

Cabinet

4th October 2017

Name of Cabinet Member:

Cabinet Member for Strategic Finances and Resources – Councillor J Mutton

Director Approving Submission of the report:

Deputy Chief Executive (People)

Ward(s) affected: All

Title:

Managed Service for Temporary Agency Workers

Is this a key decision? Yes as it has the potential to affect all wards within the City and expenditure is in excess of £1m

Executive Summary:

The Council currently has a contract for the supply of temporary agency workers. This acts as a support contract if the Council's first choice sourcing routes of employment from the casual working pool or fixed term appointments are unsuccessful in fulfilling temporary staffing vacancies.

The current provider of this contract is Pertemps who deliver a managed service provider (MSP) solution which involves supplying their own temporary workers as well as workers from a 2nd tier of suppliers, that Pertemps manage on behalf of the Council. There are approximately sixty suppliers signed up as 2nd tier suppliers with twenty five having supplied agency workers to the Council in the last year. The 2nd tier suppliers tend to be used for more specialist requirements such as social care. As part of the contract, an electronic ordering system called PAWS is supplied by Pertemps to allow the Council and suppliers to communicate requirements, supply c.v.'s, upload key support documentation for new starters and for the completion of timesheets. This ensures the Council quicker access to the temporary market, real time visibility of the status of requests and an electronic, auditable trail for all of our transactions.

The benefits appointing a managed service provider brings to the Council include:

- Contracting with one supplier with expertise of the market who can then source from an extensive supplier pool on the Council's behalf.
- A supplier that can manage all of the employment and IR35 legislation that are significantly higher in the temporary agency market.
- A saving in resource in staff not having to engage the market and contract manage multiple suppliers.
- One point of contact for all our requirements and queries.
- Benefitting from lower rates by accumulating our spend with one supplier.
- Obtaining management information on the Council's ongoing agency spend.

- A reduction in the amount of invoices the Council would have to process and pay.

Some investigation has been completed in the past about the possibility of removing the contract and the Council potentially establishing its own 'agency'. The idea was raised following another West Midlands Authority establishing an in-house agency, removing the need for a MSP contract. This arrangement and the potential costs of establishing an in-house provision have been investigated in 2.3 and 2.4 of this report. The findings found that the implementation and ongoing costs would be significant and would not eliminate the need for agencies particularly in specialised markets such as social care. For these reasons establishing our own in-house agency to replace a MSP service has not been recommended.

Over its 4 year life, the contract has seen fluctuating demand with spikes over the last few years to support sickness, fundamental service reviews and increases in demand. Spend through the existing contract has fallen in the first quarter in 2017-18 by £920k compared to the same quarter in 2016-17. Some of the fall can be attributed to successful internal recruitment campaigns, to fulfil roles where agency workers have been heavily used before.

Solihull Metropolitan Borough Council (SMBC) led the procurement process for the existing contract on behalf of Coventry City Council (CCC) and Warwickshire County Council through ESPO's (Eastern Shires Purchasing Organisation) Managed Services for Temporary Agency Resource framework (MSTAR). The objective at the time was to aggregate spend for the three councils to achieve greater savings and efficiencies both by driving down prices and by resourcing one tender process instead of three. The contract is due to expire on the 1st December 2017 and has no contractual extensions available. Due to the value of spend the Council must follow the Public Contract Regulations 2015 and compliantly procure a new contract.

It has been agreed between SMBC and CCC that CCC will now lead the re-procurement of the new contract. At the time of initial submission of this report, Warwickshire County Council had yet to confirm that they will continue to collaborate on the contract.

All three Councils investigated the possibility of direct awarding a new contract. To do this we would need to use an established framework, set up for public sector use by a purchasing organisation. The frameworks provide a compliant route to contract as well as requiring a less resource / time intensive process than procuring our own contract. The frameworks also aggregate public sector spend to support reductions in cost. There are two established frameworks that offer a suitable procurement route and following a benchmarking exercise for both ESPO's MSTAR2 and Yorkshire Purchasing Organisation's (YPO) HR Solutions frameworks, it became clear we would be unable to direct award a new contract without significant risk to the Council. Further details can be found in 2.2 of this report.

For this reason, the Council needs to complete a tender process. Due to the level of interest, size of the market and amount of resource required, it would not be efficient to complete a European tender process ourselves. For this reason we completed further benchmarking on MSTAR2 and YPO to identify which framework would offer best value for completing a further competition tender process under, to award a new contract. An analysis of the benchmarking between the two frameworks is shown in 2.5 of this report and indicates that MSTAR2 offers the best value to CCC, based on twelve months data for our previous spend. For this reason we intend to complete a further competition under MSTAR2.

