

PROCUREMENT OF TEMPORARY AGENCY STAFF

Head of Service:	Gillian McTaggart, Head of Corporate Assurance
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	Yes
If yes, reason urgent decision required:	Expiry of contract
Appendices (attached):	Appendix 1 - Procurement Options Appraisal

Summary

This report outlines the proposed approach for the procurement of agency staff.

Recommendation (s)

The Committee is asked to:

- (1) Approve the award of the agency staff contract to Matrix SCM through the agreed framework for a two year period.**
- (2) Agree the establishment of new governance arrangements and protocol for the management of “off contract” spend .**

1 Reason for Recommendation

- 1.1 The Council awarded Matrix SCM the resourcing of agency staff in June 2015 on a five year contract through a framework agreement. This was awarded through the framework, for one year because of the pandemic and the contract has now expired.
- 1.2 The Council use agency staff for a range of functions covering sick leave, operational priorities and also prior to filling permanent. The Council’s spend on agency staff has reduced over the last few years. The current contract with Matrix is fully compliant with the Procurement Contract Regulations (2015) and the Agency Worktime Directive to ensure that agency staff receive the same rights as existing staff. This report provides a review of alternative options with a proposed solution and reviews the level of “off contract” spend.

Strategy and Resources Committee

21 September 2021

2 Background

- 2.1 The Council have been working with Matrix SCM for the supply of temporary staff since August 2015. Matrix SCM deliver services to several local authorities both large and small.
- 2.2 We currently use Matrix SCM who provide a neutral vender solution with access to 2,500 agencies. A neutral vender means that we can procure temporary staff through a single point of contact with full visibility and total control of agency spend. They hold all contractual risks and undertake all checks on those they employ.
- 2.3 Agency staff are a key resource to deliver operational work, temporary absences and key projects/programmes. Our reliance on agency staff varies each year depending on gaps and business needs. During 2021, there has been a slight increase in the use of agency staff in some in areas due to the Build Back Better Programme. We also use consultants from time to time to support our resources especially when there is a lack of capacity or capability. This report does not cover the arrangements for the employment of consultants.
- 2.4 Prior to the award of the previous contract, an internal audit report in 2014/5 had identified that the Council had inadequate controls in place to control and monitor the spend on agency staff. This identified that
 - 2.4.1 There was no central record of agency staff
 - 2.4.2 The Council were non-compliant with the Agency Worktime Directive and therefore agency workers were not paid at the same rates as our staff
 - 2.4.3 The Council did not meet the Procurement Contract Regulation's as there was no market testing of the spend which at the time was in the region of £1.6M per annum
- 2.5 The operation of the contract has been generally satisfactory although some difficulties have been identified and rectified in areas. Matrix provide a good value service but this is achieved through the provision of a lower cost delivery model. They provide a bespoke IT system where hiring managers load their requirements and the agencies upload CV's to be reviewed. Managers then must review the CV's online and select who they wish to interview. The change in Matrix contract management resulting in a lack of support.
- 2.6 Feedback from managers have found this approach difficult and some were frustrated by quality of candidates. Several improvements have been made to support managers in using the system and regular contract management meetings are in place with Matrix to review performance and feedback any issues.

Strategy and Resources Committee

21 September 2021

- 2.7 Roughly half of all spend, each year on agency staff is in Operational Services and half is from other areas within the Council
- 2.8 This contract has provided greater visibility of spend with real time management information on placements, cost of placements and length of placements with regular reports provided by Matrix.

3 Current Spend

- 3.1 The annual spend on agency staff is shown in the table below

Table 1

Year	Spend
16/17	£1,584,000
17/18	£1,696,000
18/19	£1,406,000
19/20	£1,054,000
20/21	£1,193,000
21/22 (to date Aug 21)	£604,000

- 3.2 Since the implementation of the Matrix contract, the yearly spend on temporary agency workers has been reducing. The Council has benefited from a 33% reduction in cost over the past 4 years to end of 2020. The spend for 21/22 is likely to be higher than in the previous year. This is due to both the impact of the pandemic and the moratorium on recruitment during the Build Back Better programme.

- 3.3 Not all our spend is through the current managed service. The level of off contract spend is shown below in table 2.

