal

- 3.1 The Council is in its fourth-generation contract for agency workers and the current contract is due to expire 31 January 2023. Therefore, the Council needed to procure a replacement contract for the Supply and management of Agency workers and interims.

- 3.2 Human Resources and Procurement Services reviewed various options for procuring a replacement contract and obtained the requisite approval for its procurement strategy (July 2022). As a result, the Council undertook a mini competition with pre-qualified suppliers via an established Framework Agreement – Eastern Shires Purchasing Organisation (ESPO) MSTAR3 Framework (Managed Services for Temporary Agency services). This is a national framework accessible to local authorities and public sector bodies (amongst others).
- 3.3 By utilising the ESPO MSTAR3 Framework, it offered an efficient and compliant route to market which enables the Council to procure a centralised contract.
- 3.4 The proposed contract award ensures the Council obtains value for money, through appointing the winning bidder - which will ensure fully compliant agency workers are utilised (right to work and safeguarding checks) and ensures hiring managers use a single system to engage agency workers under a vendor neutral service.

Relevance to the Council Plan

4.1 Good homes in well-connected neighbourhoods

- The provider will work with the Council to improve the employability skills of local residents as detailed further below
- The provider 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, the provider will promote their digital demand site so residents can search for work opportunities in the local area

4.2 Safe, Healthy and confident communities

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

4.3 An economy that works for everyone

- The provider will work to encourage further small and medium sized enterprises (SME's) to join the supply chain. Currently approx. 25% of placements are with a local supplier and 31% are local placements.
- The provider will offer early payment terms to support local SMEs.

- The provider will work to improve the employability skills of residents from different community groups - e.g. careers fairs, mock interviews, employability workshops etc.

Background

- 5.1 As the current contract expires on 31 January 2023, the Council needed to re-procure a replacement contract to ensure there is on-going provision for agency workers.
- 5.2 The existing contract for the provision of agency workers was sourced through a single supplier vendor neutral contract, procured 2018 via ESPO's MSTAR2 Framework.
- 5.3 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 will not directly supply workers themselves. A supply chain management company has more buying power than a single organisation would be able to procure.

Main Considerations for the Council

- 6.1 The Council's agency worker reduction strategy has been successful to date in reducing the number of long-term agency workers. Since July 2020, the number of long-term agency workers have reduced by 66%. This strategy will continue to be prioritised to see further reduction in the reliance on agency workers and the associated costs. 27% of the Council's current agency workforce are local candidates. This financial year to date 107 agency workers have been converted into permanent or fixed term positions.

Regular updates will continue to be taken to EMT to monitor progress and ensure services are proactively working towards achieving targets as set out in the agency worker reduction strategy.

- 6.2 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.
- 6.3 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.

- 6.4 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.
- 6.5 Research was undertaken by Human Resources with regular advice and input from Procurement Services 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 the procurement strategy and route to market. Therefore, the Council utilised the current ESPO MSTAR3 Framework, inviting pre-qualified framework suppliers to tender. Following the mini competition and a robust tender evaluation, this has enabled the most economically advantageous tender to be identified for a neutral vendor provider and potential savings to be realised under the proposed contract.
- 6.6 The winning bidder 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 of a similar size to Enfield.
- 6.7 As noted, the winning bidder 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.
- 6.8 The winning bidder will have a contract with each agency, ensuring compliance of certain terms and conditions set out in the framework and call-off contract. 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.
- 6.9 It was specified in the procurement 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 10.1 of this report for further details on this element.

6.10 Further details supporting the above considerations have also been provided within the Part 2 Report (Confidential) accordingly.

Safeguarding Implications

7.1 Full safeguarding measures are taken in the provision of agency workers in line with the Council's commitment to safeguarding and safer recruitment. The agencies are required to upload all ID documents, references and DBS checks where required. These are audited by the Supply Chain management company and viewed and approved by the recruiting manager before a worker can commence their placement.

Public Health Implications

8.1 A safe, effective and efficient arrangement to resource temporary 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 part of the quality of care which must not be overlooked. It is advisable to highlight in the job advertisements that Enfield Council promotes a healthy workplace.

8.2 Agency worker placements with the Council provide further opportunity for residents to access work in the borough.

Equalities Impact of the Proposal

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.

Environmental and Climate Change Considerations

10.1 Continuing to engage local workers will mean shorter journeys to work.

Risks that may arise if the proposed decision and related work is not taken

11.1 The Council will not have a contract in place for the provision of agency workers. If there is no centralised contract, then managers could directly use any agencies to obtain agency workers- this would mean no reduced payment rates, no management information and no compliance of right to work and safeguarding checks

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

- 12.1 The key risk is if the bidder performs poorly during the contract. However, we will ensure the risk is further mitigated by having performance monitoring in place and will hold regular meetings.

