

Public Report

Birmingham City Council

Report to Cabinet

20th April 2021



Subject: **PROCUREMENT STRATEGY FOR THE SUPPLY OF NON-PERMANENT WORKERS AND PERMANENT RECRUITMENT SOLUTIONS (P0188 & P0188_2021)**

Report of: Head of Contract Management, Corporate Procurement Services

Relevant Cabinet Member: **Councillor Tristan Chatfield, Cabinet Member for Finance and Resources**

Relevant O &S Chair(s): **Councillor Sir Albert Bore, Chair of Resources Overview and Scrutiny Committee**

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input 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: 007787/2020		
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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

- 1.1 This report sets out the procurement strategy and route to market for the Supply of Non-permanent Workers and Permanent Recruitment Solutions.

2 Recommendations

That Cabinet

- 2.1 Approves the award of a new 2 year call off contract to Hays Specialist Recruitment Ltd (Hays) commencing on 4th September 2021 for the estimated annual value of £41,600,000 based on historic spend (Category 1).
- 2.2 Delegates approval to exercise the option to extend to Assistant Director, Development & Commercial, Interim Chief Finance Officer and City Solicitor (or their delegates) subject to satisfactory performance and budget availability.
- 2.3 Delegates authority to approve both the procurement strategy and award of contracts for Worker Categories 2-7 to the successful provider(s) to the Assistant Director, Development & Commercial, Director of Finance and Interim City Solicitor (or their delegates)
- 2.4 Approves the amendment of the contract term of the framework agreements for Temporary Agency Workers for Educational Establishments with those organisations listed in Appendix 1 commencing 1st September 2021 for a period of 12 months to 31st August 2022. The estimated annual value is £2.5M
- 2.5 Authorises the City Solicitor (or their delegate) to execute and complete all necessary legal documents to give effect to 2.1 - 2.4

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 workforce strategy 2018-2022 (& any successor to this).
- 3.2 The existing framework agreement for temporary agency workers via Hays expires on 3rd Sept 2021 (c. £41m p.a.) as does the framework for the supply of temporary workers to educational establishments (c. £4.4m pa). It is therefore prudent to determine and commence procurement activity to ensure a successor agreement is in place prior to this date. The procurement has been delayed due to a lack of available resource to undertake the tendering activity due to resource being diverted to more critical projects such as security services, PPE etc where existing contracts are not in place.
- 3.3 There are no overarching contracts in place for the supply of interims and fixed term assignments particularly for specialist or professional support workers (legal, finance, HR etc). The Hays framework described in 3.2 above includes provision for these workers but both the Council & Hays have struggled to fill these roles through this arrangement. The proposed new arrangements will have

a different approach & will capture all of the lessons learnt as a result of not being able to fill under the Hays agreement. Consequently, this spend totalling approximately £8m p.a. is fragmented and non-compliant from the perspective of good procurement governance. In addition, it creates a potential risk that officers sourcing these workers do not ensure IR35 protocol is adhered to. A more controlled solution is therefore required in this area to regularise this requirement and underpin the delivery of the Cabinet Member for Finance and Resources objective to ensure clear oversight of interims and consultants as set out within the Constitution.

- 3.4 The existing contracts for Executive search and recruitment with Seymour John Public Services Ltd & Gatenby Sanderson Ltd will expires on 31st June 2021. The contract commenced on 13th May 2019. This contract will be superseded by the implementation of recommendation 2.3. Total contract spend to date is c. £125k.
- 3.5 Recognising the fragmented spend and contract profile above and as the workforce strategy evolves there is need for the Council to have appropriately tendered agreements in place to supply non-permanent and permanent workers across a diverse range of skills and professions. The procurement strategy seeks to address this.

4 Options considered and Recommended Proposal

- 4.1 In considering the route to market, various options to aggregate worker categories were considered. However, having undertaken market analysis in relation to these Category areas it is apparent that no one provider can currently provide all these worker types, particularly around roles within Educational establishments, Finance, Legal, Procurement, ICT and the specialisms required for executive recruitment.
- 4.2 Consequently, the procurement options for each are considered separately within Section 7 of the report.

5 Consultation

- 5.1 The Chair of the Resources Overview and Scrutiny Committee has been briefed on the content of this report.
- 5.2 All relevant departments of the Council were consulted.

6 Risk Management

- 6.1 The risks associated with this procurement strategy are set out within the Private report.

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 these Category areas 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 contracts 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

7.2 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 Section 111 Local Government Act 1972 provides that the Council may do anything which is calculated to facilitate the discharge of any function, and this will include the recruitment of agency workers. Some Council services may only be provided by persons qualified. It is therefore necessary to recruit qualified staff to comply with such regulatory provision.

