

<b>Item No.</b> 16.	<b>Classification:</b> Open	<b>Date:</b> 9 May 2017	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1: Procurement Strategy Approval - Managed Service Provider for Temporary Staff	
<b>Ward(s) or groups affected:</b>		None	
<b>Cabinet Member:</b>		Councillor Fiona Colley, Finance, Modernisation and Performance	

## **FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR FINANCE, MODERNISATION AND PERFORMANCE**

The use of temporary staff in Southwark has fallen considerably since 2010 and Southwark Council's temporary staff levels are now amongst the lowest in London. Over the coming years we aim to reduce our usage still further, but none the less we would expect to have some continued use for temporary staff, for instance to cover seasonal demand for services, when we have an urgent need to have someone in post while we recruit a permanent member of staff or to cover time limited positions. With this in mind and with our current contract due to expire in March 2018 I am recommending that we procure a new contract.

Our current contract is based on the Vendor Neutral business model where our contractor does not supply staff themselves, but sources them through a number of agencies. Alternative models are Master Vendor where the contractor provides most of the staff themselves or a Hybrid of the two models. Using the Yorkshire Purchasing Group framework for this procurement allows us to keep our options open on which model we will use in our new contract, allowing us to compare bids based on different business models before making a final decision on which model to use.

## **RECOMMENDATIONS**

### **Recommendations for the Cabinet**

1. That cabinet approves the procurement strategy outlined in this report to deliver the council's managed services for temporary staff via the Yorkshire Purchasing Group (YPO) framework (Lot 1 – managed services for contingent labour) for a period of three years with the potential to extend up to a further 1 year for a total estimated contract value of £75m from 1 April 2018. The estimated annual cost per year is detailed in paragraph 58.

### **Recommendation for Leader of the Council**

2. That the leader of the council delegates authority to agree the Gateway 2 contract award to the cabinet member for finance, modernisation and performance in order to allow the procurement timeline set out in this report to be met without delay due to the current schedule of cabinet meetings.

## **BACKGROUND INFORMATION**

3. Currently there is a contract in place with Comensura Ltd (Comensura) procured via the East Shires Purchasing Group (ESPO) framework for managed services for temporary agency resources, (MSTAR 1) following a competitive process.
4. This contract started on 1 April 2014 for a period of three years with the option to extend by 1 further year. Since then the option to extend and vary the contract has been exercised and the contract is due to end on 31 March 2018. This decision was made in the light of continued successful performance of the contract.
5. The contract provides for the managed supply of agency workers on a vendor neutral basis. Comensura currently does not supply workers direct but seeks agency workers from a variety of vendors (agencies); assignment opportunities are posted simultaneously to a tiered supply chain. Vendors in their supply chain have a wide range of supply capabilities, and decisions on worker engagement are made by council ordering managers via a fair and transparent process based on a worker's potential match to the council's requirements.
6. The decisions on pay rates rest with the council. Under a vendor neutral service the managing agent, (to date Comensura), provides market intelligence to the council to determine the pay rates applicable to different types of workers. Determination of pay rates is made by the Head of Human Resources (HR).
7. Actual payments to the agencies are made via the managing agent. Part of the services offered is the compilation of invoice information so that the council can make a single weekly payment to the managing agent, from whom costs are directly passed through to the individual and multiple vendors. The managing agent receives no commission from the vendors in relation to these sums.
8. Previous procurement has pursued a vendor neutral model as best meeting the council's requirements at that time. As a result, award values were based on the managed service provider fees and those of the frame work holder. The contract costs were calculated as a pence per hour fee of agency usage. For this procurement the total value of the spend transacted via or directly with a provider has been taken into account. The total contract cost payable comprises the service and framework holder fees, agency fee, salary costs to the worker and on costs.

### **Summary of the business case/justification for the procurement**

9. Workforce planning allows the council to structure itself using the best possible mix of staffing solutions, permanent or fixed term employees, casual/sessional workers, agency workers and interims. The range of reasons for using agency staff include:
  - To provide a flexible resourcing solution to accommodate customer needs, for example repairs and maintenance
  - To accommodate fluctuations such as seasonal demand in areas such as grounds maintenance
  - Resource time-limited grants or direct income from customers in areas like planning

- To provide critical cover in hard to recruit areas pending substantive engagement, for example in social care
- To allow minimum statutory staffing ratios to be met at short notice
- To cover absence
- As an alternative to substantive appointment when pending organisational restructure may result in post deletion.

