



Key Decision Report of the Director for Financial Management and Section 151 Officer

Officer Key Decision	Date: 10 January 2019	Ward(s):
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SUBJECT: Contract Award for Alternative Resourcing Arrangements

1. Synopsis

- 1.1 This report seeks approval for the procurement strategy in respect of Alternative Resourcing Arrangements in accordance with Rule 2.7 of the Council's Procurement Rules.
- 1.2 The Council must be able appoint such resources as it considers necessary to carry out the range of statutory and discretionary services it delivers.
- 1.3 From time-to-time, direct recruitment and/or conventional agency staff means may not be able to meet all needs to the required standard within the requisite timescales. In those scenarios, alternative means of resourcing are required.

2. Recommendations

- 2.1 To approve the procurement strategy for Alternative Resourcing Arrangements as outlined in this report.
- 2.2 To approve the award of call off contracts not exceeding £2m in the aggregate to meet the Council's Alternative Resourcing requirements to appropriate suppliers on the Local Government Resourcing Partnership Framework Agreement as outlined in this report.

3. Date the decision is to be taken: 18 January 2019.

4. Background

- 4.1 The Local Government Resourcing Partnership (LGRP) is a framework agreement for the public sector to access and procure recruiting and resourcing services. The London Borough of Waltham Forest, supported throughout the procurement process and contract management by Yorkshire Purchasing Organisation (YPO), runs the LGRP. YPO are a completely publicly owned buying organisation that establishes national and regional framework agreements to meet the common needs of local authorities. In addition, YPO provides services to schools, charities, emergency services and the wider public sector.

The Council has trialled the use of the LGRP framework agreement during the first half of the 2018/19 financial year. The LGRP framework agreement has proven itself a cost effective mechanism of accessing the market and securing better value through economies of scale from the buying power of the public sector (see <https://lgrp.co.uk/home/about-lgrp/>).

4.2 Estimated Value

The call-off contracts awarded from the LGRP framework agreement will vary, dependent on need and demand. The total spend over the four years of the framework agreement will exceed the Council's key decision threshold. Key Decision approval is therefore sought to continue and expand use of the LGRP framework agreement.

There is no commitment to use of the LGRP framework agreement. Alternative arrangements will be used if more economically advantageous. Controls are in place to minimise use (see 4.5 Key Consideration of this report). Call off contracts approved under this procurement strategy will not exceed £2m in the aggregate to meet the Council's Alternative Resourcing requirements until the end of the framework agreement.

Funding is from a number of existing operating budgets of the Council. Consequently, use of the LGRP framework agreement does not present any additional budget pressures for the Council. Use of a pre-procured arrangement reduces time taken to get to market and resources expended, thus allowing those finite resources to be better deployed to Council priorities.

4.3 Timetable

The LGRP framework agreement is pre-procured and runs for four years from 2017 until 2020. The Council can make call-off contracts during that time as it requires to meet specific deadlines for the range of statutory and discretionary services it requires. The LGRP framework agreement has been fully investigated by the Council's Strategic Procurement, Human Resources and Contract Law teams.

4.4 Options appraisal

The option available to the Council include:

- to do nothing, which would leave the Council unable to deliver essential services
- to seek to do more in-house, which is the default before such a mechanism is used
- to undertake a competitive tender itself, duplicating the arrangement
- to utilise a pre-procured framework agreement, which the LGRP framework agreement meets in all respects.

4.5 Key Considerations

The Alternative Resourcing Arrangements proposed in use of the LGRP framework agreement ensure that the Council has the resources required to be able to undertake relevant social, economic and environmental social value considerations. All resources appointed on the framework agreement receive in excess of the London Living Wage.

Arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness are made through having access to the right resources when the Council needs them. The Council has an established business cases process before an appointment can be made under Rule 1.7 of the Council's Procurement Rules (Standing Orders) in Part 6 Codes and Protocols of the Constitution. Procurement Rule 1.7 requires initial approval of a Corporate Director (or their nominated representative) followed by a panel consisting of the Strategic Procurement, Finance and an independent departmental representative to assess the business case.

There are no direct Transfer of Undertakings (Protection of Employment) Regulations 2006 or "TUPE" implications in use of the LGRP framework agreement. The Agency Workers Regulations may apply in limited situations.

4.6 Evaluation

The tender for the LGRP framework agreement was conducted in one stage, known as the Open Procedure, as the tender was 'open' to all organisations who expressed an interest. The Open Procedure includes minimum requirements that organisations must meet before the rest of their tender is evaluated. The tender had four lots with each evaluated on the basis of 60% quality and 40% price (further information is on the LGRP website mentioned above).

