

Subject: Request for the waiver of Contract Procedure Rules 8.1 and 8.2 to make a direct appointment to Hays Specialist Recruitment Limited under Lot 10 of the YPO Managing Temporary and Permanent Recruitment 942 Framework to carry out the search and selection for 'hard to fill' posts for the period commencing 1st July 2021 to 30th June 2022 and at an estimated contract value of £50,000 within the Asset Management and Regeneration Service.

Date: 7th June 2021

Report of: Head of Station Development

Report to: Chief Officer of Asset Management and Regeneration

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- Leeds City Council is looking to recruit a number of senior posts within its Asset Management and Regeneration Service. The Asset Management and Regeneration Service has experienced difficulties in recruiting to a number of senior posts ranging from PO4 to Dir 45%.
- Asset Management is made up of a number of teams that are all contributing to the city's and councils ambitions such as developing the city station, regeneration of the South Bank, complex property transactions and delivery of ambitious housing growth targets. These teams are Strategic Asset Management, Land and Property, Regeneration, Projects and Programmes, Council Housing Growth, and Station Development.
- To meet the growing challenges the service requires additional resources to meet the gaps. Asset Management and Regeneration currently have a PO6 vacancy and four PO4 vacancies across the different teams. The PO4 post in the Station Development team was externally advertised in March 2021 and unfortunately no applications demonstrated the skills, knowledge and experience to be shortlisted for the post.
- Conversations have been held with all three council framework suppliers (Osborne Thomas, Gatnaby Sanderson and Proventure Consulting) on the Councils current Executive Search and Selection framework which were procured through a competitive process in the open market. None of these suppliers have the place making specialism to support us and two of the suppliers, Gatnaby Sanderson and Proventure Consulting, advised that they would not bid for this work. They confirmed that they support with Executive/Leadership recruitment for Chief Officer and above posts (c£70k and above) and would not have any candidates suitable for lower graded posts (PO4 to Dir 45% level). Reed Specialist Recruitment Ltd is our current agency staff supplier but whilst they can support the appointment of temporary specialists they are not able to provide support to recruit specialist permanent staffing as required. Reed Specialist Recruitment Ltd will also not be able to recruit permanent staff because the procurement was not for permanent staff recruitment and could open up the Council to challenge from organisations that may have tendered for permanent staffing work.

- Following the conversations with our three framework suppliers we have reviewed three other purchasing organisations to see what frameworks they offer. These are Crown Commercial Services Permanent Recruitment Services RM6002 framework, ESPO Lot 2 of the 3S_18 Strategic HR Services framework and YPO Lot 10 of the YPO Managing Temporary and Permanent Recruitment 942 Framework. All three frameworks have Hays Specialist Recruitment Limited listed and the YPO framework is the cheapest out of the three frameworks reviewed for the grades that we require but it is the second highest of all the suppliers on Lot 10. The YPO framework LOT 10 has been set up to enable direct appointment and includes recruitment specialists in different sectors e.g. the NHS and healthcare suppliers as well as generic providers such as NYCC. Of the suppliers on the list Hays Specialist Recruitment Limited has the specialist knowledge and proven track record to appoint to these vacant posts across placemaking professions. This has been evidenced over the last 3 years where they have successfully recruited surveyors, planners and engineers to support this service.
- Hays Specialist Recruitment Limited has a vast proven record in recruiting place making roles and they have the experience to fill 'hard to fill' vacancies in Asset Management and Regeneration and have very successfully found people with surveying, planning, engineering and regeneration professional skill sets with an understanding of the requirements of the public sector.
- This report is seeking authority to waive Contract Procedure Rules numbers 8.1 and 8.2 – Intermediate Value Procurements and make a direct appointment from the YPO Managing Temporary and Permanent Recruitment 000942 framework, to appoint Hays Specialist Recruitment Limited, to carry out the search and selection of services for 'hard to fill' senior officer vacant posts for the Asset Management and Regeneration posts.
- As a matter of urgency, the Asset Management and Regeneration Service needs to support the government drive to support the COVID 19 economic recovery by Building Back Better and to do this we need professionals with place making skill sets to help us secure the funding and deliver the projects within very tight timescales being set by government.