### **Current usage**

#### **London borough context**

10. London boroughs report annually on agency usage. For 2015/16 the council was in the top quartile for agency usage across London with 8.88% agency FTE as a percentage of permanent staff FTE compared to the London mean average of 16.46%. Agency workers currently make up 7.9% of our workforce.

#### **Council usage**

11. The use of agency worker resources has altered during the life of the contract and is expected to continue to do so, reflecting the shifting requirements of the resourcing mix as the council seeks better and more cost effective ways to delivers services.
12. The first comprehensive monitor of agency usage in November 2006 reported 1,134 workers were in use on a sample date. Snapshot reports have been taken monthly since and the latest information, April 2017 showed a reduction to 439 from February 2017.
13. The Workforce Strategy (2017-2020) in committing to increase organisational resilience by building a substantive workforce intends to reduce the need for temporary workers to no more than 4%. This figure is an organisational average and it is to be expected to see varying levels across business areas and the period. The objective being to utilise agency staff as part of a planned staffing model.
14. Activity to achieve this has begun with regular reports provided to managers on current usage to understand the causes of demand and address those issues via workforce planning. Stabilising services via more appropriate staffing solutions will also benefit the substantive workforce. Secondary levels for approvals for current hires have been added in some areas.
15. A range of strategies across the council will impact how services and in turn the staffing required to deliver them are shaped. For example within the customer access strategy the development of online services will reduce the contact centre headcount and in turn reduce the demand for agency workers.
16. The development of a recruitment strategy and practice that is effective and timely will reduce reliance on agency staff pending substantive appointment.
17. Increased usage in 2016-17 has been impacted by a range of factors, including significant organisational change and the nature of the assignments; however it is now anticipated that demand will reduce.

18. The following table shows expenditure over the period.

<b>2014 - 2015</b>	<b>2015 - 2016</b>	<b>2016 - 2017 (extrapolated)</b>
£19,140,167	£19,058,549	£22,984,917

19. Agency usage can vary from day to day, due to the peripatetic nature of some agency workers. However, the majority of the agency workers are engaged for a period of weeks or months and therefore, taking an agency snapshot of all workers lodging invoices for a particular day in each month provides a sufficient overview of usage. For April 2017 this stood at 439 different assignments, spread as follows:

<b>Department</b>	<b>Agency Headcount</b>
Chief Executives Department	8
Childrens and Adults Services	144
Environment and Social Regeneration	111
Finance and Governance	46
Housing and Modernisation	130
<b>Total</b>	<b>439</b>

20. The reasons for use of agency staff are diverse, including fulfilling statutory and business critical roles, often most acute in areas facing shortage of supply in the wider market for example social care and IT. In other areas the use may mitigate against uncertainty or support transition.

### **Market considerations**

21. There is a well defined range of providers in the market but these have been consolidated for public sector and local authorities and are predominantly accessed via framework agreements set up by central buying groups. These have been established in accordance with the EU procurement regulations (the Public Contracts Regulations 2006 or 2015) so have been publicly advertised to the market in terms of engagement.
22. The managed services that are delivered are available via different business models described below:
- Neutral vendor – The provider manages a supply chain of agencies and does not provide workers themselves, contracting with the agencies to achieve best value in terms of rates and managing the governance of supply. Agencies will usually be tiered according to performance or to achieve the required solution for the client. New providers can be added and existing removed or suspended.
  - Master vendor – a provider who is also an agency or group of agencies able to supply its own workers, appointing 2<sup>nd</sup> and 3<sup>rd</sup> tier providers if unable to meet demand internally.
  - Hybrid – A tailored version of either the neutral or master models where for example the client has specified a particular agency for supply of a given category.

