

Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix (B) 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 Information relating to the financial or business affairs of any particular person (including the authority holding that information), and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	The London Collaboration – MSTAR4
Decision Maker:	Dave Mcnamara, Director of Finance
Cabinet Member:	Ray Morgon, Leader of the Council
SLT Lead:	Dave Mcnamara, Director of Finance
Report Author and contact details:	Mark Porter, Head of HR Operations
Policy context:	N/A
Financial summary:	Leading this collaboration will generate revenue for the council for 4 years as detailed in the financial implications
Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	26 June 2023
Relevant OSC:	Overview and Scrutiny Board
Is it an urgent decision?	No

Key Executive Decision – Part Exempt Report

Is this decision exempt from being called-in?	No
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The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents

Place - A great place to live, work and enjoy

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

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1. To commence the collaborative procurement of a new agency worker contract on behalf of Havering and other participating London boroughs using the Eastern Shires Purchasing Authority (ESPO) MSTAR4 framework;
2. To work in partnership with other London local authorities and enter into an inter-authority agreement with the other participating London boroughs for the collaborative procurement.

AUTHORITY UNDER WHICH DECISION IS MADE

Section 3.3 Powers of Members of the Senior Leadership Team

General Powers

(a) To take any steps necessary for proper management and administration of allocated portfolios.

Contract powers

(a) To approve commencement of a tendering process for all contracts above a total contract value £500,000.

3.10.3 S151 Officer Functions

(k) To undertake all other financial matters arising within the Council, subject to the following requirements:

(iii) All matters being within accepted accounting practice and standards and within statutory requirements.

STATEMENT OF THE REASONS FOR THE DECISION

1. The London Collaboration (LC) is a group of London and other local government authorities that worked together on a collaborative basis to procure a managed service provision of temporary workers underneath the MSTAR3 national framework.
2. The London Borough of Havering acts as the lead authority in this collaborative procurement. The London Collaboration working party consisted of representatives from Barking & Dagenham, Kingston, Sutton, Richmond, Wandsworth, Barnet, Haringey, Newham, Havering and Tower Hamlets.
3. The objective of the London Collaboration customers is to ensure the Contract delivers the strategic and local goals. The London Collaboration's strategic goals are to procure and deliver an MSP contract which delivers:
 - Innovation
 - Significant cost savings
 - Enhanced attraction and utilisation of direct Workers
 - Reduced reliance on Agencies
 - Social value
4. This was the 3rd Generation of the London Collaboration contact, with the contract first being procured in 2011 then again in 2015. At the time of going to tender 13 London Boroughs utilised the contract with a combined contract value of £251m per annum.
5. Since then the number of participating boroughs has increased to 20, and has generated income for Havering (details in Appendix B) which has been used to fund the ongoing London wide contract management and for future procurement activities.
6. The Eastern Shires Purchasing Organisation (ESPO) have let the next iteration of the framework MSTAR4 which has been available from 11 April 2023.
7. It is intended that Havering lead the next iteration of the London Collaboration using the MSTAR4 framework to procure another contract which can then be used by London boroughs for the next 4 years.
8. ESPO are part of the working group for implementation of the London Collaboration and have indicated their approval for the collaboration to go ahead and be led by Havering.
9. Participating councils will gain authorisation from a senior officer to allow them to be named on the contract.
10. The MSTAR4 contract will also include provision for a Statement of Works consultancy service (for engaging consultants outside IR35).

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11. Participation in the MSTAR4 iteration of the London Collaboration will bring in estimated revenue of between £800k and £1m in potential rebate for Havering over the lifetime of the contract
12. Once let, Havering will actively lead and participate in the London Collaboration. It is intended that Havering will use the London Collaboration framework as part of its renewal process for its agency worker contract which is due for renewal in July 2025.
13. Officers will conduct a mini competition in accordance with the framework rules and the Council's Contract Procedure Rule 20. It is intended that the council use an e-auction as part of this process. There is an e-auction facility on Fusion but it has not been tested. It is not proposed to test it with this contract. Options are being explored that have minimal/zero cost including using the e-auction facility of another participating local authority. Any costs incurred will be met from the rebate savings achieved.
14. The price/quality split for the contract will be set and agreed with all boroughs in the collaboration and bidders asked to demonstrate how they will meet the requirements of the contract.
15. In addition, the bidders will be required to demonstrate how they can add social value to the council and its residents through the contract i.e. how they will help to create jobs and opportunities for local people and support residents to become 'job ready'. This will form a key part of the evaluation of potential bidders.
16. The timeline for this procurement process is outlined in the draft project plan at Appendix A with the intention that the contract is let by 19th February 2024.
17. The council has lead three previous iterations of this contract, not leading and taking part in this process will result in loss of rebate and revenue.

