

# Birmingham City Council

## Report to Cabinet

27<sup>th</sup> June 2023



<b>Subject:</b>	<b>STRATEGY / AWARD - CONTRACT FOR SUPPLY OF TEMPORARY WORKERS &amp; ADDITIONAL HR SERVICES (P0188_2023)</b>
<b>Report of:</b>	<b>Darren Hockaday, Acting Director, People and Corporate Services</b>
<b>Relevant Cabinet Member:</b>	<b>Cllr Brigid Jones - Finance and Resources</b>
<b>Relevant O &amp;S Chair(s):</b>	<b>Cllr Jack Deakin - Finance and Resources</b>
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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 010889/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

### 1 Executive Summary

- 1.1 To provide details of the outcome of the procurement process undertaken for the provision of temporary workers and additional HR services and to seek approval for the award of a contract to Hays Specialist Recruitment Ltd called off under the Yorkshire Purchasing Organisation (YPO) Framework Agreement Managing Temporary and Permanent Recruitment – ref. 942 (Lot

12 – Total Talent Management) by direct award in accordance with its protocol.

- 1.2 The contract award is for a period of four years, with a break option at the Council's sole discretion at year 2 commencing 4<sup>th</sup> September 2023 for the estimated annual value of up to £82m.

## **2 Recommendations**

That Cabinet; -

- 2.1 Approves the award of a contract for the provision of temporary workers and additional HR services, to Hays Specialist Recruitment Ltd (Hays) commencing 4<sup>th</sup> September 2023 for a period of four years, with the option to terminate the contract at year two at the Council's sole discretion for the estimated annual value of up to £82m with a total aggregate value over the four years of up to £328m.
- 2.2 Notes the benefits, risks and mitigations set out in **Appendix 1**.
- 2.3 Delegates authority on whether or not to apply the contractual break option to Assistant Director – Procurement (Interim), Director - People Services, Director, Council Management and City Solicitor (or their delegates) in consultation with Cabinet Member for Social Justice, Community Safety and Equalities
- 2.4 Authorises the City Solicitor (or their delegate) to execute and complete all necessary legal documents to give effect to the above.

## **3 Background**

- 3.1 The Council has an ongoing requirement for temporary workers, interims, fixed term assignments and professional skills for permanent recruitment solutions to support the Council in delivering the Council's workforce strategy (& any subsequent successor to this).
- 3.2 The framework agreement for temporary agency workers via Hays expired on 3<sup>rd</sup> Sept 2021. Cabinet on 20<sup>th</sup> April 2021 approved the award of a two year call off contract under this framework before it expired. This call off contract commenced on 4<sup>th</sup> September 2021 and will expire 3<sup>rd</sup> September 2023.
- 3.3 The relationship with Hays commenced in 2017 and over that time the relationship was worked well and the innovative approach to partnership working resulted in winning a Go award at their annual ceremony.
- 3.4 Having worked with the Council for six years Hays have learned what is important to the Council and how we operate. As the Council has transformed, so has their team and their service to the Council. Using this knowledge, extensive service evolution has taken place with a keen focus on cost as well as quality.
- 3.5 Hays were the lowest priced bidder in 2017 when the framework agreement was awarded to them. Prices did not increase during the term of the first call off contract & were subsequently reduced as part of the 2<sup>nd</sup> call off contract in 2021.

Market research has shown that in the last six years cost of delivery has been significantly driven up by the combination of hyperinflation in the region of 20% and acute skills scarcity (e.g., there are 1.1m live vacancies across the UK today, including 200,000 in health and social care).

- 3.6 Some key deliverables achieved during the term of the relationship with Hays are:
- The Council now has near full visibility and control of temporary worker spend, something we did not have at contract commencement therefore de-risking the out-of-control supply chain and associated compliance.
  - Back in 2017 when the service went live, there were c450 known live assignments. In 2023 that number is closer to 2,400. Some of the major contributors to the growth of the programme include:
  - Senior hires grew from 54 heads in 2020 to 445 by 2022 via the on-boarding of critical interim/exec level suppliers via negotiated commercial terms
  - Increased support to the SEN service with over 140 agency workers in 2022
  - Provision of 70 IT/Digital contractors as part of the digital transformation
  - Redesign of assessment and selection process for high volume customer service recruitment
  - £68m a year is now under the management of Hays (of which 75% of spend is via the 62, 2<sup>nd</sup> tier supply chain with the remainder of roles directly filled by Hays).
- 3.7 In addition to the spend with Hays some of the non-compliant off contract spend referred to above has crept back in with some hiring managers filling roles outside of the corporate contract with Hays. This is estimated to be around £14m pa.
- 3.8 Given the imminent expiry of the corporate contract & the need to address the non-compliant spend the council requires a new contract / framework to support the delivery of the workforce strategy. The proposed procurement strategy is set out in section 7.4.

