

Slough Borough Council

Report To:	Cabinet
Date:	20 th November 2023
Subject:	Procurement of Temporary Labour Contract
Lead Member:	Councillor Dexter Smith, Leader of the Council
Chief Officer:	Sarah Hayward, Executive Director – Strategy and Improvement
Contact Officer:	Surjit Nagra – Associate Director - HR Adrian Thomson – Interim Recruitment Manager
Ward(s):	All
Key Decision:	Yes
Exempt:	No except Appendix 1 which is exempt under Paragraph 3, Schedule 12A of the Local Government Act 1972
Decision Subject to Call In:	Yes
Appendices:	Appendix 1 – Confidential information about the suppliers

1. Summary and Recommendations

- 1.1 This report seeks approval to award the temporary labour contract for the supply of temporary workers to the Council following a competitive procurement process through a framework agreement. The contract will commence on 25th March 2024, and will be for a period of two years plus optional extensions of up to 2 further years, subject to satisfactory performance. Based on previous spend the contract value is estimated at around £21 million per annum, although this is subject to potential reduction as more permanent recruitment is undertaken.

Recommendations:

Cabinet is recommended to:

- a. Agree to the award of the contract to Supplier 1 as set out in Appendix 1 for the supply of the Council's temporary labour needs for a period of up to four years (two-year contract plus optional extensions of up to 2 further years subject to satisfactory performance) from 25th March 2024 – 24th March 2028.
- b. Delegate authority to the Executive Director – Strategy and Improvement in consultation with the Leader of the Council, and the section 151 officer, to complete the final negotiations and enter into contract with Supplier 1 for the supply of the Council's temporary labour needs for a period of up to four years.

Reason:

The current contract for temporary labour is due to expire on 24th March 2024, and there is no option to extend it. To ensure we have a seamless transition into the new contract we need to award the new contract.

Commissioner Review

The commissioners are content with the recommendations in this report, subject to transparency principles and the proactive release of information to the public, post the award. It should be noted that the presumption in favour of disclosure will apply to the vast majority of commercial information about local government contracts and commercial confidentiality will be the exception rather than the rule.

2. Report

Introduction

- 2.1 In July 2023, Cabinet approved the commencement of the procurement process for a temporary labour contract of up to four years (2+1+1). It was highlighted that breaking down the four years, will allow us to review performance in years two and three. Additionally, the MStar 4 framework runs until 2027, whereby, it will be replaced by MStar 5, and this will allow us to assess and explore the opportunity this new framework offers in this sector.
- 2.2 This report sets out the results of the tendering and evaluation process and recommends contract award to Supplier 1 to supply temporary workers to meet the Councils requirements for temporary labour to cover one off tasks or projects which require specialist skills and experience as well as roles where there are national shortages. Councils will always have a need for temporary labour to fill short term gaps, staff special projects and fill roles where there are particular labour market issues. Having a single contract that allows the council to source all its different labour needs is the most cost-effective way of meeting these needs.
- 2.3 Separately, the Council recognises the need to more effectively manage its use of temporary labour and will use the new contract to do so.

Slough Corporate Plan

- 2.4 Full Council approved a refresh of Corporate Plan on 28 September 2023. The Corporate Plan has an overall purpose to close the healthy life expectancy gap, by focussing on children. This is supported by three priorities:
 - A borough for children and young people to thrive
 - A town where residents can live healthier, safer, and more independent lives
 - A cleaner, healthier, and more prosperous borough

- 2.5 To deliver these priorities we need the right capacity and capability across our workforce and the temporary labour contract is therefore key to ensuring we have the right resource in place at the right time.
- 2.6 We are also committed to putting equality and inclusion at the heart of our role as an employer, to support our workforce who help to deliver this plan. Our objective will be to recruit and develop a skilled, committed, and inclusive workforce, where diversity is valued and, one which is representative of our local communities.

Options considered.

