

REPORT TITLE: MANAGED SERVICES FOR TEMPORARY AGENCY
RESOURCES

14 JUNE 2017

REPORT OF PORTFOLIO HOLDER: Cllr Stephen Godfrey, Portfolio Holder for
Professional Services

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WARD(S): ALL

PURPOSE

This paper proposes that the City Council call off from a National Framework Agreement and enters into a Contract for Services for the provision of a Managed Service for Temporary Agency Resources (MSTAR) with a suitable supplier under Lot 2 of the framework agreement.

RECOMMENDATIONS:

1. That Cabinet authorise the Assistant Director (Service & Organisational Development) to enter into a Contract for Service for the provision of agency workers.

IMPLICATIONS:

1 COUNCIL STRATEGY OUTCOME

- 1.1 The use of temporary agency workers supports the Council to have an agile, flexible workforce to deliver all of the key outcomes set out in the Council Strategy and to engage workers at short notice.

2 FINANCIAL IMPLICATIONS

- 2.1 By calling off a compliant national framework agreement, the Council will benefit from pre-negotiated preferential rates and removes the need for a full EU tender procurement.
- 2.2 The Council's average spend on Agency Staff (over the last 3 financial years) is £624,995 per annum.
- 2.3 By definition, the Council's use of agency workers fluctuates throughout the year; the future usage of agency workers (and therefore the associated cost implication for the Council) is difficult to predict with any certainty.
- 2.4 While the actual level of saving is dependant on which supplier is appointed and the use of agency workers in the future, the preferred supplier have confirmed that the savings under the framework agreement would be 12.5%.
- 2.5 For illustrative purposes, applying the 12.5% indicative savings identified by ESPO to the average spend per annum set out above, would have reduced the Council's spend by approximately £78,124 per annum (based on the average annual spend above).
- 2.6 Using this potential 12.5% saving, had the Council obtained agency workers through a framework agreement, the Council's spend on agency workers over the last 3 years could have potentially been reduced by £234,372.
- 2.7 In addition to the costs of agency staff over the last 3 financial years, the Council has spent £10,845 relating to "Finder's Fees" where an agency has introduced a temporary worker who has subsequently been appointed to the same role on a permanent basis.
- 2.8 Typically, any "Finder's Fee" is calculated as a percentage of the annual starting salary for the post. Each agency will define the actual rate to be applied. Based on the last 3 financial years, the Council has been charged between 12.75% and 25% of starting salary as a "Finder's Fee", depending on which agency was used.

- 2.9 Calling off services direct under the MSTAR2 Framework Agreement would significantly reduce the Council's costs relating to "Finder's Fees" in the future as the contractual arrangements within the MSTAR2 Framework Agreement include preferential rates for "Finder's Fees", capped at a maximum of 12.5% of the proposed annual salary.
- 2.10 Confidential market data supplied by ESPO has been reviewed; calling off directly under Lot 2 of the ESPO national framework agreement achieves the best price.
- 2.11 **Appendix 1** of this report contains an assessment of each of the lots under the framework agreement and confirms that the provisions of Lot 2 best meets the requirements of the Council.
- 2.12 As any temporary worker engaged through the preferred supplier is not directly employed by Winchester City Council, officers are satisfied that the Council would not be liable for any payments under IR35.

3 LEGAL AND PROCUREMENT

- 3.1 An EU Compliant procurement process has been undertaken in the form of a Framework Agreement. The national framework agreement is managed by Eastern Shires Purchasing Organisation (ESPO).
- 3.2 The OJEU Documentation supplied by ESPO has been reviewed and the Council is eligible to access the MSTAR2 suppliers through the ESPO agreement.
- 3.3 Contract evaluation for the framework involved two stages: qualifying and award. Those tenders which met the qualifying criteria were scored against the award criteria which were divided into two areas: service delivery and price, weighted as follows: Service Delivery 40% and Price 60%, which meets the requirements set out in the Council's Contract Procedure Rules.
- 3.4 Under the framework agreement, the Council could call-off directly under Lot 1 or Lot 2 without the need for further procurement activity. If the Council chose to access services under Lot 3, the framework agreement requires that a mini-competition takes place.
- 3.5 Due to the potential contract value, Cabinet approval is required under the Council Procurement Regulations, for any of the three lots identified in the framework agreement.

4 WORKFORCE IMPLICATIONS

- 4.1 While agency workers are employed by the individual agency and not the City Council, existing agency workers will be required to transfer to the new service provider if they wish to remain engaged by the Council.
- 4.2 The implementation plan will consider and determine the correct transfer of existing agency workers, including any transitional arrangements which apply.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 NONE

6 CONSULTATION AND COMMUNICATION

- 6.1 The implementation of the Managed Service Provision will include a communication strategy which will be agreed in consultation with the chosen supplier.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 NONE

8 EQUALITY IMPACT ASSESSMENT

- 8.1 None

9 RISK MANAGEMENT

Risk	Mitigation	Opportunities
<i>Financial / VfM</i>	The Council benefits from preferential rates which will reduce future spend on temporary agency workers.	
<i>Legal</i>	The Council is eligible to call off a national framework agreement without the need for further procurement work.	

10 SUPPORTING INFORMATION:

- 10.1 Winchester City Council entered into a contractual agreement with Manpower in July 2006 for the supply of temporary resources ("agency workers") through

a Managed Service for Temporary Agency Resources arrangement, which has since expired.