The benchmarking and cost of change exercise proved to be more complex than expected, meaning it took more time to complete and reach the agreed outcome. Due to this and with the current contract expiring on the 1st December 2017, we have little time to procure the new contract and implement this at the Council without severe disruption. For this reason we are also asking to continue transacting with Pertemps for a further 6 month period following the expiration of the contract until the 31st May 2018. We would continue working under the expiring contracts

terms and conditions, enabling us to avoid rushing the new procurement and to give a suitable implementation period for the new contract.

Recommendations:

Cabinet is requested to:

1. Authorise the procurement of a new three year contract with the option to extend for one further year for a managed service provider for temporary agency workers to commence from the 1st June 2018 and expire on the 31st May 2022 (if extension is taken).
2. Authorise the continuation of Pertemps as the Council's MSP for a further 6 months following the contract expiration until the 31st May 2018, to maintain the existing service whilst we procure and implement the new contract.

List of Appendices included:

None

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or body?

No

Will this report go to Council?

No

Report title: Managed Service for Temporary Agency Workers

1. Context (or background)

- 1.1 Coventry City Council (CCC) currently has a contract with Pertemps as a managed service provider (MSP) for temporary agency workers. Pertemps supply their own temporary workers as well as managing a potential sixty 2nd tier of suppliers with twenty five having supplied the Council in the last year.
- 1.2 The contract was established by Solihull Metropolitan Borough Council and includes CCC as well as Warwickshire County Council. Solihull currently manages the overarching contract whilst our in-house HR, alongside Procurement, manage CCC's agreement with Pertemps.
- 1.3 The contract commenced on the 2nd December 2013 and is due to expire on the 1st December 2017. There is no further contractual extensions available for the contract and so a procurement for a new contract is now required.
- 1.4 Solihull Metropolitan Borough Council have confirmed they wish to continue to collaborate with Coventry City Council and will retender with us. At the time of initial submission of this report, Warwickshire County Council had yet to confirm that they will continue to collaborate on the contract.
- 1.5 The new contract will be to replicate the existing contract's core service model of appointing a managed service provider for temporary agency workers. There will be no guarantee of value or volume offered for the new contract. If our demand for temporary agency workers diminished, there would be no negative impact as a result to the Council.
- 1.6 The value of the contract for the financial year 2016/17 at CCC was £5.4m (excluding rebates). Spend on the contract equates to approx. 3% of the Council's pay bill.

2. Options considered and recommended proposal

- 2.1 Procurement has conducted research on the temporary agency worker market to understand the size of the supplier market and potential procurement routes available to the Council.
- 2.2 All 3 Councils investigated the possibility of directly awarding a new contract. Following a benchmarking exercise using both ESPO's MSTAR2 and YPO's HR Solutions national frameworks it was clear to the Council that we could not build a business case that would allow us to compliantly award a new contract to our incumbent supplier. The direct award options would only allow the Council to appoint a new MSP, who have never supplied the Council before. That would represent a significant risk in moving a contract of such value and importance to a new supplier based on a benchmark exercise with no qualitative evaluation.
- 2.3 The Council has explored the possibility of removing the contract and establishing its own 'agency'. This was particularly driven by the high costs of agency workers in Children's Social Care. The objective remains to reduce agency levels in Children's Social Care to as close to zero as possible. In July 2015, we had seventy nine agency workers in Children's Social Care. This has now significantly reduced to forty five agency workers in July 2017, with these set to reduce further in this area due to current recruitment of permanent staff.

The financial work concluded by Finance at the time demonstrated that although we could potentially reduce the unit cost of an agency social worker by circa £6.5K per annum, this did not take into account the significant running costs required to set up and operate an agency or the risk in terms of managing the employment legislation of these workers. In addition, as ultimately Children's Social Care plan is to significantly reduce the level of agency workers, it was felt that the work involved to set up and run an agency could be a distraction from work to recruit permanent social care staff.

