

## Award of contract for the provision of Temporary Labour

Cabinet Member(s): Cllr Anna Groskop – Cabinet Member for Corporate and Community Services

Division and Local Member(s): All

Lead Officer: Chris Squire, HR & OD Director

Author: Marie Stretch, Strategic Manager, Commercial & Procurement.

Contact Details: 07775221297

	<b>Seen by:</b>	<b>Name</b>	<b>Date</b>
	County Solicitor	Honor Clarke	13/04/18
	Monitoring Officer	Scott Wooldridge	13/04/18
	Corporate Finance	Kevin Nacey	13/04/18
	Human Resources	Chris Squire	07/04/18
	Procurement	Donna Fitzgerald	13/04/18
	Senior Manager	Richard Williams	07/04/18
	Local Member(s)	n/a	n/a
	Cabinet Member	Cllr Anna Groskop	13/04/18
	Opposition Spokesperson	Cllr Liz Leyshon	13/04/18
	Relevant Scrutiny Chairman	Cllr Tony Lock	13/04/18
<b>Forward Plan Reference:</b>	FP/17/01/04		
<b>Summary:</b>	<p>This proposal follows a review of the options available for supplying a cost-effective service for delivering temporary labour, conducted by HROD and Commercial &amp; Procurement in consultation with current users.</p> <p>With reducing demand for temporary labour projected for the new supplier contract, it is notable that spend on temporary labour is now projected to have reduced by up to £4m over the two years 16/17 and 17/18. Further reductions are anticipated.</p> <p>In line with the corporate drive to reduce costs, a preferred supplier has been identified; details of the preferred supplier, the procurement method and the associated costs are detailed in the appended confidential report.</p>		

<p><b>Recommendations:</b></p>	<p><b>That the Cabinet;</b></p> <ol style="list-style-type: none"> <li>1. Approves the award of the temporary labour contract to the preferred supplier under ESPO MSTAR2 framework, as detailed in the appended confidential Appendix A for a period of up to 4 years.</li> <li>2. Agrees the case for applying the exempt information provision as set out in the Local Government Act 1972, Schedule 12A and therefore to treat the attached Appendix A in confidence, as they contain commercially sensitive information, and as the case for the public interest in maintaining the exemption outweighs the public interest in disclosing that information.</li> <li>3. Subject to the approval recommendation 2 above, agree to exclude the press and public from the meeting where there is any discussion at the meeting regarding exempt or confidential information.</li> </ol> <p><b>Exclusion of the Press and Public</b>  To consider passing a resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to exclude the press and public from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, within the meaning of Schedule 12A to the Local Government Act 1972:</p> <p><b>Reason: Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b></p> <ol style="list-style-type: none"> <li>4. Authorises the Commercial and Business Services Director or the HR &amp; OD Director to sign the contract with the preferred supplier on behalf of the authority and to determine in due course whether to utilise the optional two year extension.</li> </ol>
<p><b>Reasons for Recommendations:</b></p>	<p>The award of the temporary labour contract to the identified preferred supplier under the Managed Services for Temporary Agency Resource 2 (MSTAR2) framework will ensure a cost effective supply of temporary workers to the authority.</p>
<p><b>Links to Priorities and Impact on Service Plans:</b></p>	<p>The spend on temporary workers has reduced in recent years and any posts to be filled are reviewed in accordance with the 10-point plan.</p>

<p><b>Consultations and co-production undertaken:</b></p>	<p>In May 2017 prior to the preferred supplier being identified, HROD issued a consultation survey to all users/bookers/managers of the current service provision. The survey requested comments on the existing temporary labour service and any changes required in to input into the new temporary labour contract specification of requirements. The response rate was extremely positive and the results helped to ensure that the future supply meets the needs of the users.</p>
<p><b>Financial Implications:</b></p>	<p>The award of the temporary labour contract will maintain supplier fees at approximately the same overall level as the current arrangement. Finance have been consulted and walked through the commercial assessment.</p>
<p><b>Legal Implications:</b></p>	<p>“Exempt information” is defined by Section 100 of the Local Government Act 1972, by Schedule 12A to that Act. The Council’s Constitution (Access to Information in relation to Decision-making) sets out the relevant categories for information to be treated as exempt information. It is recommended that the press and public should be excluded during consideration of Appendix A because its discussion in public would be likely to lead to the disclosure to members of the press and public present of information in the following categories prescribed by Part 1 of Schedule 12A to the Local Government Act 1972 (as amended): paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information) and paragraph 5 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. Since it is considered that, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, in that disclosure would be to the detriment of the Council’s ability properly to discharge its fiduciary and other duties as a public authority.</p> <p>SCC Legal Services have been fully engaged, reviewed the MSTAR2 framework and have confirmed the proposed framework and evaluation is lawful for SCC to award and utilise under the framework’s call off arrangements.</p>
<p><b>HR Implications:</b></p>	<p>HROD will support the implementation of the new arrangements and processes and will communicate this to the user base.</p>
<p><b>Risk Implications:</b></p>	<p>Minimal changes to the service and process are anticipated as such the risk is low.</p> <p>The main risk is that users will need to adjust to the new job classifications and rates when placing orders. This will be mitigated through a controlled communication programme in the lead up to the commencement of the new contract and</p>

