

12 February 2019		ITEM: 14
Decision: 110505		
Cabinet		
Re-procurement of the Temporary (Agency) Worker Contract		
Wards and communities affected: All	Key Decision: Key	
Report of: Councillor Gary Collins, Portfolio Holder for Central Services		
Accountable Assistant Director: Mykela Pratt, Strategic Lead Resourcing & Improvement		
Accountable Director: Jackie Hinchliffe, Director of HR, OD & Transformation		
This report is public		

Executive Summary

This report sets out the options around, and recommendations for, the re-procurement of the Temporary (Agency) Worker Contract.

The current contract with Matrix SCM expires on 15 December 2019 and therefore the Council needs to ensure there is a new arrangement in place by this date to ensure that suitable quality and cost effective provision can be made for contingent labour needs where this applies.

The performance of the current contract has been good and has provided consistent pricing, notable savings and helpful management information; demonstrating performance and compliance across all Council directorates.

The current service model of “neutral vendor” provides the best mix of cost certainty, ability to include local agencies and tier specialist providers for hard to recruit positions. The most suitable model will be chosen by the project group that is established as part of this re-procurement exercise.

The value and nature of this contract requires full compliance with EU Procurement Directives which therefore impacts on process and timescale for re-procurement. As set out in the report, it is therefore proposed that the Cabinet agrees that officers progress a mini competition through the ESPO (Eastern Shires Purchasing Organisation) framework MSTAR3.

1. Recommendation(s):

1.1 Agree to progress the re-procurement of a four year Agency Staff Contract using the ESPO MSTAR3 Framework with a new contract to commence on 15 December 2019.

1.2 Approve delegation to award to the Director of HR, OD & Transformation in consultation with the Portfolio holder in order to ensure maximum lead in time for service transfer as necessary.

2. Introduction and Background

2.1 The Council currently contracts with Matrix SCM “the Managed Service Provider” for the supply of contingent labour which expires on 15 December 2019. The contract will have been in place for four years and was awarded following a mini-competition undertaken through the Eastern Shires Purchasing Organisation (ESPO).

2.2 Provision of cost and quality effective contingent labour from recruitment agencies are key to effective use of resources for Thurrock alongside the mix of permanent and contracted staff.

2.3 The current arrangement cannot be extended further and therefore it is necessary to embark on a re-commissioning exercise to put in place a new contract for December 2019.

2.4 Whilst agency spend overall remains significant, latest spend figures indicate a steady reduction in the use of agency staff. Total spend for July to September 2018 was £2,259,609 which amounts to a decrease from the previous quarter of £47,010 and a reduction to the same quarter in the previous year of £120,179. Annual spend is currently in excess of £9 Million.

2.5 The majority of cost to provision of Agency Workers is the direct pay and on costs element (National Insurance, holiday pay and pension), with the Managed Service Provider, Agency Profit and Overheads and ESPO framework charge amounting to approximately 7% of the total spend each financial year.

2.6 The use of Agency Workers has decreased due to efforts being made to control and reduce the usage through permanent recruitment and the provision of internal bank staff arrangements. However, there will still be a need for an agency arrangement to meet peaks and troughs in demand as well as for time limited projects where it is not possible to secure staff through a fixed term contract.

2.7 It should also be noted that there has been a significant reduction in off contract spend since the contract award in December 2015 – ie. direct use of agencies outside of the Matrix SCM agreement. The off contract spend in Q2 of 2018-19 financial year totalled £15,520 which is a significant decrease of

£29,642 from the same quarter of the previous year. For context, off contract spend at the start of the contract totalled over £150,000.

2.8 Off Contract provision is likely to be on much less favourable terms for the Council including:

- Much higher agency mark up (profits and overheads)
- “Finders Fees” for transferring staff to Thurrock contracts
- Minimal (if any) management information
- Increased management arrangements and invoice processing costs.

2.9 Therefore, whilst a new agency worker contract is unlikely to deliver further significant savings, the following should be prioritised in order to maximise financial control – and the new arrangement will look to support this.

- Management of staff pay rate demands
- Control of usage of contingent labour overall
- Minimising agency margins for ongoing agency worker placements
- Ensuring off contract spend remains minimal through ensuring that the new contract is fully able to meet all specialist requirements

2.10 In addition, using a managed service provider is the easiest and most robust way of ensuring compliance with Agency Worker Regulations (AWR) 2011 which gives agency workers the entitlement to the same basic employment and working conditions as if they had been recruited directly, if and when they complete a qualifying period of 12 weeks in the same job.

2.11 For the reasons outlined above, a managed service provider is the preferred option of the majority of Local Authorities; examples of current clients of Matrix SCM alone include Barnet Council, Basildon Council and The Royal Borough of Greenwich.