2.4 To establish our own in-house agency it would require significant investment to:

- Establish a dedicated team to manage this internally. This would include managing the entire process from working with internal customers to agree their needs, recruiting workers, obtaining references / DBS checks / screening workers, processing timesheets and managing any escalation or dispute in regards to worker performance.
- Implement an electronic software system to manage recruitment, placements, timesheets, invoicing etc. This would require an ongoing revenue cost to cover the licence fee for an already established system. There are no direct fees from MSP's for supplying a software system.
- Market / promote the service to establish a brand and compete with established agencies in the market who provide these services.
- Additional costs to the Council to transact weekly payroll payments to agency staff.
- Meet all necessary legal obligations of establishing an agency including all relevant employment legislation, IR35 and pension obligations.

The set up and ongoing function would require significant input and ongoing resource from Accounts Payable, Legal, HR, Finance, ICT and Internal Audit to cover services currently supplied by the MSP. The Council paid £488k in agency fees under the contract in the last year. Of those fees approx. 3% of the amount paid was to our incumbent supplier for providing a MSP service. The MSP fee the Council pays is minor in comparison to the total agency fees paid, particularly for managing and maintaining a second tier of twenty five suppliers that supplied the Council last year.

Any model would need to be based on no longer using any agencies for any recruitment which is unlikely due to the specialised, established and competitive market. If the in house function was unable to recruit and fulfil positions there could be significant risk of disruption to Council services. MSP's have significantly higher purchasing power and can obtain lower agency fees on behalf of the Council than we can obtain direct. So if the Council set up its own in house function and needed to transact with an agency as we couldn't fulfil our requirements, the Council would need to pay higher agency fees than we currently do due to losing the economies of scale established through our collaboration with our shared partners and without the purchasing power of an established MSP.

The Council is pro-actively trying to reduce our use of agency staff and the effects of this have been shown by the £920k reduction in the contract spend in the first quarter of 2017-18 compared to 2016-17. It would represent a huge risk to commit significant spend to implement an in house agency function we would have large annual revenue costs for, to deliver a service where our demand is falling.

For these reasons establishing our own in-house agency to replace a MSP service has not been recommended.

2.5 The two frameworks identified as the most suitable are ESPO's MSTAR2 and YPO's HR Solutions frameworks. An analysis of both frameworks is shown below:

| | MSTAR2* | YPO* | Difference |
|------------------|----------------|-------------|-------------------|
| Lowest cost MSP* | £453,672.93** | £560,581.97 | £106,909.04 |
| Existing MSP* | £609,563.05 | £680,047.06 | £70,484.01 |

*Please note the rates comparison above is based on the framework rates and not based on existing rates to CCC. We would expect the framework rates to be reduced following further competition. Our existing contracted rates to CCC are lower than the rates above.

**The tender will be evaluated to appoint the most economically advantageous tender meaning it will be evaluated on cost and quality. So there is no guarantee the lowest cost figure shown will be achieved through the further competition.

Based on this benchmarking on the frameworks, MSTAR2 offered the best potential value to CCC based on twelve months data for our previous spend (July 2016 - June 2017). For this reason we intend to complete a further competition under ESPO's MSTAR2 Lot 2 Master Supply Chain Management.

3 Results of consultation undertaken

- 3.1 Basic consultation has taken place with key stakeholders at CCC close to the service. The existing contract is managed with stakeholder involvement using quarterly review meetings and regular focused forums. The comments and feedback taken from these will be incorporated into the new specification. Following cabinet approval HR and Procurement will engage further with key stakeholders for their views and feedback to support the building of the tender documentation.

4. Timetable for implementing this decision

- 4.1 The contract expires on the 1st December 2017. Subject to approval of this report, we intend to agree with Pertemps to continue as our MSP for six months until the 31st May 2018, to ensure that we have adequate time to procure and implement the new contract. This action would be taken immediately. The current intention would be to publish the further competition to suppliers at the start of November for returns to be received by the end of November. Evaluation will take place in December with the expectation that the contract will be awarded before the Christmas closure and work on its implementation can then begin from the 2nd January 2018.

5 Comments from the Director of Finance and Corporate Services

5.1 Financial implications

Spend under the agency workers contract varies dependent on volume and mix of agency workers needed. In 2016/17 spend under the contract was £5.8m. The cost of agency workers is funded by the relevant service. These costs will be funded from a combination of budgets designed to cover strategic use of agency in relation to regular work peaks and salary budget underspends arising from vacancies.

The Council does not provide suppliers with a guarantee of value or volume under this contract. If our demand diminished for temporary agency workers, there would be no negative impact as a result to the Council and spend under the contract would reduce accordingly.

Quarterly monitoring of expenditure on agency workers will continue throughout the contract.

