

**TO: THE EXECUTIVE
15 NOVEMBER 2011**

**AGENCY STAFF- FURTHER COMPETITION UNDER ESPO FRAMEWORK 653F LOT
1(A)
Director of Adult Social Care & Health**

1 PURPOSE OF REPORT

- 1.1 In accordance with the recommendation contained in the Procurement Plan approved by the Director of Corporate Services and the Executive Member for Finance, Resources & Assets in January 2011, the Council has been undertaking a mini competition under a recently-established national Framework Agreement managed by the Eastern Shires Purchasing Organisation (ESPO). The evaluation of tenders has now been completed and this paper seeks agreement to place the Council's own contract under the ESPO framework for a period of 4 years.

2 RECOMMENDATION

- 2.1 That the Agency Staff Contract be awarded to Tenderer B.**

3 CATEGORY MANAGEMENT

- 3.1 Following the recent report by IESE into Council Procurement, Agency Staff was identified as one of the designated areas requiring Category Management, with the Chief Officer, Older People and Long Term Conditions, fulfilling the role of Category Manager. The key principle of Category Management is that products or services acquired (such as Agency Staff) with common attributes, markets or suppliers are grouped together and managed as a single category. This enables optimal strategies to be developed for managing: the supply market, the internal demand for the commodities involved and the procurement methods required to best meet the needs of the organization.
- 3.2 The adoption of Category Management means that the Council will be better placed in future to obtain maximum value for money in the designated categories, because by encouraging a truly corporate approach to procurement in these critical areas, the Council will be able to optimise its buying power and influence on the market or markets.

4 REASONS FOR RECOMMENDATIONS

- 4.1 To ensure, that the Council has an effective and reliable contractor offering an efficient and reliable service to hiring managers minimising the need for intervention by Council officers, and which delivers best value for money.
- 4.2 To ensure that the Council adopts, in accordance with the principles of Category Management, a solution which addresses the needs of the whole Council and maximises the Council's spending power, delivering both direct savings and process improvements.

- 4.3 To ensure that the Council has a contract in place which enables compliance with the Agency Workers Regulations which are effective from 1 October 2011.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 As set out in the Procurement Plan, consideration was given to a range of options including the establishment of the Council's own frameworks and the identification of other frameworks to join. The former case was discounted as it would involve a labour intensive process and was considered to stand very little chance of delivering best value for money. In the latter case, no other suitable frameworks were identified and, indeed, the ESPO framework, because of its potential size and scope, is being actively pursued by other Local Authorities in Berkshire and throughout the Country.

6 SUPPORTING INFORMATION

- 6.1 The Council has adopted the approach of Category Management and as such, this is the first report of a procurement under these new arrangements. As a consequence of the spend on agency staff in Adult Social Care & Health, the Chief Officer: Older People & Long Term Conditions was identified as the Category Manager.
- 6.2 A project team with representatives from all main user areas was established to consider the options and to recommend the preferred solution subsequently reflected in the Procurement Plan. Following the recent report by IESE into Council Procurement, Agency Staff was identified as one of the designated areas requiring Category Management, with the Chief Officer, Older People and Long Term Conditions, fulfilling the role of Category Manager. The key principle of Category Management is that products or services acquired (such as Agency Staff) with common attributes, markets or suppliers are grouped together and managed as a single category. This enables optimal strategies to be developed for managing: the supply market, the internal demand for the commodities involved and the procurement methods required to best meet the needs of the organization.
- 6.3 Tenderer B offered the optimum combination of cost and quality against the pre-disclosed evaluation criteria as required by ESPO as a condition of participating in their framework and in accordance with the requirements of the Public Contracts Regulations 2006 (as amended). Full details of the tender evaluation are given in the Confidential Annexe.
- 6.4 Following the Council's experience with the HCC master vendor framework, the Project Team determined that a different approach was required. This has proved to be a particular issue in Social Care areas which are more demanding and higher risk in terms of the impact of poor performance. This ESPO framework is a neutral vendor contract, meaning that the provider appoints and manages the suppliers but supplies no staff itself. With master vendor arrangements, the provider acts as the main supplier of agency staff and sub-contracts any it is unable to supply itself. It is therefore in the master vendor's commercial interests to supply as high a proportion of the staff as it can, in effect, in competition with the sub-contractors. The solution recommended here avoids this problem.
- 6.5 All 6 framework suppliers appointed by ESPO were invited to tender in July 2011, with tender returns due on 17th August. Only 1 supplier (identified as Tenderer C) failed to respond. Of the remaining 5, 4 were fully compliant however Tenderer D included some significant areas of non-compliance. These were challenged by the