23. Within the market there has been movement away from the once hard lines around the differing business models available, originally only neutral or master vendor, as providers respond to the complexities and challenges of the market. In particular in meeting demand for hard to fill roles within social care or in those in direct competition with the private sector. The delivery models have developed to provide more than a transactional service alone but one that can contribute to a range of organisational objectives including social values.
24. There are a number of providers currently delivering to London boroughs that can be expected to meet the council's requirements.
25. There are two areas of uncertainty impacting the national market currently:
  - Changes in the liability under IR35, also known as intermediaries' legislation, will impact the agency market supplying the public sector. From April 2017 these changes place responsibility on the public sector as the end user to make an assessment of the worker / client relationship. As a result it is anticipated that many workers operating via a limited company will move to PAYE resulting in a reduction in take home pay. Areas in competition with the private sector, where these changes do not apply, may see a migration away from the public sector. For other areas where private sector opportunities are fewer, it may present an opportunity for appointment substantively as the public sector offer becomes more attractive. There is a level of uncertainty currently as to what the impact of these changes will be, however market intelligence suggests there will be some migration from agency to substantive engagement reducing reliance on agency workers, particularly in areas such as social care.
  - Clarification is outstanding on the application of the apprentice levy to agencies. This is charged at 0.5% of payroll cost to organisations with a payroll in excess of £3m, which the employer can draw from to fund apprentice training and development. The managed service providers and agencies level of usage would meet this threshold. Questions remain in relation to who meets the cost of the levy and in turn who can access the resulting fund.

## **KEY ISSUES FOR CONSIDERATION**

### **Options for procurement route including procurement approach**

26. A managed supply of temporary workers is required from 1 April 2018 that can deliver:
  - A suitably skilled and diverse temporary workforce
  - Compliance with legislation and local commitments e.g. Agency Worker
  - Regulations, IR35 tax regulations, payment of the London Living Wage (LLW)
  - Value for money and transparency throughout the supply chain
  - High quality interims as well as agency workers
  - Compliance with vetting and safeguarding pre-employment checks

- Supply chain management.
27. The contract is for corporate services only and would not extend to schools.
  28. HR considered the following options before determining the procurement strategy set out in this report:
    1. **Do nothing** – It is essential that the council has a service in place for supply of temporary staff. Without a managed service there is no centralised means of capturing and reporting activity, managing the supply chain, also resulting in neither significant number of payment transactions nor a consolidated approach to achieving best value from the agencies. This is not an option for the council.
    2. **In-house service** – this option was explored but the council does not have the resources to undertake this service, for example, to form and manage contractual arrangements with agencies. Nor does it have in-house expertise or status in the agency market to liaise with vendors and manage the full range of responsibilities that derive from the Agency Worker Regulations. It would create a significant risk in losing controls on agency usage and costs. Any cross organisation coordination would require investment and development of related IT systems. At present, this is not a viable option.
    3. **Competitively tender** – this option was explored but unlikely to achieve a better service outcome than calling off from a third-party framework.
    4. **Shared Services** –. Neighbouring authorities are using similar methods or already accessing frameworks so it is not viable to join with them as they already have agreements in place. This is not an option for the council at this time.
    5. **External Frameworks**
      - a. **YPO framework (Lot 1 – managed services for contingent labour).** Offered as a single lot the council is able to make an assessment across the available business models i.e. master, neutral or hybrid, against the council's requirements simultaneously. Other frameworks require the decision on which model to be made in advance as the business models are accessed via separate lots. The council's requirements can be met through this framework.
        - YPO are a public buying organisation owned by 11 member authorities
        - Following 18 months of engagement with customers and suppliers the framework went live in December 2015
        - The YPO framework offers HR Services and Solutions split into 5 Lots. Lot 1 for the supply of a managed service for contingent labour consists of 10 providers delivering across the business models. See Appendix 1 for list of providers and models offered.
        - The council can become an associate member of YPO (nil cost) and as an associate member may receive a yearly dividend. To be addressed at the gateway 2 report stage.
        - YPO operates a fee of £0.008p for every hour worked by a worker.

There are 2 routes to access this agreement:

i. **Route 1 - Direct award** - this procedure gives the council the ability to allocate a contract direct to a provider without having to undertake a further competition or quotation process. The council would need to:

1. Carry out a cost benefit analysis of the providers that can provide a chosen model (neutral labour, master labour or hybrid model). The council must be able to identify the provider that comprises the most advantageous offer to meet their requirements to be able to:

a. Award a contract to a chosen provider; and

b. Complete the call-off agreement that is provided by YPO.