Option one: Not to award the temporary labour contract

- 2.7 This is not a viable option given the ongoing Council need for temporary labour. Not having a contract in place would mean each temporary labour requirement would require an individual hiring arrangement and for hiring managers and/or HR to manage relationships with all agencies and candidates throughout the process. This would cause significant inefficiency in the system and lead to key gaps in staffing and service provision. This would also require individual negotiation on rates and could lead to the potential for higher costs.

Option two: Award the new temporary labour contract to Supplier 1.

- 2.8 This option is recommended – for the reasons stated above in the do-nothing option, appointing a supplier improves efficiency given the range of roles and skills Slough Council needs from its temporary labour. Award of the contract to a single agency does not prevent the use of specialist agencies, but these agencies would need to sign up to an arrangement with Supplier 1.

Option three: Procure temporary labour contracts from a number of specialist agencies.

- 2.9 This option is not recommended as it would require multiple relationships to be maintained and different hiring arrangements. It would reduce opportunities to gather data on use of temporary staff from one supplier and has the potential to increase cost and wastage through inefficiency.

Background

- 2.10 Slough Borough Council's Temporary Labour Contract was last awarded in April 2020 on a four-year basis comprising of two years with a further two years extension in March 2020. The contract covers the provision of temporary workers for all departments and functions within Slough Borough Council. Currently the contract is providing an average of 300 temporary workers to the Council per day, which is assisting in maintaining operational efficiencies, managing workload fluctuations, and addressing staffing shortages, particularly in roles where there is a national shortage. For example, social workers and Occupational Therapists.
- 2.11 The strategic context for the Council has changed significantly since the award of the current contract. In December 2021, the Secretary of State for Levelling Up, Housing and Communities made a series of statutory directions requiring

the Council to take prescribed actions in areas including financial sustainability, governance, procurement and contract management and cultural change. The directions were extended in September 2022 to cover recruitment to the senior officer structure. The directions were made due to the Council having failed to comply with its best value duty which requires local authorities to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.” This requires consideration of overall value, including economic, environmental, and social value, when reviewing service provision.

- 2.12 The Council has made considerable progress against a number of these areas including procurement and contract management. This ensures that there is a robust framework that has improved our approach and processes to ensure any award will provide best value for the council.
- 2.13 The combination of the directions, and poor governance which is now being tackled has led to significant growth in the council's use of temporary labour. Alongside this the national pressures in key professions is causing recruitment and retention issues for most councils. This is now being more actively managed both through the current supplier and internal control mechanisms. The procurement itself will not necessarily impact the levels of temporary labour use but we will seek a supplier who will work proactively with us to manage use of temporary labour within acceptable levels to meet business need.
- 2.14 The nature of the temporary labour market has also changed. For example, technology has evolved to enable better candidate, user and agency experiences, enhanced reporting for spend, better equality and diversity data and tenure. In many cases candidates are looking to have more flexible working patterns including home working to balance time spent commuting and in an office. Slough is competing with other local authorities across Berkshire and given our location, London boroughs who are offering attractive salaries and working arrangements.
- 2.15 Slough Borough Council is currently operating at a spend for temporary workers at £21.9 million for 2022-2023. The majority of the spend is for agency workers that are covering vacant established posts, of which £16 million was in salaries and £1.85 million were attributed to agency and provider oncosts. There is also spend on additional agency workers where there is specific project or skills need where we don't have permanent staff who can undertake this work, which accounts for the remainder of the spend. Whilst cost savings of £767k were negotiated with the current vendor in 2022-2023, there is still an opportunity to negotiate greater cost savings.
- 2.16 In the new contract, working closer with both the supplier and its supply chain of recruitment agencies will allow Slough Borough Council to engage with the market and ensure that we are working with the appropriate agencies within their specialist field to supply high calibre talent.
- 2.17 Whilst we acknowledge that tighter control is needed throughout the contract management, it will allow us to understand the market trends and allow us to forward plan with our permanent solutions to reduce long-term cost through reduced tenure periods.