3. Issues, Options and Analysis of Options

3.1 As part of the recommissioning, project meetings will be held with Directorate representatives to seek their views on the current service (from Matrix SCM) and what the needs of the relevant departments are both now for the future.

3.2 Three directorates (Children’s, Adults and Environment & Highways) have, or are currently establishing an internal bank of staff for emergency front line cover. This reduces the reliance on an externally provided arrangement. The specification and terms of the new contract will therefore need to ensure as far as possible that the identified issues are resolved.

3.3 In terms of service models, two main options were considered: These are set out in detail in Appendix 1 to this report and summarised below:

Option 1: Master Vendor – here a Managed Service Provider operates with the view to providing all our staff from their own agency base, only going to additional agencies (including local providers) when the roles cannot be filled. This could be slightly cheaper but can be slower and more likely to lead to off contract spend where directorates are unable to fill positions satisfactorily.

Option 2: Neutral Vendor – this is the current arrangement, where a Managed Service Provider supplies the booking, timesheet and payment systems, signs agencies up to consistent fee rates and terms and conditions and manages the process of securing staff for the client. Overall, this offers the best value and least risk to Thurrock and is therefore the preferred option.

- 3.4 The ESPO MSTAR3 includes a number of large scale agencies within the neutral vendor lot (Lot 1). Call off can be made directly (ie. we choose one) or by mini competition (ie. a structured selection). Mini competition ensures that Thurrock is able to test the issues in service delivery and price that are most important to the Council and therefore this is the preferred procurement option.

4. Reasons for Recommendation

- 4.1 This report is submitted to Cabinet in accordance with the Council's Contract Procedure rules to seek approval to proceed to tender for a contract with a whole life cost valued above £750K. The total estimated spend on this contract over the maximum 4 year period could be as much as £36 Million. The required Stage 1 Form is attached as an appendix to this report.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 A working group of directorate representatives has been set up to discuss performance and agree options for this procurement, and will continue to be involved in the procurement and evaluation stage.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 Provision of agency workers impacts on directorate operations, particularly with the reduction of staff numbers overall. An effective service ensures that staff are available to fill short-term frontline need and complete individual projects at consistent rates, thus supporting the delivery of corporate priorities as a whole.

7. Implications

7.1 Financial

Implications verified by: **Dammy Adewole**
Management Accountant

As set out in the report, effective provision of a Temporary (Agency) Worker contract ensures that the Council secures best value in the employment of contingent labour. Spend will vary according to directorate need and be funded from the relevant budgets. The majority of cost is in direct pay and on costs for the temporary staff members; however the procurement exercise will seek to ensure that any available cost savings in agency fees are maximised.

7.2 Legal

Implications verified by: **Courage Emovon**
Principal Lawyer / Team Leader - Contracts Team

There are no direct legal implications other than the Council must comply with any applicable procurement rules and regulations including compliance with the terms and use of the framework – ESPO MSTAR3 in any call off under the framework. The Council will also need to comply with its Contract Procedure rules and legal services is available to advice on any legal implications arising from the proposals set out in this report.

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Strategic Lead Community Development and Equalities

The provision of temporary staff through a Managed Service Provider and all subsidiary agencies will, as now, be required to be compliant with the Council's principles, policy and practices with regard to equalities and diversity, ensuring fair recruitment and employment for all.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

The Council will continue to utilise the appropriate measures to ensure that agency staff do not substitute permanent opportunities for extended periods of time. However, where it is necessary to engage a candidate for a period longer than 12 weeks they are protected by the Agency Worker Regulations (AWR) which ensure that they are receiving comparable pay to those that are permanent employees.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

9. Appendices to the report

- Appendix 1: Service Model Options
- Appendix 2: Stage 1 Form

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Appendix 1 – Service Model Options

Model	Description	Advantages	Disadvantages
Master Vendor (outsourced)	Managed service where the contractor provides staff through their own agencies first. Only when unable to meet the requirement do they move onto the supply chain.	<ul style="list-style-type: none"> • Managed service providing cost control • Master Vendor is generally the cheapest option for a managed service because the contractor believes they will provide the majority of staff • Single point for management information • Single point for invoicing 	<ul style="list-style-type: none"> • Delays in filling posts while lead contractor tries to fill with its own staff • Tends to lead to more off contract spend • Many local authorities have moved away from this model
Neutral Vendor (outsourced)	Managed service where the contractor does not provide any staff (<i>this is the current arrangement with Matrix SCM</i>) and all opportunities are offered to the supply chain – which may itself be tiered.	<ul style="list-style-type: none"> • Managed service providing cost control • Favours a wide range of agencies including locally based services • Ability to tier agencies according to performance or other criteria • Single point for management information • Single point for invoicing 	<ul style="list-style-type: none"> • Slightly more expensive than Master Vendor model