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| REPORT TO: | Cabinet 19 October 2020 |
| SUBJECT: | Variation to the contract for the provision of a Managed Service for Temporary Agency Resources |
| LEAD OFFICER: | Jacqueline Harris Baker, Executive Director of Resources Sarah Warman, Director of Commissioning and Procurement |
| CABINET MEMBER: | Councillor Simon Hall, Cabinet Member for Finance & Resources |
| WARDS: | All |
| <p>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON</p> <p>Temporary agency workers are a key part of the Council’s workforce and help to ensure resilient and flexible service delivery. This enables the Council to ensure resources are available to cover short term or specialist requirements and to continue to deliver high quality services and meet the needs of service users.</p> <p>AMBITIONS FOR CROYDON and WHY WE ARE DOING THIS:</p> <p>The Council relies on its workforce to deliver and manage services to communities, and relies on having access to specialist and temporary agency workers to support the delivery of all outcomes within the Corporate Plan.</p> <p>This report supports the ambition of taking a prudent approach to managing the Council’s finances and improving value for money for local public services. To ensure best value for money and to support the Councils financial position, there has and will continue to be a strong focus on reducing the agency spend and through robust contract management to ensure the value of the contract is maximized.</p> <p>Furthermore, the procurement of a new contract to secure the optimum operating model for the Council will be decided during this extension period.</p> | |
| <p>FINANCIAL IMPACT</p> <p>The original contract award in 2016 was for an estimated value of £80 million over the 4 year term of the contract (3 + 1).</p> <p>Cabinet approved an increase in the value to an estimated £135 million over the 4 year contract term in October 2019. The contract is approaching its end with an approximate £134 million spend to date and a forecast overall spend of approximately £138 million by the end of the contract.</p> <p>Entering into an additional up to 24 month variation to the term (the subject of this report) is estimated to cost approximately £50 million, bringing the total contract value over 6 years to £188 million.</p> <p>Recruitment control processes have been introduced over the last year which have significantly reduced the usage and cost of temporary staff. More detail and the effects</p> | |

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of these can be seen in 3.3 of this report.

The proposed 24 month extension to the contract will include clauses to break every 4 months, ensuring the Council retains flexibility to move to a new model and contract when deemed to the appropriate time.

There is no specific budget for temporary agency workers. Costs for temporary agency workers are provided for by vacant posts or using project related funds across service budgets.

FORWARD PLAN KEY DECISION REFERENCE NO.: 3020CAB

The decision is due to be taken under General Exception (notice published on 1 October 2020). This decision cannot reasonably be deferred because:

A planned re-procurement exercise of the Council's agency contract was planned to take place in the summer of 2020. This was however halted due to the difficulty of implementing a new contract during the Pandemic. A short term extension of 6 months to the current contractual arrangements was initially recommended, and a key decision notice was accordingly published on 24 April 2020. In light of the council's financial context, the ongoing drive to reduce agency staffing and the challenges continuing with Covid-19, the recommended decision has been reviewed and is now proposing an extension of the existing contract for up to 24 months. Due to the current contract ending on 5 November 2020, it is impractical to give 28 days' notice as the Cabinet will need to take a decision at the next Cabinet meeting on 19 October on the extension of this contract.

The agreement of the Chair of the Scrutiny & Overview Committee has been obtained.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below:

1. RECOMMENDATIONS

- 1.1. The Cabinet is recommended to approve the award of a variation to the term of the temporary agency worker contract with Adecco Ltd in accordance with Regulation 30 of the Council's Tenders and Contracts Regulations for a contract period of up to 24 months for an additional contract value of £50,000,000 bringing the total contract value to £188,000,000.
- 1.2. Cabinet is to note that an internal review of the commissioning options will take place by March 2021 and September 2021 to determine the optimum time for the re-procurement of this service and hence extension period required. Officers will present the results of the internal review to CCB and to the Cabinet Member for Finance & Resources at the latest March 2021 and, if action not already taken as a result of March 2021 review, at the latest September 2021.