- 2.18 It should be noted that we are currently in a heavily candidate driven market and the need to engage temporary labour to fill gaps within the workforce, whilst recruiting permanently, will still arise. As well as the need to engage specialist skilled interims for project-based activities which are arising from the recovery programme.
- 2.19 Below are highlighted key benefits of awarding a new contract:
- a. Competitive procurement of the new contract ensures that the Council achieves best values services, including value for money
 - b. Improved service quality:
 - d. The contract presents an opportunity to reset clear key performance standards / indicators and service level agreements, ensuring that the selected supplier meets our requirements and provides high-quality temporary workers via an engaged and fit for purpose, supply chain.
 - e. Flexibility and adaptability:
 - f. Supplier 1 has a proven record of accomplishment of adaptability, responsiveness, and the ability to address emerging needs effectively. This will enhance our ability to address staffing challenges and changes in demand.
 - g. Provision of data on agency workers such as pay rates, numbers in each service will support the monitoring of the councils usage and to instigate alternative measures to reduce the level of usage.

The Procurement Process

- 2.20 The procurement process for the new contract was conducted as a competitive process under Framework 653F_23 – Lot 1a Managed Services for Temporary Agency Resources (MSTAR4) Framework Agreement in line with the Public Contracts Regulations 2015 and the councils Contract Procedure Rules with assistance from Procurement and HB Public Law. Suppliers listed on the framework were assessed during the procurement process for their financial stability, track record, experience and technical & professional ability.
- 2.21 A mini competition process was and run and 12 suppliers listed on Lot 1a of the MSTAR 4 framework were invited to bid against the scoring criteria set out below.
- Quality – 50%
 - Price – 45%
 - Social Value – 5%
- 2.22 The mini competition was issued through the In-Tend SE Shared Services E Portal tool on 14 September 2023 and tender deadline was 13 October 2023 by 12 noon.
- 2.23 As part of the tender response, bidders were required to respond to a eight (8) quality questions, including a Social Value question, as well as submitting a completed pricing schedule. Bidders were also required to complete standard declarations and other contractual documentation returns.
- 2.24 As part of the tender process 11 clarification questions were raised and responded too via the In-Tend tender portal.

2.25 By the deadline of 12 noon on 13th October 2023, two bids were submitted which have been evaluated and the pricing matrix validated by Finance. Supplier 2 submitted a compliant bid which was evaluated alongside supplier 1.

Quality Evaluation

2.26 Bidders were required to complete eight (8) questions in relation to quality of the provision of the service. Bidders were informed within the guidance notes provided the weighting applied to each question and the how the overall tender would be evaluated and awarded.

2.27 An evaluation panel undertook independent scoring of the Quality Method statements. The panel comprised of the following members:

- 1 x Executive Director – Strategy and Improvement
- 1 x Associate Director – HR
- 1 x Interim HR Recruitment Lead

2.28 Once the evaluation panel separately evaluated all the quality questions submitted by using the scoring scale 0-5. Scores were moderated on 19 October 2023 chaired by procurement where this moderation included all responses.

2.29 The pricing schedules were validated via the Procurement Team and Finance.

Evaluation Outcome

2.30 The quality Method Statement scores were as follows:

Total final evaluation scores below

SUPPLIER	QUALITY METHOD STATEMENTS (INCLUDING SOCIAL VALUE)	PRICING	OVERALL FINAL SCORE WEIGHTING
Supplier 1	46.00%	45.00%	91.00%
Supplier 2	18.20%	11.09%	29.29%

Further information on quality and pricing is set out in Exempt Appendix 1.

Preparations for the Next Stage

2.31 Further to approval of the recommendations to award the contract, HR will work with the successful bidder to deliver the implementation plans submitted as part of the procurement exercise.

Contract Monitoring

2.32 The contract will be monitored via a formal contract management approach at quarterly intervals. The provider will be responsible for monitoring and evaluation based on the service specification, monitoring performance against agreed targets and outcomes, and demonstrating the impact of the provision.

