

**NORTH LINCOLNSHIRE COUNCIL**

**POLICY AND FINANCE CABINET MEMBER**

**PROCUREMENT OF TEMPORARY AGENCY WORKERS**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

1.1 To seek approval of a procurement plan for the supply of temporary agency workers.

- Contract Procedure Rules (CPRs) detail that the procurement plans for contracts over £1m must be approved by the relevant cabinet member
- This report sets out a proposed procurement plan for the supply of temporary agency workers
- The council's current supply arrangement for temporary agency workers is due to end on 30 November 2015 and decisions are now needed to put in place a new agreement to provide continuity of supply and adequate resourcing of key service activities

**2. BACKGROUND INFORMATION**

- 2.1 Contract Procedure Rules (CPRs) detail that the procurement plans for contracts over £1m must be approved by the relevant cabinet member. This report sets out a proposed procurement plan for the supply of temporary agency workers.
- 2.2 The council's current supply arrangement for temporary agency workers is due to end on 30 November 2015 and decisions are now needed to put in place a new agreement to provide continuity of supply and adequate resourcing of key service activities.
- 2.3 On 1 October 2011 the Agency Workers Directives came into force. The purpose of the directive is to provide temporary agency workers who have been placed for 12 weeks with equal treatment rights in terms of basic working and employment conditions similar to directly employed staff.
- 2.4 The implementation of the directive had major implications for costs and use of agency workers across the council. The ability to have clear visibility of agency worker usage through access to good quality and timely management information together with effective centralised control and a sole provider/managed support service is now considered essential for ensuring on-going compliance with the regulations.
- 2.5 In November 2011 the then cabinet member for Finance, Procurement and IT resolved to award a 4 year framework to Matrix SCM Ltd via MSTAR - a national framework providing managed service provision for the supply of agency workers. The arrangement had been developed by Eastern Shires Purchasing Organisation

(ESPO) on behalf of the Pro5 cohort of local government public buying organisations.

2.6 The MSTAR option was chosen as the best solution to meet the council's needs, providing:

- a single point of contact for the council - a "one stop shop"
- structured and detailed management information and reporting
- streamlined payments and invoicing
- reduced and standardised rates of commission
- accurate and transparent charges and savings
- performance based tiering of agencies to encourage service quality
- audits of agencies – ensuring compliance with employment checks
- requirements supporting management of the Agency Worker Directive
- adherence to safeguarding matters and consistent compliance
- access to a number of (tiered) agencies to ensure sufficient capacity exists
- improved opportunity for 'local' and SME suppliers
- "neutral vendor" managed service model addressing the need for any "off contract" arrangements
- recommended as best practice for the public sector

2.7 MSTAR purports to have saved local authorities £45m since its launch 2011. Under EU regulations frameworks are limited to a 4 year maximum duration and accordingly MSTAR is now due to end in 2015.

2.8 Feedback from Human Resources and key users has indicated that MSTAR has generally achieved the objectives and service aspirations which were originally set.

2.9 MSTAR<sup>2</sup> is the successor arrangement to MSTAR. Under the new framework, suppliers have guaranteed savings for both new and existing customers. Benefits include:

- improved provision of qualified social workers
- additional services - including pre-employment CV screening, a DVLA check service, an employment legal advice service and 24x7 manned help desk support
- new service delivery and pricing model and comprehensive safeguards to prevent the need for off contract spend and the subsequent risks associated with worker quality
- increased number of suppliers - widening choice for call-offs and higher levels of responses to further competitions
- pricing is now against job category and pay rate bandings, allowing greater flexibility for sourcing and better transparency for customers

2.10 The suppliers on MSTAR<sup>2</sup> are all market leading managed service providers (MSPs) helping to improve control, safeguarding and visibility as well as delivering efficiency savings. Three different service models are available:

- Lot 1 – Neutral vendor (supply chain management)
- Lot 2 – Master vendor (supply chain management)

- Lot 3 – Supply Chain Optimisation (Hybrid) – customers can define a sourcing strategy using a combination of models depending on their resourcing objectives

