



ESPO MANAGEMENT COMMITTEE – 25 MARCH 2011

AGENDA ITEM NO. 9

NATIONAL TEMPORARY STAFFING FRAMEWORK (MSTAR)

REPORT OF THE INTERIM DIRECTOR

Purpose of Report

1. This report aims to inform Members in respect of the above Framework and to obtain approval to award this framework agreement in April 2011.

Background

2. The Managed Services for Temporary Agency Resources (MSTAR) framework was commissioned by the Local Government Professional Services Group (LGPSG)¹ in order that local government and education establishments (as well as other wider public sector organisations) can access a national framework for Managed Services² for the provision of temporary agency resources (see Appendix 1). In seeking approval to put this framework in place, ESPO is acting on behalf of the Pro5³ group of professional buying organisations and on behalf of the local government sector. The establishment of the framework is being supported by the Cabinet Office and the Department for Education as well as the LGPSG (see Appendix 2). *It will not provide solutions for Central Government or Health departments by agreement with the Efficiency Reform Group.*
3. The MSTAR framework is a complex procurement project because of the degree of collaboration involved, the aggregation of business requirements across the wider public sector and the potential value. A separate report on this Committee's agenda (Agenda item 9, Report 'C') outlines the steps being taken by ESPO to improve the management and mitigation of risk within its business, particularly the increased risk that comes with managing complex procurements of this nature. This issue is also being addressed as part of the Review of ESPO's Business Strategy, where it is anticipated that future governance arrangements will include the scrutiny and challenge of procurement projects at a much earlier stage in the procurement process and at key decision-making points in the project lifecycle.

¹ The Local Government Professional Services Group (LGPSG) is a stakeholder group representing and supporting local authorities across England in delivering savings from the procurement of professional services.

² 'Managed Services' means where a Supplier, known as an MSP (Managed Service Provider) takes on responsibility for managing the Customer's temporary staffing supply chain and/or resource pool.

³ Pro5 consists of Central Buying Consortium (CBC), ESPO, North Eastern Purchasing Organisation (NEPO), West Mercia Supplies (WMS) and Yorkshire Purchasing Organisation (YPO). Further information is available from www.pro5.org or www.espo.org

Scope and Structure

4. This national framework will enable customers to identify and appoint a Managed Service Provider for their temporary staffing requirements. As such, the agreement will need to be entered into as a corporate arrangement. It will not operate as a Preferred Supplier List (PSL) or framework for direct supply, and will not be suitable for ad-hoc use.
5. There are 433 Local Authorities within the UK spending, in total, some £1.5 billion per annum on temporary agency resources. There are approximately 22,000 schools in the UK, between them spending in the region of £1 billion per annum on temporary agency resources. Consequently the framework was advertised at a value of between £2-4 billion during the framework lifetime.
6. Following consultation with stakeholders, the MSTAR framework has been designed to meet a broad range of user requirements, and is being structured to enable authorities to call off or mini-compete to identify the provider that best meets their needs.
7. Within the framework there are three 'lots', covering
 - Corporate staff;
 - Education staff; and
 - Corporate and Education staff combined⁴

Objectives

8. The national MSTAR framework aims to:
 - Harness the opportunity to aggregate spend and procurement know-how, gain greater value for money and cashable savings for the public sector;
 - Minimise duplication of effort and time taken within the tendering process;
 - Build strategic relationships with suppliers to gain better value for money, improve performance and align them with our organisational priorities;
 - Ensure there are fit for purpose frameworks and contracts in place across professional services spend, that best serve public sector organisations' needs;
 - Share commercial knowledge, including supplier and market intelligence and expert advice to add value across the public sector;
 - Enable Small and Medium Enterprises (SMEs) to provide services (including at a local level) via the Managed Service Provider and increasing the potential for new supplier entrants to the market to be able to participate (traditional framework solutions do not enable this flexibility).

