

## REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD102

### Title: Temporary Labour Supply Contract

#### Executive Summary:

This report requests approval from the Deputy Mayor for Fire and Resilience for the London Fire Commissioner (LFC) to commit revenue expenditure of up to £4,850,000 per annum for four years (three years plus an extension period of one year) for a contract for temporary labour supply. The expenditure is based on current agency worker costs, the potential increase of rates due to a new supplier and contingency. The total cost of the contract for the London Fire Brigade (Brigade) for the length of the duration is up to £19,400,000.

The Brigade joined the TfL framework, via call-offs arrangements and entered into a contract with Hays Specialist Recruitment Limited (Hays) as of January 2016, following a collaborative procurement with other members of the Greater London Authority (GLA) Group, led by Transport for London (TfL). The current TfL contract, which the Brigade has access to, is due to expire on the 30 June 2021 and a new competitive tendering process to continue to provide temporary labour services started on 30 July 2020.

This project has, once again, been led by TfL Procurement on behalf of itself and the LFC, Mayor's Office for Policing and Crime (MOPAC), Greater London Authority (GLA), London Legacy Development Corporation (LLDC), Old Oak and Park Royal Development Corporation (OPDC), and Metropolitan Police. The Pan GLA procurement involves the establishment of a framework agreement with a single supplier. This framework agreement will be awarded on a three-year basis, with the option to extend for an additional one year.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the London Fire Commissioner to seek prior consent before '*[a] commitment to expenditure (capital or revenue) of £150,000 or above*'. The Direction also provides the Deputy Mayor with the authority to '*give or waive any approval or consent required by [the] Direction*'.

#### Decision:

The Deputy Mayor for Fire and Resilience authorises the London Fire Commissioner to commit expenditure of up to £4.85 million per annum for four years (three years plus and extension period of one year) for a contract for Temporary Labour Supply. The total cost of the contract for the LFB for the length of the duration is up to £19.4 million.

#### Deputy Mayor for Fire and Resilience

I confirm that I do not have any disclosable pecuniary interests in the proposed decision.

The above request has my approval.

Signature:



Date:

19 March 2021

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1. Report LFC-0465 explains that Transport for London (TfL) currently has a 'Master Vendor' framework agreement to provide temporary labour for Administrative, Professional and Information Technology (IT) roles across the GLA Group. Under this arrangement a team from the supplier is embedded within TfL to provide a full temporary recruitment service. The agreement has been extended until June 2021, to allow enough time to put a Pan Greater London Authority (GLA) framework agreement in place.
- 1.2. The London Fire Brigade (the Brigade) joined the TfL framework, via call-off arrangements and entered into a contract with Hays plc (Hays) in January 2016 as part of the GLA collaborative Procurement project to aggregate the Pan GLA spend and realise saving through leveraging the market.
- 1.3. Following a successful early market engagement, the supply base has demonstrated capability and appetite for the GLA Group to capture all temporary and permanent recruitment requirements in one single framework agreement.
- 1.4. The objectives of the new replacement agreement are:
  - a) to provide a solution that delivers the capability and expertise that the GLA Group need, whilst increasing added value in terms of quality and delivery;
  - b) to develop and implement an improved approach to capturing a more diverse pool of talent;
  - c) to incorporate an improved Supplier Relationship Management (SRM) system within any new solution, particularly in relation to long term supplier performance, measurement and management;
  - d) to consider new technology and innovation to help drive efficiencies; and
  - e) to identify the most suitable and effective delivery model for the business.
- 1.5. The London Fire Brigade has been involved with the retender process from the offset, starting with an optioneering meeting in September 2018.
- 1.6. The Brigade's project participants are satisfied that the specification for the new tender meets the needs of the Brigade.

#### *Current temporary labour supply service arrangements*

- 1.7. The current arrangement for temporary labour supply is with Hays, following the instruction to join the TfL contract as part of the collaborative procurement in January 2016.
- 1.8. At the time of this report, the Brigade has 89 active agency workers supplied via Hays across all directorates. The current contract is regularly used with only a small number of specialist placements (e.g. Print Services) not being fulfilled direct through Hays.
- 1.9. Over the last reported quarter (August-October 2020) there were 16 new agency hires across the organisation. However, six of these were re-hires following a break in placements due to COVID-19.
- 1.10. The percentage breakdown of agency usage by department is set out in the table below:

<b>Department</b>	<b>Percentage</b>
Finance	4.5
Fire Safety	10
Fire Stations (Central Operations)	1
General Counsel	8
Grenfell Tower Investigation & Review Team	7
Health & Safety	1
Information & Communications Technology	22.5
Operational Policy	3.5
Operational Resilience & Control	10
People Services	3.5
Procurement, Technical and Service Support	17
Property Services	3.5
Strategy & Risk	3.5
Training & Professional Development	5
	100