Recommendations

The Chief Officer of Asset Management and Regeneration is recommended to:

- a) Authorise the waiving of Contract Procedure Rules number 8.1 and 8.2 – Intermediate Value Procurements and make a direct appointment from the YPO framework, Managing Temporary and Permanent Recruitment 000942 Framework, to appoint Hays Specialist Recruitment Limited, to carry out the search and selection of senior officers for the Asset Management and Regeneration 'hard to fill' vacancies on the following basis;
 - a. The cost of successful placement of a candidate is a minimum of 14% of annual remuneration and a maximum of 20% of annual remuneration. The PO4 posts will be 16% of annual remuneration and the PO6 post will be 18% of annual remuneration. Hays will also charge £1,100 per day for any additional services.
 - b. If the applicant leaves between 0-3 weeks a 100% refund will be granted. Between 3-5 weeks it will be an 80% to 50% refund, 5-8 weeks it will be 50% to 30% refund and between 8-10 weeks it will be 30% to 0% refund.
 - c. The start date of the contract is 1st July 2021 for a duration of 1 year up to a maximum spend of £50,000.

Why is the proposal being put forward?

- 1 Asset Management and Regeneration Service needs to support the government drive to support the COVID 19 economic recovery by Building Back Better and to do this we need professionals with place making skill sets to help us secure the funding and deliver the projects within very tight timescales being set by government.

- 2 Asset Management and Regeneration teams contribute towards the following Best Council Plan 2015-20 priorities:
- Transport & Infrastructure – Connecting people and places
 - Good Growth – Growing the economy, creating jobs, improving skills, promoting a vibrant city

The unit also contributes to the following Council aspirations:

- More jobs, better jobs
- World class events and a vibrant city centre
- Housing growth and high standards in all sectors
- Climate emergency

Wards affected: None

Have ward members been consulted? Yes No

What consultation and engagement has taken place?

- 3 There has been engagement with the Chief Officer of Asset Management and Regeneration and the Chief Officer for Human Resources. The Category Manager and legal officer within Procurement and Commercial Services and Human Resources.
- 4 Further consultation was held with all three of our Executive Search and Selection framework suppliers which were procured through a competitive process in the open market. None of these suppliers have the place making specialism to support our requirements and advised that they would not bid for or have the skill set to deliver this work.

What are the resource implications?

- 5 In the case that the waiver of CPRs 8.1 and 8.2 is not approved, this will have an impact on the ability of the Council's Asset Management and Regeneration teams to deliver projects and to support the government drive to support the COVID 19 economic recovery by Building Back Better. To do this we need professionals with place making skill sets to help us secure the funding and deliver the projects within very tight timescales being set by government. To support the economic recovery the Asset Management and Regeneration Service needs to secure appointment to these vacancies so that projects can be delivered more effectively and efficiently to bring investment back into the Council and the Leeds area.
- 6 To appoint a different consultancy would be inefficient and unlikely to result in successful appointments as Hays Specialist Recruitment Limited have the expertise, and proven experience to provide appropriate candidates for place making skill positions such as planners, regeneration professionals, engineers and surveyors. The reason that Hays Specialist Recruitment Limited has been selected from the Framework is because Lot 10 of the framework has a range of consultants. Some consultants provide specialist sector support such as the NHS and others provide general support such as North Yorkshire County Council. Hays Specialist Recruitment Limited provides the place making skills recruitment support for the posts that are currently in high demand in the private sector as well as the public sector and therefore 'hard to fill'.

What are the legal implications?

- 7 This decision is a Significant Operational Decision which is not subject to call in but will be published on the register of decisions. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 8 The value of the contract detailed in this report is below the threshold for the application of Public Contracts Regulations 2015 for the procurement of public contracts and therefore is not subject to the full procurement rules. However, Contracts Procedure Rules 8.1 and 8.2 require competition for procurements valued between £25K and £100K and the invitation of at least three written tenders. A waiver of these Contracts Procedure Rules using the authority set out in CPR 1.3 is required to award a contract direct to this particular provider. Authorising this direct award may leave the council open to a potential claim from other providers, to whom this contract could be of interest,

who feel the contract should have been effectively advertised and that the council has not been wholly transparent.