- 2.33 The provider will also be expected to feedback on the quality of the service as well as demonstrating how this feedback is being used to improve service delivery.
- 2.34 In addition, an annual Contract Review Meeting will be undertaken – evaluating performance with the Provider, which may lead to the agreement of variations in the contract within the thresholds for amendments of contracts within their term.
- 2.35 The Provider will also comply with any other reasonable instructions, guidance, monitoring, and reporting obligations requested.

3. Implications of the Recommendation

3.1 Financial implications

- 3.1.1 The Council's Temporary Agency Contract spend has been estimated at around £21 million per annum. The maximum contract value is around £84 million over the contract term of 4 years (2+1+1). This includes the pay rates paid to the workers as well as the agency fee. The contract award does not commit the Council to any expenditure but creates the contract terms under which future assignments will be made. Each individual assignment is subject to an internal budget authorisation before any spending is committed under the contract. In most cases across the council there will not be a separate budget for temporary workers. The majority of the funding for agency workers will be provided from the service budget for staffing for the vacant posts in their establishment. Therefore, the financial impact on expenditure will need to continue to be managed and monitored by services within their overall staffing budget envelope.
- 3.1.2 All costs associated with the mobilisation to the new contract will need to be met from within the existing budget for the service and project.

3.2 Legal implications

- 3.2.1 The use of the MSTAR4 framework is compliant with both the Council's Contract Procedure Rules (CPR) and the Public Contracts Regulations 2015. A mini competition was conducted in accordance with the terms and conditions of the MSTAR4 framework agreement. The tenders were evaluated in accordance with the notified evaluation criteria and the contract can be awarded to the successful bidder.
- 3.2.2 In accordance with the CPR, the contract will need to be sealed.
- 3.2.3 There are no TUPE implications resulting from awarding the contract to Supplier 1.

3.3 Risk management implications

3.3.1 Overall the risks associated with this contract can be themed as follows:

Risk	Assessment of Risk	Mitigation	Residual Risk
Mobilisation will not take place in time	Low	The contract has lead in time before go live Mobilisation project teams in place to manage mobilisation	Low
Poor Performance Outcomes	Medium	There are clauses in the contract terms and conditions covering breaches and under performance. There are in built review meetings where performance will feature as a key item.	Low

3.4 Environmental implications

3.4.1 There are no direct environmental implications arising from this report.

3.5 Equality implications

3.5.1 Section 149 of the Equality Act 2010 requires the Council when carrying out its functions to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not and foster good relations between people who share a protected characteristic and those who do not. The Council also have specific duties in relation to publication of equality information, including gender pay gap information.

3.5.2 The successful bidder will be expected to collect monitoring data on its workers and take steps to improve the diversity of the temporary labour force. By having access to data of temporary workers as well as directly employed staff, the Council can take further steps to collect and monitor workforce data and identify steps to address gaps. During the tendering process, bidders were asked to outline their ability to provide anonymous recruitment processes for temporary labour with an aim to improve the diversity of our temporary labour in future.

3.6 Procurement implications

3.6.1 SBC used the MStar framework to procure these services, this was agreed by Cabinet in July 2023. The reason MStar was selected was because it offers:

- a. Pre-Qualified Vendors
- b. Transparent costings
- c. Cost saving efficiencies through set rates per job category

3.6.2 The use of this framework complied with both the Council's Contract Procedure Rules and the Public Contracts regulations 2015 and following public procurement principles of value for money, equality of treatment, transparency and proportionality.

3.7 Workforce implications

3.7.1 The implications of this procurement exercise will have a positive impact on the council's workforce as it will improve the council's ability to source good quality temporary labour to plug short-term gaps in resources and will therefore alleviate resource pressures in services areas.

3.8 Property implications

3.8.1 There are no direct property implications arising from this report.

4. Background Papers

None