OTHER OPTIONS CONSIDERED AND REJECTED

Another council in London takes the lead on this piece of work but this was rejected as it would result in the council losing revenue. The use of different frameworks was considered, but ESPO's MSTAR4 Framework is the only one that meets the collaborations needs to award a Neutral Vendor supplier under lot 1a and a Master Vendor Supplier under lot 1b.

PRE-DECISION CONSULTATION

The other participating councils in the collaboration have expressed their wish that Havering lead this piece of work again.

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

Name: Mark Porter

Designation: Head of HR – Operations

Signature: Mark Porter

Date: 26th June 2023

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

This report seeks approval to commence a procurement on behalf of Havering and other participating London boroughs and to enter into an inter-authority agreement with such London boroughs for the collaborative procurement.

The Council has a general power of competence under Section 1 of Part 1, Chapter 1 of the Localism Act 2011, which gives it the power to act as an individual would, subject to other statutory provisions limiting or restricting its use of such power. The recommendations in this report are compatible with the above statutory powers.

The ESPO Framework appears to be compliant with the Public Contracts Regulations 2015. The Framework Agreement (Contract Award Notice 2023/S 000-012351) commenced on 11 April 2023. Participating authorities have until 10 April 2025 to utilise this Framework.

The Framework affords participating authorities the option of undertaking further competition to procure a managed service for temporary agency resources. Officers must seek quotations from all of the suppliers that are able to meet the Council's requirements. As set out above, officers will conduct a mini competition in accordance with the framework rules and the Council's Contract Procedure Rule (CPR) 20.

In the event that Officers wish to depart from Council's pre-determined best price-quality ratio of 70% cost and 30% quality weighting, a separate Executive Decision report will need to be prepared and a waiver of CPR 18.4 obtained.

FINANCIAL IMPLICATIONS AND RISKS

The amount in rebate income received as a result of acting as the lead authority in this collaborative procurement are conservatively estimated in Appendix B. The exact amount received will be determined by the total agency spend incurred by the participating councils.

There are costs incurred in order to generate this income which have been approved as part of a separate non-key ED but which are included in the table in Appendix B for completeness

Not taking part in the collaboration would not only lead to a loss of income, but would also result increased agency and consultant costs and will necessitate the council running its own procurement exercise where it will not be possible to achieve rates as favourable as when negotiated as part of a collaborative group.

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

These are addressed throughout the body of the report.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have “due regard” to:

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

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

A full equalities impact assessment will be undertaken as part of the award process for the MSTAR4 contract.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

These are addressed throughout the body of the report.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

Not applicable.

BACKGROUND PAPERS

None.

APPENDICES

Appendix A	Project Plan	Open
Appendix B	Rebate information	Exempt

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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.

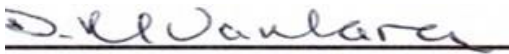
Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed 

