

Notice of NON KEY Executive Decision

Subject Heading:	Approval to extend an existing Procurement Across London (PAL) framework and call- off supplier contract for Fresh Fruit and Vegetables
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 Service 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:	<p>The value of the current call-off contract is approximately £1,812,000 per annum (£4,530,000 total framework value over the 2 ½ year term) across all PAL members. HES Catering's annual contract value is c.£355,000 (£887,500 total contract value over the 2 ½ year term)</p> <p>The estimated value of the total framework, over the extension period to the 1st of December 2023, is £453,000 for PAL members with the Havering element being approx. £89,000.</p> <p>The funding will come from HES Catering Service revenue budgets. The revenue budget is generated by income from schools that have catering contracts with HES.</p>

**Date notice given of
intended decision:**

29/08/23

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Relevant OSC:	People OSSC
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

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.

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Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve the extension of an existing Procurement Across London (PAL) framework and call-off supplier contract for the supply and delivery of Fresh Fruit and Vegetables at a total anticipated framework value of £453,000 and an estimated call-off value for Havering Council of £89,000 from 1 September until 1 December 2023.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Council's Constitution – Responsibility for functions

3.3 Powers of Members of the Senior Leadership Team

Financial responsibilities

(a) To incur expenditure within the revenue and capital budgets for their allocated portfolio as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

STATEMENT OF THE REASONS FOR THE DECISION

The current Fresh Fruit and Vegetable multi-supplier framework expires on 31 August 2023. The Council's current call-off contract expires on the same date. The procurement of a new four year multi-supplier framework is underway, however, completion of the process, including contract award is expected in December 2023.

In order to ensure that Havering Education Services (HES) Catering Service, along with four other Local Authority catering services across London (who collectively form the Procurement Across London (PAL) group), continue to remain compliant in the procurement of fresh fruit and vegetables, a period of extension to the 1 December 2023 is required before the existing framework and call-off contract end on 31 August 2023.

The framework is owned and managed by HES Catering Services and can be accessed by the members of the PAL group.

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

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OTHER OPTIONS CONSIDERED AND REJECTED

Not to extend the existing framework and call-off but purchase ad-hoc from the existing supplier or the open market

That the existing framework and call-off contracts are not extended and HES Catering Service purchases fresh fruit and vegetables on ad-hoc basis from the existing suppliers or from 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 produce being experienced across the market. This would undermine the financial viability of the service.

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, it was deemed not to be feasible and commercially viable for the following reasons:

- There is insufficient time to complete the process, including carrying out the prerequisite due diligence which is an essential part of the procuring the requirement.
- It is not viable to contract and mobilise an alternative supplier for a time limited call-off lasting until the 1 December 2023.

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PRE-DECISION CONSULTATION

HES Catering Services engaged with PAL members to ascertain the necessity of the framework extension.

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

Name: Michelle Tarten

Designation: Brokerage Service and Partnerships
Manager

Signature:

Date: 18.08.23

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council must ensure that there are sufficient schools for providing primary and secondary education in its area, which must be sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education, in accordance with section 14 of the Education Act 1996. The Council is making a decision to extend the framework for the supply and delivery of fresh fruit and vegetables for that purpose.

The Council has the power to extend the framework through section 111 of the Local Government Act 1972, which allows the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions, or through its general power of competence in section 1 of the Localism Act 2011 to do anything that individuals generally may do. There are limitations on the general power of competence, but the limitations do not apply to this decision.

There are limits to the variations that can be made to a contract with public bodies after the contract has been made. However, regulation 72(5) (b) of the Public Contracts Regulations 2015 allows the Council to extend a service or supply contract by 10% of its initial contract value. The Council can use that power to extend the framework's initial term by 10% so that its expiry date is varied to the 1st December.

Therefore, the Council can make a decision to extend the framework by 10%.

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FINANCIAL IMPLICATIONS AND RISKS

The value of the current call-off contract is approximately £1,812,000 per annum (£4,530,000 total framework value over the 2 ½ year term) across all PAL members.

HES Catering's annual contract value is £355,000 (£887,500 total contract value)

The estimated value of the total framework, over the extension period until the 1st of December 2023, is £453,000 for PAL members with the Havering element being approximately £89,000.

This cost will be funded from HES Catering Services revenue budgets. The revenue budget is generated by income from schools that have catering contracts with HES.

The contract is 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.

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.

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.

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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.

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BACKGROUND PAPERS

None

APPENDIX

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:

SLT Member title: Strategic Director of Starting Well

Head of Service title:

Other manager title:

Date: 25/08/23

Lodging this notice

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

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For use by Committee Administration

This notice was lodged with me on _____

Signed _____