5.2 Legal implications

Due to the potential value of the contract, the procurement in financial terms exceeds the threshold for a full OJEU competition and as such is subject to the Public Contracts Regulations 2015 (PCR 2015).

The procurement which is the subject of this report will also be subject to the EU procurement principles and the Council's Rules for Contract. There is therefore a requirement that it be tendered competitively and that the process be transparent, non-discriminatory and ensures the equal treatment of bidders. In compliance with the principles, there is also the expectation that the procurement will be advertised widely enough for interested bidders to be aware of the contract (s).

In section 2.4 of this report it sets out the procurement strategy for this contract, that it will be procured by a further competition using ESPO's MSTAR2 national framework which allows a compliant procurement route in accordance with the PCR 2015.

6 Other implications

6.1 How will this contribute to the Council's priorities?

This contract is as a support contract if the Council's first choice sourcing routes of employment from the casual working pool or fixed term appointments are unsuccessful in fulfilling temporary staffing vacancies. It enables the Council to compliantly procure temporary workers and maintain a flexible workforce in line with current demands to support the delivery of the Council's priorities and services.

The contract provides value for money and compliance in relation to the procurement of agency workers. It also provides firmer controls on the use of agency workers and has in place sound management reporting to see where spend is taking place to target recruitment, maximise resources, and reduce spend on agency workers.

6.2 How is risk being managed?

Potential risk exists in terms of the risk of change if another MSP is successful in the further competition for the new contract. As this is a competitive market and there are eight suppliers on ESPO's MSTAR2 framework able to tender, there is a strong probability a new supplier could be appointed. Risks of change include disruption to current services reliant on agency workers, implementation of a new computer system and building new interface(s) to our in-house system, disruption to current agency staff who may need to TUPE to a new agency to continue working at the Council and disruption to existing relationships the Council currently has through our existing MSP with 2nd tier suppliers who supply specialist workers.

Procurement will ensure as part of the further competition evaluation, implementation of the new contract is included. MSP's will have to include an implementation plan for the new contract with detail on how they will manage any potential risks to the Council. This will be scored and weighted to give the Council insight as to the MSP's resource and understanding. The market is heavily populated so switching providers is common and MSP's have expertise to manage and minimise disruption to customers.

Research shows a large proportion of MSP's work with the same second tier suppliers. A large number of 2nd tier supplied workers at the Council are within social care which is more specialised, so we expect if we switch MSP we will be able to maintain the same

relationships and lines of communication established through the current contract. MSP's do not lock their supply chains and if the Council wishes to engage with a third party supplier, we can approach the MSP to establish a relationship with them to facilitate this through the contract.

The intention is that the contract will be awarded in December 2017 to allow five months to implement the new contract. If Pertemps were successful as the incumbent supplier this time would be used to review and improve existing processes. If a new supplier is appointed the implementation will be managed by HR with support from Procurement, ICT, Finance and other stakeholders from the Council. An implementation / project plan will be agreed and will highlight the resource required from both parties and key dates and milestones to be achieved. Internal communications will be frequent with the entire Council, with focused communications to areas that heavily rely on the contract such as social care. This will help to ensure understanding across the organisation and reduce the risk of potential disruption.

6.3 What is the impact on the organisation?

The organisation has an operational requirement to take on staff to cover for sickness absence, cover during service reviews, meet spikes in demand and undertake special projects. The provision of this contract provides best value for the organisation.

6.4 Equalities / EIA

The MSP's we will engage with through the further competition will already have been evaluated on equality including compliance with the Equality Act 2010. MSP's in the temporary agency market have equality legislation and initiatives high on their agenda due to the nature of the service they provide and how important it is to this market. MSP's will be asked to adhere and apply the Council's policies on equality. As a MSP they will also manage the 2nd tier supply chain applying and monitoring equality adherence on the Council's behalf.

6.5 Implications for (or impact on) the environment

Due to the nature of the contract there are no implications on the environment.

6.6 Implications for partner organisations

This is a shared contract between CCC, Solihull and Warwickshire County Council, with Coventry contributing the highest proportion of our combined spend. Therefore, our withdrawal from a collaboration on the contract would potentially impact on our partners because the reduced size of the potential contract spend would damage their ability to obtain such low costs in the future, as well as potentially ours. By not participating in the shared contract Coventry and our partner organisations could see an increase in future rates.

Joint working by the three Authorities has encouraged the sharing of best practice not just in relation to agency workers but also in relation to wider aspects of HR.

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