Name: Dave McNamara

CMT Member title: S151 Officer

Date: 3rd August 2023

Lodging this notice

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

For use by Committee Administration

This notice was lodged with me on _____

Signed _____

Key Executive Decision – Part Exempt Report

EXEMPT PAPERS

APPENDIX B

Borough	Contract End Date	Financial Year*									
		Rebate 21/22	Rebate 22/23	Est Rebate 23/24	Est. Rebate 24/25	Est. Rebate 25/26	Est. Rebate 26/27	Est. Rebate 27/28	Est. Rebate 28/29	Est. Rebate 29/30	Est. Rebate 30/31
London Borough of Barking & Dagenham	Jun-25	£5,268	£12,428	£12,428	£12,428	£12,428	£12,428	£12,428	£12,428	£12,428	£12,428
London Borough of Bromley	Jun-26	£5,918	£7,471	£7,471	£7,471	£7,471	£7,471	£7,471	£7,471	£7,471	£7,471
London Borough of Croydon	Jan-27	£2,980	£5,647	£5,647	£8,843	£8,843	£8,843	£8,843	£8,843	£8,843	£8,843
London Borough of Ealing	n/a	£7,398	£3,843	£3,843	£0	£0	£0	£0	£0	£0	£0
London Borough of Havering	Jul-25	£13,157	£15,464	£15,464	£15,464	£15,464	£15,464	£15,464	£15,464	£15,464	£15,464
London Borough of Hounslow	Jan-26	£3,834	£3,572	£3,572	£5,719	£5,719	£5,719	£5,719	£5,719	£5,719	£5,719
London Borough of Newham	Mar-25	£23,326	£22,350	£22,350	£22,350	£22,350	£22,350	£22,350	£22,350	£22,350	£22,350
London Borough of Sutton	Feb-25	£7,628	£6,205	£6,205	£6,126	£6,126	£6,126	£6,126	£6,126	£6,126	£6,126
London Borough of Tower Hamlets	Feb-25	£18,378	£21,586	£21,586	£22,030	£22,030	£22,030	£22,030	£22,030	£22,030	£22,030
London Boroughs of Wandsworth & Richmond	Jan-27	£6,266	£7,912	£7,912	£10,847	£10,847	£10,847	£10,847	£10,847	£10,847	£10,847
Royal Borough of Kingston	Feb-25	£5,626	£3,679	£3,679	£3,679	£3,679	£3,679	£3,679	£3,679	£3,679	£3,679
Barnet Council	Oct-25	£5,864	£10,743	£10,743	£10,743	£10,743	£10,743	£10,743	£10,743	£10,743	£10,743
Camden Council	Feb-26	£1,417	£14,464	£14,464	£13,600	£13,600	£13,600	£13,600	£13,600	£13,600	£13,600
London Borough of Hackney	Jul-25	£22,314	£31,234	£31,234	£31,234	£31,234	£31,234	£31,234	£31,234	£31,234	£31,234
London Borough of Haringey	Aug-25	£13,051	£21,975	£21,975	£21,975	£21,975	£21,975	£21,975	£21,975	£21,975	£21,975
London Borough of Hillingdon	Jun-25	£4,613	£6,261	£6,261	£6,369	£6,369	£6,369	£6,369	£6,369	£6,369	£6,369
Redbridge Council	Aug-26	£0	£5,225	£5,225	£8,010	£8,010	£8,010	£8,010	£8,010	£8,010	£8,010
London Borough of Lewisham	Aug-27	£0	£0	£6,000	£6,000	£6,000	£6,000	£6,000	£6,000	£6,000	£6,000
London Borough of Waltham Forest	Aug-27	£0	£0	£10,500	£10,500	£10,500	£10,500	£10,500	£10,500	£10,500	£10,500
Consultancy Spend*					£6,250	£18,750	£50,000	£62,500	£75,000	£75,000	£75,000

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MSTAR 3	£147,040	£200,059	£216,559	£223,388	£70,990	£41,909	£0	£0	£0	£0	£899,943
MSTAR 4	£0	£0	£0	£6,250	£171,148	£231,479	£285,888	£298,388	£70,990	£41,909	£1,106,050
MSTAR 5?	£0	£0	£0	£0	£0	£0	£0	£0	£227,398	£256,479	£483,876
Total Rebate	£147,040	£200,059		£229,638	£242,138	£273,388	£285,888	£298,388	£298,388	£298,388	£2,489,870

* Where contract start Date falls in first 6 months of FY (Apr – Sept) spend is allocated to that year, in second 6 months (Oct – March) to the following FY

** Note figures above do not include rebate income for consultancy which is estimated to be approximately £20k per year increasing to approximately £75k per year depending on spend across boroughs as the consultancy element of Matrix only went live in Havering in September 2022.