



Cabinet
11th October 2021

**Report from the Director of Legal,
HR, Audit and Investigations**

**AUTHORITY TO AWARD CONTRACT FOR THE MANAGED SERVICE
FOR TEMPORARY AGENCY STAFF**

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix 1 is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	Two Appendix 1 (exempt) List of Tenderers Appendix 2 Tender Evaluation Grid
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Clare Ebune, HR Manager Tel: 020 8973 4573 Email: clare.ebune@brent.gov.uk

1.0 Purpose of the Report

- 1.1 This report concerns the proposed award of the contract for a Managed Service for Temporary Agency Staff. The service will provide temporary staff to the council to fill vacant posts in the short term and on an interim basis, to manage fluctuations in workload and to obtain specialist skills quickly when the need arises.
- 1.2 The contract for the existing service for the management of temporary agency staff is due to expire on 4 February 2022 and a replacement service must be in place by then to ensure no disruption to users. This report requests authority to

award contracts as required by Contract Standing Order 88. This report outlines the process undertaken in tendering this contract and, following the completion of the evaluation of the tenders, recommends the supplier to whom the contract should be awarded.

2.0 Recommendation

That Cabinet:

- 2.1 Approve the award of the contract for a Managed Service for Temporary Agency Staff to Contractor C for a period three years plus one year extension.

3.0 Background Detail

- 3.1 Temporary workers represent an important part of the Council's workforce. The use of temporary workers enables staffing levels to be quickly flexed in line with peaks and troughs of overall workloads. Temps are sometimes used to fill vacant posts before and during restructures to manage the risk of redundancies. They are also used where permanent posts are hard to fill. The annual contract value will vary dependent on the number of temporary workers recruited.
- 3.2 The majority of the council's requirements for temporary staff are met through a managed service contract. This has enabled the council to achieve value for money and reduce the risks associated with recruiting temporary workers outside of the contract. For example engaging workers who have not been sufficiently vetted and individual departments signing up to individual agency on terms and conditions that are not favourable to the council. In some instances the council has been liable for hefty introduction fees where workers have subsequently been engaged on a permanent basis when Officers have not used the managed service contract in place.
- 3.3 The council spends approximately £21m per annum on temporary staff through the contract. This includes workers' pay rates, statutory contributions and fees paid to agencies and the managed service provider.

The Selection Process

- 3.4 The process involved a mini competition via the Yorkshire Purchasing Organisation (YPO) 942 Managing Temporary and Permanent Recruitment Framework Agreement. The use of the Framework Agreement ensures compliance with EU Regulations and reduced procurement timescales. The YPO Framework Agreement also offers aggregated spend, with authority spend amalgamated across the country to ensure best possible rates are provided.
- 3.5 The YPO Framework Agreement gives access to a range of HR related services. Lot 1 was used as it covered the management of temporary recruitment for Local Authorities. The YPO Framework Agreement has been let

in accordance with the Public Contracts Regulations 2015 and was procured via the restricted procedure.

3.6 Under Lot 1 there were 15 suppliers appointed.

Evaluation process

3.7 All of the 15 potential suppliers on Lot 1 had the opportunity to bid for the proposed contract under a further competition issued via the London Tenders Portal. Of these, 7 submitted a bid by the deadline, all of which were compliant. The tender evaluation was carried out by a panel of officers from Human Resources, Housing and Children and Young People.

3.8 The quality element consisted of general quality 35% and Social Value 10%. The price element was 55%. Details of the evaluation criteria and weightings are detailed below.

General quality criteria	Percentage weightings
Implementation	25%
Delivery Model	10%
Service Delivery	30%
Contract Management	15%
Supplier Management	20%
General quality total	100%
Adjusted for quality weighting	35%
Social Value	Percentage weightings
Strong Foundations	20%
Every Opportunity to succeed	50%
A Cleaner, More Considerate Brent	30%
Social Value Total	100%
Adjusted for Social Value weighting	10%
Price criteria	Percentage weightings
Pay rates	18.33%
Agency fees	18.33%
Managed service provider (MSP) fee	18.33%
Price total	55%
Total score	100%

- 3.9 All bids had to be submitted electronically no later than 16th August 2021. There were seven bids received.
- 3.10 Each member of the evaluation panel read the bid responses and carried out an initial evaluation of how well they considered each of the award criteria was addressed. The panel met with the Procurement Category Manager and Procurement Officer on 8th, 9th and 10th September 2021 to moderate the allocated scores and agree an overall score for general quality and social value. Following this, the price element was reviewed by Finance and scored. The pricing, social value and general quality scores were combined to give a total score for each tenderer.
- 3.12 The names of the tenderers are contained in Appendix 1. The scores received by the tenderers are included in Appendix 2. It is to note that Contractor C received the highest score. Officers therefore recommend the award of the contract to Contractor C.
- 3.13 The contract will commence on 5th February 2022 subject to the Council's observation of the Council's call-in period.