## **4 Options considered and Recommended Proposal**

- 4.1 These are set out in section 7.4 below.

## **5 Consultation**

- 5.1 The Leader has been consulted and is supportive of these proposals.
- 5.2 Officers from People Services, Legal Services and Corporate Finance were consulted in the preparation of this report.

## **6 Risk Management**

- 6.1 An assessment of the risks & benefits attached to the proposed approach of direct award under the framework agreement is included in **Appendix 1**.
- 6.2 It is therefore considered a measured and acceptable risk to take in the circumstances avoiding the significant disruption, potential cost of change associated with a change of supplier and allowing the Council to focus on further aggregation of non-contracted spend and strategic advice and support to People Services

## **7 Compliance Issues:**

- 7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?
- 7.1.1 The roles appointed under this contract will enable all areas of the Council to appoint temporary, interim, and permanent staff into roles that both directly and indirectly contribute to the delivery of all of the 5 key outcomes within the Council Plan
- 7.1.2 **Birmingham Business Charter for Social Responsibility (BBC4SR)** - Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of the new contract along with submission of an action plan setting out social value commitments that are proportionate and relevant to the contract. The approved action plan will then be implemented and monitored during the contract periods. The procurement activity proposed here is clearly linked to employment and skills. The social value priorities will be:

- **Priority 1** - Through the Charter action plan Suppliers' commitments need to focus on employment and employability for Birmingham residents, particularly in disciplines and job roles that historically have been hard to fill for the Council.
- **Priority 2** - Through the Charter action plan Suppliers' commitments need to focus on engaging with local schools to give young people information about working at the Council and the range of jobs and disciplines available to them particularly focusing on the hard to fill roles; and
- **Priority 3** - Through the Charter action plan Suppliers' commitments need to focus on how they will use their influence as an employment expert to educate their customers on good employment practices

- 7.1.3 **Environment and Sustainability Assessment** – this is included as Appendix 2 and shows that there are no specific impacts on the key environmental themes

## **7.2 Legal Implications**

- 7.2.1 The Council is required by Section 112 Local Government Act 1972 to appoint such officers as it thinks necessary for the proper discharge of its functions.

Section 111 Local Government Act 1972 provides that the Council may do anything which is calculated to facilitate the discharge of its functions, and this will include the recruitment of agency workers.

### **7.3 Financial Implications**

- 7.3.1 The contracts will not commit the Council to any particular level of spend, this is incurred when an agency worker is hired against the contract. The estimated total expenditure is as follows
- Up to £82m per annum. This is based upon the numbers of agency workers on assignment over the last 12 months. In arriving at the recommendation for this direct award, Officers benchmark contract rates & historic/projected usage against the direct award rates on another large 3<sup>rd</sup> party framework agreement. On a like for like rates comparison this showed a 0.0002% saving. Value for money can therefore be demonstrated.
- 7.3.2 Any spend associated with these contracts will be met from approved Directorates' service budgets.
- 7.3.3 £12m of the £14m off contract spend is Street Scene workers supplied directly by Extra Personnel. People Services are working closely with hiring managers in Street Scene & hiring manager across the Council to streamline the recruitment process into permanent jobs thereby reducing the future reliance & cost of temporary workers. This will be supported by the proposed new contract which will include a key deliverable (see para. 7.4.1) for Hays to help the Council understand the reasons for hire to address root cause of demand.
- 7.3.4 The new contract will underpin and facilitate the successful operation of the HR procedure for the appointment of interims and consultants as well as assist in the achievement of the workforce savings target through the smart use of the successful agencies.

### **7.4 Procurement Implications**

The proposed procurement strategy for the new contract is as follows.

