

Notice of NON KEY Executive Decision

Subject Heading:	Approval to set up a new Procurement Across London (PAL) framework for Catering Disposables
Decision Maker:	Tara Geere, Director Children's Services
Cabinet Member:	Councillor Oscar Ford
SLT Lead:	Tara Geere, Director Children's Services
Report Author and contact details:	Michelle Tarten, Brokerage and Partnerships Manager 01708 431108 Michelle.tarten@havering.gov.uk
Policy context:	Supports the 'People' theme of the Havering Vision: 'Our children, young people thrive and are inspired to reach their full potential '
Financial summary:	The indicative value of the call-off contract is c. £352,500 per annum (£1,410,000 total framework value) across all PAL members. HES Catering's anticipated annual contract value is £92,000 (£368,000 total contract value). The funding will come from HES Catering Service revenue budgets. The revenue budget is generated by schools who have catering contracts with HES.
Date notice given of intended decision:	31/12/2022

Non - Key Executive Decision

Relevant OSC:	People OSSC
Is it an urgent decision?	No
Is this decision exempt from being called-in?	Yes, it is a Non Key Decision by Officer

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

People - Things that matter for residents **X**

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve the commencement a procurement process to set up a Procurement across London (PAL) framework for Catering Disposables at a total framework value of £1,410,000 for a duration of 4 years.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 4 of the Council's Constitution – Contract Procedure Rules

20.1 Members of SLT, with the agreement of the Chief Operating Officer and the Director of Legal and Governance may set up corporate and/or framework contracts for goods services, supplies or works across the Council and other public sector bodies. These shall be advertised and competitively tendered in accordance with the Council's competition and selection procedures set out in these rules and the Procurement Framework.

STATEMENT OF THE REASONS FOR THE DECISION

The current Catering Disposable single-supplier framework expires on 31 August 2023. The Council's current call-off contract expires on the same date.

HES Catering Service has reviewed the requirements and seeks to proceed to establish a new four year multi-supplier framework for this provision as soon as possible. The framework will be owned and managed by HES Catering Services and can be accessed by the members of the Procurement Across London (PAL) group and other education establishments who may join at a later date.

The Councils who form the PAL group are:

- London Borough of Havering,
- London Borough of Barking & Dagenham,
- London Borough of Tower Hamlets,
- London Borough of Waltham Forest,
- Thurrock Council

In line with Public Contracts Regulations 2015, the procurement process will be conducted using an open procedure advertised on the Find a Tender portal. A Prior Information Notice (PIN) will be used to alert the market of the tender opportunity, followed by a Contract Notice to advise that the opportunity has been published. The weighting to be used to evaluate the bids will be 70% price: 30% quality.

Non - Key Executive Decision

The prices submitted will be held until the 1st anniversary of the new framework. The contract will not include any commitment from HES Catering Service or the collaborative PAL group to volume or value of orders. PAL group members will be individually responsible for calling-off the framework via their own internal corporate governance arrangements.

Proposal

Each bidder will be fairly scored using the evaluation criteria specified within the Invitation to Tender. The top scoring bidder will be chosen as the successful supplier.

Delivering Council Policy and Priorities

The project is aligned with the following Havering priority:

‘Our children, young people thrive and are inspired to reach their full potential’

HES Catering have helped educate Havering pupils on the provenance of food and how a healthy diet, in conjunction with regular exercise, is essential to their development. The team are now embarking on a follow-up campaign with Public Health as part of the London Borough of Havering’s ‘Obesity Strategy’. HES Catering also champion inclusive values, which are reflected in menus. Theme days and menus ensure that a culturally diverse menu is on offer, helping to teach children about inclusion and diversity.

OTHER OPTIONS CONSIDERED AND REJECTED

Not to re-tender for this requirement but purchase ad-hoc from the market

That the requirements are not re-tendered and HES Catering Service purchases catering disposables an ad-hoc basis from suppliers on the open market. This option will not be compliant with the council’s procurement rules and policies due to the cumulative value of spend over time. Furthermore, the option will add significant additional cost to HES Catering Service due to the uncertainties and significant spikes in pricing of goods and raw materials being experienced across the market. This would undermine the financial viability of the service. In addition, this option will not allow for the prerequisite due diligence which is an essential part of the full competitive process to be carried out, resulting in reputational risk to the council.

Carrying out an open tender just for HES Catering

This option was considered however was rejected as the PAL arrangement delivers greater efficiencies through combined purchasing power and drives major economies of scale. Furthermore, this option would result in an estimated loss of income to HES Catering which results from managing the framework for the PAL group. The management fee which HES Catering earns is 0.5% of the total sales across the framework over its lifetime.