2. EXECUTIVE SUMMARY

- 2.1 The London Borough of Croydon entered into a contract with Adecco Ltd on

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7th November 2016 for a contract term of 3 years with the option to extend for 1 year with an estimated value of £20 million per annum.

- 2.2 The contract award to Adecco was approved by Cabinet on 11/07/16 (Ref: A83/16).
- 2.3 Initially, the entering into the 1 year extension was approved by CCB on 27/09/2019 ref: CCB1516/19-20 with a revised total contract value of £135,000,000, and approved by Cabinet 21st October 2019 (Ref.A94/19).
- 2.4 A planned re-procurement exercise of the Councils agency contract was planned to take place in the summer of 2020. This was however halted due to the difficulty of implementing a new contract during the Pandemic. A short term extension of 6 months to the current contractual arrangements was initially recommended, and a key decision notice was accordingly published on 24 April 2020. In light of the council's financial context, the ongoing drive to reduce agency staffing and the challenges continuing with Covid-19, the recommended decision has been reviewed and is now proposing an extension of the existing contract for up to 24 months.
- 2.5 This report is seeking approval, in accordance with Regulation 30 of the Council's Tenders & Contracts Regulations, to enter into an up to 24 month variation to the term of the contract with an annual contract value of £25,000,000 which for two years is 37% of the revised contract value i.e. £135,000,000 (see 2.3 above), bringing the total contract value over 6 years to £188,000,000.
- 2.6 The proposed 24 month extension to the contract will include clauses to break every 4 months, ensuring the Council retains flexibility to move to a new model and contract when deemed to the appropriate time.
- 2.7 The content of this report has been endorsed by the Contracts and Commissioning Board.

| CCB Approval Date | CCB ref. number |
|-------------------|-----------------|
| 01/10/2020 | CCB1613/20-21 |

3. DETAIL

Reasons for having an agency contract

- 3.1 There is a corporate requirement to engage temporary workers for a number of reasons, including:
- Covering vacancies pending permanent recruitment
 - Covering absence when a return date is unknown (e.g. long term sickness)
 - Covering an absence when a return date can only be estimated (e.g. maternity)

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- Delivering short-term project work where a resource is either needed immediately, is too specialist to secure through the councils recruitment team or is too short-term to consider a permanent or fixed term contract.

Cost of agency contract

3.2 Since the award of the contract, the Council's annual spend on temporary agency workers increased from an initial estimated amount of £20 million per annum to a peak of £44m per annum in 18/19. There are a number reasons for this increase including:

Cost:

- an annual increase in cost of living payments
- an increase in interim rates driven by competition amongst local authorities (particularly in social care markets)

Demand:

- an increase in the number of short term capital projects delivered by the council that do not require a permanent resource
- difficulty in recruiting permanent staff to particular roles, such as social workers
- results of the Ofsted inspection prompting an urgent additional resource requirement, alongside increased demand for social workers across local authorities, particularly within London
- an increase in the council insourcing of services, such as grounds maintenance, that require an element of agency provision as part of the workforce

Management information

- Improvement in management controls since the award of the contract in 2016 has resulted in 100% of the agency spend now correctly captured. This has distorted the annual spend comparison because not all agency spend was originally correctly classified as such, and hence the spend data from the start of the contract to the current position are not comparable.