#### **7.4.1 Outcomes expected - The intended outcomes from this new arrangement are:**

- Appoint a partner that has the appropriate experience, skills and availability to deliver the services in the scope & specification below;
- A contingent workforce that reflects the diversity of our city
- In partnership with hiring managers and People Services advertise job openings in specific places and ways that attract candidates with certain experience, skills, or characteristics.
- Regularising off and non-contracted spend in relation to contingent workers to ensure spend is compliant from a procurement perspective and giving improved visibility & control of contingent worker spend

- Understanding the reasons for hire to address root cause of demand
- Online approvals for hiring and extensions
- A tenure challenge (understanding of long-term temporary workers and why they remain in situ)
- Identify what is driving demand and measures to resolve (e.g., permanent recruitment and temporary worker replacement programmes)
- proactively drive the social value agenda and activity in the Wards that need it most
- Can assist with the Council's strategy for Early Careers, workforce planning, permanent hiring, and brand to create talent pipeline and reduce dependency on contingent labour
- Providing a single solution and data repository for all contingent worker information.
- Seeking opportunities to deliver financial efficiencies through a consistent set of agency rates and margins

7.4.2 **Scope & specification** - A scope and specification has been prepared. In summary, this covers the following services

- Agency workers
- Interim workers
- permanent, fixed term & interim recruitment support all grades of staff including JNC roles and services such as Recruitment Advertising & associated services, Psychometric testing; and
- Market intelligence services e.g., salary scale reports, support for workforce planning & work force strategies

#### Procurement Approach

7.4.3 The following procurement options were considered:

- **To carry out the work in-house** – there is a lack of sector expertise to manage the function as a Managed Service Provider (this would involve managing large number of individual agencies & workers and the service issues likely to come with this). An IT system would need to be procured to manage this. Likely to be more costly than the market rate from Hays. It is therefore too costly for the Council to run an internal managed service provider type service and there is a lack of commercial skills. There is an extremely mature external market for this service so this is the chosen option as follows.

- **Tender for a Council only contract** – This was discounted due to the availability of the YPO framework which offers a quicker, cheaper and compliant route to market and will deliver the same outcomes at the same cost as the current contract whilst giving the Council time to address legacy areas of non-contracted spend on interim workers and permanent recruitment campaigns
- **Use a collaborative framework agreement** – YPO Framework Agreement Managing Temporary and Permanent Recruitment – ref. 942 (Lot 12 – Total Talent Management) This is the recommended option. Suppliers listed on such frameworks have been assessed by YPO during the procurement process for their financial stability, track record, experience and professional ability saving the Council time and staff resources in not having to do this. It is therefore recommended that an award be made, in line with the terms of the YPO framework, as it meets the Council's needs

**7.4.4 Contract duration** – 4 years with a break option at the Council's sole discretion at year 2. With the break option

- should new suppliers and/or new solutions become available there is the option to re-procure this contract or
- The new UK procurement regulations are due to be implemented in 2024 bringing greater flexibility in the way goods/services can be procured. To put time & effort into procuring a new contract under the outgoing rules does not feel prudent. The proposed break option at year 2 leaves the option open for this contract to be procured as a BCC contract & benefit from the flexibility in new rules.

YPO Framework Agreement Managing Temporary and Permanent Recruitment – ref. 942 (Lot 12 – Total Talent Management)

- 7.4.5 A review of available framework agreements resulted in the identification of the YPO framework agreement (FA) 942 - Lot 12 – Total Talent Management as the most suitable lot to use on the basis all the services required are included and Hays are a supplier under this Framework Agreement.
- 7.4.6 There is one other supplier on this FA which is Reed Specialist Recruitment Ltd.
- 7.4.7 **Award Mechanism** - There are two ways in which the Council can procure through the YPO FA 942 –Lot 12 (Total Talent Management) both direct award and further competition are permitted routes to market.
- 7.4.8 **Direct award** - Customers can review all pricing and quality aspects to make an objective decision for the basis of the direct award. HR additional services can also be taking in consideration as part of the objective analysis.
- 7.4.9 An objective analysis has been undertaken & it is proposed that the direct award mechanism under FA 942-Lot 12 is used to award a 4 year call off contract (with a break option a year 2) to Hays. The following quality & price factors were taken into consideration in reaching this recommendation

