

**Report of:** Libby Megson – Human Resources Service Manger

**Report to:** Chief Officer Human Resources

**Date:** 25<sup>th</sup> January 2019

**Subject:** Request to waive the Contract Procedure Rules 8.1 and 8.2 for the provision of Executive Search and Selection

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

### Summary of main issues

This report sets out the case for waiving Contract Procedure Rules 8.1 requirement for competition and 8.2 – waive the requirement to seek 3 tenders. A Framework Contract for the provision of Executive Recruitment Search and Selection services was approved on 3<sup>rd</sup> March 2016. This was a two year contract (1.04.2016 to 31.03.2018) with provision to extend for 2 x 12 months. This opportunity was not taken up and as such the contract has ended.

A new tender for the provision of these services is being developed, however in the meantime the Council requires the provision of these services to continue with the previous providers on the framework contract for a period lasting no longer than 12 months.

### Recommendations

To approve a Waiver to award an interim Executive Search and Selection contract for the previous providers – Proventure Consulting, Gatenby Sanderson and Penna Plc for a period of no longer than 12 months.

#### 1. Purpose of this report

- 1.1 The purpose of this report is to seek approval to award an interim framework with the Executive Search and Selection to the previous providers - Proventure

Consulting, Gatenby Sanderson and Penna Plc to assist the council for the recruitment of Chief Officer and above roles.

1.2 In order to facilitate this process Contract Procedure Rules 8.1 and 8.2 will need to be waived:

- “8.1 Where no appropriate ISP, Executive Supplier, existing provider or Third Party Framework Agreement exists, competition is required for procurements valued at or over 10k but at or below 100k.”
- “8.2 At least three written tenders will be invited. These tenders may be invited by publishing either an open or restricted tendering opportunity (restricted meaning that only selected suppliers are invited to tender) on the YORtender portal.”

## **2. Background information**

2.1 The appointment of previous Executive Search and Selection providers was carried out in March 2016 in compliance with the EU regulations and in accordance with CPR 9.2 – High Value Procurement. All eligible providers were invited to bid for the contract. The open tendering exercise was published on the YORtender portal.

2.2 Through a rigorous evaluation process based on price and quality the Framework for Executive Search and Selection services was awarded to 3 providers - Proventure Consulting, Gatenby Sanderson and Penna Plc.

2.2 In considering the tender submissions from the above procurement procedure, the evaluation panel were satisfied that they had met the requirements and represented best value on both price and quality.

2.3 The contract commenced from 1<sup>st</sup> April 2016 in accordance with the Leeds City Council Services terms and conditions for a period of 2 years, with a further 2 x 12 month extensions available upon review.

2.4 The value of the contract was estimated to be approximately £100k per annum.

## **3. Main issues - Reasons for Contracts procedure rules waiver**

3.1 The contractual arrangements with the providers expired on 31<sup>st</sup> March 2018 although as per the contract there were 2 x 12 month extensions options available.

3.2 The option to exercise the extension was not taken up and as such the contract expired on 31<sup>st</sup> March 2018. Executive Search and Selection services have since been engaged outside of contract. In light of the current medium term financial plan it is important that we review value for money aspects of our contracts. As this has not been done now for over two years, this should be a priority. However in light of imminent executive recruitment the Council cannot be left without provision for these services. Continuing the relationship with the previous providers would provide the Council with confidence in recruiting high priority roles until a new tender can be submitted.

- 3.3 As a contract cannot be extended once it has expired and that there are likely to be some executive recruitments taking place ahead of the new tender being ready, it is therefore imperative an interim measure through a waiver is put in place until such time as we can re-procure a new framework.

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

- 3.4 If the proposed action is not approved we will lose access to a wide range of services, as listed below, that are provided by the framework providers:

- Advice and support on the executive recruitment and selection process and the current market.
- Full design and placement of advertising, and recruitment packs.
- Provide progress reports and relevant information on perspective candidates.
- Targeted search and selection to ensure a diverse talent pool of suitable candidates.
- Support at long listening/ short listening to the Employment Committee
- Interview and assessment centre design and implementation.

## **4. Corporate considerations**

### **4.1.1 Consultation and engagement**

- 4.1.2 Consultation is not needed to inform the decision in this report as due to the relatively small nature of the contractual amount. It is envisaged the cost of interim framework contract will be under £100k - previous search and selection for the recruitment have cost in the region of £20k - £25k per post.

- 4.1.3 On the basis of the above and given that we are aware of 2 imminent search and selection that are likely to commence shortly, the cost is not likely to exceed above £50k. Furthermore, it will still give scope for a further 2 posts prior to reaching the maximum.

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

- 4.2.1 The providers were originally scored on their ability to search within a wide and diverse pool of candidates and ensure diversity and Inclusion was considered when putting candidates forward. Commitment to creating a workforce representative of the population will continue with the relationships and understanding that has been built during the contract until such time as a further tender process can be completed.

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

- 4.3.1 The provision of these services is required to ensure the right people are appointed for the most senior roles within the Council, taking account of the Council's vision and priorities as laid out in the Best Council Plan.

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

4.4.1 When the framework was tendered in 2016, Proventure Consulting, Gatenby Sanderson and Penna Plc were the three most competitive bidders, with Price scored accordingly. Until a further tender can be completed the previous bidders are deemed best value for money. In light of this the waiver will enable the previous providers to assist the Council in their aim to spend money wisely for a further 12 month period.

#### **4.5 Legal implications, access to information, and call-in**

4.5.1 This is not subject to call-in as the estimated value of the contract is likely to be less than £100k and therefore will be an administrative decision. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.

4.5.2 Awarding this framework directly to the three providers may leave the Council open to a potential claim from other providers, to whom the framework could be of interest.

4.5.3 The Chief Officer HR has considered this and, due to the nature of the services being delivered, the requirement to cover the council's imminent requirements for Executive Search and Selection services is of the view that it would not be of interest to contractors in other EU Member States for the interim period.

4.5.4 Although there is no overriding legal obstacle preventing the waiver of CPRs 8.1 and 8.2, the content of the report should be noted. In making their final decision, the Chief Officer HR should be satisfied that the approved course of action represents best value for the council.

#### **4.6 Risk management**

4.6.1 Given that the framework no longer exists and we are aware of some executive recruitments will be taking place imminently, it is imperative an interim measure is put in place until such time as we can re-procure as otherwise we would not be able to recruit the calibre of Chief Officers and above posts which would potentially impact on the service delivery.

### **5. Conclusion**

5.1.1 As outlined in the report, a waiver of CPR 8.1 and 8.2 is necessary to award an interim framework for the council's imminent requirements for Executive Search and Selection services with the previous providers – Proventure Consulting, Gatenby Sanderson and Penna Plc for a period of no longer than 12 months.

5.1.2 Furthermore, this is a short term arrangement with no direct impact on service users, and the risk of third party challenge associated with this waiver is anticipated to be low.

### **6. Recommendations**

6.1 The Chief Officer Human Resources is recommended to approve the waiver of Contract Procedure Rules 8.1 and 8.2.

## **7. Background documents<sup>1</sup>**

7.1 N/A

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.