	adjustments to the online predetermined catalogue ordering process.						
	<table border="1"> <tr> <td data-bbox="513 302 724 342"><b>Likelihood</b></td> <td data-bbox="724 302 842 342"><b>1</b></td> <td data-bbox="842 302 1011 342"><b>Impact</b></td> <td data-bbox="1011 302 1129 342"><b>1</b></td> <td data-bbox="1129 302 1353 342"><b>Risk Score</b></td> <td data-bbox="1353 302 1465 342"><b>1</b></td> </tr> </table>	<b>Likelihood</b>	<b>1</b>	<b>Impact</b>	<b>1</b>	<b>Risk Score</b>	<b>1</b>
<b>Likelihood</b>	<b>1</b>	<b>Impact</b>	<b>1</b>	<b>Risk Score</b>	<b>1</b>		
<b>Other Implications (including due regard implications):</b>	<p><b><u>Equalities Implications</u></b></p> <p>The award of this contract has no negative effects on any particular groups of people. Temporary workers are the supplier's employees. The employees work to the supplier's terms, conditions and policies, these policies are available for recruiting managers to view on line.</p> <p><b><u>Community Safety Implications</u></b></p> <p>No Implications.</p> <p><b><u>Sustainability Implications</u></b></p> <p>No implications.</p> <p><b><u>Health and Safety Implications</u></b></p> <p>No implications.</p> <p><b><u>Privacy Implications</u></b></p> <p>No implications.</p> <p><b><u>Health and Wellbeing Implications</u></b></p> <p>No implications.</p>						
<b>Scrutiny comments / recommendation (if any):</b>	<p>This report is being considered by the Scrutiny Committee for Policies and Place on 24th April 2018, any comments will be verbally reported to the Cabinet on 2nd May 2018.</p>						

## 1. Background

1.1. The current Temporary Labour contract is provided by Reed Specialist Recruitment Limited under the ESPO MSTAR Framework and expires on the 30th November 2018. The contract is provided via a master vendor solution and that model provides benefits to SCC via;

- a single point of contact for the authority,
- certainty on prices and rates aligned to SCC Spinal Column Points,
- increased contract governance,
- management of a set of second tier support suppliers
- transparent management information of SCC temporary workforce use and;
- consolidated process efficiencies in terms of the Procure2Pay processes.

The contract provides SCC with access to temporary workers who will fulfil a wide variety of roles within the authority including general administrative, social care, social work, technical, operational support and management.

1.2 Overall, since the commencement of the current contract on 1<sup>st</sup> December 2014, total spend and usage has fallen and continues to do so as per table below. Demand for temporary labour in SCC is reducing and this reduction is expected to continue. Temporary Labour adds flexibility to the workforce but is generally more expensive than the overall cost of a permanent employee, dependent on which supplier is delivering the service. This reduction is in line with the Authority's drive to reduce costs where possible and it is notable that spend on temporary labour is projected to have reduced by up to £4m over the two years 16/17 and 17/18.

