



Executive
10 December 2012

**Report from the Director of Strategy
Partnerships and Improvement**

Wards Affected:
ALL

Authority to award contract for temporary agency staff

Appendix 2 of this report is Not for Publication

1.0 Summary

- 1.1 This report requests authority to award a contract as required by Contract Standing Order No 88. This report summarises the process undertaken in selecting the supplier for this contract and recommends to whom the contract should be awarded.

2.0 Recommendations

Members are requested to:

- 2.1 Note that the Council participated in a collaborative procurement leading to the award of this contract.
- 2.2 Approve the award of contract for Temporary Agency Staff to Adecco Group UK and Ireland, for a period of three years from 9th April 2013 plus a possible extension of one further year.
- 2.3 Approve an exemption from the usual tendering requirements of Contract Standing Orders and approve the direct award of an interim contract to Comensura Ltd for a period of 3 months from 9th January 2013 for the good financial and/or operational reasons set out in paragraph 3.12 of the report.

3.0 Detail

Background

- 3.1 The Council has a need for temporary staff, to fill vacant posts in the short term and on an interim basis, to manage fluctuations in workload and to obtain specialist skills quickly when the need arises.
- 3.2 The Council currently has a contract with Comensura for the management of temporary staff. The contract is a vendor-neutral contract whereby the service provider does not provide staff itself but only through other agencies. The contract with Comensura expires in January 2013. The contract was called off a framework set up by the Royal Borough of Kensington & Chelsea and the framework is set up in such a way that the call-off contracts have to expire on the same date as the framework. Therefore the Council's contract with Comensura also expires in January 2013.
- 3.3 The Council spent £10.7m on temporary staff through the Comensura contract in 2011/2012. This includes the gross amount paid to the agency worker, the fees paid to the employing agency and the fee paid to Comensura for their service.
- 3.4 Comensura is a Vendor Neutral supplier and therefore does not directly supply agency staff, but contracts with other agencies to do so. Comensura's charges are based on a unit cost for each hour of agency work purchased through the contract.
- 3.5 Comensura has used technology to take costs out of the supply chain enabling the Council to control spend and centralise invoicing. Comensura's IT system provides a service at low cost but with limited interaction with Council managers and customer service. The award proposed in this report is for a service to be operated on a "Master Vendor" basis (as opposed to Vendor Neutral), whereby the supplier directly employs some categories of agency staff and contracts with other agencies for the remainder.
- 3.6 The advantages of the master vendor relationship over the current vendor neutral one are:
- reduced unit cost to reflect the vendor's share of the business
 - single invoice per month if required
 - increased robustness of management information
 - better candidate matching
 - reduced wastage/improved productivity
 - standardisation of fees
- 3.7 In September 2012 the Corporate Management Team agreed a recommendation to move to a master vendor relationship, and noted the

proposed approach for the award of a new contract as described in this report.

The selection process

- 3.8 It is proposed that a supplier is appointed using the outcome of a further competition exercise carried out on behalf of London Local Authorities from a framework established by the Eastern Shires Purchasing Organisation.

The framework

- 3.9 The Eastern Shires Purchasing Organisation (ESPO) is a local authority purchasing consortium, jointly operated by the county councils of Cambridgeshire, Leicestershire, Lincolnshire, Norfolk and Warwickshire and the unitary authorities of Leicester and Peterborough City Councils.

The Local Government Professional Services Group (LGPSG) is a stakeholder group representing and supporting local authorities across England in delivering savings from the procurement of professional services, and in 2010 it commissioned ESPO to procure a framework for Managed Service Providers of Temporary Agency Resources (MSTAR).

The procurement process adopted by ESPO for the LGPSG was based upon the Open (one-stage) tendering procedure under the EU rules. Although the services are part B, an OJEU contract notice was placed. This indicated that the framework was a national one which would be open for use by all local authorities as well as some other public sector bodies. It was advertised as a 4-year framework agreement.

Six different sub-lots were tendered, and each sub-lot was evaluated separately. The evaluation involved two stages, qualifying and award; those offers that met the qualifying criteria were then scored against the award criteria.

