ITEM NO: 14

	Executive **17 November 2008** **Report from the Directors of Finance and Corporate Resources and Human Resources and Diversity**
	Wards Affected: None
Authority to participate in a collaborative procurement for temporary and permanent agency workers recruitment services	

Forward Plan Ref: F&CR-08/09-14

1.0 Summary

1.1 This report requests approval to participate in a collaborative procurement to set up a Framework Agreement in respect of Temporary and Permanent Agency Workers Recruitment Services as required by Contract Standing Order 85.

1.2 This report sets out recommendations to address temporary agency workers recruitment when the present temporary agency workers contract ends on 4 June 2009. It reflects work undertaken by Brent to assess future options, alongside parallel work of a number of London councils to move to a joint solution to temporary and permanent agency workers recruitment. A two pronged approach is recommended: joint procurement of a managed service solution and development of a “One Council” approach to temporary agency workers recruitment.

2.0 Recommendations

2.1 The Executive give approval to the Council participating in a collaborative procurement exercise run through the London Contracts and Supplies Group, leading to the establishment of a framework agreement by the London Borough of Hounslow for the supply of Temporary and Permanent Workers Recruitment Services.

2.2 The Executive give approval to the collaborative procurement exercise described in paragraph 2.1 being exempted from the normal requirements of Brent’s Contract Standing Orders in accordance with Contract Standing Orders 85(c) and 84(a) on the basis that there are good financial and operational reasons as set out in paragraphs 4.1 to 4.7 of the report.

3.0 Detail

3.1 The Council has a vendor neutral managed service for temporary agency workers. The contract with Eden Brown Ltd was agreed by Executive in November 2005 and involved the Council joining a contract tendered by the London Borough of Hillingdon on behalf of all London boroughs. Subsequently Eden Brown novated the contract to a wholly owned subsidiary, Matrix, such that Eden Brown is now a separate company providing agency workers and Matrix is the vendor managing the temporary agency workers contract. The contract is due to expire on 4 June 2009 with the option to extend for up to two years. Within this context, Brent now needs to consider how best to achieve a high quality temporary/agency workers solution within our existing or obtainable resources.

3.2 The term "vendor neutral managed service" means an independent company that procures temporary workers from a range of agencies on behalf of the client and consolidates invoicing and other administration tasks through a single management system. The contractor brings specialist market knowledge allowing competitive agency fees to be negotiated with a wide range of agencies.

3.3 The vendor neutral managed service led to a number of improvements compared with previous arrangements where agency workers were procured on an ad hoc basis. These include:

- Efficiency savings including:
  - £380k per annum from reduced margins charged by the agencies;
  - Virtual elimination of temporary to permanent agency fees when temporary workers secured permanent posts;
  - standardised employer national insurance costs; and
  - simplified administrative procedures including on-line time-sheets and streamlined invoice processing;
- Provision of previously unavailable management information about temporary agency workers use across the Council which can be used to manage use of agency workers and can be benchmarked with other councils;
- More equality and diversity monitoring;
- More consistency in approach to CRB (Criminal Records Bureau) checks and other employment requirements;
- Initial progress towards standardising job categories, roles, rates and general processes relating to temporary agency workers recruitment.

3.4 On the other hand there are a number of weaknesses with the current service which have led to considerable dissatisfaction with aspects of it. These include:

- Difficulties sourcing specialists/hard-to-fill posts;
- Resistance from some agencies to subscribing to the service;
- Poor quality of candidates in some instances;
- Poor matching between candidates and job required;
- Blue collar workers and other categories not covered;
- Disruption to service following transfer of ownership of Matrix;
- Limited links into local labour market
- Some failure to follow contractual procedures such as CRB checks.

3.5 These limitations are reinforced by weaknesses in the Council's own practice and procedures, including:

- No Council policy on temporary workers recruitment;
- No standard job descriptions for common types of job;
- Out-of-date job descriptions;
- Voluntary opt-out of using the vendor managed service;
- Lack of Council ownership of agency workers database;
- Limited cross-council input into client arrangements of the contract.

3.6 In preparing for the end of the contract, Brent officers have undertaken a strategic Options Appraisal of service models for the future, drawn on work by consultants PricewaterhouseCoopers (PWC) and the West London Alliance about what is available in the market place, and have held discussions with a group of London Boroughs whose contracts are also due to finish soon with a view to a joint solution. A summary of the Options Appraisal is attached at Appendix 1.

