

Report of: Julie Carter, HR Business Partner

Report to: Andy Dodman, Chief Officer HR

Date: 27th November 2020

Subject: : Authorisation to procure a Framework Agreement in accordance with Contract Procedure Rule 3.1.6 for the Supply of Teachers and Educational Staff for Leeds maintained schools with effect from 1st August 2021 for a period of 3 years with a 1 x 12 month extension

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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

Summary

1. Main issues

1. This report sets out the case to carry out a full procurement exercise to re-procure a new Framework Agreement for the Supply of Temporary Teachers and Educational Staff for Leeds maintained schools with effect from 1st August 2021 for a period of a four years.

The current framework was extended in August 2019 via a waiver for a period of one year, and subsequently authorisation was received to extend further via a waiver until July 2021 as part of the review of contracts due to the COVID pandemic.

It is intended that the new framework agreement for the supply of schools staff will be procured based on similar terms as the current framework and in accordance with the Public Contracts Regulations 2015.

2. Best Council Plan Implications

- 1 The ability to be able to offer a framework agreement to supply educational staff to maintained schools ensures that the Council is able to: keep our children safe in education; improve educational attainment for children in the City; and ensure that achievement gaps are addressed especially for the most vulnerable children in the City.
- 2 The framework will ensure that all agencies comply with Leeds City Councils robust monitoring of safe guarding and quality of staff, comply with Leeds Safer Recruitment Policy, have effective management of resources, reporting and recording systems, have strategies for working with schools causing concern and are able to respond to the changing needs of supply in schools. It will also ensure that the supply staff that are representative of the community it serves.

3. Resource Implications

- 1 This framework has an income generating potential of around £50,000 over the each academic year of its operation. Systems of monitoring and collection of the management fee have already been established and in terms of Council resources to manage the framework, this is estimated at around one day per month.

Recommendations

The Chief Officer HR is requested to approve the commencement of a full procurement exercise to put in place a new Framework Agreement for the Supply of Teachers and Educational Staff to Leeds Maintained Schools with effect from 1st August 2021 for a period of four years.

1. Purpose of this report

- 1.1 To set out the business case to allow the commencement of a full procurement exercise to put in place a new framework agreement for the supply of teachers and educational staff to Leeds maintained schools with effect from 1st August 2021 for a period of four years.
- 1.2 The procurement will be conducted in accordance with the Council's Contract Procedure Rules (CPR10) and the Public Contracts Regulations 2015.

2. Background information

- 2.1 The current framework for the supply of education staff to schools was set up as part of a request by schools that the Council make provision to reduce costs through economies of scale and provide a service which is robust in its monitoring of safeguarding and quality of staff.
- 2.2 A rigorous procurement tender exercise was carried out during 2015 and the framework was awarded in July of that year for a period of four years. The framework was initially approved in respect of eight agencies (now reduced to six) to provide supply staff for mainstream schools including: staff for special schools and children and young people with special needs; staff for 1-1 tuition in mainstream education; supply staff for 1-1 tuition for special needs and looked after children; and the provision of temporary staff for leadership in schools.
- 2.3 There has been a framework for the supply of temporary teaching staff to Leeds Schools as far back as September 2008. Schools use agencies on a regular basis to provide absence cover for teaching staff and teaching support staff. As schools were closed for a third of the last academic year, the last full year figures available are for 2018/19, they illustrate that that schools spent approximately £7.5 million per year in total on supply staff and around £5 million is spent on through the framework.
- 2.4 The framework has been successful and has enabled us to establish ongoing working practices and relationships with the agencies on the framework and more importantly to give schools a mechanism to report any issues, particularly around safeguarding and quality of staff and to enable the Council to intervene if necessary.
- 2.5 The on costs charged by the agencies are capped under the terms of the Framework as are the temporary to permanent fees. The framework also includes a 1% management fee which is paid by the school on each commission and then repaid to the Council creating an income stream.

3. Main issues

- 3.1 The current framework of six agencies is due to end on 31st July 2021.
- 3.2 In February 2020, an options appraisal regarding procurement of a further framework was considered by Human Resources Senior Leadership Team (HRLT), following which a decision was made by the Deputy Chief HR Officer, to proceed with a full procurement exercise.

- 3.3 As the Council has been at the centre of the City's response to the COVID-19 crisis it has not been possible to proceed further with the full procurement at this time due to all schools in the City being partially closed and unable to participate in a procurement exercise and agencies not being in a position to tender whilst staff were furloughed and are unlikely to be working to full capacity. Additionally the Councils CLT mandated that contracts and extensions must not be entered into for periods of more than 12 months. Therefore agreement was made to grant a further waiver for a period of 1 year.
- 3.4 The framework that is currently in place has provided a significant and valuable income stream for the HR traded service and research shows that the current framework is valued by schools.
- 3.5 It is important, now and for the foreseeable immediate future that the Council provides as much support to Leeds maintain schools as possible. It is difficult to predict how long the current crisis will last however it is likely that the demand for supply staff will be key as schools continue to manage cover for periods of 'normality' and COVID related staff absence as well as periods of self-isolation. Offering a supply framework that schools can call upon puts the HR traded service in a more advantageous position to other private HR providers that are unable to do this, all be it that the framework is available to all maintained schools whether they be party to the HR SLA or not.
- 3.6 It is intended that the framework will be procured on similar terms to the existing framework to provide supply staff for mainstream schools including: staff for special schools and children and young people with special needs; staff for 1-1 tuition in mainstream education; supply staff for 1-1 tuition for special needs and looked after children; and the provision of temporary staff for leadership in schools. Additionally that on costs charged by the agencies are capped under the terms of the framework as are the temporary to permanent fees.
- 3.7 The framework also includes a 1% management fee which is paid by the school on each commission and then repaid to the Council creating an income stream.