Call-off from an existing framework

The option to procure via existing national frameworks such as via Yorkshire Purchasing Organisation (YPO) was considered. Whilst this option can provide an alternative procurement route, the framework owners charge 1% management fee for any call-off made from their frameworks. This could potentially result in a cost of £14k over the duration of the contract. By establishing a framework managed by HES Catering Services the fees will stay within the service, and management fees will be collected from any other boroughs who access the framework and has the potential to generate an additional £2k income per annum for the service.

Non - Key Executive Decision

PRE-DECISION CONSULTATION

HES Catering Services engaged with PAL members to ascertain whether a new framework was required.

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

Name: Michelle Tarten

Designation: Brokerage and Partnerships Manager

Signature: *Michelle Tarten*

Date: 12.05.23

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council can procure the framework as it has a general power of competence under Section 1 of the Localism Act 2011 to do anything an individual can do, subject to any statutory constraints on the Council's powers. None of the constraints on the Council's s.1 power are engaged by this decision.

The framework agreement is to have a total value of (£1,410,000), with an estimated value of £352,500 per annum for call-off contracts. The aggregate sum of the proposed procurement is above the applicable Public Procurement threshold for contracts for services (£213,477) stipulated in the Public Contracts Regulations 2015 as amended ("PCR"). Procurement of the contract is therefore caught by the PCR and must comply with Regulation 33 of the PCR. The contract will be procured via the framework which will be PCR compliant and therefore, the general principles of transparency, equality of treatment, non-discrimination and proportionality will be met.

For the reason set above, the Council may procure the contract via the framework.

FINANCIAL IMPLICATIONS AND RISKS

The indicative value of the call-off contract is c. £352,500 per annum (£1,410,000 total framework value, 4-year contract) across all PAL members. Included in these totals is HES Catering's anticipated annual contract value of £92,000 (£368,000 total contract value over the lifetime of the framework duration of four years). The costs related to this procurement will be funded from HES Catering Services revenue budgets. The revenue budget is generated by the schools who have catering contract with HES. The value of the contract is based on historical actual spend plus 20% year on year rise covering inflationary pressures.

The contract will be managed by the HES Catering Service and funded from a 0.5% management fee received from the participating authorities within the PAL Framework. The contributions will vary according to the level of contract spend, but the risk of significant variation is assumed to be minimal.

Due to the current pressures faced by the catering industry in terms of supply chain issues, energy rises, fuel costs, increasing shipping costs, and labour shortages, it is likely that there will be increased costs of goods passed on by suppliers. The current contract terms of one annual price variation (maximum CPI at time of request) may also be a challenge for suppliers. Any such price increases will need to be met from within HES Catering service budget.

It is important to note that the service conducts robust contract management with each price variation request being fully analysed. The effects on budgets are scrutinised, with a view to minimising and mitigating any inflationary pressure on the service.

Being a wholly traded service, the expectation is for the contract to deliver effective value for money, allowing the service to continue operating as a feasible catering provision to its clients. However, it must be stated that there is a risk of increased costs not being met by generated income which in term might result in a deficit to the trading service.

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

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

The procurement process will be carried out in accordance with the Council's Contract Procurement Rules and the Public Contract Regulations 2015. The proposed contractor will be expected to comply with the Council's policies with regards to the promotion of equality and diversity in service delivery and employment practice.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The procurement process will follow the principle of sustainable procurement which is the act of adopting social and environmental factors alongside price and quality considerations.

Potential suppliers will have to evidence assurances on the social and environmental sustainability of their supply chain. This will be achieved via the tender process and any supplier invited to bid stage will need to demonstrate and evidence set criteria within their tender response as outlined below:

- **Social**

Bidders will need to evidence that they are robust in managing and monitoring supply chains to ensure that fair contract prices and terms are applied, that ethical, human rights and employment standards, as expressed in both the International Labour Organisation (ILO)'s and World Trade Organisation Fundamental Conventions are met.

- **Environmental**

Evidence will need to demonstrate that the company will seek to minimise any negative environmental impacts of goods and services purchased, across the whole life cycle from raw material extraction to end of life including transportation.

Throughout the contract lifecycle HES Catering will also collaborate with suppliers to identify and implement improvements and support our efforts to continually improve in the sustainable development arena.

Non - Key Executive Decision

BACKGROUND PAPERS

None

APPENDICES

None

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: Tara Geere

Cabinet Portfolio held:

CMT Member title: Statutory Director of Children's Services

Head of Service title:

Other manager title:

Date: 15.05.23

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

Non - Key Executive Decision

For use by Committee Administration

This notice was lodged with me on _____

Signed _____