3.7 The Options Appraisal reviewed feedback from HR, the People Centre and Procurement about how the present service runs. It also covered issues raised by service areas on the current arrangements. The issues mostly related to internal policy and procedure for recruiting temporary workers and the service provided under the present contract, particularly the hard to fill posts issue highlighted above.

3.8 After considering the views of managers using the current Matrix contract, the options appraisal highlighted a hybrid solution for the future – a vendor neutral managed service option as the preferred option for many categories of workers with master vendor managed services for the harder to fill specialist posts. A master vendor managed service is where a single company specialises in providing temporary workers of a certain type and consolidates invoicing and other administration tasks through a single management system. This hybrid model would best deliver our strategic objectives and ensure value for money in the medium term. The group agreed there was a need for the hybrid approach to address the difficulties encountered by service areas with hard to fill roles under the present contract such as some in planning, social care or HR and discussed linking our Brent into Work schemes to any new contract.

3.9 The Options Appraisal ruled out a return to the ad hoc approach that had existed prior to the setting up of a vendor managed service. The Council is in a better position to effectively manage its use of agency workers as a result of the move to a managed service. It would lose out on process improvements and savings made were it to go back to an approved list approach to temporary agency workers procurement.

3.10 Two officer teams have been established to ensure that the new arrangements address weaknesses with the existing arrangements:

- A short term officer group consisting of HR, People Centre, Procurement, and legal workers to oversee the procurement process and ensure that Brent's issues are fully reflected within the collaborative procurement process;
- An ongoing group consisting of HR, People Centre, and service staff to:

1. Identify detailed requirements for the new contract both in general and to address existing shortcomings – this task will include commenting on the draft Specification produced by Hounslow;
2. Identify the improvements to policies and procedures required to make the new contract operate effectively; and
3. Monitor performance of the contract.

4.0 Procurement

4.1 It is considered that the proposed joint tender by London councils is the best market option available to the council at this time. This is because the joint levels of spend across the different authorities is likely to attract a number of high quality service providers to tender, who will be able to ensure more competitive rates due to economies of scale, more effective market management (for example, providing salary benchmarking to ensure participants are paying the correct market rate for particular worker types) and more service flexibility In contrast, a service procured directly by Brent is likely to be less competitive and will be exclusive throughout the terms of the contract.

4.2 The London Borough of Hounslow, London Borough of Ealing, Royal Borough of Kingston upon Thames, London Borough of Hillingdon, London Borough of Harrow, London Borough of Enfield, London Borough of Redbridge and the Department of Children, Schools and Families (DCSF) have been discussing this proposed joint solution and have now decided to express a firm intention to work on a joint tender for a managed service for temporary agency workers. The present plan is to also cover extra categories in the next solution not previously included as part of managed services at the different councils. The extras include a permanent recruitment option.

4.3 The DCSF are joining in the project so that the framework can be used by schools for supply teachers and school non-teaching workers in London.

4.4 The new contract will be let as a collaborative procurement led by Hounslow. It will therefore be tendered according to Hounslow standing orders. A cross-borough delivery team is currently overseeing the process, and a Brent procurement officer and HR officer are currently attending these meetings. The tendering process has already been commenced by the placing of adverts, however at this stage there is no commitment to potential tenderers that Brent will participate, as only Hounslow is named in these adverts, although it is indicated that other London boroughs will participate. However as the Invitation to Tender is due to go out in mid-January and Brent wishes to have a full role in the shaping of the service specification, it is necessary to obtain Executive approval now.

4.5 It is anticipated that the new contract would be for a period of three years, commencing in June 2009, with the option to extend for a further one year period. The cost of this contract for the Council based on current expenditure for temporary agency workers (including salaries, agency and management fees) is estimated at £48 million over 4 years (£12 million per annum).

4.6 At present the evaluation criteria that will be used to evaluate tenders have not been finalised. Nor is it clear how the evaluation process will be run for this collaboration.

Ultimately if the boroughs are not able to agree such matters then Hounslow as lead borough will make to make final decisions (see further below).

4.7 The advantage of Brent being part of the ITT process is that the Council can influence the specification for the service and therefore address some of the weaknesses in the current arrangements and the more organisations included at ITT stage, the more likely bidders will be able to tailor their product to meet the requirements of the tender. Being involved at ITT stage would also address one of the weaknesses with the current arrangements, which was that the Council had no input into the development of the initial specification for the contract and was not involved in letting the contract.

