

Slough Borough Council

Report To:	Cabinet
Date:	17 th July 2023
Subject:	Procurement of Temporary Labour Contract
Lead Member:	Councillor Chandra Muvvala - Lead Member for Public Protection, Customer Service, IT and Young Futures (including HR)
Chief Officer:	Sarah Hayward, Executive Director – Strategy and Improvement
Contact Officer:	Surjit Nagra – Associate Director - HR Adrian Thomson – Interim Recruitment Manager
Ward(s):	All
Key Decision:	Yes
Exempt:	No
Decision Subject to Call In:	Yes
Appendices:	None

1. Summary and Recommendations

- 1.1 This report outlines the rationale and benefits for the procurement of a contract for the supply of temporary labour. The key driver for this contract is the council's need to ensure that it can meet its requirements for temporary labour to cover one-off tasks or projects which require specialist skills and experience as well as roles where there are national shortages. The advantages of having in place a temporary labour contract include cost savings, efficiency gains, and access to workers with specialised expertise. The procurement process will therefore ensure better value for money.

Recommendations:

Cabinet is recommended to:

- a. Confirm authority to commence the procurement process for the provision of a Temporary Labour Contract, following the approval of the procurement forward plan submitted to April 2023 Cabinet.

Reason:

The current contract for Temporary Labour is due to expire on 24th March 2024. To maintain uninterrupted service delivery, it is crucial to commence the procurement process without delay to ensure we have a seamless transition into the new contract.

Commissioner Review

Commissioners have reviewed this report and have no specific comments to add.

2. Report

Introduction

2.1 The report is seeking authority from Cabinet, to commence the procurement process of a four year (2+1+1) temporary labour contract. By breaking down the four years, it allows us to review performance in years two and three. The MStar 4 framework runs until 2027, whereby, when it will be replaced by MStar 5 and allows the Council to assess and explore the opportunity to procure, whilst still in contract.

2.2 The MSTAR framework is a national framework for the provision of managed temporary agency resourcing services to local authorities, educational establishments and other wider public sector organisations throughout the UK. Managed service providers can take responsibility for temporary staffing supply chains and/or resource pools improving control, safeguarding and visibility as well as delivering efficiency savings.

2.3 This MSTAR framework agreement has been established by Pro5 (led by the Eastern Shires Purchasing Organisation (ESPO)) on behalf of the Local Government Professional Services Group (LGPSG) with wide consultation amongst key stakeholders (from local government, education and the wider public sector) including the Cabinet Office and the Department for Education.

2.4 Once approval has been granted the procurement team will initiate the process for this procurement while ensuring a smooth transition from the current contract to the new arrangement, safeguarding the provision of temporary workers services to the council.

Background

2.5 Slough Borough Council's Temporary Labour Contract was last awarded in April 2020 on a four-year basis comprising of two years with a further two years extension in March 2022. The contract covers the provision of temporary workers for all departments and functions within Slough Borough Council. Currently the contract is providing an average of 300 temporary workers to the Council per day, which is assisting in maintaining operational efficiencies, managing workload fluctuations, and addressing staffing shortages, particularly in roles where there is a national shortage. For example, social workers and Occupational therapists.

2.6 The strategic context for the Council has changed significantly since the award of the current contract. In December 2021, the Secretary of State for Levelling Up, Housing and Communities made a series of statutory Directions requiring the Council to take prescribed actions in areas including financial sustainability, governance, procurement and contract management and culture change. The Directions were extended in September 2022 to cover recruitment to the senior officer structure. The Directions were made due to the Council having failed to comply with its best value duty which requires local authorities to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness." This requires consideration of overall value, including economic, environmental and social value, when reviewing service provision.

2.7 The Council has made considerable progress against a number of these areas including procurement and contract management. This ensures that there is a robust framework that has improved our approach and processes to ensure any contract award will provide best value for the council.

2.8 The combination of the Directions and poor governance which is now being tackled has led to significant growth in the council's use of temporary labour. This is now being more actively managed both through the current supplier and internal control mechanisms. The procurement itself will not necessarily impact the levels of temporary labour use but we will seek a supplier who will work proactively with us to manage use of temporary labour within acceptable levels to meet business need.

