

London Borough of Hammersmith & Fulham

Report to: Cabinet

Date: 01/06/2020

Subject: Authority to award contract for the managed services for temporary agency resources

Report of: Cabinet Member for Public Services Reform – Councillor Adam Connell

Report author: Mary Lamont, Head of People and Talent

Responsible Director: Rhian Davies, Director of Resources

Summary

Following an assessment of the council's future requirements and the impact of Covid-19, this report sets out the rationale for the proposed re-procurement of the council's contract of a Managed Service Provision for temporary agency resources and the award of the contract to a Neutral Vendor through the Eastern Shires Purchasing Organisations (ESPO) Mstar3 Framework.

Recommendations

1. Appendix 1 attached to this report is not for publication on the basis that it contains sensitive information relating to the financial or business affairs of any person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
 2. To approve the award of a contract to Pertemps Recruitment Partnership Ltd relating to a managed service provision for temporary agency resources, with effect from 1 July 2020 for a term of one year with the option to extend for a further year providing for a maximum contract period of 2 years. The maximum value of this contract is £47,000,000.
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Wards Affected: All

H&F Priorities

Our Priorities	Summary of how this report aligns to the H&F Priorities
Building shared prosperity	Working with local SMEs, local jobs for local people, supporting returners to work, youth unemployment and supporting the council's vision.
Being ruthlessly financially efficient	Reducing agency spend and underpinning the council's current agency reduction programme.

Impact of the current pandemic (COVID -19)

The council's current contract with Pertemps Recruitment Partnership Limited (Pertemps) under ESPO Framework (Mstar2) for the provision of agency workers is due to terminate on 30 June 2020. The contract was awarded for a 4-year period. There is no option to extend. Consideration has been given to re-procurement in order to ensure a contract is procured that is of Best Value. However, this would entail cost of re-tendering, cost of mobilisation, internal disruption, potential loss of agency workers including those in key roles who may not sign up to a new provider and retraining on a new system (all likely to be required to be undertaken remotely because of the current pandemic). Taking these all into account, along with the deployment of significant resources to support key services, a change of provider would pose a significant risk to business continuity and resilience. Retaining the current way of providing agency workers during the recovery period would offer the council best value at this current time.

The current provider has been proactive in supporting the supply of agency workers to priority services and has a good understanding of current demands. The current provision is a streamlined process that gives managers 24/7 access to an ordering system, standardised processes and direct contact with the provider. Award of the contract to the current provider for a period of 1 year with the option to extend for a further year will be aligned to the council's corporate COVID -19 recovery programme.

Financial Impact

Expenditure through the existing Pertemps contract has risen in recent years; from £17m in 2017/18, £22m in 2018/19 to £23.5m for 2019/20. Expenditure on agency resource is managed by departments who fund agency workers from service staffing budgets.

The Administration is committed to significantly reducing agency spend as part of its commitment to Ruthless Financial Efficiency and Zero-Based Budgeting and a significant internal programme of activity to reduce agency spend was implemented from August 2019, to provide greater scrutiny in terms of rates, headcount, duration of assignments and a move from temporary to permanent roles. Pay rate management will ensure all candidates are recruited at controlled pay rates that represent value for money. Tenure management will see implementation of a formal tenure review programme for candidates that are extended beyond pre-agreed

tenure milestones to enable the review of the role requirement and support identifying where an alternative engagement might be more applicable for the post (i.e. fixed term or permanent contracts).

As stated, the programme of activity is aligned to the council's zero-based budgeting initiatives and the Ruthlessly Financially Efficient Action Plan. Contract management is in place under the direction of the Assistant Director of People and Talent. The current provider has worked with the council to manage demand at the lowest possible margin and reduce forecast spend.

Potential cost savings

The Mstar3 core specification requires the provider to deliver savings against measurable targets and so build on current year on year improvements. The proposed contract has no minimum level of spend and will therefore support this approach.

Based on the level of agency expenditure from 2018/19, the new framework could deliver moderate savings on the rates paid to the Managed Service Provider (MSP). (see below). The bulk of any savings delivered through the re-procurement will be dependent on the level of agency use and spend incurred by departments in the medium term.

As noted above, expenditure on agency resource is managed by departments and this includes ensuring there is adequate budget provision in place. Departments do not have specific budgets for agency staff but are required to manage their agency spend within their employee budgets. The council is experiencing significant financial pressures due to the pandemic and agency cost reductions continue to be a priority area of focus to reduce council expenditure. Therefore, even where budgets exist, departments need to challenge whether agency staff are critical before engaging additional resource.

Maintaining business continuity and service delivery at this critical point in time needs to be considered against the cost of change and mobilisation including additional resources required to support the change. **Appendix 1 – Mstar3 Lot1a Pricing Schedule for Pertemps**

Modelled expenditure on Mstar3 framework based on 18/19 agency spend

18/19 Mstar2 Total on costs	MSP Fee	Agency Fees	ESPO Rebate	18/19 Mstar3 Total on costs	Potential Savings per annum based on 18/19 costs	Savings as % of total on-costs spend
£1,773,318	£97,407	£1,624,043	£6,301	£ 1,727,751	£45,567	2.6%

Index of terms	Description
<i>Statutory costs</i>	<i>National insurance contributions and working time directive contributions paid by the agency.</i>
<i>The Managed Service Provider</i>	<i>Charge rates for the provider's services, including but not</i>

<i>booking fees (MSP)</i>	<i>limited to account management, training, implementation and electronic systems.</i>
<i>Agency fees</i>	<i>Fixed charge rates for fulfilment of an assignment.</i>
<i>ESPO rebate</i>	<i>Recovers the costs incurred in the establishment and management of the framework.</i>

Legal Implications

This report recommends a direct award of a call-off contract to Pertemps under Lot 1a of the ESPO Mstar3 framework for a period of one year with an option to extend for a further year. The maximum contract value over the lifetime of the contract is £47,000,000. The value of the call-off contract exceeds the current EU threshold for services, which is £189,330. Therefore, this procurement is subject to the full procurement regime under the Public Contracts Regulations 2015 ('PCR').