Financial Implications

- 13.1 Noted in Part 2 of this report due to commercial sensitivity

Legal Implications

(Legal implications provided by SM on 17/11/2022 based on a report circulated on 07 November 2022 17:27)

- 14.1 Under Section 1(1) Localism Act (2011) the Council can do anything individuals' generally may do provided it is not prohibited by legislation and subject to public law principles. This power encompasses the power to enter into contracts.

Under Section 111 of the Local Government Act (1972) the Council has power to do anything (whether involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

There must be adequate budgetary provision to enter into the contract and the Council must comply with its obligations relating to the obtaining of best value under the Local Government (Best Value Principles) Act (1999).

The use of a framework is a compliant route to award of a contract, provided that regulation 33 of PCR 2015 is complied with. The Council's Contract Procedure Rules (CPRs) also continue to apply which must be followed together with the council's constitution. Any award under a framework agreement must be follow the procedures set out under that framework agreement. The contract procured must be based on the terms and conditions set out under the Framework Agreement and in a form approved by Legal Services on behalf of the Director of Law and Governance.

As the value of the proposed contract is over £500k the contract must be executed as a Deed by affixing the Council's seal and the decision to award must be taken as a key decision. Consequently, all procedures for the taking of a key decisions must be carried out and concluded before the decision can be implemented.

In respect of any contract with a value of £1m and over, the Council's CPR 7.2 states that the contractor must be required to provide sufficient security. 'Sufficient security', means one of the following: (i) parent company, ultimate holding company or holding company guarantee where their finances prove acceptable; (ii) director's guarantee or personal guarantee where their finances prove acceptable; (iii) performance bond, retained funds or cash deposit; or (iv) any other security as determined by Financial Management Services and/or Legal Services. Evidence of the

form of security required or why no security was required must be stored on the E-Tendering Portal for audit purposes. The framework agreement used may contain its own form of security and legal advice should be sought on this if required.

Procurement Implications

15.1 Any procurement must be undertaken in accordance with the Council's Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015) and the Council's Sustainable and Ethical Procurement Policy.

15.2 The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of the executed contract must be undertaken on the London Tenders Portal including future management of the contract.

15.3 This necessary information must also be published in the Contracts Finder portal to comply with the Government's transparency requirements.

15.4 The CPR's state that contracts over £100,000 must have a nominated contract owner in the LTP, and for contracts over £500,000 there must be evidence of contract management, including, operations, commercial, financial checks (supplier resilience) and regular risk assessment uploaded into the LTP.

15.5 A full mini-competition took place via LTP in accordance with the Council's CPR's, PCR's. Suppliers also bid against Sustainable, Ethical and Social Value quality questions and were part of the evaluation process.

Workforce Implications

16.1 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.

Property Implications

17.1 None

Other Implications

18.1 None

Options Considered

- 19.1 Alternative Frameworks were considered, however the ESPO MSTAR3 Framework was considered the best option as their overall pricing was the most competitive. ESPO were the only framework that offered a competitive process.
- 19.2 Another option was to tender independently but the risks associated would be that current savings would not be sustained as there would be little buying power available, the cost of undertaking a full procurement process in accordance with EU procurement rule and the rates would not be comparable to those under a framework.
- 19.3 Previous attempts to internally manage approved lists of agencies have been tried in the past and failed to produce satisfactory cost-effective results or other efficiencies and requires substantial internal resources It does not allow a single source of ordering, involves management of multiple invoicing sources and the level of volume discounts would not match an established frameworks pricing. A Managed Service Provider (MSP) provides less risk of implied employment status through robust supplier contracts.
- 19.4 Having considered the options in detail, the recommendation is to procure agency worker requirements with the winning bidder via the ESPO MSTAR3 Framework agreement for an initial two-year contract period, with the option to extend up to a further 2 years.
- 19.5 Additional information on the appraised options has been summarised within the Part 2 Report (Confidential).

Conclusions

- 20.1 The winning bidder has submitted the most economically advantageous tender against the pre-determined evaluation criteria, with the requisite experience of the recruitment agency market and has an established supply chain of over 400 agencies and has experience of working with a number of other London Boroughs of a similar size to Enfield.
- 20.2 Enfield have utilised the ESPO MSTAR Frameworks twice previously and have found them to suit all our requirements.

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Appendices

Background Papers

The following documents have been relied on in the preparation of this report:

None