2.9 The nature of the temporary labour market has also changed. For example, technology has evolved to enable better candidate, user and agency experiences, enhanced reporting for spend, better equality and diversity data and tenure. In many cases candidates are looking to have more flexible working patterns including home working to balance time spent commuting and in an office. Slough is competing with other local authorities across Berkshire and given our location, with London boroughs who are offering attractive salaries and working arrangements.

2.10 Slough Borough Council is currently operating at a spend for temporary workers at £20.3 million for 2022-2023. Whilst cost savings of £767k were negotiated with the current vendor in 2022-2023, there is still an opportunity to negotiate greater cost savings.

2.11 With the ending of the current contract, the options outlined below were considered.

Options considered.

Option One: Cease using temporary workers. This is not recommended or realistic. Some key functions are reliant upon temporary workers to deliver services to residents and the correct use of temporary workers can be an effective way to fulfil a resourcing requirement.

Option Two: Do nothing - This is not recommended. The current contract is coming to an end and there is a requirement for the Council to retender the service to be compliant with both the Council's Contract Procedure Rules and the Public Contracts Regulations 2015.

Option Three: Procurement of a new temporary labour contract – **recommended**. This option is recommended because the council can enhance procurement outcomes and achieve better value for money. Procurement through a framework will enable a quicker and more efficient route to market and, with economies of scale, better rates can be accessed.

2.12 Although the current provider has a large agency supply chain it is not as effective as it could be. In the new contract, working closer with both the supplier and its supply chain of recruitment agencies will allow Slough Borough Council to engage with the market and ensure that we are working with the appropriate agencies within their specialist field to supply high calibre talent.

2.13 Whilst it is acknowledged that tighter contract management is needed, the new contract will allow the Council to understand the market trends and allow the Council to forward plan permanent solutions to reduce long-term cost through reduced temporary worker tenure periods. It should be noted that we are currently in a heavily candidate driven market and the need to engage temporary labour to fill gaps within the workforce, whilst recruiting permanently, will still arise as will the need to engage specialist skilled interims for project-based activities which are arising from the recovery programme.

2.14 Below are highlighted key benefits of procuring a new contract:

- a. Competitive Bidding will ensure the Council achieves value for money;
- b. Re-procuring the Council Temporary Labour Contract will allow the Council to invite bids from all 24 Vendors, encouraging competition and ensuring we secure the most cost-effective and efficient service provider;
- c. Improved Service Quality - the procurement process presents an opportunity to reset clear key performance standards / indicators and service level agreements, ensuring that the selected supplier meets our requirements and provides high-quality temporary workers via an engaged and fit for purpose supply chain; and
- d. Flexibility and Adaptability - by opening the procurement process, we can identify suppliers that have a proven record of accomplishment of adaptability, responsiveness, and the ability to address emerging needs effectively. This will enhance our ability to address staffing challenges and changes in demand.

Timelines

2.15 The procurement and implementation processes are expected to run as follows:

Time frame	Activity
June – July 2023	User engagement to produce the specification
July – August	Preparation of Tender Documentation
September	Advertise and invite bids from suppliers on the framework
October	Evaluation and scoring of bids Meet with shortlisted suppliers
November	Contract clarifications and completion
November – December	Contract Award
December – March 2024	Mobilisation and Go Live
1 st April 2024	Effective date of new contract

2.16 Depending on the outcome of the procurement, the contract implementation period could be significant, particularly if the current contractor does not retain the contract. Hence it is important to allow enough time for the process to be completed.

3. Implications of the Recommendation

3.1 *Financial implications*

3.1.1 The financial implications of procuring the Council Temporary Agency Contract will depend on the bids received and the negotiated terms. The total value of the current contract over the last four years will exceed £70 million at the current spend rate although the levels of agency spend will reduce over time as many areas are now able to recruit permanently to posts where appropriate. However, it is expected that the procurement process will enable us to secure competitive pricing, continue to implement a strict Agency Recruitment Policy, with Executive Level Sign off and the potential introduction / review of an internal charge for the use of agency staff, to be passed back by way of rebate to a centralised point within Slough Borough Council. The potential introduction and use of the rebate, will be considered as part of the implementation process for any new contract.