2. Implementation could take between 2-3 months depending on the situation.

ii. **Route 2 - Further Competition** – this procedure is a mini-competition exercise conducted between all the providers in that Lot. Further competition documentation is completed (i.e. the council's requirements, method statements, evaluation criteria, pricing documents, council amended terms and conditions, etc.). These documents are provided to all the providers on the Lot with a response deadline given. After this deadline, bids are evaluated.

b. **ESPO framework** – Eastern Shires Purchasing Organisation (ESPO) is a customer-focused, public sector owned professional buying organisation owned by 6 member authorities. One of the frameworks it offers is the MSTAR 2 (managed services for temporary agency resources).

- The framework has three Lots:

- Lot 1 is a neutral vendor supply model

- Lot 2 is a master vendor model

- Lot 3 is a supply chain hybrid model.

- Under the ESPO framework there are a total of 13 agencies. See Appendix 1 for details of category suppliers

- Within the framework the option exists for London boroughs to make a direct award within LOT 2 to the master vendor, Adecco. This is not considered in the interests of the council at this time as it doesn't allow evaluation of a range of solutions in response to the council's specific requirements.

- The ESPO framework operates a £0.01 fee per hour of agency usage to fund strategic client activity, development and re procurement.

This is not considered to be advantageous to the council as it requires pre determination of the business model for supply.

**c. Crown Commercial Service (CCS) and Local Government Recruitment Partnership (LGRP) frameworks**

- CCS has a framework for contingent labour which expires in September 2017 meaning that this is not a viable option. Additionally, there is only one supplier per lot giving a limited choice of managed service providers.
- LGRP has a lot for interim and executive search only – there is no provision within this framework for other areas of the contingent workforce

29. These frameworks are not therefore an option for the council.
30. Having considered the above options, it is recommended that the best option is to procure a contract through the YPO framework, Lot 1 – managed services for contingent labor via access route 2 – further competition. The YPO framework offers the facility to test all solutions via a single Lot enabling the flexibility to have an outcome driven solution that best meets the requirements of the council. Previous procurement exercises were focused on the vendor neutral arrangement as best suiting the council's needs at that time. By not prescribing the business model at the outset, the council will be able to assess solutions from a wider perspective.
31. The YPO framework offers:
- Pro-activeness and knowledge of the market and associated models
  - Proven track record working successfully with a number of local authorities
  - Extensive support offered throughout the procurement process
  - More competitive fee
  - Potential of dividend share as an associate member.

**Proposed procurement route**

32. For the reasons outlined in this report, it is proposed to procure a contract via the YPO framework, Lot 1 - managed services for contingent labour. All the suppliers (listed at Appendix 1) on this Lot of the framework will be invited to submit further competition.
33. The YPO framework is for an initial 2 years (initial expiry date of 29 November 2018) with the option to extend for an additional year. It should be noted that the framework allows contracting authorities to call-off from the framework until the end date and call offs can last for up to 4 years.
34. The framework has been established in accordance with the EU regulations (the Public Contracts Regulations 2015) and was procured via the restricted procedure. It has therefore fully engaged nationally with the market providers.

35. The steps that will be taken to identify the successful contractor are: (1) define the council's specification requirements, pricing documents, evaluation matrix on a 60% quality – 40% price basis as allowed by the framework, see para 43 also, finalise the terms and conditions and other relevant information for bidders; (2) publish the further competition documentation and invite bids; (3) evaluation; (4) contract award; and (5) transition.
36. There is no requirement to award should the bids fail to meet the council's thresholds for price or quality as part of our standard terms and conditions, although this is unlikely as detailed in the risk table below.

### Identified risks for the procurement

37. The table below identifies a number of risks associated with this procurement, the likelihood of occurrence and the control in place to mitigate the risks:

R/N	Risk Identification	Likelihood	Risk Control
R1	Challenges to procurement outcome	Low	Robust adherence to the published methodology.
R2	The procurement process fails due to inadequate quality of submissions by tenderers	Low	Pre procurement engagement with suppliers on the framework.
R3	The procurement process is delayed	Low	A short extension with the incumbent provider would be possible.
R4	The provider ceases trade or goes into administration/ liquidation	Low	The framework has already tested the financial viability of the providers however further checks would be undertaken prior to award.