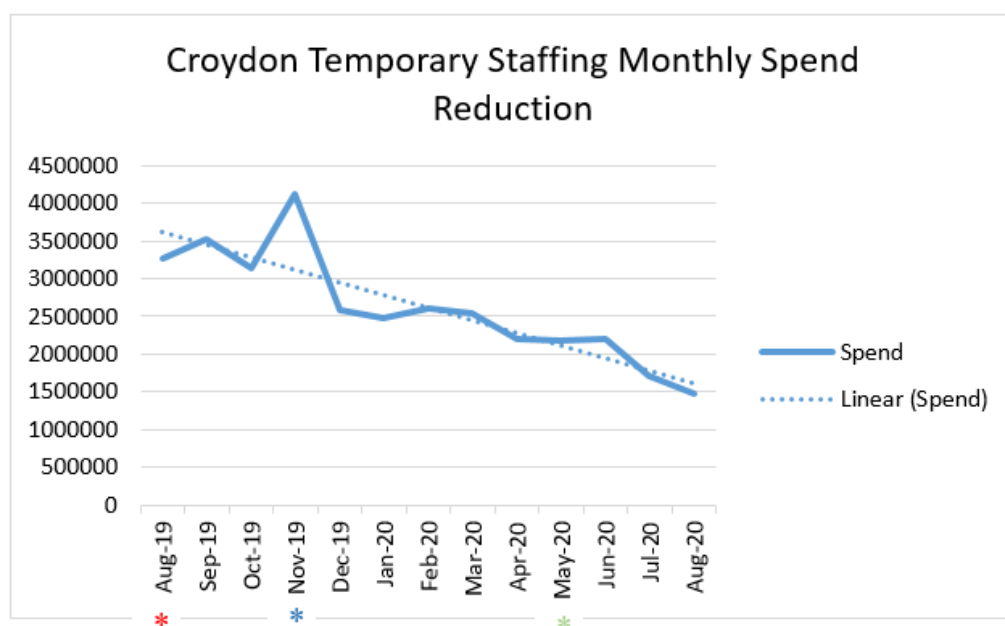
Previous off-contract spend

- Since the start of the contract, there has been significant focus on ensuring that all of the Council's temporary staff are resourced through the contract with Adecco. This has improved controls on spend and enabled the reporting of a more accurate figure of the Council's total spend on temporary staffing. This has resulted in a higher reported spend because at the time of the contract award there was a proportion of off-contract spend. This includes grounds maintenance and tutoring contracts. As above, this has distorted the annual spend comparison and agency spend data from the start of the contract to the current position are not comparable.

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Drive to reduce agency spend

- 3.3 Since the summer of 2019, as part of the measures to improve the Councils financial position, internal controls have been introduced in order to reduce the spend on temporary staffing. The financial analysis as shown in graph 1 indicates the effect of these controls. This has seen a reduction of temporary staffing which was over £4m a month in November 2019 to £1.5m in August 2020, a 62% reduction in monthly spend.



Graph 1- Financial analysis of the contract indicates that prior to internal controls being enforced, the temporary staffing spend was increasing and this peaked in November 2019.

- * Recruitment control required all new roles and extensions to have a business case and director approval
- * Agency challenge required senior leadership to justify agency roles and review alternative options.
- * Recruitment freeze still currently in place requires all extensions of existing temporary staff and any new temporary roles to be approved by a senior leadership Resourcing Panels.

Cost breakdown

- 3.4 The contract value encompasses all elements of the contract, the largest proportion of which is staffing salary. The actual cost to the Council for using the master vendor Adecco and the ESPO framework is 0.11% of the total contract spend. The breakdown of which is shown in the table below.

Table 1 – Overview of contract spend

| Dates | Total Adecco service cost (MSP) | Total ESPO service cost (Framework provider) | Total spend on temporary staff (staff salaries & supply chain margins) | % Paid to Adecco | % Paid to ESPO |
|-------------------------------|--|---|---|-------------------------|-----------------------|
| November 2016 - November 2017 | £19,725 | £13,150 | £26,632,891 | 0.07 | 0.04 |
| November 2017 – November 2018 | £24,861 | £16,574 | £36,686,889 | 0.07 | 0.04 |
| November 2018 – November 2019 | £26,195 | £17,463 | £44,440,335 | 0.06 | 0.04 |