<b><u>Period</u></b>	<b><u>Spend</u></b>	<b><u>% change year on year Total Spend</u></b>
Contract year 1 (Dec 14- Nov 15)	£10.7m	
Contract Year 2 (Dec 15 – Nov 16)	£11.4m	+6.5%
Contract Year 3 (Dec 16 – Nov 17)	£8.3m	-27.2%
Contract year 4 (Dec 17 – Nov 18)	£7.5m (projected figure using 12 month rolling average)	-9.6%

- 1.3 A limited number of frameworks which provide temporary labour services are available for SCC to access. The frameworks available were
- Contingent Labour ONE (Crown Commercial Services - CCS) – this covers Administration/Clerical workers and operational support staff,
  - MSTAR2 (Eastern Shires Purchasing Organisation - ESPO) – covers administration/clerical staff together with more specialised staff such as engineering, IT, social workers and management.
- 1.4 Following a comprehensive review and consideration of all options it became clear that the MSTAR2 framework was the only viable framework available for SCC to access without conducting our own lengthy OJEU tendering process. The MSTAR2 framework allows contracting authorities to appoint suppliers via either a “Further Competition” or via a “Call-Off Without Competition”.
- 1.5 The MSTAR2 framework is a revised version of the MSTAR framework previously used by SCC and c180 other contracting Authorities. This follows a procurement process conducted by ESPO which was based on the Open tendering procedure as detailed in the European Communities Combined Directive (2004/18/EC). The ESPO team who run the MSTAR2 framework conducted an in-depth tender exercise to identify the best qualified managed service providers on the market and ensure that the process complied with EU regulations.
- 1.6 As part of this process a consultation took place with 80 SCC key bookers and recruiting managers that use the current arrangement to gather information on future requirements, and any required changes to the current service. The comments received were used to set out the future service requirements.
- 1.7 The future service requirements developed through the consultation exercise were compared against the standard service provided through the MSTAR2 framework and any specific service offerings from each of the framework suppliers which ensures the consultation outputs were reflected in the future service.

This comparison was on service delivery and did not incorporate any commercial price evaluation. It was identified and agreed that all suppliers except one could fulfil our specification requirements. As such SCC are able to award under the under the MSTAR2 Framework.

This process comprised of two main stages.

Stage 1 – the comparison of service requirements against the framework service provision as outlined above taking account of the outputs of the consultation exercise.

Stage 2 – commercial price comparison between the suppliers to identify the lowest cost options followed by discussion regarding any local pricing requirements to take account of any particular local supply issues and resource availability.

- 1.8 All remaining suppliers were taken forward to the cost comparison stage.

Volumes by job category and salary taken from the current role portfolio of SCC were used to calculate a total cost comparison between the remaining suppliers using the fees/rates published within the ESPO framework. The estimated internal “cost of change” for implementing any new arrangement was also taken into consideration

The three lowest cost suppliers were invited to discuss their pricing and ability to service the requirements of SCC.

- 1.9 A series of in-depth Supplier clarification discussions were held with the three lowest cost suppliers to verify their ability to supply at the rates quoted.

- 1.10 The final price comparison is shown in the confidential Appendix A. This includes a comparison against current costs

- 1.11 The awarding of the contract to the preferred supplier provides demonstrable value for money with future agency fees being marginally below current (based on current activity). In addition to the terms included under the MSTAR2 framework, SCC will achieve an internal cost avoidance of not having to undertake a full tender exercise.

The duration of the new contract requiring approval is for an initial 2 years with an optional 2 year extension. The total contract will not exceed 4 years. Further detail relating to the procurement of the new temporary labour contract can be found in the appended confidential evaluation report.

- 1.12 It is recognised there is a need for extra focus on the supply of Qualified Social Workers given the current difficult market conditions. Discussions are in place with the Supplier to develop a partnership programme involving key second tier suppliers to explore opportunities to alleviate the current supply issues and aim for a closer working relationship.

- 1.13 Legal Review

SCC Legal has been working with SCC throughout this process and have signed off the process the framework and the process that has been taken to reach the final proposal.

## **2. Options considered and reasons for rejecting them**

- 2.1 The other alternative is to establish a set of arrangements between SCC and a number of small local suppliers to fulfil the QSW roles in particular. Continued benchmark information and close working with the incumbent supplier on market intelligence and commissions, shows that this would lead

to significantly inflated management fees. This would also be administratively burdensome to manage and would require additional internal resource and increased back office support, giving an overall increased cost to SCC.

### **3. Background Papers**

- 3.1 See appended evaluation report which is confidential as it includes details on the preferred supplier and is therefore commercially sensitive. The Impact Assessment report, which is also confidential as it includes details on the preferred supplier and is therefore commercially sensitive, is included as part of the confidential appendix to this report.