



Key Decision Report of the Corporate Director of Resources

Officer Key Decision	Date: 13 January 2022	Ward(s): N/A
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Delete as appropriate	Exempt	Non-exempt
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SUBJECT: Contract Extension for the Supply of Agency Workers to the Council

1. Synopsis

- 1.1 The Council requires a contract for the Supply of Agency Workers to the Council to cover short term vacancies and to provide additional capability, where there are skills shortages, to deliver responsive services.
- 1.2 The council undertook a procurement via Lot 1 of the Managing Temporary and Permanent Recruitment framework agreement 942 provided by Yorkshire Purchasing Organisation (YPO). The decision to award was taken 8 December 2021 for the reasons set out in that report.
- 1.3 The logistics of implementing such a complex arrangement with a significant number of sub-contractor agencies and temporary agency workers are significant, particularly with the Christmas break and risk of Omicron related absence. In order not to jeopardise existing Council services, have a smoother transition and minimise the possibility of error, it is prudent to extend the existing contract with Reed for the provision of agency workers to allow for a longer implementation period.

2. Recommendation

- 2.1 To agree an extension to the existing contract with Reed to 21 February 2022 to ensure an effective transition to the new provider. The value of this extension will be under £2m.

3. Date the decision is to be taken:

3.1 13 January 2022

3.2 The provision decision is a Key Decision because the value of the contract extension exceeds £500,000 (revenue).

3.3 The proposed decision has been included in the Forward Plan.

4. Background

4.1 Agency workers are used by the council to provide short-term resources to fill absences and vacancies and to add capacity to deal with peaks in workflow. Interims are highly skilled professionals who can enable the authority to fill skills gaps, and/or work on fixed term projects. It is important to the council to have in place a service solution that is reflective of the changing needs of the business and the dynamic nature of the external market for skills and talent.

4.2 The purpose of the further competition was to procure agency worker and interim services from an established framework agreement. The contract will be for a maximum period of 50 months (38 months with the option to extend for up to 12 months, subject to satisfactory performance and available funding).

4.3 The further competition was carried out via Lot 1 of the Managing Temporary and Permanent Recruitment framework agreement 942 provided by Yorkshire Purchasing Organisation (YPO). The benefits of the chosen option were that the council could select a supplier that provides a hybrid solution. In addition:

- The YPO framework offers a framework of pre-assessed providers against a broad set of requirements with the ability to carry out a further mini competition.
- YPO offers a financial incentive via a dividend paid to all members of the purchasing group.

4.4 The logistics of implementing such a complex arrangement with a large number of sub-contractor agencies and temporary agency workers are significant. There are particular concerns due to the timing of the implementation with the Christmas break and also the emergence of Omicron which could have an impact on staffing both within the council and the provider. In order not to jeopardise existing Council services, have a smoother transition and minimise the possibility of error, mean it is prudent to extend the existing arrangement to allow for a longer implementation period.

4.5 The value of the contract to be extended is based on existing monthly costs and will be up to £2million.

4.6 As a new contract has been procured and the extension is to facilitate a smoother transition, the likely commercial risk of procurement challenge from the contract extension is anticipated to be low.

5. Implications

Financial implications:

- 5.1 This is an extension of the existing contact arrangement with an anticipated value of up to £2million. Agency workers are funded through departmental budgets. The Council has processes in place to control the costs of agency workers. These include authorising the initial assignment, pay for workers, extending assignments etc. The Council's normal practice is for payments to be made in arrears on timesheets for agency workers on assignments have been approved. Financial implications for the replacement contract are included within the published contract award report.

Legal Implications:

- 5.2 The Council has power under section 112 of the Local Government Act 1972 to procure staff as necessary for the proper discharge of its functions. Accordingly, the Council may enter into a contract for the provision of agency workers (section 1 of the Local Government (Contracts) Act 1997).

The existing contract with Reed for the provision of agency workers expires on 31st January 2022 and there is no provision within that contract enabling the contract term to be extended. A new contract has been awarded following a mini competition pursuant to YPO's HR Services and Solutions (Temporary and Permanent Recruitment, Consultancy and Related HR Services) Framework Agreement. However, the implementation processes for the new Matrix contract may not be completed by 31st January 2022.

It is therefore proposed to extend the current Reed contract for a short period from 1st February to 20th February 2022 (so that the new contract with Matrix will commence on 21st February 2022). The proposed extension is a substantial modification because of its estimated value and therefore falls outside those modifications permitted under regulation 72 of the Public Contracts Regulations 2015.

The proposed contract extension is a contract for services. The threshold for application of the Public Contracts Regulations 2015 (the Regulations) is currently £189,330 (with effect from 1 January 2020). Since the value of the proposed variation is up to £2million the Regulations require advertisement in the Official Journal of the European Union (OJEU). Further, the Council's Procurement Rules require contracts of this value to be subject to competitive tendering.

A decision to extend the contract would be susceptible to challenge for breach of the duty to comply with the Public Contracts Regulations 2015. However, the risk of challenge is considered to be low as the proposed extension of the existing contract is linked to the successful implementation of a new contract procured through a competitive tendering exercise, and the short contract extension is under a compliant Framework Agreement with Yorkshire Purchasing Organisation.

The short contract extension with Reed is compliant with the council's Procurement Rule 3.1.

The decision to extend the Reed contract may be made by the Corporate Director of Resources who has authority to vary contracts where the value of the amendment is expected to be no more than £2,000,000 in the case of a revenue contract (Procurement Rule 18.1.2).

Environmental Implications and contribution to achieving a net zero carbon

5.3 There are no direct environmental implications resulting as a result of this report.

Resident Impact Assessment:

5.4 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. There are no direct resident or equalities implications arising from this report.

6. Reasons for the decision:

6.1 The contract extension is necessary to allow for the continuation of services until the new contract can be implemented.

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

Corporate Director of Resources

Date:

Appendices

- None

Background papers:

- None

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