



**Havering**  
LONDON BOROUGH

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Approval to award a Procurement Across London (PAL) framework and call-off supplier contract for the provision of Catering Disposables
<b>Decision Maker:</b>	Tara Geere, Director Starting Well
<b>Cabinet Member:</b>	Councillor Oscar Ford
<b>SLT Lead:</b>	Barbara Nicholls, Strategic Director of People
<b>Report Author and contact details:</b>	Michelle Tarten, Brokerage and Partnerships Manager 01708 431108 <a href="mailto:Michelle.tarten@havering.gov.uk">Michelle.tarten@havering.gov.uk</a>
<b>Policy context:</b>	Supports the 'People' theme of the Havering Vision: 'Our children, young people thrive and are inspired to reach their full potential'
<b>Financial summary:</b>	<p>The indicative value of the call-off contract is c. £352,500 per annum (£1,410,000 total framework value) across all PAL members. Havering's anticipated annual contract value is £92,000 (£368,000 total contract value over 3 plus 1 year term).</p> <p>The estimated cost is based on current expenditure, however as this is a call off arrangement, there is no minimum financial commitment, and the actual cost will vary depending upon demand and can be controlled</p> <p>The funding will come from HES Catering Service revenue budgets. The</p>

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	revenue budget is generated by schools that have catering contracts with HES.
<b>Relevant Overview &amp; Scrutiny Sub Committee:</b>	People OSSC
<b>Is this decision exempt from being called-in?</b>	<i>The decision will be exempt from call in as it is a Non key Decision</i>

### **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

For the reasons set out in this report, it is recommended that Tara Geere, the Director of Starting Well, agrees to award:

- A. A Pan London multi-supplier framework agreement for the supply of Catering Disposables with an estimated value of £1,410,000, for an initial term of 3 years with the possibility of a one year extension, commencing on 1<sup>st</sup> January 2024 until 31<sup>st</sup> December 2028.
- B. A call-off contract to Bunzl UK Ltd T/A Tri-Star Packaging at an estimated maximum cost of £368,000, for the supply of Catering Disposables, for an initial term of 3 years with the possibility of a one year extension , commencing on 1 January 2024 until 31<sup>st</sup> December 2028.
- C. A call-off contract to DCS Ltd at an estimated maximum cost of £368,000, for the supply of Catering Disposables, for an initial term of 3 years with the possibility of a one year extension, commencing on 1 January 2024 until 31<sup>st</sup> December 2028.
- D. A call-off contract to GM Packaging (UK) Ltd at an estimated maximum cost of £368,000, for the supply of Catering Disposables, for an initial term of 3 years with the possibility of a one-year extension, commencing on 1 January 2024 until 31<sup>st</sup> December 2028.
- E. To note that the estimated maximum spend across the 3 contracts at B-D above is £368,000.

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### **AUTHORITY UNDER WHICH DECISION IS MADE**

#### **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**

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

### **OTHER OPTIONS CONSIDERED AND REJECTED**

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

If the Council were not to re-tender and purchases catering disposables an ad-hoc basis from suppliers on the open market, this would not be compliant with the Council's procurement rules and policies due to the cumulative value of spend over time. It is likely that the Council would also be in breach of the procurement Regulations. 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 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.

As lead for the PAL Group, the Council also has an obligation to replace the existing catering disposables framework.

#### **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 0.75% of the total sales across the framework over its lifetime which is a potential income of circa £10k to 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, the framework owners charge 1% management fee for any call-off made from their frameworks. This could potentially result in a cost of £11k 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.

