

PROVISION OF TEMPORARY AGENCY STAFF

Purpose of Report

1. Cabinet approved the adoption of a neutral vendor managed service (NVMS) for the provision of temporary agency staff using the EU 'Restricted Tender' route on 23rd February 2010. This was a joint collaborative project with Bath & North East Somerset Council (BANES). This paper set out the reasons for requesting a change to the approved procurement route.

Background

2. A project meeting with BANES in June 2010 identified structural changes to its procurement unit having an immediate impact on knowledge, capacity and the project timescales. As such, BANES have withdrawn from the project and it will not continue any further. This withdrawal removes the Council's opportunity to gain the benefits expected from a collaborative procurement exercise.

Options Considered

- (i) Tender Exercise (Wiltshire Council only)

Due to the loss of the collaborative opportunity to approach the market this will impact on the Councils ability to obtain better pricing through increased economies of scale. This option also represents the longest lead time to establishing a new contractual arrangement. It is anticipated that a replacement tender exercise will take approximately 6 - 8 months to conclude and implement the new service. This timescale will not allow the Council to establish a new contractual arrangement prior to expiry of the current framework arrange which is due to end in February 2011.

- (ii) Join National Contract

The national contract being developed by the OGC and the Eastern Shires Purchasing Organisation (ESPO) is set to 'go live' in March 2011 and Wiltshire Council (WC) will be a named authority in the OJEU notice to provide access to the agreement.

Whilst WC will have access to the use of this agreement, it is anticipated that joining the national contract at the 'go live' stage in March 2011 may pose a risk to the council. It is likely that the demand to join this framework nationally will be very high. This will negatively impact on the quality of support received and timescales involved in the implementation process for each of the client organisations involved.

- (iii) Join a Pre-Tendered Framework

The quickest and most cost effective option is to join a pre-tendered framework as there are no joining fees and it enables the council to commence implementation of a new service immediately. Consideration has already been given to two pre-tendered frameworks with ESPO and Dorset County Council (DCC) that were discussed in the original Cabinet paper.

ESPO's Framework

This was originally discounted as it had a short contract term remaining and it was unclear at the point of investigation whether the contract would be extended. A contract extension has now been awarded until December 2011.

DCC's Framework

DCC's was also discounted as it was believed to be open to challenge under the EU Procurement Directives. The extent of this risk has been clarified at paragraph 7 below. The DCC arrangement is due to expire in May 2012.

Risks

3. With regard to the DCC framework, the risk identified in the original Cabinet Paper stated WC could be open to challenge by increasing spend on the existing contract beyond the original proposed contract value. If exceeded, this may constitute a material change in the contract value and potentially be seen as a lost business opportunity for suppliers. The main consideration is the level of risk and the likelihood of challenge this presents.
4. Further investigation has shown that this risk is also present when joining the ESPO framework.
5. Legal representatives consider that the key factor for potential suppliers would be the opportunity to increase their business portfolio. Suppliers in this respect would gain nothing by challenging other than a possible small sum in damages estimated to be up to £15,000. Suppliers will also have to consider if a challenge could potentially damage relationships, especially in light of the national contract which will present new business opportunities in the future.
6. Consideration must also be given to the fact that at the time of publishing a contract award notice, the anticipated maximum spend can only be estimated as any additional volume is unknown and cannot be quantified.
7. Legal opinion has concluded that a challenge to the understated contract values presents a low risk to WC, and this would have to be factored against the overall benefits of joining a pre-tendered framework.

Benefits

8. Joining a pre-tendered framework removes the time and costs required to undertake a dedicated tendering exercise.
9. Joining an pre-tendered framework will also achieve a more competitive unit price that will reduce as affiliates join and make greater savings than the Council could achieve by going out to tender separately.
10. It will enable the council to gather comprehensive management information over a 12 month period and understand its business in greater detail. This will ensure that the council can better seek a competitive advantage in future.
11. Introducing a NVMS at the earliest opportunity will enable the council to obtain greater visibility of it's temporary staff workforce, reduce administration costs associated with purchase to pay process for this category of spend and ensure that the Council has a model that can respond to the changing service requirements.

Financial

12. As both frameworks present the same risks and benefits a key deciding factor will be in the pricing mechanism and the maximum level of savings that can be achieved. These are different for each framework.
13. ESPO's framework uses a Gain-Share approach and Comensura take a share of any savings achieved over 5% which is split between Comensura and WC. This is in addition of an hourly transaction fee per temp agency worker so that Comensura is guaranteed an income to cover their costs and take account any factors outside of their control. There is also an 18 month lock-in clause with ESPO's framework although this may be negotiable in light of the national contract compared to 3 months with DCC.
14. DCC's framework, also with Comensura, supports a 'pay as you use' approach in terms of the number of hours bought. The hourly transaction fee is lower compared to ESPO's and the council will keep 100% of any savings made. The council are therefore likely to achieve the greatest savings by joining DCC's framework.

Proposal and Reason for Decision

15. In order for the council to receive the benefits described above at the earliest opportunity it is proposed that a contract is signed with Comensura under the DCC framework arrangement. It is envisaged that WC will remain in this contractual arrangement for a minimum 12 month period at which point it will consider the risks and benefits associated with transferring to the National contract. It is envisaged that implementation of a NVMS will take approx 45 days and roll-out can commence in September 2010.