Call-off contracts from the LGRP framework agreement may be completed using either direct award or further competition, dependent on the Council's individual need at the time.

Further information on the LGRP framework agreement is in the public domain here:
<https://ted.europa.eu/TED/notice/udl?uri=TED:NOTICE:074967-2017:TEXT:EN:HTML>

4.7 Business Risks

The main risks associated with the use of a pre-procured framework agreement is that it will still be unable to meet all business needs, but in this case, the Council position is unchanged. There is a small business risk that the rates may be improved through activity outside of the framework agreement, but this is likely to be offset by the resources expended in exploring opportunities.

The main opportunity is immediate access to market with a national framework agreement on pre-determined, benchmarked and agreed rates and terms.

4.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting

unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

4.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	Access for the Council to be able appoint such resources as it considers necessary to carry out the range of statutory and discretionary services it delivers. See paragraph 4.1.
2 Estimated value	Call-offs from the pre-procured Local Government Resourcing Partnership Framework Agreement, for an annual value not expected to exceed £500,000 per year. See paragraph 4.2.
3 Timetable	The arrangement is pre-procurement and is available for immediate use. See paragraph 4.3.
4 Options appraisal for tender procedure including consideration of collaboration opportunities	The options appraisal is outlined within the report and is part of a national collaborative agreement. See paragraph 4.4.
5 Key Considerations	The key considerations are outlined within the report. See paragraph 4.5.
6 Award criteria	The Local Government Resourcing Partnership Framework Agreement was awarded on the basis of 60% quality and 40% price. See paragraph 4.6.
7 Any business risks associated with entering the contract	There are no significant risks in the Council awarding call-off contracts from the Local Government Resourcing Partnership framework agreement. See paragraph 4.7
8 Any other relevant financial, legal or other considerations.	Outlined within the implications. See paragraph 5.1-5.4.

5. Implications

5.1 Financial implications:

Funding for the call-off contracts from the Local Government Resourcing Partnership framework agreement (LGRP) will be from existing budgets and does not present any additional budget pressures for the Council. In addition, the use of a pre-procured arrangement minimises procurement costs.

5.2 Legal Implications:

The Council may procure such alternative resources as it considers necessary to deliver its statutory duties and discretionary services (section 111 Local Government Act 1972 and relevant specific statutory functions). The Council may enter into contracts for the provision of its Alternative Resourcing requirements under Section 1 of the Local Government (Contracts) Act 1997.

The proposed call-off contracts relate to services drawn from a pre-procured framework agreement. The estimated value of the call-off contracts exceeds the threshold for application of the Public Contracts Regulations 2015 (the Regulations) - currently £181,302.00 for goods and services. Contracts above this value must be advertised in the Official Journal of the European Union (OJEU). The Council's Procurement Rules also require contracts over the value of £181,302.00 to be subject to competitive tender.

The proposed procurement strategy is to call off contracts from the Local Government Resourcing Partnership (LGRP) Framework Agreement. The LGRP framework agreement, has been competitively tendered having being advertised in OJEU on 14 June 2017 using the 'open' procurement procedure with a contract award notice placed on 7 November 2017. The framework agreement was procured in compliance with the requirements of the Public Contracts Regulations 2015. The framework agreement duration is four (4) years and it is available for use by the Council. Call-off contracts can be awarded either by direct award to an organisation on the framework or following a mini-competition involving the organisations on the framework with justification on grounds of value for money for the Council.

The Director for Financial Management and Section 151 Officer has authority to award call-off contracts under a framework agreement up to £2million pounds revenue expenditure. Further approval will only be required if the aggregate value of the call off contracts from the LGRP framework were to exceed £2m.

5.3 Environmental Implications

Although there will be impacts related to the contractors procured through the LGRP framework agreement, the framework agreement itself has no significant environmental impact. Individual contracts awarded through the framework will be assessed at the time they are procured.

5.4 Resident Impact Assessment:

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment was completed on 30/11/2018 and is appended. There are no negative impacts anticipated from use of the Local Government Resourcing Partnership framework agreement.

6. Reasons for the decision:

6.1 To provide the Council with access to the LGRP framework agreement for use for agreed Alternative Resourcing Arrangements in accordance with Rule 2.7 of the Council's Procurement Rules.

7. Record of the decision:

7.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Signed by:

Director for Financial Management and
Section 151 Officer

Date

Appendices

Resident Impact Assessment.

Background papers:

None.

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