5.0 Service Improvement

5.1 The Options Appraisal set out suggested internal improvements to ensure a 'One Council' approach to agency recruitment. Key factors not related directly to choice of service model include:

- The development of a Temporary Workers Recruitment policy;
- Planning future workforce needs;
- Internal governance of temporary workers recruitment;
- Strong contract management;
- Improved awareness of equality and diversity issues;
- Ensuring our market position is protected;
- Helping to support the local labour market.

5.2 Further service input into the detail of improvements required is being sought via a questionnaire to service areas and it is recommended that the ongoing working group address the recommendations of the options appraisal. Two main aspects need to be agreed upon and delivered:

- Identify Brent's detailed needs for the new contract specification/s to feed into the contract process with other councils
- Agree and deliver an action plan to improve the internal policy and procedures for recruiting agency workers and managing demand effectively

6.0 Key Risks

6.1 Collaborative procurements work best if all the participants have common requirements. As indicated above, one risk for the project is that if the participating boroughs plus the DCSF are not able to agree any part of the scheme, then Hounslow as lead borough will have final say. While there is no indication at present that this is likely to occur, it would be expected that in such a situation Hounslow would make a decision based on the views of the majority, which may not be in accordance with Brent's requirements. If by the end of the procurement process it became apparent that the framework agreement that Hounslow were about to award did not reflect Brent's needs, then it would be open to Brent not to make a call-off from the framework and consider other options, such as running its own tender exercise. While such fall-back options would be costly in terms of officer resources, including those spent in the abortive collaborative procurement, the Council would at least be able to extend the current contract by up to 2 years to enable such options to be explored.

6.2 There is also the possibility that the collaborative procurement process is not completed in time to enable the participants to award contracts before June 2009 when the current contract expires. However as above this risk is mitigated by the fact that the current contract can be extended by up to 2 years.

7.0 Financial Implications

7.1 The total (aggregated) value of the services to be awarded under the agreements is estimated at £48 million over a four year period (this figure is comprised of the agency worker remuneration, the agency and managing vendor fees). The application of Council Procurement Standing Orders and EU Regulations to this contract is set out in the legal implications in section 8 below.

7.2 The costs of leading the procurement process are being borne by the London Borough of Hounslow. Any costs incurred by Brent Council in participating in the procurement process will be met within existing budgets.

7.3 The costs of agency workers themselves are contained within existing staffing and agency worker budgets and these arrangements will continue under the new contract.

7.4 The current contract secured savings for the Council which are currently running at around £380k per annum compared to the pre-2005 position. £350k of these savings contributes toward cross-Council efficiency savings with the balance used to fund Council client costs for the contract. The savings were achieved by ensuring margins charged by agencies were at a competitive level. It is predicted that savings of at least this level will continue under the revised contract.

7.5 Under the current arrangements, the £380k cost savings are secured via a 'Brent Council margin' which is added to the cost of agency workers secured by units and paid back to the Council. The reason for this 'Brent Council margin' was that, at the time the current contract was entered into, the Council did not have good information on which units used agency workers and therefore it was not possible to assess where the savings would arise and which services' cash limits needed to be reduced to reflect this.

7.6 The current contract means that the Council now has good information on which units use agency workers and how much units are paying towards this 'Brent Council margin'. It is therefore possible to remove the 'Brent Council margin' and reduce cash limits of the units which will benefit by an equivalent amount. This will have a neutral net impact on service budgets.

7.7 In order to make this amendment in a fair way, it is proposed to use the information the Council has on the amount of 'Brent Council margin' paid by services over the past 6 months as the basis for the adjustments to cash limits. These adjustments will be for a three-quarter year in 2009/10 (reflecting the date on which the new contract starts) and a full year from 20010/11 and will be reflected in the 2009/10 budget report to Full Council in March 2009.

7.8 Service units will retain any further benefits from more competitive margins secured through the next round of tendering of the contract – including on new categories added such as manual workers - and be able to use those to contribute to their departmental/service unit efficiency targets and will continue to benefit from:

- other savings in the existing contract that they already benefit from ie standardised employers' national insurance rates and removal of temporary to permanent penalties where staff are taken on as permanent employees (following a recruitment process) after 13 weeks of being agency workers;
- the efficiency savings resulting from less administrative work because of automation of the administrative arrangements and removal of the requirement to pay individual invoices;

8.0 Legal Implications

8.1 What is being tendered here is a framework agreement. Hounslow will enter into the framework agreement with a single supplier and other boroughs will have the right to make a call-off or call-offs over the lifetime of the framework agreement. It is likely that Hounslow will require Brent and other participants to sign some form of agreement confirming that they will comply with the terms of the framework.