### Key/non-key decisions

38. This report deals with a key decision.

### Policy implications

39. The use of temporary staff is consistent with the current Workforce Strategy 2017 – 2020.

### Procurement project plan (key decisions)

Activity	Complete by:
Enter Gateway 1 decision on the Forward Plan	27/02/2017
DCRB Review Gateway 1	20/03/2017
CCRB Review Gateway 1	06/04/2017
Gateway 0 ahead of Cabinet meeting	28/04/2017
Notification of forthcoming decision - Cabinet	28/04/2017
Approval of Gateway 1: Procurement strategy report	09/05/2017

<b>Activity</b>	<b>Complete by:</b>
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	17/05/2017
Completion of further competition documentation	12/07/2017
Issue documentation and invite bids	17/07/2017
Closing date for receipt of responses	25/08/2017
Completion of any clarification meetings/presentations/evaluation interviews	08/09/2017
Completion of evaluation of responses	22/09/2017
Forward Plan (if Strategic Procurement) Gateway 2	27/02/2017
DCRB Review Gateway 2:	23/10/2017
CCRB Review Gateway 2	02/11/2017
Notification of forthcoming decision – despatch of Cabinet agenda papers	17/11/2017
Approval of Gateway 2: Contract Award Report	30/11/2017
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	08/12/2017
Debrief Notice and Standstill Period (if applicable)	22/12/2017
Contract award	12/01/2018
Add to Contract Register	12/01/2018
TUPE Consultation period (if applicable)	30/03/2018
Place award notice on Contracts Finder	19/01/2018
Contract start	01/04/2018
Initial contract completion date	31/03/2021
Contract completion date – (if extension(s) exercised)	31/03/2022

### **TUPE/pensions implications**

40. It is possible that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply in relation to the incumbent and new provider on the commencement of the new service should there be a change in service provider as a result of this proposed procurement. However, in order to ascertain if there are any such TUPE implications, due diligence work will be carried out before the tender process commences and its results included in the tender pack and process. There are no TUPE implications for the council as an employer because the council's contract management and administrative function will remain with the council and these activities will not form part of the contract specification.

### **Development of the tender documentation**

41. The development of the tender documentation will be focused on the council's specific requirements for further competition, which will be a supplement to the core

specification already in place via the framework agreement. The development of this will be led by HR's client manager with input from the project group and stakeholders.

42. There are pre-determined terms and conditions, accepted by each of the providers, which can be amended to fit the requirements and specific needs of the council e.g. payment of London Living Wage.

### **Advertising the contract**

43. There is no requirement to advertise separately as this was already done when the framework was set up.

### **Evaluation**

44. The pricing that suppliers have submitted in order to be placed on the framework is competitive and has been used by many other councils to deliver their agency staff requirements. As part of the further competition, proposed costs may be driven down further. It is recommended that a 60% quality 40% price evaluation will ensure that suppliers are able to deliver sustained quality solutions at the costs. Quality supply of agency workers is essential and short term gains in reduced costs may be off-set by either inadequate and/or poor quality supply. Vendors in the supply chain are working with a range of clients both managed service providers and end users directly. In a competitive market, decisions on who to supply will be influenced by the sustainability of the rates and terms agreed.
45. An evaluation matrix will be developed to assess the supplier responses against the specific requirements by the project team. The evaluation process will be undertaken by a panel comprising both strategic and operational stakeholders from within the council.

### **Community impact statement**

46. This contract will not have a direct link to local residents, unless they are in the potential temporary workforce. It would be expected that the supplier comply with the council's policies and specific requirements of agency staff delivering services for the council.

### **Social Value considerations**

47. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The details of how social value will be incorporated within the tender are set out in the following paragraphs.

### **Economic considerations**

48. As part of the further competition there will be a focus on the social value that potentially can be achieved via the contract. For example, retaining and developing the proportion of residents engaged via the supply chain, providing local employment or developing local small, medium enterprise (SME) vendors.