Regulation 33 PCR allows for the use of a legal framework which complies with the PCR. The ESPO Mstar3 framework was procured in accordance with the PCR and runs from 11th April 2019 to 10th April 2021, with a further extension of 2 years until 2023. It also permits the use of direct awards. This framework is therefore a compliant procurement route.

This is a high value procurement under the Council's Contract Standing Orders ('CSOs'). The use of a framework is compliant with the advertising requirements set out in CSO 19.1. A waiver dated 14th May 2020 has been granted in relation to the requirement for a procurement strategy under CSO 18.1. The waiver has been granted on the ground that there are other circumstances which are genuinely exceptional", in accordance with CSO 22.3.6. Regulation 108 PCR requires the council to publish on Contracts Finder, within a reasonable time, the name of the supplier, the date on which the contract was entered into and the value of the contract.

The decision to award can be taken by the Cabinet Member, however given the value of the proposed contract and that the requirement for Procurement Strategy was waived it is appropriate the award decision is considered at Cabinet.

Implications provided by: Natasha Barlow, paralegal at Sharpe Pritchard on secondment to the Council, nbarlow@sharepritchard.co.uk and Hannah Ismail, solicitor at Sharpe Pritchard, hismail@sharepritchard.co.uk

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Background Papers Used in Preparing This Report

Equality Impact Analysis

DETAILED ANALYSIS

Proposals and Analysis of Options

Background – ESPO & MSTAR3

1. 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.
2. This framework is compliant with UK/EU procurement legislation and allows the use of direct awards.
3. This is the third in a series of successful frameworks, (Mstar1, Mstar2 and now Mstar3) further demonstrating ESPO's proven experience, market knowledge and procurement know-how in the temporary/interim staffing market. The market has recently been tested with the Mstar3 framework in place from 11 April 2019 to 10 April 2021 with an option to extend for a further 24 months until 10 April 2023.
4. Under Mstar3 Lot1a, there are 10 suppliers. All suppliers were assessed during the procurement process for their financial stability, track record, experience, technical and professional ability. Suppliers are not ranked under the framework. The delivery model under Lot1a is Neutral Vendor ie where the supplier manages a chain of agencies but may also supply temporary agency workers where this is done through a subsidiary company.
5. The Mstar3 core specification for services (Lot 1a) sets out the fundamental provisions including management of the agency supply chain, an ordering platform, provision, compliance and payment of temporary agency workers, MI and shared business intelligence.
6. The council's current contract for the provision of agency interim and temporary staff is with Pertemps. Pertemps currently deliver under a neutral vendor model.

7. 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.
8. Any change in supplier in the current climate will necessitate a change in systems and processes impacting further on service delivery

Conclusion

9. This report recommends the contract for the provision of agency staff through the ESPO Mstar3 framework be awarded to Pertemps.

Equality Implications

10. This proposal will not result in any anticipated negative equality implications for groups with protected characteristics, under the Equality Act 2010. A full Equality Impact Assessment has been undertaken by officers and has concluded an overall neutral impact.

Implications verified by: Fawad Bhatti, Policy & Strategy Officer, tel. 07500 103617.

Risk Management Implications

11. Proposals seek to retain the current way of providing temporary agency resources through the Covid-19 crisis and into transition to recovery. This is being done in full consideration of several measures including, SLT Targets to reduce agency spend in adherence to the Being Ruthlessly Financially Efficient Priority, the workforce strategy planning taking place following Covid-19 and, the Civic Campus Programme workforce needs. Additional issues considered include the impact that moving to a new provider may require manager and user support and training, adopting a new software system and these are seen as not being ideal during the Covid-19 period where managers will have many other tasks to undertake.
12. Continuity of agency supply, both for critical front-line roles and project/specialist support, during this period where the impact of Covid-19 outbreak and transition to recovery is vital to protect vulnerable residents and ensure continuity of key services.

Implications verified by: Michael Sloniowski, Risk Manager tel: 020 8753 2587

Digital implications

13. IT system implications: there are no direct implications from this proposal.
14. IM Implications: Pertemps will be expected to have a GDPR policy in place and all staff will be expected to have received GDPR training.

15. The existing Privacy Impact Assessment (PIA), should be reviewed as part of the contract award.
16. Any contracts will need to include H&F's new data protection and processing schedule. This is compliant with the General Data Protection Regulation (GDPR) enacted from 25 May 2018.

Implications completed/verified by: Veronica Barella, Chief Digital Officer,
Digital services, 0208 753 2927

List of Appendices:

Appendix 1. Mstar3 Lot1a Pricing Schedule for Pertemps (exempt)