8.2 The framework is being procured by means of a collaborative procurement exercise. Under Contract Standing Orders 85(c) such collaborative procurements need to be tendered in accordance with Brent Standing Orders and Financial Regulations, unless the Executive grants an exemption in accordance with Standing Order 84(a). A request for an exemption under 84(a) can be approved by the Executive where there are good operational and / or financial reasons, and for this report these reasons are set out in paragraphs 4.1 to 4.7 of the report.

8.3 The estimated value of the framework agreement over its lifetime is higher than the EU threshold for Services. However this is a Part B service and is therefore subject to partial application of the EU Regulations namely, the requirements of (a) non-discrimination in the technical specification; (b) notification of the contract award to the EU Publications Office; (c) provision of information about the contract to the Department of Communities and Local Government (DCLG); and (d) over-riding duties of transparency and fairness. Furthermore, although not required it was decided that in the public interest the framework agreement will be advertised in the OJEU to further enhance competition and promote the market sector. It will be necessary to ensure that the process meets these duties.

8.4 It will be necessary to ensure that the tender documents meet Brent's requirements and clearly set out Brent's rights and responsibilities in view of the fact that Hounslow will be entering into the main framework agreement, with the right for Brent to enter into a call-off contract.

8.5 Once Hounslow awards the framework agreement, then there will be a further report to the Executive to award a call-off contract in accordance with Contract Standing Order 86(d).

9.0 Diversity Implications

9.1 The Options Appraisal highlights aspects to be taken into account around equality and diversity when procuring a managed service. This contract will require the successful bidder to use suitable diversity monitoring systems for recruiting temporary workers themselves and provide specific equalities monitoring information to meet the Council's requirements.

10.0 Staffing Implications

10.1 There may be implications for agency workers in a change over from one contract to another. TUPE may apply to Matrix staff moving to a new contractor.

10.2 Children and Families and the People Centre would be affected if the council decided to take up the option from DCSF in relation to temporary workers for schools or permanent recruitment.

11.0 Background Papers

- Brent Temporary Agency Workers Solutions Options Appraisal July 2008
- PWC, Feb 2008, Agency Workers Diagnostic Review: Findings and Proposals Letter and Presentation
- PWC, Oct 2007, West London Alliance Outline Business Case – HR Shared Services Final Report

12.0 Contact Officers

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Appendix 1 Options Appraisal Summary

Objective	Vendor Neutral Managed Service Provider (MSP)		Master Vendor Managed Service Provider		Hybrid Solution		Internally Managed Service		Internal Agency		Partially Outsourced (vendor neutral temp)	
Description	An independent company that procures temporary workers from a range of agencies on behalf of the client and consolidates invoicing and other administration tasks through a single management system.		A single agency provides temporary workers client and consolidates invoicing and other administration tasks through a single management system.		A company that provides some types of temporary workers directly and some via other agencies client and consolidates invoicing and other administration tasks through a single management system.		An internal team that procures temporary workers from a range of agencies on behalf of the organisation and consolidates invoicing and other administration tasks through a single management system.		Temporary workers recruited directly by Brent and hired to the rest of the organisation.		A shared service (either a private sector or public sector consortium) that that procures temporary workers from a range of agencies on behalf of the organisation and consolidates invoicing and other administration tasks through a single management system	
Cashable Savings	4	MSP's tiering system will drive cost improvements	4	MSP's tiering system will drive cost improvements	4	MSP can use tiering system and economies of scale	3	Unlikely the Council will be able to run as efficiently as an external MSP	2	Significant start up and running costs	4	MSP use of tiering and economies of scale
Process Efficiencies (Gershon)	5	Single point of contact will reduce management time, one consolidated invoice	4	Single point of contact will reduce management time, one consolidated invoice, smaller number of agencies	3.5	Separate master vendor and vendor neutral aspects to be dealt with at a single point of contact, one consolidated invoice	2	Some scope for efficiencies but still large number of suppliers to manage	2	Unlikely the council will be able to run as efficiently as an external agency	4.5	Single point of contact reducing management time, and consistent branding and advertising
Reduce Risk	5	Able to standardise Ts&Cs, greater opportunity for monitoring lengths of service etc	5	Able to standardise Ts&Cs, greater opportunity for monitoring lengths of service etc	5	Able to standardise Ts&Cs, greater opportunity for monitoring lengths of service etc	2	The Council would retain complete control over supply chain but not utilise the expertise of an external MSP	3	The council would retain complete control over supply chain however unlikely to take full advantage of this	4	Allows complete view of recruitment in order to act effectively to reduce risk, but less control with all recruitment outsourced
Policy and process consistency	3.5	Single (internally linked) point of contact will provide clarity for users and increase on-contract spend	3.5	Single point of contact will provide clarity for users though a dip in quality of candidates could increase off-contract spend	3.5	Single (internally linked) point of contact will provide clarity for users and increase on-contract spend	4.5	Internal department would be able to direct spend through contracts and centrally control processes	4	The council would be able to control processes centrally	4	With both perm and temp work covered, one entity to apply a consistent policy across the piece
Reduce off contract spend	4	One point of contact and wider range of suppliers increase on contract spend	3	Single point of contact will increase on contract spend though any quality issues with one large supplier will increase off contract spend	4	Single point of contract will increase on contract spend	4	Internal department would be able to direct spend through contracts	2	Unlikely the council could cover enough of the market to give users choice required	4	One point of contact and wider range of suppliers increase on contract spend