3.1.2 The contract award does not commit the Council to any expenditure but creates the contract terms under which future assignments will be made but does ensure the council is able to achieve best value for those assignments. Each individual assignment is subject to an internal budget authorisation before any spending is committed under the contract

3.2 *Legal implications*

3.2.1 The estimated contract value is above the financial threshold for public service contracts (£213,477 inclusive of VAT) so the Public Contracts Regulations 2015 apply to this procurement.

3.2.2 The Council is (and will be) identified as a potential call off party in the MSTAR4 and MSTAR5 framework agreements, and the proposed services and contract value are (and will be) in scope under the frameworks. ESPO is a reputable framework provider and can lawfully procure public sector framework agreements. The proposed use of the MSTAR4 and MSTAR5 framework agreements is therefore compliant with both the Public Contracts Regulations 2015 and the Council’s Contract Procedure Rules (CPR).

3.2.3 A mini competition will be conducted in accordance with the terms and conditions of the MSTAR4 and MSTAR5 framework agreements. The scope for making any amendments to the call off agreement will be clearly set out in the MSTAR4 and MSTAR5 framework agreements. Legal advice will be sought from HB Public Law from the outset of the procurement to amend and complete the call off agreement pursuant to the terms of the framework agreement where permissible to best suit the Council’s requirements. Once a successful bidder has been selected, legal advice will be sought from HB Public Law to finalise the call off agreement.

3.2.4 Under the CPR, contracts valued at £100,000 and above must be sealed.

3.2.5 The Council is under a general Duty of Best Value ^[1] to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.” The procurement of a temporary labour contract will enable the Council to fulfil its best value duties. These arrangements will secure continuous improvement regarding economy, efficiency and effectiveness and overall value, including social value which will be considered in the procurement process.

3.2.6 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (TUPE) may apply to any service provision changes and transfer of services. The procurement process will take account of this. Specialist legal advice will be sought from HB Public Law on the potential TUPE implications on this project.

3.3 *Risk management implications*

3.3.1 The following key risks have been identified -

Risk	Assessment of Risk	Mitigation	Residual Risk
Loss of continuity of service if the contract cannot be awarded within given timescales	Medium Staffing – All contingent labour would be out of contract. Payroll – We would have no facility to	Assign sufficient resource to complete the procurement on time. Agree short-term extension with incumbent	Medium

	payroll any existing workers beyond March 24 Procurement – Agreements with all agencies would need to be reached. We would also forego access to framework rates and margins	supplier with break clauses at 30-day markers	
No bids are received for the contract	Low We are using the national framework	Negotiate with incumbent supplier for continued service	Low
Costs Exceed Estimated Financial Envelope	Medium The full cost cannot be assessed until the rates and margins have been agreed.	Introducing further rigour to the process of using contingent labour and a full review of Interim Exec supply chain and margins to ensure consistency and value for money.	Medium
Procurement timetable cannot be met	Low Any vendor engaged can mobilise within 6 weeks	Assign sufficient resource to complete the procurement on time. Speak with incumbent to look at short-term extension, in line with procurement guidelines.	Low

3.4 *Environmental implications*

3.4.1 There are no direct environmental implications arising from this report.

3.5 *Equality implications*

3.5.1 The supplier will be required to have in place a suitable equal opportunities policy

3.6 *Procurement implications*

3.6.1 As one of the largest frameworks for Contingency Staffing, it is recommended that SBC go through the MStar framework to procure these services. MStar offers:

- a. Pre-Qualified Vendors
- b. Transparent Costings
- c. Cost Saving efficiencies through set rates per job

3.6.2 The proposed use of this framework is compliant with both the Council's Contract Procedure Rules and the Public Contracts Regulations 2015.

3.7 *Workforce implications*

3.7.1 The implications of this procurement exercise will have a positive impact on the council's workforce as it will improve the council's ability to source good quality temporary labour to plug short-term gaps in resources and will therefore alleviate resource pressures in services areas.

3.8 *Property implications*

3.8.1 There are no direct property implications arising from this report.

4. Background Papers

[\(Public Pack\)Agenda Document for Cabinet, 17/04/2023 18:30 \(slough.gov.uk\)](#)