1.11. The percentage breakdown of reasons for agency hire, at the time of request, is set out in the table below:

<b>Reason for hire</b>	<b>Percentage</b>
Acting up/Secondment	12
Capital/Temporary Funding	13.5
Excess Workload	18
Maternity/Paternity Cover	1
Sickness Cover	4.5
Special Project	35
Vacancy Actioned	6
Vacancy Not Actioned	10
	100

- 1.12. The approach to the procurement process has been to encourage new technology and streamline/align processes, so that greater innovation and efficiencies can be delivered by the new contract. A more balanced approach has been adopted, ensuring that high calibre candidates are attracted, with an engaged second tier supply that will mitigate the need to use specialist agencies.
- 1.13. It is likely that the current recruitment freeze being implemented by the Brigade will have an impact on the volume of agency workers hired at the Brigade. Any new agency hires, or placement extensions, must be requested by the line manager through the Approval to Recruit process and be agreed by Directors before any action is taken. The process is an additional step in monitoring the levels of agency hires following the Mayor's budget guidance being published and potentially this could lead to a decrease in the Brigade's temporary labour over time, thus reducing expenditure.

## **2. Objectives and expected outcomes**

- 2.1. The objective is to seek approval for the Brigade to join the Pan GLA collaborative group framework agreement as a Service Recipient, for the supply of temporary labour, so that the work already

untaken on the collaborative procurement can continue. The Service Recipient Specific Agreements will enable the Brigade to enter into Call Off Contracts with the Service Provider. In joining the framework agreement, the Brigade are in a stronger position to tackle any contractual issues, as it will be doing so as part of the GLA Group, rather than an individual body.

#### *Procurement process*

- 2.2. The procurement process is being conducted by TfL under the Public Contracts Regulations 2015 on behalf of itself and the other functional bodies of the GLA group, (referred to as the Service Recipients) to establish a replacement framework for recruitment services. As the value of the current contract is above the EU threshold, the invitation to tender was advertised in the Official Journal of the European Union (OJEU). The procurement process chosen was the Competitive Procedure with Negotiation (CPN). This process allows enough flexibility to refine and negotiate the optimum solution for the Pan GLA Collaborative agreement.
- 2.3. The Contract Notice and tender documents were released on the 7 August 2020.
- 2.4. 60 companies expressed an interest and 17 companies provided compliant responses. The Selection Questionnaire (SQ) submissions evaluations were undertaken by a cross section of stakeholders across the GLA Functional Bodies. The Head of HR Services and HR Policy Analyst undertook the evaluation for the Brigade.
- 2.5. Following the evaluation of the Selection Questionnaire (SQ) submissions, seven bidders were invited to the Invitation to Participate (ITP) stage.
- 2.6. The Brigade will be involved via the working group and programme governance group, scheduled for February 2021.
- 2.7. The contract award is due to take place early March 2021. It is recommended that the Assistant Director, Technical and Commercial Services will make the award decision for the Brigade under delegated authority.
- 2.8. The mobilisation and implementation period is scheduled to take place between March and June 2021.

#### *Cost implications*

- 2.9. TfL has estimated the entire contract value at £205,500,000 per annum, inclusive of 5% uplift to capture potential increase in mark-ups and 10% contingency for growth in contingent labour requirements. The total cost is estimated as £616,500,000 over the three-year contract term, rising to £872,000,000 with the one-year extension.
- 2.10. The Brigade's temporary labour supply expenditure is estimated at £4,200,000 per annum, which includes the agency worker rate and the client uplift. This is based on spend over the last 12 months. The annual cost of £4.85m has been calculated by taking the current spend of £4.2m, adding the 5% uplift for potential mark-up increase (£4.41m), plus the 10% contingency for growth (£4.85m). The total cost is then multiplied by 4 to represent the maximum duration of the contract (£19.4m).
- 2.11. Current pricing is on a fixed % mark-up (which reduces for gifted hires) on the worker day/hourly rate, with a one-year tenure discount on all sourced workers.
- 2.12. The GLA Group has been made aware that the cost of the service (through higher mark-ups on rates) is likely to increase, however, it is envisaged that this will be off set against increasing candidate quality and streamlining processes which will deliver greater benefits to the GLA Group.
- 2.13. To provide visibility of potential costs an extensive benchmarking exercise was undertaken by TfL utilising a combination of other public sector framework rates and estimated percentage mark-ups.