4. Consequence if the proposed action is not approved

If authorisation to proceed is not approved this could result in a potential loss of income for the financial year 2021/22 of around £50,000 along with the risk that schools may be then forced to use agencies that have less stringent safeguarding controls in place potentially putting children at a risk of harm.

5. Advertising

This procurement exercise will be advertised in the Official Journal of European Union as well as on the Council's electronic tendering site, YORtender.

6. Corporate Considerations

6.1 Consultation and engagement

- 6.1.1 The original procurement process consisted of an extensive consultation and engagement exercise with maintained schools and Trade Unions.

- 6.1.2 School are currently under considerable pressure following last year's closures and the effects of the ongoing pandemic. It is therefore unlikely that they will have the resources to commit to engaging in an extensive consultation process.
- 6.1.3 The intention is to draft a questionnaire to be distributed to all maintained schools to canvas opinion of their views of the current contract. Additionally we will identify key stakeholders based on usage of the contract and hold focus groups to ascertain any lessons learnt and improvements that can be made going forward.
- 6.1.4 Trade Union colleagues will also be consulted via the Schools JCC.

6.2 Equality and diversity / cohesion and integration

- 6.2.1 As part of the evaluation exercise agencies will be asked to include a rationale of the methods they will use to recruit temporary staff that reflect the demography of the city, encourage diversity in recruitment, have due regard to equality and diversity and ensure that positive action may be taken to address under representation of any particular workforce groups. All the agencies will need to have an Equality / Diversity and Inclusion policy and be able to demonstrate that they adhere to Safer Recruitment policies and Procedures.
- 6.2.2 Agencies will be asked to provide method statements and plans detailing how they will provide and maintain an Inclusion and Diversity plan in respect of the services.

6.3 Council policies and the Best Council Plan

- 6.3.1 This framework is needed to ensure that the Council can uphold its statutory duty to keep children safe in education, and to carry out the Council's commitment to promote a 'Child Friendly City' and improve educational attainment and closing the achievement gap for vulnerable children and young people.

Climate Emergency

This framework will have some impact on carbon emissions and the climate emergency by encouraging schools to utilise agencies that are familiar with the demographic needs and impacts of the City, to support the local labour force and thus reducing travel into the City from further afield, engaging a local labour force into School's that are more familiar with the climate goals of the City and are best placed to educate our children in the same way.

6.4 Resources, procurement and value for money

- 6.4.1 Based on the current contract the HR traded service will receive an average income from this contract of around £50,000 per annum via a 1% rebate of the management fee.
- 6.4.2 As well as being a traded service the Schools HR Service also carries out a vast amount of statutory work for the 200 plus, maintained schools in the City. This includes, for example, maintenance of safeguarding standards, risk mitigation in terms of case work and employment tribunals and negotiation with the Trade Unions on policies and procedures. The income generated via the rebate is used to fund this work on behalf of the Council.

6.4.3 The framework is purely for the use of schools and its extended services (before and after schools clubs) and it is at zero cost to the Council.

6.5 Legal implications, access to information, and call-in

6.5.1 The report itself does not contain any exempt or confidential information under the Access to Information Rules.

6.5.2 As there is actually zero spend by the Council under this framework, Corporate Governance has advised that the approval to procure a new framework constitutes a Significant Operational Decision as defined under article 13 of the consultation, and requires publication but is not subject to call-in under the Scrutiny Board Procedure Rules.

6.5.3 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 framework, 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.

6.5.4 The Chief Human Resources Officer has considered this and due to the nature of the services being delivered to schools and the income value of the framework (approximately £50k per year), is of the view that the scope and nature of the services are such that it would be of interest to providers in other EU member states at the values involved and as such a contract notice will be placed in OJEU advertising the opportunity.

6.5.5 The new framework agreement will be procured in full compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015.

6.6 Risk management

6.6.1 If the authorisation to proceed is not approved this would mean that Leeds maintained schools could engage supply staff from a variety of different suppliers, which has the potential to increase the safeguarding risk since these staff may not have undertaken rigorous safeguarding evaluations required as part of the framework requirements.

6.6.2 Additionally there would be a loss of income for each year that the contract is in operation resulting in around £400k of lost income which has the potential to increase the pressure on the HR budget.

7 Conclusions

7.1 As outlined in this report, is necessary to procure a new framework agreement for the supply of temporary teachers and educational staff for the benefit of Leeds maintained schools.

8 Recommendations

8.1 The Chief Officer HR is requested to approve the commencement of a full procurement exercise to put in place a new Framework Agreement for the Supply of Teachers and Educational Staff to Leeds Maintained Schools with effect from 1st August 2021 for a period of four years.

9 Background documents¹

9.1 None

¹ 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.