3.4 Table 2

	Spend 21/22 (to date Aug 21)	Spend 20/21	Spend 19/20	Spend 18/19	Spend 17-18	Spend 16-17
Matrix Spend	£335,000	£656,000	£622,600	£901,5000	£1,192,000	£769,000
Off-Contract spend	£269,000	£537,000	£431,000	£504,000	£504,000	£815,900
Total spend	£604,000	£1,193,000	£1,054,000	£1,406,000	£1,696,000	£1,584,000
% spend off contract	45%	45%	41%	36%	30%	51%

- 3.5 Having analysed the reasons for the off contract spend data, two main issues were identified

Strategy and Resources Committee

21 September 2021

- 3.5.1 Specialist appointments are difficult to recruit using Matrix and sector specific agencies can provide more suitable candidates. The agencies earn a greater fee by operating direct and many will not sign up to terms and conditions with Matrix. This equates to a significant proportion of the off-contract spend
- 3.5.2 Three agencies were being contacted direct and not through the Matrix system. Two of these agencies were already signed up and one was not. This has been resolved with placements going through Matrix and this is being monitored through contract monitoring arrangements.
- 3.6 Matrix provides good value for money as they charge lower fees. During 20/21 the fees paid to Matrix were £6,000 and the fee paid to supplying agencies was £37,000. The contract is not inclusive and there is also no minimum spend
- 3.7 It is not possible to calculate the agency fees for those not supplied by Matrix as the information is not captured. Average agency fees are around 15% for a placement .

4 Options and Proposal

- 4.1 There are several options that have been considered . These are
 - 4.1.1 Conduct a full open tender
 - 4.1.2 Creating our own Dynamic Purchasing System
 - 4.1.3 Use a framework as before to either direct award or run a mini competition
 - 4.1.4 Develop a bespoke framework for EEBC
- 4.2 Details of the advantages and disadvantages of these approaches are outlined in Appendix 1.
- 4.3 Having considered all these options it is recommended that the Council remain with Matrix and reprocure using a direct award through the Eastern Shires Purchasing Authority (ESPO) MSTAR3 framework for managed services for temporary resources and the most competitive route to procuring a managed service.
- 4.4 The advantages of using this framework are that.
 - 4.4.1 This framework is fully compliant with UK and EU procurement legislation:
 - 4.4.2 All suppliers are assessed for their financial stability, track record, experience and technical and professional know how.

Strategy and Resources Committee

21 September 2021

- 4.4.3 Pre-agreed terms and conditions to underpin all orders.
- 4.4.4 They build strategic relationships with suppliers to gain better value for money.
- 4.4.5 Gain value for money and improve cashable savings.
- 4.4.6 Improved accuracy of management information which can be reviewed by HR.
- 4.4.7 All payments to agency workers will be in line with Working Time Directives.
- 4.4.8 The fees charged are transparent and clearly recorded.
- 4.4.9 HR can obtain monitoring information and KPI's.
- 4.5 Framework arrangements represent a “smarter way” to procure particularly given resources to undertaken full tendering requirements.. Using the ESPO Framework MSTAR3 will save significant time and money but still deliver a service specific to our needs and supports local decision making and accountability. This is the third version of this framework for temporary staff and demonstrates proven experience, market knowledge and procurement know how that we can tap into. All pricing is transparent within the framework but commercially sensitive.
- 4.6 The transfer to the new contract will also minimise any disruption and implementation. The contract management arrangements will continue to be strengthened to improve the operation of the contract and provide support to hiring managers
- 4.7 It is unlikely that Matrix will meet all the Council's needs therefore it is also recommended that the new governance arrangements for off contract spend be agreed with the Head of HR & OD in order that there is adequate records and controls in place
- 4.8 It is recommended that the contract be awarded for two years.

5 Contract Management and Off Contract spend

- 5.1 Part of the exercise in retendering this contract identified the increase in the level of “off contract” spend .This is mainly due to the hiring managers not obtaining the correct candidates and also finding Matrix too complicated. Matrix is an online service and the hiring manager must undertake a review of candidates . Recruitment agencies can offer a bespoke service but clearly charge higher agency fees for their input. Going off contract can provide more suitable candidates for the role but does expose the Council to risks and inflated margins, for example a fee if the agency workers is appointed permanently (temp to perm fee).