- 2.14. From the analysis undertaken, it was agreed by the Working Group that we would have a fixed price mark-up for roles up to £250 per day and percentage mark-up for roles over £250 per day, plus a tenure discount.
- 2.15. This model encourages lower fixed rates for the easy to source roles, providing the GLA Group with the benefit of lower costs, whilst the percentage mark-up incentivises the Service Provider to source better quality candidates; driving best value for the GLA Group whilst still proving cost effective with the inclusion of tenure discounts.
- 2.16. It is anticipated that there will be an initial saving at framework launch associated with existing sourced candidates being transferred to the new Service Provider framework agreement on preferential gifted candidate rates. It is estimated that this will provide an estimated saving of 2-3% per worker.
- 2.17. The focus of the new agreement will be value add and as such efficiencies will be generated through process improvements and alignment supported by the introduction of new technology throughout the contract life.
- 2.18. Cost efficiencies will also be generated across the GLA Group by introducing a unified and aligned approach to recruitment meaning that the Service Provider can deliver more effectively without the need for different recruitment models, systems and processes.
- 2.19. It is not envisaged that savings will be identified from the retender in respect of Service Provider mark-ups.
- 2.20. The budget for agency staff is set at £600,000 annually. Any additional agency workers required above that budgeted amount are usually required to fill vacancies or support special projects. Where that is the case then the additional cost of those staff will be contained within the underspend generated as a result of staff vacancies. It is anticipated that these will continue to be the funding sources for future agency hires.
- 2.21. Consideration should be given to the current value of agency worker hire. Given the current budget challenges, the recruitment freeze, and the subsequent additional monitoring of the levels of agency workers outlined above, it is possible this will reduce agency spend in the future and therefore, the Brigade's current estimate value may decrease with time.

#### *Shared services*

- 2.22. This is collaborative piece of work involving the GLA Group, thereby reducing costs where practical, pooling resource and providing greater value for money to London's taxpayers.

#### *Associated risks*

- 2.23. Should the decision be taken not to join the new contract, the arrangements for temporary labour supply within the Brigade will finish on the 30 June 2021. This will have an impact on current agency workers and any new future hires.
- 2.24. The Brigade does not possess any in-house temporary labour supply expertise to manage the recruitment of agency workers.
- 2.25. Without the temporary labour supply service, the Brigade would not have means to source contingency workers when needed.
- 2.26. A possible avenue would be for the Brigade to start the procurement process for its own temporary labour supply service, which would take a considerable amount of time and resource.

### *Alternative Options Considered and Consultation*

- 2.27. One alternative option would be for the Brigade to procure their own temporary labour supplier. However, considering that this is a collaborative piece of work with the GLA group, this seems counter-productive and costly.
- 2.28. Another option would be for the Brigade not to have a Temporary Labour Supplier. However, that would potentially cause problems in terms of the workforce, when temporary labour is required. It would also limit the Brigade in terms of talent and resourcing.

### **3. Equality comments**

- 3.1. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when exercising our functions and taking decisions.
- 3.2. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3. The protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), Race (ethnic or national origins, colour or nationality), Religion or belief (including lack of belief), Sex, and Sexual orientation.
- 3.4. The Public Sector Equality Duty requires us, in the exercise of all LFC functions (i.e. everything the LFC does), to have due regard to the need to:
- a) eliminate discrimination, harassment and victimisation and other prohibited conduct;
  - b) advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it; and
  - c) foster good relations between people who share a relevant protected characteristic and persons who do not share it.
- 3.5. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
  - b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
  - c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.6. The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- a) tackle prejudice; and
  - b) promote understanding.

- 3.8. An Equality Impact Assessment (EIA) was undertaken on 17 November 2020, in consultation with the Inclusion Team at the Brigade.
- 3.9. The impact assessment found a neutral impact on people who have characteristics, which are protected by the Equality Act. It also looked at how we can ensure that any supplier complies with the Togetherness Strategy objectives, e.g. if an all-male or all-white shortlist is provided.
- 3.10. A recommendation was made for agency workers to be provided with the opportunity to be more involved in initiatives (e.g. a Diversity & Inclusion objective, or joining one of the Equality Support Groups) and it was agreed to raise this with the existing Equality Support Groups, to explore how we can advance the inclusion of temporary staff joining the Brigade.

## **4. Other considerations**

### *Procurement*

- 4.1. The main body of the report details the pertinent procurement issues related to the temporary labour supply contract.
- 4.2. TfL is a signatory to GLA Responsible Procurement Policies and therefore will comply by adopting the same approach as the Brigade would if it were the lead on this Procurement.
- 4.3. The Good Work Standard sets the benchmark the Mayor wants every London employer to work towards and achieve. Organisations able to meet the Good Work Standard criteria can apply for accreditation and recognition as leading employers from the Mayor.
- 4.4. It is a requirement that the successful service provider will pay all temporary workers and own employees in accordance with the National Minimum Wage and the Living Wage, incorporating the London Living Wage where applicable and will comply with the GLA group anti-slavery policies and not engage in any modern slavery practice. It is the expectation that the successful provider will engage with Micro and small and medium-sized enterprises (SME) businesses via the second-tier supply chain, and TfL reserves the right to approve suppliers in advance.
- 4.5. The evaluation stage of the procurement process has taken place electronically, via the online platform AWARD, mitigating the need for a paper-based process.
- 4.6. There is a requirement for the successful provider to have a Vendor Management System (VMS). The system will allow the Brigade to manage the administrative aspects of temporary labour supply electronically and remotely. This includes requesting hires, an approvals process and timesheet functionality. This reduces the need for paper-based administration and management of agency workers.