The qualifying criteria included assessment of the following: compliance of bid, financial standing, insurance levels, experience and references, quality, environmental and health & safety procedures, business continuity plans, compliance with contract regulations and compliance with the terms and conditions.

The award criteria were divided into two areas; service delivery and price and the specific weightings used were as follows:

Service Delivery: 40% Price 60%

A position on the framework was awarded to the six highest scoring Suppliers in each of the sub-lots. An OJEU award notice was then placed confirming framework commencement on 11th April 2011 for 4 years.

The London Authorities' further competition exercise.

- 3.10 In the summer of 2011, a group of London local authorities led by Tower Hamlets under the umbrella of London Councils carried out a further competition exercise from the ESPO framework. Brent was specifically

identified in that further competition exercise as a body that was participating. Tenders were invited for two of the ESPO sub-lots, including Lot 1(b) Corporate – Resource Pool Management (another term for master vendor as described above). This report recommends using the supplier who was successful in that further competition exercise in relation to this sub-lot.

The tendering instructions stated that the contract would be awarded on the basis of the following price and service delivery scoring methods to determine the most economically advantageous tender:

The weightings were as follows

Quantitative Price - 50% **Qualitative Price – 10%** **Service Delivery - 40%**

The total Price scores were to be added to the Service Delivery score to give the Grand Total of points scored and the contract would be awarded to the tenderer with the highest points in each sub-lot.

An overview of the quantitative evaluation of price is provided in the table below:

Section	Section Weighting	Component	Evaluation
MSP Booking Fee	15%	Fees offered	Quantitative
Agency Fees	7%	Agency Fees proposed	Quantitative
Pay Rate Bandings i.e. min - max	3%	Pay rate ranges proposed	Quantitative
Savings	15%	Savings proposed	Quantitative
Total	60%		

The Managed Service Provider’s agency and booking fee elements of the quantitative pricing evaluation were tendered via e-Auction, based on an example quantity of hours for each of the different job categories.

An overview of the qualitative evaluation of price is provided in the table below:

Section	Section Weighting	Component	Evaluation
MSP Booking Fee	3%	Fees offered	Qualitative

Section	Section Weighting	Component	Evaluation
Agency Fees	2%	Proposals for reviewing and reducing Agency Fees	Qualitative
Pay Rate Bandings i.e. min - max	2%	Monitoring pay rates and benchmarking with respect to local and sub regional market conditions	Qualitative
		Proposals for managing risks associated with AWD	Qualitative
Savings	3%	Proposals to make savings	Qualitative
		Proposals for achieving minimum savings	Qualitative
		Measurement and calculation of savings	Qualitative
		Proposal passing back benefit and gainshare	Qualitative
Total	10%		

The qualitative evaluation included questions on the following areas:

- Tenderer's proposals for reviewing and reducing agency fees
- Monitoring and benchmarking pay rates to ensure in line with regional conditions
- Managing the risks associated with the forthcoming Agency Workers Directive
- Making savings and achieving minimum savings proposed, as well as the measurement and calculation of savings made
- Method of passing back of the gainshare benefit

The evaluation methodology for service delivery was as follows:

Tenderers were required to respond to how their service delivery model met the specification requirements by answering a set of questions.

The 40% available for service delivery was divided up into sections and each section was given a weighting, as per the table below.

Section	Section Weighting
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General requirements	5%
Recruitment & management of agencies	5%
Ordering of temporary agency workers & system requirements	6%
Service delivery & provision of temporary agency workers	6%
Managed service provider personnel & contract management	4%
Invoicing & payment requirements	2%
Regeneration & sustainability	4%
Management information	4%
Implementation	4%
Total	40%

All six suppliers appointed to the MSTAR framework set up by ESPO for Lot 1(b) submitted tenders, and following the tender evaluation process, Adecco were the highest scoring tenderer and so were selected as the successful supplier.

The details of the tenderers final scores and prices are contained in Appendix 1.

3.11 There will be a cost to the Council of using the MSTAR framework contract. This charge is 2p per agency hour purchased, and is added to the supplier's hourly MSP fee. The total effect of this 2p charge is estimated at £7,718.00, based on historical agency staff usage.

