

19/30
To Be Made.



Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 3] of Schedule 12A to the Local Government Act 1972. It is/ exempt because it refers to commercially sensitive information, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Award of a catering disposables framework agreement commencing 1 June 2019 for the provision of catering disposables.
Cabinet Member:	Councillor Benham
SLT Lead:	Tim Aldridge
Report Author and contact details:	James Hughes 01708 433906 James.hughes@havering.gov.uk
Policy context:	High Customer Satisfaction and a Stable Council Tax - Commission goods and services in a way that provides the best possible value for money.
Financial summary:	There is no commitment by either the Council or any other named organisation to use the framework agreement. The indicative value of the agreement is shown in the exempt Appendix. The duration of the agreement is four years.

Key Executive Decision – Part Exempt Report

Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more.
Date notice given of intended decision:	13 January 2019
Relevant OSC:	Overview and Scrutiny Board
Is it an urgent decision?	n/a.
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering
Places making Havering
Opportunities making Havering
Connections making Havering

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval from the Member of CLT for Children's Services to approve the award of a catering disposables framework agreement to Tri-Star Packaging Supplies Ltd.

The framework agreement will be for a period of four years commencing 1 June 2019, as this is a call off agreement there is no commitment from any participating body to the value of spend via the agreement.

The framework agreement will be for the supply of Catering Disposables and has been tendered as a collaborative opportunity on behalf of other participating bodies that were named in the tender documents. The participating bodies include other London Boroughs and Thurrock Unitary Authority.

Havering has been the lead authority for this agreement and will enter into a framework agreement with the successful tenderer, thereafter each participating body will be required to individually sign call off agreements prior to using the agreement. As the awarding body Havering will not be responsible for the totality of the contract, by signing the call off agreement the participating bodies will indemnify Havering against the associated risks of the framework.

Given the value of the agreement the Council adhered to the European Procurement Process, an advert was placed in the EU journal making prospective bidders aware of the opportunity. Thereafter the Council used the open process and an e auction to finalise the bidder's best commercial offer. It was agreed pre-tender that the opportunity would be evaluated on the basis of 100% price as the service requirements could and were clearly stated in the schedule of requirements.

Bids were received from two companies who passed the supplier questionnaire stage and submitted compliant bids, therefore both were invited to participate in the e auction.

The e auction was based on a basket of products consisting of a combination of the most frequently purchased products (by all organisations in 2017/18) plus those with the highest individual purchase price. The basket consisted of 84 individual products.

The auction resulted in 6 bids being made by bidders, the winning bidder, Tri-Star, details of the bids received are shown in the exempt appendix.

To ascertain the true savings based on the same items and quantities purchased a comparison was undertaken between the 17/18 existing price for the tendered basket and the price following the auction.

Details of the outcome of savings achieved via this tender process are shown in the exempt Appendix.

Key Executive Decision – Part Exempt Report

All prices will be fixed for the first twelve months of the agreement Prior to the tender being issued meetings were held with likely bidders as part of a soft market testing exercise, during these meetings suppliers expressed concerns over the uncertainty of wholesale prices and business costs resulting from uncertainties of the impact of BREXIT and the value of sterling.

Havering, as the lead Borough, will receive a contribution from all participating bodies calling off from the framework agreement, this covers the cost to the Council in leading the award of the contact and thereafter the contract management. The contribution is based on a 0.5% of spend, it is collected by the supplier and paid to the Council annually, it is anticipated that this will income will be c.£1k.

It is recommended that based on the outcome of this tender that Tri Star are awarded a four-year framework agreement for the provision of catering disposables.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Constitution; Section 3.3 Powers of Members of the Senior Leadership Team.

Contract powers

(b) To award all contracts with a total contract value of between £500,000 and £5,000,000.

STATEMENT OF THE REASONS FOR THE DECISION

To approve the award of a framework agreement for the supply of catering disposables on behalf of the Council and other named organisations.

OTHER OPTIONS CONSIDERED AND REJECTED

That the contract is not re-tendered and each named organisation, including the Council, enter into individual contracts with suppliers which will have a significant impact on purchase costs and staff resources.

PRE-DECISION CONSULTATION

Consultation was held with officers from the other organisations who can call off from the agreement, all were provided with opportunities to input/comment on both the tender documents and core list.

Key Executive Decision – Part Exempt Report

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: James Hughes

Designation: Catering Contracts Supplies Manager

Signature: 

Date: 3rd May 2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

This report seeks approval to award a 4 year framework agreement to Tri-Star Packaging Supplies Ltd following an open/electronic tendering process, for the supply of catering disposables.

The Council has the power under Section 1 of the Localism Act 2011 to agree the proposal set out in this report.

The total value of the contract is £838,408 and is above the EU threshold for services. The opportunity was therefore advertised in the OJEU, as confirmed above.

Officers intend to award the framework agreement to a single supplier. The Council and any participating bodies will therefore call-off the services from the Framework by a direct award as opposed to re-opening competition. Regulation 33(8) of the Public Contracts Regulations 2015 allows a framework agreement to be performed in this way. This approach is also in accordance with the Council's Contract Procedure Rule 20.4.

The Local Government Act 1999, requires the Council to make arrangements to achieve best value in the exercise of its functions. Officers have satisfied themselves that the bid submitted by Tri-Star Packaging Supplies Ltd, represented the most economically advantageous tender for the Council overall.

As the contract value exceeds £150,000 the contract must be executed as a deed by the affixing of the Council's seal. The call-off contract must therefore be sent to Legal Services to be executed.

FINANCIAL IMPLICATIONS AND RISKS

The indicative value of the agreement is £209k per annum (**£838k over life of contract**) of which LBH's spend is expected to be approximately £33k per annum (**£132k over life of contract**). The cost of purchases will be met from existing budgets held by individual services.

Whilst the procurement exercise had identified a saving across the whole basket, there is a mix of savings and increased costs across the range of products available. As such the impact on the service budget will be dependant on the mix of goods purchased. It is the responsibility of the officer placing individual orders to ensure they have sufficient funds available.

The contract will be managed by the catering service and funded from contributions received from the participating organisations. The contribution will vary according to the level of contract spend, but the risk of a significant variation is assumed to be minimal.

Key Executive Decision – Part Exempt Report

Any future CPI contract price increases will need to be met from within service budgets unless otherwise agreed by CMT through the budget setting process. Any savings or price increase resulting from the award of this framework will be realised from existing department budgets.

**HUMAN RESOURCES IMPLICATIONS AND RISKS
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no recognised issues impacting Havering or placing any risk upon Human Resources in relation to this type of contract.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty ("PSED") set out within section 149 of the Equality Act 2010 requires the Council to have due regard to (i) the need to eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by or under the Equality Act 2010; (ii) the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and (iii) the need to foster good relations between people who share a protected characteristic and those who do not. The Council is committed to improving quality of life for all, however, a detailed Equalities Impact Assessment is not considered necessary regarding this matter as there are no related implications for any particular group.

BACKGROUND PAPERS

None applicable

APPENDICIES

Appendix A	detail	Exempt
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Key Executive Decision – Part Exempt Report

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed

Name: Tim Aldridge
Cabinet Portfolio held:
CMT Member title:
Head of Service title
Other manager title:

Date: 2019

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____