
Meeting	Cabinet Resources Committee
Date	20 June 2012
Subject	Provision of Temporary Agency Resources
Report of	Cabinet Member for Resources and Performance
Summary	To approve the award of contract for the provision of temporary agency resources under the Eastern Shires Purchasing Organisation (ESPO) MSTAR framework to Comensura Limited for a period of 3 years from 1 October 2012 with the option to extend for a further 12 months

Officer Contributors	Mark Rudd, Head of HR Service Delivery (Deputy Chief Executive Service) Praful Ladwa, Corporate Procurement (Commercial Services)
Status (public or exempt)	Public (with separate exempt report).
Wards affected	None
Key Decision	Yes
Reason for urgency / exemption from call-in	Not applicable
Function of	Executive
Enclosures	None

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1. RECOMMENDATIONS

- 1.1 That the contract for the supply of temporary agency resources be awarded to Comensura Limited from 1 October 2012 valued at £10.6m per annum or £36.7m for the initial 3 year term with the option to extend the contract for a further 12 months for an additional £9.9m. The total contract value including the additional year will be £46.6m.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee, 25 February 2008, Decision Item 5 - the Committee resolved to award the contract to Hays Specialist Recruitment Limited for the supply of Neutral Vendor Services for the provision of a managed agency temporary desk and the supply of temporary workers for the period 25 February 2008 to 02 April 2011 with an option to extend for a further period of up to two years.
- 2.2 Cabinet Resources Committee, 2 March 2011, Decision Item 16 - the Committee resolved that the Commercial Director be authorised to extend the current contract for the supply of temporary agency staff held by Hays Resource Management for a period of 12 months from 2 April 2011 to 31 March 2012.
- 2.3 Cabinet Resources Committee, 4 April 2012 Decision Item 21 - the Committee resolved to authorise the Director of Commercial Services to extend the current Contract for the supply of Temporary Agency Staff held by Hays Resource Management for a period of six months from the 2nd April 2012 to 30 September 2012.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The contract with Comensura Limited will support the Corporate Plan 2012-13 which states "We will continue to drive costs out of the council through transforming our internal organisation" and that we will focus on "...making sure we get the best value from resources across the public sector, including our people and assets". In addition the contract will help the strategic goal of maximising improvements and savings in back office functions and the Council's corporate priority "Better services with less money".

4. RISK MANAGEMENT ISSUES

- 4.1 During 2010 it became apparent that public finances nationally were to be significantly constrained. For the Council, as a people organisation, this meant that the most significant impact would be upon people costs. Recruitment was identified as a significant issue - there was a concern not to create additional redundancy costs plus there was also an urgent need to be able to redeploy permanent workers who were displaced because of proposed budget reductions. To address these objectives, the organisation made a decision in June 2010 that it should move towards a more flexible approach to managing its workforce. This meant that vacancies were predominately filled on a temporary basis, and only in the areas of 'hard to fill' roles were permanent appointments made.
- 4.2 The contract for the supply of Temporary Agency Staff is critical to the delivery of this objective.

- 4.3 The current contract with the supplier of Temporary Agency staff expires on 30 September 2012. Ending the contract without alternative provision would undermine the Council's approach to flexibly managing its workforce.
- 4.4 Officers have considered whether there are any risk issues involved likely to raise concern or give rise to policy considerations and are content none exist.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Under the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; and c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy; maternity; race; religion or belief; sex; and sexual orientation. The duty to eliminate discrimination also extends to marriage and civil partnership.
- 5.2 All preferred suppliers under the Eastern Shires Purchasing Organisation (ESPO) 'Managed Services for Temporary Resources' (MSTAR) framework contract 653F have confirmed through the formal tender process, compliance with all their statutory obligations, including under the Equality Act 2010.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 There are no adverse staffing, IT, sustainability, performance or property issues as a result of participating in the framework contract.

Procurement and Value for Money

- 6.2 The rules of the MSTAR framework provide the Council with two options to be able to appoint a Service Provider. The appointment can be made by either 'direct award' or following a further competition. Both options are compliant with current EU legislation.
- 6.3 The option to appoint a Service Provider by 'direct award' is not suitable for the Council as it does not provide a means of ensuring value for money as the Council would have to award a contract based upon the outcome of the tendering process conducted by ESPO and appoint the supplier who achieved the highest combined technical and commercial score.
- 6.4 The Council's preferred option is, therefore, to run a competitive tendering process under the rules of the MSTAR framework agreement and evaluate the tenders in a fair and transparent manner. The Council has decided not use the evaluation criteria recommended by ESPO which give a greater weighting to commercial aspects i.e. price than to service delivery i.e. quality.
- 6.5 The evaluation criteria that each of the submitted proposals would be assessed against is given below and is compared against the ESPO recommended weightings:

Criteria	ESPO Recommended Weightings	Barnet Mini Competition Weightings
Technical	40%	60%
Price	60%	40%
Total	100%	100%

7. LEGAL ISSUES

- 7.1 Procurement processes must comply with the European procurement rules and the Treaty obligations of transparency, equality of treatment and non discrimination as well as the Council's Contract Procedure Rules.
- 7.2 A Framework is an agreement between a client and contractor or contractors or consultant or consultants (depending upon the nature of the framework), the purpose of which is to establish the terms governing particular call-off contracts that may be awarded during the term of the framework, in particular with regard to price and quantity.
- 7.3 Framework agreements are referenced under paragraphs 6.9.1.1 through to 6.9.1.5 of the Contract Procedure Rules, as set out at paragraph 8.3 below. On the basis of the information contained in the report the relevant provisions of the Council's Contract Procedure Rules have been met.
- 7.4 In accordance with the Council's Contract Procedure Rules, there will be a need to enter into formal contract with the successful tenderer.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution Part 3 - Responsibility for Functions, section 3 – Responsibility of the Executive, paragraph 3.6 – terms of reference of the Cabinet Resources Committee.
- 8.2 Constitution, Part 4 –Contract Procedure Rules Table 5-1 - Authorisation & Acceptance Thresholds for Works, Supplies and Services - provides that authorisation by Cabinet Committee is required for contract value of £500,000 and above.
- 8.3 Constitution, Part 4 –Contract Procedure Rules, section 6.9 provides as follows:

“6.9 Before promoting the procurement of a new or joining a pre-existing framework agreement, the Commercial Director must be satisfied that such an approach represents the most economically advantageous solution for a service work, supply or utility provision and complies with the Relevant EU Rules on the use of such agreements.