3.12 The current contract with Comensura expires on 8th January 2013, and this report is recommending they be awarded an interim contract for 3 months based on the same terms and conditions as the current arrangement. This is in order to allow sufficient time for Adecco to carry out the implementation of the new service and migrate current temporary staff to the new contract, and in particular to give sufficient time for negotiations with existing temporary staff employing agencies, who will be required to agree terms with Adecco.

4.0 Financial Implications

4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval of the award of the contract.

4.2 The estimated value of this contract is £11m per annum and will vary depending on the quantity of agency workers.

4.3 The fee element of the current contract was £735,282.56 in 2011/12. This reflects the fee paid to the employing agency and the fee for the Comensura service. The projected savings against these fee costs are estimated at £212,966.51 per annum, based on 2011/12 agency staff

usage. This is after the deduction of the MSTAR fee referred to in 3.11 above.

4.4 The cost of the contract will be funded from those service areas that use agency workers.

4.5 There are no other associated costs of the contract.

5.0 Legal Implications

5.1 For the purpose of Contract Standing Orders, the value of this contract is the estimated value that will be paid to Adecco for its own fees and those of the other agencies it uses over the lifetime of the contract. It does not include the pay to the temporary workers which are under separate contracts and which are exempt from Contract Standing Orders by virtue of a specific exception in paragraph 83(a) of Contract Standing Orders.

5.2 The estimated value of this contract over its the lifetime is higher than the EU threshold for Services. However these services are classified as part B services under the Regulations and so the award of the contract is not governed by the Public Procurement Regulations apart from general requirements to be fair, transparent and non-discriminatory. The award is subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations.

5.3 Where a contract proposed for award has been procured by calling off a framework set up by another body, there is no requirement under Contract Standing Orders for the submission of a pre-tender report to the Executive. Instead the proposal to use the particular framework has to be approved by the Chief Officer, including confirmation that a budget is available, together with confirmation from the Director of Legal and Procurement that use of the framework is legally permissible (SO 87(d)).

5.4 For the proposed use of this framework, Chief Officer approval had been given. In addition, a report was submitted to the Director of Legal and Procurement detailing the process used to get to the stage of the joint appointment of Adecco by the consortium of London Boroughs as described above. The appointment process used by the consortium of London Boroughs was very unusual in that it operated more as a framework within a framework; ESPO had already set up the multi-supplier framework and Tower Hamlets then tendered a further single-supplier framework from one of the ESPO lots. The preferred approach would have been for the consortium of London boroughs to tender a joint contract from the ESPO framework, however there is insufficient certainty in the appointment process to say that this has happened. There is therefore a theoretical risk of challenge from one of the other Lot 1(b) providers about the appointment process, however in view of the fact that services of this nature are part B services, this risk is very low. In addition, (a) all the lot 1(b) providers participated in the further competition exercise and (b) other local authorities in the consortium have already awarded their individual contracts without leading to a challenge. On this basis, the Director of Legal

and Procurement has approved use of the ESPO framework and the further competition exercise as legally permissible.

There is no requirement for a standstill period so the contract can be awarded to Adecco on expiry of the call-in period.

- 5.5 This report is also requesting approval for an exemption from the usual tendering requirements of Contract Standing Order 84f for Medium Value Contracts, in order to allow a direct award of an interim contract to the current provider of temporary staff management services. The Executive has the power to do this by virtue of Contract Standing Order 84a, provided that Members are satisfied that there are good operational and/or financial reasons for doing so. It should be noted that this is a new contract, as opposed to being a call off from the RBKC framework; as indicated above in paragraph 3.2, no further call offs are possible.

6.0 Diversity Implications

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

7.0 Staffing Implications

- 7.1. There will always be a need for specialist skills and additional capacity at times of change and the council can provide for this need at the best rates using the approach outlined in this paper.
- 7.2. Improved contract management of non-permanent staffing arrangements will help to ensure that vacant posts are filled sooner so that the council has a reduced reliance on non-permanent staff.

8.0 Background Papers

- 8.1 London Councils Collaboration Invitation to Tender - Further Competition under ESPO Framework 653F

Contact Officers

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