Strategy and Resources Committee

21 September 2021

- 5.2 Significant work has been undertaken by the Contract Manager working with HR to improve the use of Matrix, having regular meetings with Matrix. Hiring Managers who only use the system occasionally are also given greater support to make processes simpler. A new agency has recently been signed up through Matrix who were being used by the Council off-contract.
- 5.3 The difficulty with sector specific staff will remain and due to Matrix's lower margins it will remain a challenge to appoint in some areas particularly where demand is high. To address this we will:
 - 5.3.1 Have a relaunch of the systems once contracts are in place to encourage use and explain the benefits.
 - 5.3.2 Maintain a centralised record for "off contract" spend with placements to be signed off by the Head of HR& OD.
 - 5.3.3 Develop a protocol for hiring managers.

6 Risk Assessment

Legal or other duties

6.1 Impact Assessment

- 6.1.1 There has been a delay in bringing this report to Committee. A significant issue was raised by the Matrix Contract Manager in March that they suspected fraudulent action by one of our suppliers. This has been audited and it was confirmed that they were not passing on the full payment to several agency workers. Matrix recommended that we cease working with them.
- 6.1.2 The Head of Operational Services raised several concerns including the ability to run a few key services especially with potential need for staff to self-isolate during the pandemic and immediate removal would impact service delivery.
- 6.1.3 Further evidence was sought which confirmed that agency workers were not being paid correctly. It was agreed that this supplier would be removed, but a period of transition was needed for the existing agency staff to be transferred onto another compliant supplier.
- 6.1.4 The MSTAR3 Framework is fully compliant with the Public Contract Regulations (PCR's), the Council's Contract Standing Orders (CSO's) and Agency Work Time Directive.

6.2 Crime & Disorder

- 6.2.1 No specific issues

6.3 Safeguarding

Strategy and Resources Committee

21 September 2021

6.3.1 All checks are carried out by the relevant agency. ESPO's procurement activity is governed by the Public Contract Regulations 2015 and uses the mandatory standard supplier questionnaire (SSQ) on all its procurements which includes a section on the supplier's approach to the Modern Slavery Act, slavery and human trafficking in the supply chain. As part of ESPO's due diligence on all new suppliers, and proportionate to the level of supply chain risk, additional questions may be posed at the assessment stage to consider how suppliers manage their own supply chain risk.

6.4 Dependencies

6.4.1 No specific issues

6.5 Other

6.5.1 Matrix offers the Council an end to end service in a 'neutral vendor capacity', with access to 2,500 agencies. They take on the contractual liability risk so the risk to the Council is reduced

7 Financial Implications

7.1 In recent years the Council has spent in the region of £1.0m to £1.2m per annum on agency staff. This is roughly split between the spend in operational services and professional staff. The level of off-contract spend has been increasing steadily due to the specialist nature of some roles.

7.2 There are a significant number of agency staff employed in 21/22 but it is anticipated reliance on agency staff, including specialists, will reduce by 22/23 once the restructure is in place.

7.3 The Council's Contract Standing Orders allow the use of framework agreements and where they are with a single supplier or allow as the call off of supply without competition. In such cases officers will need to demonstrate that they have obtained value for money.

7.4 **Section 151 Officer's comments:** It is important both that the Council demonstrates value for money through the recommended framework, as set-out in paragraph 4.4, and that off-contract expenditure is monitored and managed, as set-out at paragraph 5.3.

8 Legal Implications

8.1 The Council must comply with the Public Contract Regulations 2015 and the Council's contract standing orders when procuring goods, services and works. Where a contract is more than £750,000 the procurement must be approved by the relevant committee. .

8.1 **Legal Officer's comments:** None arising from the contents of this report.

Strategy and Resources Committee

21 September 2021

9 Policies, Plans & Partnerships

- 9.1 **Council's Key Priorities:** Effective Council to support and enable a high performing and adaptable workforce. :
- 9.2 **Service Plans:** The procurement of agency staff contract is included within the current Service Delivery Plan for 2021/2022.
- 9.3 **Climate & Environmental Impact of recommendations:** There are no specific concerns
- 9.4 **Sustainability Policy & Community Safety Implications:** there are no specific concerns.
- 9.5 **Partnerships:** There are no specific concerns

10 Background papers

- 10.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Use of a framework for the managed service for temporary agency resources - Strategy & Resources Committee 24 June 2015

<http://th-modgov-01/documents/s332/Item%2011%20-%20Managed%20Service%20for%20Temporary%20Agency%20Resources.pdf>