- 10.2 The current practice across the Council does not comply with procurement regulations. The use of agency workers was reviewed in December 2016 as part of a wider internal audit review of recruitment practices. The auditor highlighted that there is “limited assurance” in the approach currently in place relating to the supply and management of temporary workers.
- 10.3 This paper proposes that the City Council call off from a National Framework Agreement and enters into a Contract for Services for the provision of a Managed Service for Temporary Agency Resources (MSTAR) with a suitable supplier under Lot 2 of the framework agreement.
- 10.4 A call off under the MSTAR2 framework, allows the Council to appoint an agency as a sole supplier of temporary workers, with clear provisions relating to sub-contracting terms should the sole provider not be able to source an appropriate candidate.
- 10.5 This approach enables the Council to demonstrate compliance with procurement regulations. It provides greater assurance which satisfies the requirements of Internal Audit. The appointed supplier would provide management information which will assist with reducing the costs associated with temporary workers and enable the Council to monitor temporary assignments and demonstrate compliance with the Agency Worker Regulations 2010.

11 OTHER OPTIONS CONSIDERED AND REJECTED

- 11.1 **Appendix 1** of this report summarises the options appraisal undertaken to support this proposal.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

None

Other Background Documents:-

None

APPENDICES:

Appendix 1 – Options appraisal

Appendix 1 – Options appraisal

Option	Description	Advantages	Disadvantages	Conclusion
Option 1: Do Nothing	Managers contact agencies who have supplied workers in the past.	<ul style="list-style-type: none"> • Managers have the ability to approach any supplier to meet the requirements of the placement 	<ul style="list-style-type: none"> • Does not comply with EU or Council procurement regulations leaving the Council open to significant challenge. • No management information available to control spend • The Council does not benefit from price reductions which have been negotiated as part of an EU compliant procurement process. 	<p>The current practice of having no control over which agency is used does not support an efficient and effective use of Council resources.</p> <p>Option 1 is non compliant (CPR's and PCR's 2015) and does not meet the Council's requirements.</p>
Option 2: Call off Framework Agreement under Lot 1	Lot 1 provides a Neutral Supply Chain model of service delivery. The service provider may not itself supply any temporary workers but manages a supply chain of agencies to provide a temporary worker to fulfil bookings.	<ul style="list-style-type: none"> • Price reductions are in place to demonstrate Best Value • No further procurement exercise required • More efficient and streamlined processes, with controls in place • Clear and concise management 	<ul style="list-style-type: none"> • The number of unfilled assignments can be high resulting in the Council having to engage a supplier outside of the framework agreement, potentially exposing the Council to a breach of contract claim and additional costs 	<p>Initial research into Lot 1 highlights that there can be very limited contact with the customer therefore there is a risk that the supplier does not fully understand the needs of the Council.</p> <p>Officers consider the risks associated with not fulfilling an assignment</p>

		<p>information to control spend, inform future resourcing requirements and demonstrate compliance with Agency Worker Regulations</p> <ul style="list-style-type: none"> • Accuracy and transparency of fees and cost savings • Robust compliance checks undertaken by agency relating to employment status and DBS checks 		<p>through a contract with a Lot 1 supplier would outweigh the benefits of using the Framework agreement.</p> <p>Option 2 does not meet the Council's requirements.</p>
<p>Option 3: Call off Framework Agreement under provisions of Lot 2</p>	<p>Lot 2 relates to a Master Supply Chain model where the provider generates a pool of workers to fill vacancies and appoints other agencies to fulfil vacancies that they cannot source themselves.</p>	<ul style="list-style-type: none"> • The supplier has responsibility for the management of relationships with other agencies. • The Council benefits from a simplified service, whilst retaining the breadth of supply from multiple agencies. • Price reductions are in place to demonstrate Best Value 	<ul style="list-style-type: none"> • Potentially prevents the Council engaging other suppliers for campaigns such as the recent recruitment campaign to appoint a Chief Executive. 	<p>Officers have assessed suppliers under Lot 2 and are satisfied that Lot 2 meets the Council's requirements.</p> <p>(preferred option)</p>

		<ul style="list-style-type: none"> • No further procurement exercise required • More efficient and streamlined processes, with controls in place • Clear and concise management information to control spend, inform future resourcing requirements and demonstrate compliance with Agency Worker Regulations • Accuracy and transparency of fees and cost savings • Robust compliance checks undertaken by agency relating to employment status and DBS checks 		
Option 4: Enter Contract for Services under Lot 3 of Framework Agreement	Lot 3 is referred to as “Supply Chain Optimisation” or “hybrid service provision” and is a fully integrated (outsourced) recruitment	<ul style="list-style-type: none"> • Allows the Council to have a sole provider in place for all recruitment activities not simply the provision of agency 	<ul style="list-style-type: none"> • Requires further procurement activity • Potentially prevents the Council engaging other suppliers for campaigns such as 	If the Council wishes to access services under Lot 3, it is strongly recommended that all possible options for increased partnership

	provision for all recruitment activities,	workers.	<p>the recent recruitment activities for Chief Executive.</p> <ul style="list-style-type: none"> • Likely to have significant implications for the Council and may include TUPE related transfers for staff or potential redundancy situations. 	<p>working with other Councils are explored fully before making the decision to engage services under Lot 3.</p> <p>Lot 3 does not meet the Council's requirements at this current time.</p>
Option 5: Develop a local framework agreement		<ul style="list-style-type: none"> • Enables the Council to utilise local suppliers 	<ul style="list-style-type: none"> • Requires significant officer time to identify appropriate suppliers and undertake the procurement process required to establish a local framework • Limited or no management information available to control future spend 	<p>An existing framework agreement is available and the Council is eligible to call-off services direct without further procurement activity.</p> <p>Option 5 does not meet the Council's requirements.</p>