- 9 In terms of transparency, it should be noted that case law suggest that the Council should always consider whether contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate, giving due consideration to the subject-matter of the contract, estimated values, the specifics of the sector concerned (size and structure of the market, commercial practices, etc.) and the geographical location of the place of performance. The decision maker has considered these factors and is of the view that the scope and nature of the service is such that it would not be of interest to other providers if an opportunity was advertised on the basis that the current Council framework was advertised on the open market and failed to secure specialist recruitment services for placemaking skill sets and the proposal is to appoint Hays Specialist Recruitment Limited from a framework which has been advertised on the open market.
- 10 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. 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. However, it is considered that this risk is low.
- 11 Although there is no over-riding legal obstacle preventing the waiver of CPRs 8.1 and 8.2 using the authority set out in CPR 1.3, by awarding direct contracts to this provider without seeking competition, the contents of this report should be noted.
- 12 In making the final decision, the decision maker should be satisfied that the course of action chosen represents best value for money to the Council.

What are the key risks and how are they being managed?

- 13 A number of factors have been considered when making this request to waive CPRs including:
 - The Council's internal Asset Management and Regeneration service require imminent resources to ensure that they are able to meet the current and future workload requirements within timescales set by government.
 - Not approving the waiver of CPRs 8.1 and 8.2 will mean the Council and Asset Management and Regeneration would not have resources to be able to complete work. This could result in external funding not being secured or spent within proscribed timescales.
 - YPO Lot 10 of the YPO Managing Temporary and Permanent Recruitment 942 Framework allows for direct appointments from the suppliers on Lot 10. All suppliers have signed up to this agreement and so the risk of challenge of using Hays is limited.

Does this proposal support the council's three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 14 Yes the posts support all three Key Pillars through delivering sustainable Council Housing, infrastructure, schools, wellbeing centres, regeneration, income.

Options, timescales and measuring success

What other options were considered?

- a) Option 1 – bids were sought from all three of the Council's Executive Search and Selection framework suppliers which were procured through a competitive process in the open market. None of these suppliers have the placemaking specialism to support us; two suppliers confirmed they would not bid on that basis and the third advised that they would not be able to support this work.
- b) Option 2 – Procurement on the Open Market – The Council is undertaking a further competition under the YPO 942 framework Managing Temporary and Permanent Recruitment for the provision of agency staff and recruitment services however this is not due to commence until later in the summer.

- c) Option 3 – Frameworks with Recruitment Services were analysed and 3 external frameworks were identified procured by ESPO, Crown Commercial Services and YPO. YPO provided the best value for money out of the three frameworks reviewed for the grades that we require but it is the second highest of all suppliers on the framework but is still required to appoint as they have the proven track record of appointing Place Making Skills posts.
- d) Option 4 - The option to continue to rely on the LCC reactive recruitment model was considered and rejected because the Council's internal Asset Management and Regeneration service require imminent resources to ensure that they are able to meet the current and future workload requirements within timescales set by government and unfortunately carrying out our own recruitment has been unsuccessful as shown in March 2021 when the PO4 post in the Station Development team was externally advertised and unfortunately no applications demonstrated the skills, knowledge and experience to be shortlisted for the post. Previous successful recruitment for this specialist skill set has been supported by a specialist search and selection provider following a tender exercise.

How will success be measured?

All 'hard to fill' vacancies will be filled with appropriately skilled employees and performance will be measured through them passing their initial 6 month probationary period.

What is the timetable for implementation?

To enter into a contract with Hays Specialist Recruitment Limited by 1st July 2021. This will allow recruitment to commence in July 2021 to be able to fill all vacancies.

Appendix 1

What is your reason for waiving CPRs?

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| There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process e.g. to deal with the consequences of extreme weather. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| To purchase supplies or services on particularly advantageous terms due to liquidation/administration. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Requirement to put a contract in place with a current provider whilst a review of the services is completed. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Ran out of time to undertake a new procurement exercise HR will be undertaking a procurement exercise in Autumn 2021. | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Other (please provide summary here) As a matter of urgency, the Asset Management and Regeneration Service needs to recruit to 5 hard to fill vacancies so that they can support the government drive to support the COVID 19 economic recovery by Building Back Better .We need professionals with place making skill sets to help us secure the funding and deliver the projects within very tight timescales being set by government. | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

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