## **5. Financial comments**

- 5.1. This report recommends that the Brigade joins the Pan GLA collaborative group contract for the supply of temporary labour. Approval is sought for expenditure of up to £19,400,000 over four years, based on the existing annual cost of £4,200,00 with a 5% uplift and 10% contingency, leading to a projected annual cost of £4,850,000. This cost is then multiplied by 4 to represent the maximum duration of the contract. The budget for agency staff is set at £600,000 annually, with additional agency costs then being met through vacancies within the Fire and Rescue Staff (FRS) staff budget.
- 5.2. The use of agency staff would be to cover permanent staff vacancies, or circumstances where temporary additional staffing was required and in a number of cases with additional funding made available. It would often be underspending/flexibility in the staff salary budget that would fund the

agency costs. The hiring manager should review the staff budget to ensure that adequate funding is available to meet the costs of the temporary staff, and so to confirm that the costs are affordable. The expenditure would then be monitored as part of the regular financial position reporting. The Q3 financial position report (LFC-0478) included costs for 97 agency staff, but with 192 FRS staff vacancies and the FRS staff budgets forecast to underspend by £2,070k, over and above the £1,900k vacancy margin, the agency costs are affordable within the FRS staff budget overall. The costs of the agency staff can therefore be met from the FRS staff budget, however the detailed budget will reflect the intention to use permanent staff as far as possible.

- 5.3. Agency staff may also be required for either periods of high workload or to support projects. In these cases sufficient funding would need to be identified from within the department to cover any additional costs before any new spend commitments are entered into. The table at paragraph 1.11 shows that 13.5% of agency staff have been funded from capital/temporary funding, and budgets would be allocated accordingly. The special projects that make up 35% of agency staff will often be agreed as part of a formal decision, which will include the identification of funding.
- 5.4. The drivers for agency staff can vary from year to year, and a department that requires agency staff to cover vacancies or additional work in the current year may not be the same as in previous or subsequent years. It is therefore considered appropriate to maintain budgets at departmental level for permanent staff, and that will be the expected outcome, and then reassign resourcing if temporary staff are required. The LFC will review the budget for Agency staff during the year as part of the budget process and reflect any outcome of that in future budget planning.
- 5.5. There are no direct financial implications for the GLA.

## **6. Legal comments**

- 6.1. This report seeks approval to commit expenditure and award a new contract for Temporary Labour Supply.
- 6.2. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office.
- 6.3. Section 1 of the Fire and Rescue Services Act 2004 ('the 2004 Act') states the Commissioner is the fire and rescue authority for Greater London. Under sections 7 to 9 of the Act, the Commissioner must secure the provision of personnel, services and equipment necessary to efficiently meet the requirements of the fire and rescue authority.
- 6.4. Under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
- 6.5. By direction dated 1 April 2018, the Mayor set out those matters, for which the Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the "Deputy Mayor"). In particular, paragraph (b) of Part 2 of the said direction requires the Commissioner to seek the prior approval of the Deputy Mayor before "[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...". The decision to award a contract for Temporary Supply Labour as set out in the recommendation of this report far exceeds this value, therefore, this report to the Deputy Mayor fulfils the aforementioned requirement in the direction.
- 6.6. Officers have indicated in the body of the report that the tender of temporary labour has been procured in compliance with the requirements set out in the Public Contracts Regulations 2015. The recommended decision is also in line with the GLA responsible procurement policy and the LFC standing orders.



**Appendices and supporting papers:**

Appendix 1: LFC0465 – Temporary Labour Supply Contract

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

**Part 1 Deferral:****Is the publication of Part 1 of this approval to be deferred? Yes**

If YES, for what reason:

The commercial interests of the London Fire Commissioner require deferral of the decision until after the standstill period for the contract award has expired.

Until what date: 1 May 2021

**Part 2 Confidentiality:** Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer**

Richard Berry has drafted this report with input from the LFC and in accordance with GLA procedures and confirms the following:

✓

**Assistant Director/Head of Service**

Niran Mothada has reviewed the documentation and is satisfied for it to be referred to the Deputy Mayor for Fire and Resilience for approval.

✓

**Advice**

The Finance and Legal teams have commented on this proposal.

✓

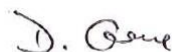
**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 1 March 2021.

**EXECUTIVE DIRECTOR, RESOURCES:**

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

**Signature**



**Date**

19 March 2021