Before procuring or entering into a framework agreement, the Commercial Director shall be satisfied that:

- 6.9.1.1 the term of the arrangement shall be or is for a period of no longer than four years duration;
- 6.9.1.2 the terms and conditions of the arrangement do not compromise the Council's contractual requirements;
- 6.9.1.3 the parties to the arrangement are recognised public bodies or providers from the private sector;
- 6.9.1.4 full, open and proper competition in respect of the creation of the framework agreement has taken or will take place in accordance with the Relevant EU Rules and/or Relevant Contract Procedure Rules
- 6.9.1.5 Preference should be given to use of any Government Procurement schemes e.g. OGC”.

- 8.4 The Commercial Director has confirmed that the framework agreement represents a prudent, efficient and economical way of ensuring compliance with procurement rules; and the Commercial Director has given approval to join the framework agreement.
- 8.5 The cumulative spend over the life of the contract is projected to exceed £500,000. The contract does, therefore, constitute a key decision.

9. BACKGROUND INFORMATION

- 9.1 In 2006 the London Contracts & Supply Group (LCSG) Framework contract was awarded to Hays Resource Management for the neutral supply of temporary and permanent staff. The contract was awarded for a period of 5 years with an option to extend for 2 further periods of 1 year. The original contract five year period was completed on 31 March 2011 and the subsequent first contract extension was completed on 31 March 2012. A further six month contract extension will be completed on 30 September 2012. The tables below details the contract spend on an annual and cumulative basis:

Financial Year	Spend (including Management Fee)
2008-2009	£11.6M
2009-2010	£13.5M
2010-2011	£11.6M
2011-2012	£9.9M

Term	Spend	Cumulative Spend
Initial 3 year period	£36.7M	
First 1 year extension	£9.9M	£46.6M
Final 6 month extension	£5M	£51.6M

- 9.2 In January 2012 the Council commenced the re-procurement of the service provision. Service Providers from the Lot 2a of the Managed Services for Temporary Agency Resources (MSTAR) Framework were invited to submit bid proposals. Before commencing the re-procurement exercise Corporate Procurement researched other pan London and pan public sector framework agreements for the provision temporary agency resources but found that only the MSTAR agreement offered a true 'one stop shop' solution.
- 9.3 Lot 2a of the MSTAR framework provides for Corporate and Education temporary staffing resource based upon a supply chain model, this means that the successful bidder is not tied to a particular agency brand and can develop its own capability in order to meet a customer's requirement. The supply chain model provides the lowest risk to the Council, provides a compliant route for Small & Medium Enterprises (SME's), Social Enterprises and Black and Minority Ethnic Enterprises (BME's) to provide services to the Council and eliminates any potential issues around TUPE.
- 9.4 The re-procurement was delayed as the Council had envisaged collaborating with other London Boroughs; however, the Council's requirement did not match that of other Boroughs who only wish to find a provider for general administration and clerical roles,

whereas the Council wished to include 'hard to fill' roles within Social Care and Education. In addition, it is intended to procure Interim Managers and Consultants via this route.

- 9.5 The tender closing date was extended by one week and a total of four (4) bids were received by 28th February 2012. Quality proposals were assessed by the Technical Evaluation Panel and Corporate Procurement assessed the commercial proposals.
- 9.6 Following the initial technical and commercial evaluations all four bidders were invited to meet with Evaluation Panel to further clarify aspects of their bid proposal. Supplier presentations took place week commencing 12th March 2012.
- 9.7 The responses given by the bidders at the supplier presentations were then reviewed and the Evaluation Panel then agreed by consensus the final scores to be awarded to each supplier and agree the final recommendation. The table below summarises the scores that were awarded to each supplier:

	Supplier 1	Comensura	Supplier 3	Supplier 4
Technical (60%)	23.25%	48.25%	19.00%	18.00%
Commercial (40%)	24.56%	24.98%	20.43%	32.74%
Total	47.81%	73.23%	39.43%	50.74%

The identity of Suppliers 1, 3 and 4 is detailed in the accompanying exempt report.

- 9.8 The value of the new contract is difficult to estimate as the value is determined by actual usage. The bidders were provided with a breakdown of the Councils current temporary agency workforce in order that they could offer competitive pay rates. In addition each of the bidders has offered to achieve a minimum guaranteed saving (as a percentage of spend) on a year on year basis and a gain share incentive if they deliver savings above the guaranteed saving. The guaranteed level of saving that has been offered by Comensura is commercially sensitive information and is detailed in the accompanying exempt report.
- 9.9 Based upon the current usage and the information supplied by the bidders this would value the new contract at between £ 8.1M to £10.6M per annum or £24.3M to £31.8M over the initial 3 year term of the contract.
- 9.10 Each of the bidders has identified but is not able to quantify additional cash savings that could be achieved during the implementation phase of the contract when further pay rate benchmarking will be carried out and the baseline value of the contract has been set by Comensura.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	SWS