

HARBOROUGH DISTRICT COUNCIL

REPORT TO THE CABINET MEETING OF SEPTEMBER 2ND 2019

PUBLIC REPORT: YES

EXEMPT REPORT: NO

Report Title	Temporary Staff Agency Contract
KEY DECISION	Yes
Report Author	Jonathan Ward-Langman
Purpose of Report	To request Cabinet approval for the Council to enter into a contract with an employment agency for the recruitment of temporary staff
Reason for Decision	The value of the contract to be awarded may exceed the Public Contracts Regulations 2015 (OJEU) threshold; Cabinet approval is therefore required.
Portfolio (holder)	Councillors King and Hallam
Corporate Priorities	All: essential to the Council's functions and operation.
Financial Implications	The potential value of the contract over its term (including potential extensions) is estimated to be over the E.U. procurement limit (N.B. this is inclusive of remuneration to staff employed under its terms).
Risk Management Implications	Failure to ensure the availability of temporary staff would put at risk the effective function of the Council. Failure to ensure compliance with procurement law would risk legal challenge.
Environmental Implications	The tender process was designed to support the Council in its ambition to reduce its 'carbon footprint' by focusing on recruitment within the District of Harborough and neighbouring areas.
Legal Implications	None
Equality Implications	None
Data Protection Implications	None
Consultation	Joint Chief executive (Beverley Jolly); Head of Legal and Democratic Services & Monitoring Officer; Head of Finance and Corporate Services and s151 Officer
Options	The Council could recruit temporary staff through an appropriate Framework agreement; however it is believed that a more effective and more flexible service can be secured by awarding a contract to a recruitment agency.

Background Papers	None
Recommendation	That the Council awards a contract for a term of three years with the option for extensions for up to 3 years in 1 yearly increments to Supplier 1 (see Appendix A, Exempt).

1. Introduction

- 1.1. Harborough District Council regularly requires the services of staff on a temporary basis across many teams within the organisation. This may be due to staff sickness, the requirements of special projects or fluctuations in workload.
- 1.2. Whilst the Council is often able to recruit such staff directly or to use 'bank staff' it is sometimes essential to recruit temporary staff through employment agencies.
- 1.3. In order to comply with the Public Contracts Regulations 2015 (PCR 2015) and the Council's own Procurement Statement of Required Practice (the 'Procurement SORP') it is necessary to procure a contract with an agency to provide this service through competition.

2. Key Facts

- 2.1. The Council often requires staff to fill temporary posts for periods of varying length: these include administrative roles, legal professionals, specialist planners, managers in regulatory services and customer services roles. There are a number of different routes to securing the services of these individuals: procurement regulations are relevant in some cases, but not in others. For example, if the Council directly recruits and employs staff on a temporary basis, either through a "bank staff" arrangement or following advertisement of a post, procurement regulations do not apply, except in relation to any services used to advertise such a post.
- 2.2. However, where the Council procures the services of individuals through a third party that does not act as a direct employer, but which is paid by the Council for the services provided and which is responsible as an intermediary for the payment of the staff concerned, the Council must comply with procurement regulations (PCR 2015 and its own Procurement SORP).
- 2.3. At present, although the Council uses "bank staff" in some cases, it also recruits temporary staff through a variety of channels including specialist agencies (in Legal Services, Planning and Development Control), generic employment agencies for less specialist roles and through direct recruitment of individuals.
- 2.4. The Council decided several years ago that it would not use Framework agreements for the recruitment of temporary staff in the interests of flexibility and effectiveness. There has been nothing to suggest that a Framework could meet the Council's needs satisfactorily.
- 2.5. The Council's Procurement SORP requires competition in all procurement unless an exemption has been granted. It is arguable that if an agency is asked

to supply details of a number of candidates for a role, competition is implicit; however, in procurement law, repeated exercises of this kind cannot necessarily be considered as separate procurements. So the contract value of the repeated procurements would be cumulative, and by using the same agency on a number of occasions (possibly over several years), the Council is likely to exceed the threshold at which a fully compliant tender process is a legal obligation.

- 2.6. In February 2019 the Council published a tender for a contract to an employment agency, primarily for the recruitment of non-specialist roles as and when required. It is anticipated that for the recruitment of specialist roles such as legal, planning, development control and building control professionals, the Council will procure the services of appropriate specialist agencies; however the contractor may be approached to support recruitment of these roles from time to time.
- 2.7. The tender process was designed to: maximise the creation of local employment opportunities; to support the Council in its ambition to reduce its 'carbon footprint' by focusing on recruitment within the District of Harborough and neighbouring areas; to ensure that temporary staff employed through the contract are properly supervised, managed and supported; and to identify a contractor to work closely with the Council to ensure that its needs are met efficiently.
- 2.8. There will be no minimum guaranteed requirement for temporary staff appointments under this contract. The Council reserves the right to use other agencies to recruit temporary staff as and when necessary.
- 2.9. The potential maximum contract value referenced above and in the contract notices is an indicative figure only. It is important to note that it includes the cost of remuneration to individuals employed (i.e. the wages paid to temporary staff as well as the charges paid to the agency) and that the actual value will depend on the requirements of special projects, fluctuations in workload, staff retention and absence, recruitment, labour market variations and salary inflation.
- 2.10. The tender submissions were evaluated in accordance with the invitation to tender by a panel of Council managers with direct experience of the employment of temporary staff and recruitment through agencies. Details of the scoring are included at Appendix A (Exempt). There was a unanimous consensus amongst the panel that a contract should be awarded to Supplier 1.
- 2.11. This is a routine procurement exercise that represents 'business as usual' and is essential to maintain the Council's operations and function. Authorisation of the award by Cabinet is necessary because the value of the contract exceeds £200,000 (HDC Procurement SORP, 28.1) and the PCR 2015 threshold.