## **Social considerations**

49. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. It is expected that payment of the LLW by the successful provider for this contract will result in quality improvements for the council. These should include a high calibre of staff that will contribute to the provision of the services within Southwark and will provide best value for the council. It is therefore considered appropriate for the payment of LLW to be required. As part of the further competition process, the council will include its standard LLW requirements in relation to provision of services, which are to be performed either on council premises, or in the Greater London area. As part of the further competition process, bidders will also be required to confirm how productivity will be improved by payment of LLW. Following award, these quality improvements and any cost implications will be monitored as part of the contract review process.
50. The geographical location of the appointed provider may be outside of London in which case the national living wage will be applicable to staff engaged there.
51. The use of a managed service has been significant in ensuring that agency worker receive LLW as a minimum while engaged for the council. This would be impossible to police were the council to contract directly with individual agencies.
52. The area of social value is one that is increasingly part of the focus for providers in response to demand from clients. The further competition criteria will invite response on how providers may support the goals and values of the council. For example:
  - Encourage participation by local SME businesses in the vendor (agency) list
  - Target opportunities to the local population generally and specific target groups
  - Supporting apprenticeships
  - Integrating welfare to work and third sector organisations.

## **Environmental/sustainability considerations**

53. As is currently the case, the service will be managed via a technology platform eliminating the use of paper to a significant level but wider social value considerations are to be assessed as part of the overall further competition process and the results, including impacts on sustainability will be evaluated and reported in the Gateway 2 report.

## **Plans for the monitoring and management of the contract**

54. There are robust processes in place for monitoring the managed service contract within HR that would continue for this contract once in place. Quarterly and annual review against the KPIs is undertaken with the Head of HR in addition to the weekly management activity of the client officer. Feedback from engaging managers is captured via the HR business partners, periodic surveys and from stakeholder engagement meetings with and separately from the provider.

55. Annual performance is reported via the departmental and corporate contracts review boards.
56. YPO also supports the ongoing relationships between providers and clients whilst also managing the framework itself, requiring providers to supply monthly management information and quarterly reports as part of their contract management activity.

### Staffing/procurement implications

57. The HR service will progress procurement and manage this contract with support from legal, finance and procurement, as appropriate and required. Activity will be undertaken within existing service provision and budgets.

### Financial implications

58. This report seeks the approval of cabinet for the proposed procurement strategy outlined in the body of this report.
59. The value of the initial 3 year contract (01/04/2018 to 31/03/2021) equates to an estimated £60m based on current estimates of usage outlined elsewhere in this report, with an option to extend for a further year, increasing the total estimated cost to £75m over a four year period, profiled as follows:
60. For comparative purposes the following table sets out payments, fees & internal recharges for each year of the current (ESPO/Comensura) contract.

Year	Usage Costs £	Internal Recharge £	Fees (Comensura & ESPO) £
2014 - 15	19,140,167 *	1,910,189	148,349
2015 - 16	19,058,549 *	1,938,789	152,186
2016/17 (extrapolated @ Week 48)	22,984,917	2,298,492	172,068
<b>Total</b>	<b>61,183,633</b>	<b>6,147,470</b>	<b>472,603</b>

\* Taken from (Comensura) Annual Contract Performance Report to CCRB 22/09/16

61. It is anticipated that under the YPO framework, payment arrangements would remain unchanged from those currently in effect, which are:
  - Payments are made to the managing agent (currently Comensura) on a weekly basis upon receipt of an invoice, which comprises an element for agency worker costs and a contractual fee element (an aggregation of the sums payable to Comensura and the charge collected by Comensura on behalf of the framework (currently ESPO))
  - Expenditure relating to the fee element is retained within Human Resources, whilst agency worker costs are recharged to departments, with the addition of a 10% internal recharge (also retained within HR).
62. It is anticipated that the following savings will be made under the new contract, presuming the proposed procurement strategy is pursued; specifically:

- A reduction in the fee payable to the framework, which would decrease from 1p per hour of agency worker usage under ESPO to 0.8p under YPO
  - A reduction in costs as a result of anticipated declining agency worker usage, in line with the workforce strategy detailed elsewhere in this report.
63. With regard to the fee element – taking into consideration both the reduction in usage and reduced framework fee outlined above, it is anticipated that projected costs can be contained within the existing budget provision of £165,640.