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**PRE-DECISION CONSULTATION**

HES Catering Services engaged with PAL members to ascertain whether a new framework was required. It was unanimously decided by the group that the framework should be refreshed

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

Name: Michelle Tarten

Designation: Brokerage and Partnerships Manager

Signature: *Michelle Tarten*

Date: 27.11.2023

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

- The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally 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 total value of the framework contract (£1,410,000) is above the applicable threshold stipulated in Public Contracts Regulations 2015 ("PCR"). Therefore, this framework contract is subject to the full rigours of the PCR. Procurement of the framework is compliant with the PCR as set out in this report.
- The total estimated value of each call-off contract is £368,000 and is above the applicable threshold stipulated in the PCR. Each contract is caught by the full PCR 2015 regime. The framework contract allows the direct award of a call off contract to any framework contractor. As the framework contract is PCR 2015 compliant, the award of the call-off contracts as set out in this report is also PCR 2015 compliant.
- Officers confirm that all Reg 55 compliant notices were sent to the relevant candidates and tenderers. Officers acknowledge the voluntary standstill period.
- For the reasons set out above, the Council may award the Framework contract and subject to the award of the framework contract, may award the call off contracts.
- The framework contract between the Council and each supplier provides that the supplier will not hold the Council liable in relation to any call off contract between the supplier and another Council. The PAL partnership Memorandum of Understanding whilst not legally binding records each PAL member is "entirely responsible" for its own call off contract.
- The contract is for the benefit of the PAL partnership. The estimated total aggregate value to the Council of the call off contracts is below £500k as set out in this report. This decision is not therefore treated as a key decision.

### FINANCIAL IMPLICATIONS AND RISKS

The indicative value of the call-off contract is c. £352,500 per annum (£1,410,000 total framework value over a 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) relating specifically to Havering.

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The estimated cost is based on current expenditure, however as this is a call off arrangement, there is no minimum financial commitment, and the actual cost will vary depending upon demand. This allows the expenditure to be controlled. The costs related to this procurement will be funded from HES Catering Services revenue budgets. As HES Catering is a Traded Service, there is no base budget provision, but expenditure is offset against income that is generated from Catering contracts with schools. In 2022/23 there was a trading deficit of £348k, which equated to a budget variance of £+370k.

This position should improve in 2023/24 due to the introduction of Universal Free School Meals (UFSM). The estimated value of this contract is based on 22/23 spend levels which could increase as a result of UFSM.

Currently any surplus or deficit is managed through the council's general fund. Traded services are required to cover their costs and make a contribution to the management services provided to them by the Council. If the catering traded service is unable to do that going forward then it is a financial risk to the Council's General Fund position.

The contract will be managed by the HES Catering Service and funded from a 0.75% management fee received from the participating authorities within the PAL Framework. The contributions will vary according to the level of contract spend, but based on the indicative contract values shown above, this would generate income of around £2.5K per annum, with the risk of a significant variation 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 viable 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.

### **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.

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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.

#### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

The HES Catering Service recognises its role and responsibility in tackling the Social Value agenda and to contribute to the wider council's new vision of "The Havering you want to be a part of" and corporate plan.

To underpin this, the tender had a 10% sub-weighting attributed to Social Value within the overall 30% quality assessment section of the tender evaluation. This is to demonstrate to bidders that the Council wishes to award contracts to suppliers who align with its Social Value objectives, and who provide the necessary quality, provenance and sustainability certifications.

Through the tender process, bidders were asked to submit evidence of:

- How they will create employment opportunities for local people/ and/or disadvantaged people as part of the contract.
- The approach to reducing the company's carbon emissions and how they are working towards net zero greenhouse gas emissions
- Management of other environmental impacts relating the service e.g. reduced water use, reduced packaging, use of low energy equipment etc.
- How they ensure materials and products relevant to the provision of the service are sustainably sourced, produced and deployed
- Their company's measures to identify, mitigate and manage modern slavery risks relating to the contract and supply chain.

Robust evidence was supplied by all three bidders and all scored highly.

Once suppliers are awarded a place on the framework, this area will continue to be reviewed via the contract management process. The service will continue to ask for evidence both qualitative and quantitative of any initiatives undertaken. Ongoing work will take place with suppliers to encourage and support in this area.

#### **BACKGROUND PAPERS**

None

#### **APPENDICES**

None

### **Part C – Record of decision**

**Non-key Executive 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*

**Details of decision maker**

Signed



Name: Barbara Nicholls

Cabinet Portfolio held:

ELT Member title: Strategic Director of People

Head of Service title

Other manager title:

Date: 08.01.24

**Lodging this notice**

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

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_

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