Evaluation Team but not conceded, and as a result Tenderer D's bid was not evaluated further.

- 6.6 As they are required to do under the ESPO framework, all tenderers have offered an electronic purchase to pay system offering online ordering, timesheets and consolidated electronic billing. In addition a full range of Management Information will be available which authorised users are able to tailor to their requirements. This contract will present considerable opportunities for process improvements capable of delivering indirect savings across the Council.
- 6.7 Tenderer B has submitted a proposal offering guaranteed savings and have set out savings expectations for year 1 of the contract and beyond. Such savings will however only be achievable if the contract is used for all Council agency staff business in accordance with Category Management principles and if agency staff are procured at the same levels.

7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 7.1 The procurement process has been carried out in accordance with the procurement plan, the council's contract standing orders and the Public Contracts Regulations 2006 (as amended). The terms and conditions applicable to the contract to be entered into are determined by the provisions of the ESPO agreement and are acceptable to the council.

Borough Treasurer

- 7.2 The financial implications of this contract award are set out in the Confidential Annexe.

Equalities Impact Assessment

- 7.3 It is not considered that this decision is likely to affect or impact other groups within the Council or in the wider community; however an initial screening was completed at Project Initiation stage, and duly signed off by the appropriate Chief Officer. A copy of this was published and made available.
- 7.4 However, it should also be noted that the ESPO framework contract terms and conditions set out requirements for equal opportunities, human rights, professional conduct, health and safety and confidentiality.

Strategic Risk Management Issues

- 7.5 Failure to deliver the contract is a risk. Tenderer B is, however, an organisation with significant financial and other resources, which have been subject to detailed checks by ESPO in order to minimise the risk of non-delivery.
- 7.6 Failure of the supplier's purchase to pay system could be a risk to the Council. As required by ESPO, Tenderer B has robust business continuity arrangements in place to cover such matters.
- 7.7 Poor performance could also be a risk to the Council. Whilst the Council will manage Tenderer B's performance locally any persistent poor performance will be escalated

to ESPO. ESPO will be able to use their considerable leverage within the market to ensure improved performance, where necessary.

- 7.8 Failure to commit the appropriate levels of staff resources to support the Category Management Strategy could put the project objectives at risk. A project manager has been identified (from within existing resources) to support the implementation and ongoing contract management to minimise this risk.

8 PROJECT TEAM

- 8.1 The members of the Project Team were taken from Corporate Procurement and the main user areas (notably Adult and Children's Services Care areas and Environment, Culture & Communities). Tender evaluation/marking was carried out by representatives from Adult Social Care & Health, Environment Culture & Communities, Corporate HR and Corporate Procurement.

9 CONSULTATION

Principal Groups Consulted

- 9.1 ICT, Finance, Internal Audit and a broad range of Council potential users and managers have been consulted to ensure there are no barriers to the introduction of Tenderer B's purchase to pay system.
- 9.2 ESPO have been consulted for advice throughout the tendering process.

Method of Consultation

- 9.3 Meetings, e-mail and telephone conversations with the groups concerned.

Representations Received

- 9.4 N/A

Background Papers

Invitation to Tender document including Conditions of Contract
Tender Evaluation Spreadsheet

Contact for further information

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