Objective	Vendor Neutral Managed Service Provider (MSP)		Master Vendor Managed Service Provider		Hybrid Solution		Internally Managed Service		Internal Agency		Partially Outsourced (vendor neutral temp)	
Ensure Market Position	4.5	As MSP is neutral then there is a level playing field for SMEs and wider range of suppliers to draw from	3	Master vendor would always look to place workers first restricting SME opportunities and some roles will not be supplied best through the master vendor	4	Allows supply to be improved with neutral model applied where roles not best supplied by the master vendor	3	As MSP is neutral then there is a level playing field for SMEs, but expertise required to deliver this	2	Competition in the market place would limit ability of internal agency to supply many roles	4	Vendor neutral allows wider range of suppliers for temp staff including SMEs. Corporate advertising covering all roles aids market position
Stimulate Markets and achieve Community Benefits	2	The Council will have limited control over the markets used under the vendor neutral solution unless contractually agreed	3	The Ts&Cs of the MSP contract can be used to achieve this objective but with limited success	3	Some limited control on the master vendor aspects through the contract and less control on the vendor neutral aspects	5	Internal department would be able to centrally manage this objective	5	Internal agency would be able to centrally manage this objective	3	The Council will have limited control over the temp markets used under the vendor neutral solution unless contractually agreed
Ensuring Equality and Diversity	3	Equality monitoring allows targeted work to attract a diverse workforce with more possibilities from a wider range of agencies	3	Equality monitoring allows targeted work to attract a diverse workforce	3	Equality monitoring allows targeted work to attract a diverse workforce with more suppliers for some roles offering further possibilities	4	Equality monitoring allows targeted work to attract a diverse workforce with strong internal drive to aid focus on diverse workforce	3	Equality monitoring allows targeted work to attract a diverse workforce with strong internal drive to aid focus on diverse workforce, limited slightly by access to wider range of agencies	4	Equality monitoring of all roles allows targeted work to attract a diverse workforce through consistent marketing messages for all roles from one point
Management Information	4	One supplier will mean one repository for information	4	One supplier will mean one repository for information	4	One supplier will mean one repository for information	4	Potential for computer system to be implemented to collect data	4	Potential for computer system to be implemented to collect data	5	One supplier will mean one repository for information for all roles and plans can be made on best recruitment approach for all roles
Continuous Improvement	4	MSP's tiering model will foster competition between agencies on price, quality, responsiveness	3.5	Master Vendor incentivised to maximise vacancy fulfilment	4	MSP's tiering model will foster competition between agencies on price, quality, responsiveness	3.5	Tiering model will foster competition between agencies on price, quality, responsiveness but competition with larger agencies	3	Less opportunity to improve quality when in competition with larger agencies with better economies of scale	4	MSP's tiering model will foster competition between agencies on price, quality, responsiveness and info on perm recruitment will aid strategic responses when quality an issue

Objective	Vendor Neutral Managed Service Provider (MSP)		Master Vendor Managed Service Provider		Hybrid Solution		Internally Managed Service		Internal Agency		Partially Outsourced (vendor neutral temp)	
Ranking	2	Preferred short term - provides best Value for Money solution	4	Attractive option for either hard to fill posts.	3	Attractive option using Vendor Neutral service for majority of agency workers and some limited master vendor providers for hard to fill posts	5	High set up costs and limited economies of scale	6	High set up costs, limited economies of scale and many employment rights issues	1	Brent is working with other WLA authorities to explore shared service for many HR services – preferred long term option

Meeting Date Date