### **Legal implications**

64. Please see concurrent from the director of law and democracy.

### **Consultation**

65. This is not a matter which requires public consultation or referral to the council's trade unions, although the trade unions have been notified that the contract is to procure a new contract.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance (Ref: 17/002)**

66. The strategic director of finance and governance notes the recommendations in this report for the procurement strategy for managed services for temporary staff. The contract will commence in April 2018 for a period of 3 years plus a possible extension of one year. There will be significant reductions in government funding over this time, and the report notes that the use of agency workers is also expected to diminish over time.
67. Most of the cost of the service is related directly to the number of agency workers engaged and the pay agreed. Services are able to control these costs by adjusting the number of agency placements used.

### **Head of Procurement**

68. This report seeks cabinet approval for the procurement strategy in relation to the inviting tenders for the provision of temporary staff. The proposed route to market is via the Yorkshire Purchasing Organisation's framework contract and would be for 3 years, with the option to extend for another one year from 1st April 2018. The estimated total contract value is £75m that includes all costs, including staff wage payments. The financial breakdown is detailed in paragraph 53 of the report.
69. The recommendation of the framework agreement and use of the YPO option over others is set out in detail and includes not having to be specific on the vendor model (detailed in paragraphs 18). The gateway 1 report also follows consideration of the pre-procurement strategic assessment (gateway 0) report by the portfolio holder for finance, modernisation and performance on the reasons for this requirement and a continued external contract to provide this requirement at this time.
70. The evaluation criteria to this contract are 40% quality and 60% price, as set out in paragraph 39 in line with the framework agreement terms. Social Value

considerations, as well as whether London Living Wage will apply will be included as part the tender process and confirmed in the Gateway 2 report.

### **Director of Law and Democracy**

71. This report seeks the approval of cabinet to the use of the YPO framework (Lot 1 – managed services for contingent labour) as further detailed in paragraph 1. As the intended contract is a strategic procurement, the decision to approve this procurement strategy is reserved to the cabinet or cabinet committee, after consideration of this report by the corporate contract review board.
72. This report also seeks delegated authority from the leader of the council to agree the gateway 2 contract award to the cabinet member for finance, modernisation and performance as further detailed in paragraph 2.
73. The nature and value of these services are such that they are subject to the tendering requirements of the Public Contracts Regulations 2015 (EU regs). However the YPO framework, through which this appointment is to be procured, was established following an EU compliant tendering process and the council is a party able to use the framework. The YPO framework may therefore be used without a further OJEU tendering process.
74. As noted in paragraphs 29 and 34, a further competition will be followed. Proposals for the council’s service will be evaluated and a gateway 2 award report will be brought for approval.
75. Cabinet will be aware of the Public Sector Equality duty (PSED) under the Equality Act 2010, and when making decisions to have regard to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, relation, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to the elimination of discrimination. Cabinet is specifically referred to paragraph 45 of the report which notes the community impact statement, demonstrates how the council has had due regard to PSED and cabinet should satisfy themselves that this duty has been complied with when considering the recommendation.

### **APPENDICES**

<b>No</b>	<b>Title</b>
Appendix 1	list of suppliers on the frameworks – YPO & ESPO

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Gateway 3 report	HR, Housing & Modernisation 160 Tooley Street, SE1 2QH	Sarah Hedley 0207 5252 7216
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=5380&amp;Ver=4">http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&amp;MId=5380&amp;Ver=4</a>		
Gateway 0 report	HR, Housing & Modernisation 160 Tooley Street, SE1 2QH	Sarah Hedley 0207 5252 7216
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/mgIssueHistoryHome.aspx?Id=50013093&amp;Opt=0">http://moderngov.southwark.gov.uk/mgIssueHistoryHome.aspx?Id=50013093&amp;Opt=0</a>		

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Fiona Colley, Finance, Modernisation and Performance	
<b>Lead Officer</b>	Emma Marinos, Director of Modernise, Housing and Modernisation	
<b>Report Author</b>	Sarah Hedley, HR Policy and Strategy Manager. Housing and Modernisation	
<b>Version</b>	Final	
<b>Dated</b>	25 April 2017	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		25 April 2017