- 3.5 The table above includes both the cost of for using the provider as well as the cost for temporary agency staffing. This demonstrates that the cost for using the provider (Adecco – MSTAR 2) and the framework (ESPO) is minimal compared to the total contract spend. Using a provider awarded from the ESPO London Collaboration framework ensures that the Council uses standardised rates and margins. The total spend on temporary staffing is primarily comprised of salaries for the temporary staff, as well as supply chain margins (dependent on job category) which can be premium for niche high level interim roles.
- 3.6 The overall contract spend outlined in table 1 does not take into account the internal rebate applied to all roles which generates income into a central rebate pot and acts as a savings mechanism to the Council. This internal rebate is applied to every temporary role filled and differs depending on job category - higher rebates are applied to higher level roles. Details of the rebate are included below in Table 2.

| Dates | Spend | Rebate |
|-------------------------------|--------------|---------------|
| November 2016 - November 2017 | £26,632,891 | £2,632,891 |
| November 2017 – November 2018 | £36,686,889 | £4,481,795 |
| November 2018 – November 2019 | £44,440,335 | £4,395,687 |

Table 2 – Overview of Agency Rebate

Operating Model

- 3.7 The Council has explored the options for the optimum operating model, including the internal provision of resource to administer the contract. The council has already brought the permanent and temporary resourcing together into one team.

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- 3.8 The optimum operating model will be enabled through the next contract under the London Collaborations MSTAR 3 framework by introducing emerging technology within the temporary resourcing market such as talent pools. However, the optimum operating would need to be reviewed in the light of the significantly reduced use of agency staff and the emerging Croydon Renewal Plan.

Contracting options

- 3.9 Prior to COVID-19, the Council were on schedule to submit an RP2 report with the recommendation for a new contract to begin in November 2020.
- 3.10 The pandemic has however impacted many elements of the temporary resourcing function and the level of agency staffing required. These include an increase in already challenging budget pressures, limited interviewing capability, the introduction of furlough processes, increased and new demand in front line services and reduced demand across other services. It was therefore deemed to be a risk to introduce a new contract which may include changes to internal systems integration and staff transfer during this period of uncertainty.
- 3.11 Extending the current contract with Adecco for up to 24 months will ensure a continuity of service and with the clauses to break every 4 months, provide the Council with the flexibility to move to a new model and contract when deemed to the appropriate time.
- 3.12 Entering into a variation to the term for up to 24 months:
- Ensures that the Council, supported by Adecco, will continue to supply the temporary workforce using the existing system as required
 - Ensures the Council still has a cost effective service model which is important in the current financial context
 - Avoids more potential disruption to the existing temporary workforce for example if we had to move workers to a different agency
 - Ensures that when we are ready to implement a new system, CDS will have capacity to meet our requirements in terms of system integration and set up
 - Ensures that any new contact is implemented without impacting quality/delivery of service
 - Ensures that the council continues to have a contract that can quickly fill new priority roles, especially within an unqualified setting and ensure BAU/priority roles continue
- 3.13 An indicative value for money test comparing the cost of the current contract with the cost of a new model has indicated that the current model is cost effective for the council.
- 3.14 Further efforts will be made during the proposed extension period as part of the new financial measures to reduce the contract spend by:

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- Reducing the reliance on agency staff with continued very strong recruitment controls
- Retaining talent – identifying and moving temporary workers to fixed term/permanent contracts
- Continuing effective contract management; making sure the Council receives the maximum benefit from the contract with Adecco
- Continuing effective analysis of contract spend data and taking action as needed

3.15 An internal review of the commissioning options will take place by March 2021 and September 2021 to determine the optimum time for the re-procurement of this service and hence extension period required. Officers will present the results of the internal review to CCB and to the Cabinet Member for Finance & Resources at the latest March 2021 and, if action not already taken as a result of March 2021 review, at the latest September 2021.

Conclusion

3.16 There is a corporate need to employ agency staff which is dependent on demand. Internal processes have been put in place to minimise costs where possible. COVID has increased financial pressures and created uncertainty to re-procure. Extending the existing contract by up to 24 months will allow the Council more time to make a decision about the future temporary staffing contract whilst still having flexibility to move to a new model and contract when deemed to the appropriate time.