4.0 Financial Implications

- 4.1 The Council's Constitution state that contracts for services exceeding £5 million shall be referred to the Cabinet for approval of the award of the contract.
- 4.2 The estimated value of this contract for the three year period is expected to be approximately £63.9m (based on £21.3 million spend in 2019/20 through the current contract). This includes both the direct staffing costs and agency/management fees. The exact total cost will depend on the volume and types of assignments used by the Council.
- 4.3 Finance have evaluated the pricing element of the submitted bids. This has been combined with the social value and general quality scores to give a total score for each tenderer. Officers therefore recommend the contract is awarded to the most economically advantageous bid submitted to the Council.
- 4.4 The cost of this contract will be funded from existing departmental budgets and is dependent on the use of agency staff. Each assignment is subject to internal authorisation before any spend is committed under the contract. On the whole, the Council does not budget specifically for agency costs as the cost is usually offset against underspends in direct employee budgets through vacancies. Continued pressure on public sector finances means that, like other Councils, Brent will need to deliver cost savings and efficiencies through demand management by hiring managers of agency workers. Hiring Managers should be considering permanent recruitment where appropriate.

5.0 Legal Implications

- 5.1 This report seeks the approval of the Cabinet to the award of the contract for a Managed Service for Temporary Agency Staff to Comensura Ltd. The estimated value of this contract over its lifetime is in excess of the Public Contracts Regulations 2015 threshold for Services and the award of the contract is therefore governed by the Public Contracts Regulations 2015 (the "Procurement Regulations").
- 5.2 The Procurement Regulations allow the use of framework agreements and prescribe rules and controls for their procurement. Contracts may then be called off under such framework agreements without the need for them to be separately advertised and procured through a full process under the Procurement Regulations.
- 5.3. The Council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under a framework agreement established by another contracting authority, where call off under the framework agreement is approved by the relevant Chief Officer and provided that the Director of Legal, HR, Audit & Investigations has advised that participation in the framework is legally permissible. The Director of Legal, HR, Audit & Investigations has reviewed the YPO Framework Agreement used and is able to confirm that participation in the framework is legally permissible.
- 5.4 A further competition operated in accordance with the framework rules identified Comensura Ltd as submitting the most economically advantageous tender in response to this opportunity and Officers therefore recommend the contract is awarded to the said contractor.
- 5.5 The award is subject to the Council's own Standing Orders and Financial Regulations in respect of High Value Contracts given the procurement is valued at more than £2M. Part 3 of the Council's Constitution states that contracts for services £5M shall be referred to the Cabinet for approval of the award of the contract.
- 5.6 As the procurement is from a framework, there is no legal requirement for the Council to observe a 10 day standstill period under the Procurement Regulations although the award of the contract will be subject to the council's usual call-in process.
- 5.7 On the basis of the information received it is not thought that TUPE will apply to this procurement.

6.0 Equality Implications

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 6.2 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 6.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.4 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Questionnaires were circulated to appropriate senior managers seeking their views on the current operation of the contract and any improvements that they might like to see in the future.
- 7.2 All of the respondents were generally positive in respect of the current contracts accepting that it had provided an improvement in service in compared with the previous provider and allowed the Council to take a more proactive approach to controlling spend.

8.0 Human Resources/Property Implications (if appropriate)

- 8.1 This service is currently provided by an external contractor and there are no TUPE implications for Council staff arising from retendering the contract.

9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake

consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

9.2 Bidders were asked to outline how they will add social value initiatives and deliverables which align with the Strategic Themes of the Council's Brent Borough Plan. This equated to 10% of the total evaluation criteria.

9.3 The social value commitments offered by Contractor C to support local employment included using Brentworks to work with the long term unemployed and NEETS, to help them become job ready.

To support young people, they will provide:

- CV Workshops and career advice in schools and youth organisations
- Careers events, training sessions and mentor programme
- Work with local youth groups to provide opportunities for disadvantaged local children
- Life Skills sessions offering training and advice on budgeting and finance management, CV workshops and Learning Development

Related Document:

Recordable Decision dated 12.07.21 Authority to procure Managed Services for Temporary Agency Staff using a Framework Agreement

Report sign off:

Debra Norman

Director of Legal, HR, Audit and Investigations.