

**Report of Deputy Chief Digital & Information Officer**

**Report to Chief Digital & Information Officer**

**Date: 1<sup>st</sup> October 2018**

**Subject: Approval to waive Contract Procedure Rules (CPR's) 8.1, 8.2, 9.1 and 9.2 and enter into a contract with Permanent Futures for the recruitment of specialist ICT resource outside of the Digital and Information Service Temporary ICT Staff Framework Agreement.**

Are specific electoral wards affected? If relevant, name(s) of ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

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**Summary of main issues**

1. Digital and Information Service (DIS) currently has a Framework Agreement in place, ref DN189804 (9PBG-BH7NID) Temporary ICT Staff Framework – for the supply of ICT resource which expires on 31<sup>st</sup> May 2019. There are 5 approved recruitment agencies on the Framework.
2. Due to the specialist nature of some of the ICT staff roles, there are occasions where the recruitment agencies on the Framework are unable to fulfil the council's ICT resource requirements.
3. DIS needs to have suitable arrangements in place ensure that it can source and acquire suitably qualified and experienced ICT resource in an effective, efficient and economical manner to meet the councils requirements.
4. This report identifies the services required and seeks approval to waive Contract Procedure Rules (CPR's) 8.1, 8.2, 9.1 and 9.2 to enter into a contract with Permanent Futures without seeking competition, to source suitably skilled candidates where these cannot be provided by the suppliers on Temporary ICT Staff Framework -

## **Recommendations**

5. The Chief Digital and Information Officer is recommended to waive CPR's 8.1, 8.2, 9.1 and 9.2 and enter into a contract with Permanent Futures without seeking competition, to source suitably qualified and experienced ICT resource where these cannot be provided by the suppliers on the Temporary ICT Staff Framework.

## **1 Purpose of this report**

The purpose of this report is to seek approval to waive CPR's 8.1, 8.2, 9.1 and 9.2 and enter into a contract with Permanent Futures without seeking competition, to source suitably qualified and experienced ICT resource where these cannot be provided by the suppliers on the Temporary ICT Staff Framework.

## **2 Background information**

- 2.1 Leeds City Council has a Framework Agreement in place "DN189804 (9PBG-BH7NID) Temporary ICT Staff Framework" for the recruitment of Temporary ICT Staff which expires on 31<sup>st</sup> May 2019.
- 2.2 In the majority of cases, the suppliers on the Temporary ICT Staff Framework are able to provide suitably qualified and experienced staff to meet the Councils requirements.
- 2.3 There are occasions however where the Council requires temporary ICT resource who have specialised knowledge and skills (for example technical contractors who have worked in a specific market sector such as Social Care), and the suppliers on the Framework are unable to provide suitable candidates.
- 2.4 The Council must then find this resource from alternative recruitment agencies, outside of the Framework.
- 2.5 Permanent Futures have previously demonstrated their ability to provide experienced and suitable specialist technical resource to the Council on many occasions.
- 2.6 They also meet the Councils requirements with regards to maximum commission rates charged for successful candidates.
- 2.7 Estimated spend will be £140,000.

## **3 Main issues**

### **3.1 Reason for contracts procedure rules waiver**

- 3.1.1 The reason for this waiver is to ensure compliance with CPRs.
- 3.1.2 To enable the Council to source suitably qualified and experienced ICT resource where these cannot be provided by the suppliers on the Temporary ICT Staff Framework.
- 3.1.3 The contract with Permanent Futures will run until 31<sup>st</sup> May 2019, with an estimated value of £140,000.
- 3.1.4 During the period up to the expiry of the current contracts on 31<sup>st</sup> May 2019, DIS will complete a review of its requirements and carry out a full procurement exercise with a view to awarding a new Framework for Temporary ICT Staff which will also take

into consideration the Council's needs to include provision for more specialist resource.

### **3.2 Consequences if the proposed action is not approved**

3.2.1 If the proposed action is not approved, this could have a direct impact on delivery of critical council projects, which in turn could affect front line services.

## **4 Corporate considerations**

### **4.1 Consultation and engagement**

Consultation has taken place with DIS Senior Management to consider the most effective and flexible way DIS can ensure that a comprehensive, effective, efficient and economic service for the supply of temporary ICT resource can be provided.

### **4.2 Equality and diversity/cohesion and integration**

Equality and diversity issues have been considered and it is felt that a full Equality Impact Assessment is not required as there will be no adverse impact on any particular group.

### **4.3 Council policies and best council plan**

DIS will ensure that the recruitment of specialist ICT resource is aligned to the council's recruitment and workforce planning initiatives and budget plans.

### **4.4 Resources and value for money**

The council spends in excess of £2m per year on the use of specialist ICT contractors. DIS contractor staff are generally employed to work on specific projects or to backfill for a member of staff who is working on a specific project. Funding is provided within project budgets to cover this temporary headcount increase and the use of contractor staff is the most effective way of managing these short/medium term resourcing demands, which often require specific technical skills for the duration of the project. Failure to source suitable skilled contractor staff has a direct impact on delivery of critical council projects, which in turn could affect front line services.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 This is a Significant Operational Decision and is not subject to Call In. There are no grounds for treating the contents of this report as confidential under the Council's Access to Information Rules.

4.5.2 Whilst the risk of legal challenge is considered low due to the nature of the way the recruitment market operates, awarding a contract direct to Permanent Futures in this way could leave the Council open to a potential claim from other providers, to whom these contracts could be of interest, that it has not been wholly transparent. In terms of transparency it should be noted that case law suggests that the Council should always consider whether contracts of this value could be of interest to contractors on other EU member states and, if it could, the opportunity should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising would be appropriate. In particular, consideration should be given to the

subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc.) and the geographical location of the place of performance.

- 4.5.3 The Chief Digital and Information Officer has considered the above and, due to the specialist nature of the services required, is of the view that the scope and nature of the services is such that it would not be of interest to providers in other EU member states.
- 4.5.4 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.
- 4.5.5 Although there is no over-riding legal obstacle to preventing the waiver of CPRs 8.1, 8.2, 9.1 and 9.2 by putting contracts in place, the contents of this report should be noted. In making the final decision, the Chief Digital and Information Officer should be satisfied that the course of action chosen represents best value for money.

#### **4.6 Risk management**

The supply of DIS resource is monitored by the DIS Senior Leadership Team (SLT) to ensure it is appropriate for the requirements.

The performance of the Recruitment Agency and of individual appointments will be managed and reviewed on a regular basis by the Senior Business Planning Officer (Resourcing) and approval will be requested from DIS SLT for any ad-hoc recruitment requirements for specific ICT resource from Permanent Futures.

### **5 Conclusions**

DIS relies on temporary ICT resource to work on specific projects, or to backfill for members of staff, who are working on projects which are capital funded. Funding is provided within project budgets to cover this temporary headcount increase, and the use of external temporary ICT resource is the most effective way of managing these short/medium term resourcing demands which often require specific technical skills for the duration of the project.

Failure to source suitably qualified and experienced ICT resource in a timely manner directly affects project delivery on critical council projects.

An effective solution for the provision of temporary ICT resource is to continue to use the Temporary ICT Staff Framework, with the ability to use the Permanent Futures for the sourcing of ICT resource where suitably qualified and experienced staff cannot be provided by the suppliers on the Temporary ICT Staff Framework.

### **6 Recommendations**

The Chief Digital and Information Officer is recommended to waive CPR's 8.1, 8.2, 9.1 and 9.2 and enter into a contract with Permanent Futures without seeking competition, to source suitably qualified and experienced ICT resource where these cannot be provided by the suppliers on the Temporary ICT Staff Framework.