- The continuation of the partnership that has taken 5+years to establish with Hays & the opportunity to evolve the current relationship into a broader strategic partnership that includes the additional HR Services detailed above. Focusing on a total talent management will further support the Council in delivering its workforce strategies whilst providing a platform to address legacy areas of non-contracted spend on interim workers and permanent recruitment campaigns
- Suppliers tendering & mobilisation costs estimated to be in the region of £400k would be avoided & therefore not factored into agency margins.
- A change of supplier now would mean the loss of supply chain engagement & all the work to onboard 2<sup>nd</sup> tier supply chain given the high % of roles that Hays fill via their supply chain
- The ability to address & consolidate the off and non-contracted spend with Agencies. A more controlled solution is therefore required in this area to regularise this requirement and underpin the delivery of the Cabinet Member for Finance objective to ensure clear oversight of interims and consultants as set out within the Constitution.
- The continued provision of equal opportunities data for temporary worker population in support of 'Everyone's Battle, Everyone's Business' which includes diversity data at all levels including senior roles striving towards a workforce reflective of the City
- Current pricing can be retained. Prices set in 2017 did not increase during the term of the current contract and were reduced in the later years despite costs of delivery increasing by around 20%. Given these are market challenges common to all, all bidders will start at least that price point of +20% or even higher, simply due to inflation and increased cost of delivery.
- The continued delivery of Social Value to support the priorities identified above. Some key achievements to date include
  - Circa 300 coaching and mock interviews for newly qualified teachers in the city
  - Hays Director co-founder of The Alliance Network – a not for profit organisation formed to create and support LGBTQA+ employer networks in the Midlands
  - Supported 30-40 schools in Birmingham with employability, skills and creativity projects
  - Support to Aston Uni & Titan in their sporting challenge for 3 days every year across 15 schools in the city
  - The introduction of a social value fund with over £41,500 already available. The funding will be used to proactively target key

Wards within the City to inject much needed support to existing services around employability & will include:

- The Hays and End Youth Homelessness (EYH) charity collaboration project (#Flourish) is a strategic partnership to build an employability programme for young people who are or have faced homelessness or are at risk of homelessness and who are being supported by the member charities of EYH.
- With all of the above supporting community cohesion giving those from different backgrounds similar life opportunities; and developing strong and positive relationships between people from different backgrounds and circumstances in the workplace, in schools and within neighbourhoods

7.4.10 It is recommended that a contract is awarded to Hay Specialist Recruitment Ltd by direct award on the basis that they have been identified as the most suitable provider on the YPO FA 942 –Lot 12 (Total Talent Management) to meet the Council's requirements for this contract with the availability to deliver the services to meet the timescales and identified outcomes of the Council.

7.4.11 **Contract & Performance Management** - The contract will continue to be jointly managed by the Contract Manager – Corporate Procurement Services and from the Head of Resourcing - People Services.

## **7.5 Human Resources Implications (if required)**

7.5.1 The contract will support the delivery of the Council's workforce strategy by enabling resourcing capacity to deliver agreed priorities and in particular, service areas will benefit from the broader framework where roles are difficult to recruit to.

7.5.2 The contracts will provide a platform to enable Directorates to deliver their workforce plans and where there are peaks and troughs and short-term specialist transformational resource requirements, the contracts will be an enabler to the completion of priorities in the Delivery Plan.

7.5.3 The contracts will provide assurances surrounding various vetting compliance requirements e.g., right to work, Disclosure and Barring Service Checks (DBS) and qualifications in order to mitigate legal and financial risks to the Council.

## **7.6 Public Sector Equality Duty**

7.6.1 A relevance test to decide whether this planned procurement has any relevance to the equality duty contained in Section 149 of the Equality Act 2010 of eliminating unfair/unlawful discrimination and to promoting equality and human rights was conducted on 20<sup>th</sup> August 2020, reference EQA555. This is included as Appendix 3 and shows that the screening identified that there was no

requirement to assess this further and completion of an Equality Assessment form was not required

## **8 Appendices**

- 8.1 Appendix 1 - Risks & Benefits of a Direct award (without re-opening competition) to Hays under the YPO framework
- 8.2 Appendix 2 – Environment & Sustainability Assessment
- 8.3 Appendix 3 - Equality Impact Assessment

## **9 Background Documents**

- 9.1 Report to Cabinet - COMMISSIONING & PROCUREMENT STRATEGY FOR THE RECRUITMENT AND MANAGEMENT OF AGENCY WORKERS FOR THE COUNCIL (EXCLUDING CHILDREN'S SOCIAL) dated 22<sup>nd</sup> March 2016
- 9.2 Report to STRATEGIC DIRECTOR OF CHANGE AND SUPPORT SERVICES - CONTRACT AWARD FOR THE RECRUITMENT AND MANAGEMENT OF AGENCY WORKERS FOR THE COUNCIL (EXCLUDING CHILDREN'S SOCIAL WORKERS) (P188) DATED 30<sup>th</sup> January 2017
- 9.3 Report to Cabinet - PROCUREMENT STRATEGY FOR THE SUPPLY OF NON-PERMANENT WORKERS AND PERMANENT RECRUITMENT SOLUTIONS (P0188 & P0188\_2021) DATED 20<sup>TH</sup> April 2021