4. CONSULTATION

4.1 No consultation is required.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 There is no specific budget for temporary agency workers. Costs for temporary agency workers are provided for by vacant posts or using project-related funds. The figures below set out incurred spend and the anticipated spend for the final year of the contract:

| Year | Contract Expenditure |
|--------------------|-----------------------|
| November 2016/2017 | £26,632,890 |
| November 2017/2018 | £36,868,889 |
| November 2018/2019 | £44,440,335 |
| November 2019/2020 | Estimated £30,000,000 |
| November 2020/2021 | Estimated £25,000,000 |

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|--|-----------------------|
| November 2021/2022 | Estimated £25,000,000 |
| Estimated 6 YEAR contract value | £188,000,000 |

5.2 The effect of the decision

Entering into an additional 24 months term with Adecco will increase the overall contract value to approximately £188,000,000.

5.3 Risks

There is a financial risk that the cost of agency staff will exceed the available funding. This needs to be managed within existing departmental staffing budgets and will be a focus as part of the measures in place to manage the financial position of the Council.

There is a risk that the proposed variation may be challenged as falling outside of the scope of modifications to regulated contracts permitted to be implemented by Regulation 72 PCR 2015. Potential barriers to any such challenge being successfully upheld include that, due to the prevailing circumstances as described in this report, Regulation 32(1) PCR 2015 may in any event permit a direct award to take place.

5.4 Options

An option to extend for 12 months was considered. However, in light of the council's financial context, the ongoing drive to reduce agency staffing and the challenges continuing with Covid-19, the option to extend for 24 months will provide the council with the maximum flexibility it needs to retain the stability of this service until the level of uncertainty reduces. By securing 4 month break clauses as part of the extension, and applying 2 formal reviews within the first 12 months of the extension, the Council will have a strategic understanding of its requirements and the contractual flexibility to implement a new contract at the most advantageous time for Croydon.

5.5 Future savings/efficiencies

The contract in itself is already delivering at low margins and provides good value for money. Further savings and efficiencies will not necessarily come from the contract itself, but a change in approach to the wider resourcing of the council to reduce the reliance on agency staff.

The Council's will continue to manage the contract throughout the extension period to manage the performance of Adecco and seek any further efficiencies and cost reduction.

Approved by: Matthew Davis, Head of Finance MTFS

6. LEGAL CONSIDERATIONS

6.1 The Director of Law and Governance comments that legal considerations are as set out in this report.

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Approved by: Sean Murphy, Director of Law and Governance

7. HUMAN RESOURCES IMPACT

- 7.1 There are no immediate HR issues arising from this report for Croydon Council employees.
- 7.2 The use of agency staff will continue to be reviewed through internal mechanisms and processes, including Agency Challenge meetings, to ensure the appropriate scrutiny where agency staff are engaged or extended.

Approved by: Gillian Bevan, Head of HR Resources, on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

- 8.1 An initial EIA was completed for the original contract award and showed that the award of the contract was not likely to have an adverse impact on any protected group.
- 8.2 Full analysis has now been completed and approved on 22.06.2020 by the equalities manager Yvonne Okiyo

Approved by: Yvonne Okiyo, Equalities Manager

9. ENVIRONMENTAL IMPACT

- 9.1 There are no environmental impacts arising from this report.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no crime and disorder considerations arising from this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 To ensure that the Council continues to have a flexible and resilient workforce whilst the council develops its future resourcing requirements.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 No other options are being considered.

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13. DATA PROTECTION IMPLICATIONS

13.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

Yes

Adecco and the associated supply chain will process and hold personal data for each of their workers as the worker is directly employed by them. This includes information regarding personal contact details and bank details which are stored and processed in line with GDPR regulations.

13.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

No

As this is an extension to an existing contract, there are already contract schedules in place with the supplier regarding the handling of personal data.

Approved by: Sarah Warman, Director of Commissioning & Procurement

CONTACT OFFICER:

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BACKGROUND DOCUMENTS: None