⁴ Corporate Staff means any roles reasonably required by any Local Authority or Wider Public Sector, or Third Sector organisation and Education staff means any roles reasonably required by any educational establishment

The Procurement Process

9. A Project Board, comprising representatives from ESPO, the Cabinet Office, the Department for Education (DfE) and the Regional Improvement and Efficiency Partnerships (RIEPs), has been overseeing the development and establishment of the framework. The procurement process commenced early in 2010, when a Prior Information Notice (PIN) was submitted to the Official Journal of the European Union (OJEU) announcing the intention to establish a national framework. At the same time a letter to all key customer stakeholders was issued to all local authority Chief Executives and key education contacts (see Appendix 3). Interested parties were invited to a launch event at which 40 local authorities were present including representation from Leicestershire, Lincolnshire and Norfolk County Councils.
10. Throughout the process consultation has been extensive, discussions and briefings have taken place with over 60 local government and education stakeholders, including representatives from ESPO Member Authorities. Suppliers have also been consulted, both in the pre-procurement phase and throughout the procurement process.
11. The consultation process was key to ensuring that organisations considering using the framework had a chance to feed into the scope and specification, to be assured it will meet their needs. Five stakeholder workshops to support this objective took place between May and September 2010, including representatives from ESPO Member Authorities.
12. To date, feedback from both customers and suppliers about the consultation has been very positive.
13. An OJEU notice was placed in October and tenders were submitted in December. Evaluation has been ongoing throughout December, January and February, with customer stakeholders playing an active role.
14. Final clarifications are underway with a view to making a final award recommendation to the MSTAR framework Project Board (made up of representatives of ESPO, the Cabinet Office, the DfE and the RIEPs). The framework is on target to commence in April 2011, following Management Committee approval.
15. Stakeholder involvement will continue through the letting and subsequent management of the framework; individual users will need to manage their own supplier and service delivery, but the framework will be performance managed strategically by ESPO at a national level on behalf of the ESPO members and Pro5 to ensure satisfactory performance on an ongoing basis. Full guidance and template documentation is being prepared by ESPO to support all users of the framework, and all associated costs will be included in the rebate cost recovery.

Summary of Key Benefits and Risks

16. As previously identified, there are a number of benefits associated with both managed service provision of temporary staffing requirements (e.g. cost and process savings, greater control, improved safeguarding and detailed management information to assist with workforce planning). Establishing a national framework for such provision brings additional collaborative benefits (e.g. financial benefits and savings, increased control of the marketplace via national contract management, the opportunity to continue to develop the service delivery etc)
17. In addition, for ESPO members, the key benefits are as follows:
 - The greater usage of the framework, the increased surplus which can be shared or re-invested in service delivery to members;
 - An increase in profile for ESPO, as a professional and capable delivery vehicle for the sector, encouraging non-member usage of other frameworks let by ESPO, again leading to increase surplus;
 - As the contract managers of the framework, ESPO members will be able to input into key issues and service developments to meet their agendas;
 - Access to detailed market knowledge and information in a key spend area, for example details on legislative changes such as the Agency Workers Directive.
18. In terms of risks associated with the procurement exercise:
 - **Customers may not use the framework after a considerable amount of time and effort invested by ESPO in setting it up.** This has been mitigated by early (pre-procurement) consultation with stakeholders, ongoing consultation via workshops and newsletter updates (cascaded via the RIEP and Society of Procurement Officers (SOPO) channels). Over 70 local authorities and wider public sector organisations have committed their name to the OJEU notice as users of the framework during its lifetime, which indicates that consultation to date has been successful and indications are that commercial offerings are competitive.
 - **Tenders are received from some but not the majority of key players in the market** This was mitigated by early placement of the PIN and prior and ongoing engagement with the supply market in order that all major players were invited to submit a tender. The key players have submitted tenders and are to be offered a position on the framework.
 - **An unsuccessful tenderer may challenge the outcome.** This has been mitigated as far as possible by ensuring a robust and objective evaluation of submissions and ongoing supplier engagement both in advance of and during the procurement exercise.