- 2.11 There are 7 approved suppliers (MSPs) available through Lot 1 of MSTAR<sup>2</sup>: Comensura, de Poel, Manpower, Matrix, Pertemps, Randstad and Reed
- 2.12 The MSP essentially provides a web-based system and associated supply chain management services which will help managers, via HR, to identify, select and engage agency workers. The council, in its current contract, has 24hr web-based access to view the flow of workers through the council; providing audits of the agencies and managing the standards and rates agreed.
- 2.13 Local suppliers will continue to access opportunities through becoming part of the supply chain. Importantly the opportunity for local companies to join the supply chain remains open throughout the life of the arrangement.
- 2.14 As part of the procurement shared service a joint procurement undertaken and led by North East Lincolnshire Council (NELC) is proposed. This will assist in providing economies of scale as well as efficient process associated with a single procurement exercise.
- 2.15 The seven companies on the framework will be engaged through a preliminary market consultation, the findings of which will inform the service specification. A formal Invitation to Tender will then be developed and a mini competition under Lot 1 (Neutral Vendor) between the MSPs will be undertaken and evaluated in line with the framework terms allowing a single MSP to be appointed serving both councils. The arrangement will be let initially for 12 months with annual extension options up to a maximum duration of 4 years.

### 3. **OPTIONS FOR CONSIDERATION**

- 3.1 A range of procurement options have been considered, including:

MSTAR<sup>2</sup>: the recommended option as detailed in the main body of the report.

Contingent LabourOne: the Crown Commercial Service solution for agency workers would require the volume to be split across a number of neutral vendors, the neutrality is also limited and as such allows for less opportunity for local agencies.

Yorkshire Purchasing Organisation: is currently in development of a similar solution to MSTAR<sup>2</sup> named CLASS. This solution will not be available for consideration until late 2015/early 2016. A 1 year + 3 x 1 year extension contract is being let, to allow the councils to consider the benefits of CLASS over MSTAR<sup>2</sup> once the solution has been released for access.

North East Procurement Organisation NEPRO: The council would have less autonomy accessing the solution and at present does not have any other dealings with this central purchasing body. The range of providers in NEPRO largely replicates that of MSTAR<sup>2</sup>. The councils have a strong working relationship with

ESPO and the opportunities for further collaboration with ESPO are greater, hence the choice of MSTAR<sup>2</sup> over NEPRO.

Local Dynamic Purchasing System/Framework: This is a locally procured solution created by the council for its own access. The development cost and resource would not provide additional tangible benefit. Ultimately we are better being part of a family of local authority clients under MSTAR<sup>2</sup>. We can work together to ensure the levels of service received meet the requirements of the local authorities accessing the framework through client forums and through ESPO intervention.

#### 4. **ANALYSIS OF OPTIONS**

4.1 As detailed in paragraph 3.1.

#### 5. **RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

5.1 The use of agency workers should be kept to minimum levels and used as an interim measure only to support fluctuations in service and/or skill demands.

5.2 As a strengthened internal control measure, services are now required to submit agency worker requests to HR for vetting and approval.

5.3 The engagement of an MSP essentially ensures compliance with the Working Time Regulations 2006, Agency Worker Directives 2011 and the Public Contracts Regulations 2015. Having the third party system allows all workers to be tracked and ensures that they are being treated fairly in line with relevant employment law and council policy.

5.4 Use of a national framework including a mini-competition stage undertaken jointly with NELC together with transparent fees, charges and commission structures will provide assurance that value for money is obtained.

#### 6. **OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)**

6.1 Not applicable

#### 7. **OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED**

7.1 The corporate agency worker framework is managed centrally by Human Resources. The Assistant Director for Human Resources has been consulted and supports the procurement plan as detailed.

#### 8. **RECOMMENDATIONS**

8.1 That a mini completion undertaken jointly with NELC via MSTAR<sup>2</sup> (Lot 1) leading to the appointment of a single managed service provider/neutral vendor as set out in section 2 of the report is approved; and

8.2 That an information report detailing the outcome of the procurement is submitted to the cabinet member following the award of contract.

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