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 annual expenditure is as follows

- £41.6m for the additional call off under the Hays contract. This is based upon the numbers of agency workers on assignment over the last 12 months. In arriving at the recommendation for this further call off, Officers benchmark contract rates & historic/projected usage against the direct award rates of a large 3rd party framework agreement. On a like

for like rates comparison this showed a 0.0002% saving. However, when factoring in mobilisation costs this showed an increase in costs for the Council if this were the preferred route. Value for money can therefore be demonstrated.

- £8m for worker category 2-6 this is based on known historic annual usage but noting that due to the limitations of data from Voyager this figure is an estimate.
- £4.4m for worker category 7 (£4.1m from schools directly and £0.300m for Education & Skills) spend will be met from the schools individual budgets and the Special Guides/Escorts approved budget within Education & Skills

7.3.2 Any spend associated with these contracts will be met from approved Directorates service budgets.

7.3.3 These frameworks will underpin and facilitate the successful operation of the recently introduced 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

7.4.1 The scope of the future procurement strategy falls into 7 worker categories;

- Category 1, temporary workers covered under the existing agency framework referred to in 3.2 above (multiple role types, skills and service areas, GR7 and below);
- Category 2, Interim and Permanent roles for support services professional disciplines such as Finance, Procurement, HR, Legal Services;
- Category 3, interim and permanent roles for ICT&D;
- Category 4, Building, Property and construction related roles interim and permanent;
- Category 5, Interim and permanent roles for Project and Programme Management positions;
- Category 6, Executive Roles, interim and permanent recruitment and;
- Category 7, temporary workers for educational establishments.

7.4.2 **Category 1 Options** - worker types covered under the existing agency framework with Hays.

There are several national frameworks available to access with authorities being given the option of direct award without competition (which to award to Hays via this route would mean a price increase) or mini-compete our requirements.

The Council's existing framework with Hays enables other local authorities to 'call off contracts' under this agreement. The length of individual contracts based on the framework agreement is determined by each local authority. Call off contracts must be awarded before the end of the term of the framework agreement itself and do not need to coincide with the duration of that framework agreement, but might, as appropriate, be shorter or longer.

For this Category, the recommended approach is to enter into a new 2 year call off contract to Hays, under this existing framework for Birmingham & for the job roles set out in the framework. The commencement date will be 4th September 2021. The rationale for this is set out below;

- Throughout the contract term, Hays have worked with the Council to achieve the strategic aims of the contract (demonstrated through the Hays and the Council winning a 'Go; award in 2019 for Best Service Award Medium and Large Organisations Category) and consistently exceeded on KPI performance;
- Tendering costs for the Council will be avoided (circa £60-£80k in officer time based on the previous tender);
- Hays have implemented a robust system for the administration of workers e.g. electronic time sheets;
- Hays have worked very closely and effectively on mobilising key projects during the COVID response – demonstrating a commitment to support the council.
- Profit margins for Agencies is typically low (i.e. around 5% or less), therefore the margin of value that could potentially deliver savings through tendering as a percentage of the total value of the contract is very small. In addition, when factoring in any potential cost of change for both the Council and providers it is felt that better value can be negotiated directly with Hays.
- Were the Council to tender this and result in a change of supplier in Sept 2021 the bedding-in period for this contract would coincide with the go live of ERP in April 2022. Typically, the Council receives 100+ invoices a month and there is a tried & tested system in place for the electronic exchange of invoice data with Hays that will be migrated from Voyager to 1B with little need for testing. Data from a new supplier would need more rigorous testing & the Council would need to provide the resources to do this. Retendering would therefore create significant risks for the Council and the delivery of the ERP programme.
- The 2 years would allow sufficient time to address and consolidate off-contract spend with a view to the whole category of spend being re-tendered in 2023.

- Much work has taken place over the last 3-4 years to understand & stabilise this area of spend resulting a high level of compliance with both the contract & the process for appointing agency workers. The further call off will allow officer time to focus on applying the same process & rigour to worker categories 2-6 (see below) with the result being a high level of compliance in these areas also. This has the added benefit of supporting the new HR process for interims and consultants.

7.4.3 **Categories 2 – 6** Interim and Permanent Recruitment and Recruitment advertising for Professional and specialist roles

There are several national frameworks available to access with authorities having the ability to mini-compete for these requirements which would facilitate a more expedient solution than Council own tender. These frameworks are fully compliant with EU and UK procurement legislation and all suppliers listed on such frameworks have been assessed during the procurement process, by the framework owner for their financial stability, track record, experience and professional ability.

However, there is no single framework that can accommodate the diversity and range of roles required by the Council. In addition, for some of the Category areas the market will have providers that focus on either permanent recruitment or interim roles whereas other worker categories consist of providers capable of delivering both interim and permanent roles. The sub-lotting strategy will be finalised as part of the development of the tender documentation.

Utilisation of multiple frameworks will result in different worker categories being contracted under the differing terms and conditions of each framework and will lead to a lack of consistency across worker categories and a challenging suite of contracts to manage.