19. In terms of risks associated with ongoing contract management:

- **Customers do not use the framework as accessing the framework is too complex affecting ESPO cost recovery and surplus for Members.** This has been mitigated by ESPO preparing guidance and template documentation which supports users of the framework, as part of the ongoing contract management (funded via the rebate cost recovery).
- **Contract Management is underestimated which means that ESPO does not recover all of its costs leading to reduced surplus for members.** This has been mitigated by careful mapping of contract management responsibilities and stakeholder workshops to understand in advance what contract management tasks are required. Customer expectations shall be managed accordingly and costs incurred will be a first charge on rebate recovered. ESPO will also be supported by Pro5 colleagues.
- **Suppliers challenge the outcomes of further competition exercises, or use of the framework.** This will not be ESPO's responsibility; the risk sits with the organisation running the further competition.

Resources Implications

20. This procurement exercise has necessitated considerable resource input from ESPO particularly having regard to the level of national consultation and engagement. Using the ESPO non-member day rate the direct procurement costs and expenses are circa £120k, which will be recoverable as a first charge on the supplier retrospective rebate income as it is received.
21. Participation in the framework is expected to be considerable and will benefit in endorsement of the solution from the Cabinet Office and the Department for Education, as well as the marketing potential at regional workshops (scheduled for post contract commencement). Conservative estimates of the rebate income (based on contract turnover) and payable quarterly by supplier ranges from a minimum of £145k per annum in year 1 based on current committed volume) to 225k per annum in year 1. This is based on known, combined committed and indicative commitment, some of which includes ESPO Member Authorities; Leicester City Council, Leicestershire County Council and Lincolnshire County Council, as well as some further potential for Norfolk County Council and Cambridgeshire County Council (schools only) to also access the Framework.
22. The additional benefit to member authorities is that the ESPO costs of procurement will be recovered quickly (probably entirely within the first year of the framework). The surplus income for succeeding years (conservatively stated at £145k - £225k pa) will be repayable to Pro5 member authorities, pro rata the value that their member authorities utilise the Framework, less ESPO's ongoing contract management costs.

Conclusion

23. In view of the challenging targets established within the sector as a consequence of the Government's 2010 Comprehensive Spending Review, the opportunity to leverage market-leading results from this collaboration are considerable and will deliver tangible, bottom-line savings in this high spend category for ESPO's Member Authorities and the local government sector generally. The Cabinet Office has heralded this project as an exemplar for local government collaborative procurement solutions going forward.

Recommendation

24. Members are asked to note the content of this report and to approve the award of the Managed Services for Temporary Agency Resources (MSTAR) framework contract on behalf of ESPO and Pro5.

Equal Opportunities Implications

25. Adherence to equal opportunities legislation is mandated within the terms and conditions of the framework.
26. Managed Service Providers (MSP's) shall use systems which enable Equal Opportunities information to be collected and presented to Customers as management information, in order that internal practices are replicated.
27. The Agency Worker Directive comes into effect in October, essentially giving improved rights to Temporary Agency Workers and the MSP's are expected to help monitor temporary worker assignments as part of their contract with the Customer. The MSP's may also be able to provide advice and guidance on the legislation and make recommendations regarding practical operational controls to ensure Customers are adhering to the new and complex legislation which aims to afford temporary agency workers equal treatment.

Risk Assessment

28. In light of the Public Procurement Rules and the changes brought about by the new Remedies Directive there is always a potential risk that a disaffected supplier (ie a supplier not awarded supplier status on the framework) may seek to challenge the process and/or the award. Such a challenge (whether justifiable or frivolous) could give rise to delay in contract commencement and costs to defend the challenge process.
29. A high level of engagement with HM Treasury policy advisers, Leicestershire Legal Services, quality management and collaboration generally should however ensure a minimum risk of such a challenge arising and/or being successfully pursued.
30. An MSTAR Project Risk Register has been maintained throughout, managed by Lincolnshire County Council, as outlined in the attached summary (Appendix 4).

Background Papers

None.

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Appendices

1. Supporting and Background Information
2. Key sponsors (extract from ITT 2010)
3. Letter to all Chief Executives regarding Consultation (April 2010)
4. Risk Register (March 2011)