It is therefore recommended that the Council undertake its own procurement exercise in line with the approach and lot strategy set out below.

Lot	Worker Category	Sub Lots	Minimum No. of providers per Lot
1	Interim and Permanent roles for support services professional disciplines such as Finance, Procurement, HR, Legal Services.	1 Lot, Finance & Procurement, HR and Legal Services	4
2	Interim and permanent roles for ICT&D	1 Lot	2
3	Building, Property and construction related roles interim and permanent.	1 Lot	2
4	Interim and permanent roles for Project and Programme Management positions	1 Lot	2
5	Executive Roles, interim and permanent recruitment	1 Lot	2

Market intelligence suggests that the future market for the contingent workers market very much depends on the future way of working after lock down restrictions have been lifted & the bounce back in the economy

It is therefore proposed that the procurement strategy for Categories 2-7 be deferred until later in 2021 when the market predictions are a little clearer. It is also proposed that approval of this procurement strategy is delegated to Assistant Director, Development & Commercial, Interim Chief Finance Officer and City Solicitor (or their delegates)

7.4.4 Category 7 - Temporary workers for educational establishments

Temporary supply of Agency workers to schools (educational and non-educational roles). Schools and the Council have an ongoing need for:

- supply teachers, (Secondary, Primary and Special Education Needs)
- teaching assistants and Learning Support Assistants
- nursery officers; and
- non-educational staff to work in schools
- Pupil guides for the Home to School transport service

The existing frameworks will expire on 31st August. The re-procurement of these frameworks has been delayed. Further details are provided within the Private Report. It is therefore proposed that these frameworks be extended for a period of 12 months to allow for the re-procurement to be concluded & to ensure that the start of the new frameworks does not coincide with the start of a new school year during which time schools are busy with other things. For the reasons stated in 7.4.3 above it is proposed to delegate the procurement strategy is delegated to Assistant Director, Development & Commercial, Interim Chief Finance Officer and City Solicitor (or their delegates)

The extended framework agreements will continue to offer value to the schools as the breakdown of the charge rate is transparent, temporary agency workers are hired on the Council's terms of business and there is no introductory fee payable if a worker is taken on permanently following a recruitment and selection process.

7.5.4 Risk

The CPS approach is to follow the Council Risk Management Methodology and the Category Team is responsible for local risk management.

7.4.5 Implementation Timescales

The contractual arrangements for Worker Category 1 (worker types covered under the existing agency framework with Hays) can be implemented with immediate effect following Cabinet approval with the new arrangements commencing 4th September 2021.

The timetable for the procurement of worker categories 2-7 will be determined as part of the delegated procurement strategy. Further details are provided within the Private Report.

It should be noted that with respect to Worker Category 6 (Executive Roles, interim and permanent recruitment) there is an immediate need for an interim arrangement to be established to support the Council delivery plan whilst the contracts to deliver the Council's longer-term procurement strategy is delivered. Approval to proceed with this interim arrangement will be \ has been sought via the Planned Procurement Activities Report.

7.6 Contract & Performance Management

The Framework Agreements will be managed commercially by the Contract Manager – Corporate Procurement Services with support from Human Resources. Schools will manage individual call off agreements with Agencies.

7.7 Human Resources Implications (if required)

- 7.7.1 The contracts will support the delivery of the Council's workforce strategy for 2018 – 2022 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.
- 7.7.2 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.
- 7.7.3 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.

7.8 Public Sector Equality Duty

- 7.8.1 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 20th August 2020, reference EQA555. The screening identified that there was no requirement to assess this further and completion of an Equality Assessment form was not required.

8 Background Documents

- 8.1 Report to Cabinet - COMMISSIONING & PROCUREMENT STRATEGY FOR THE RECRUITMENT AND MANAGEMENT OF AGENCY WORKERS FOR THE COUNCIL (EXCLUDING CHILDREN'S SOCIAL) dated 22nd March 2016
- 8.2 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 30th January 2017

8.3 Report to Chief Operating Officer - CONTRACT AWARD FOR THE PROVISION
OF TEMPORARY AGENCY WORKERS FOR EDUCATIONAL
ESTABLISHMENTS – LOT 2: CONTRACT REFERENCE (P188) dated 13th
JULY 2017

8.4 List of Appendices accompanying this Report (if any):

- None

Appendix 1 – Framework Providers -Temporary Agency Workers for Educational Establishments

Ambassadors Resourcing Limited
Aspire People Limited
Axcis Education
Balfor Recruitment Limited
Affinity Workforce Solutions Ltd (Monarch)
Connaught Resourcing Limited
Danluker Limited
Education Staffing Link Limited
Eyears Limited
First for Education Limited
Hays Specialist Recruitment Limited
ITN Mark Education
James Andrews Recruitment Solutions
Protocol Education Limited
Randstad Employment Bureau Limited
Teacher Active Limited
Timeplan Education Group Limited