

CABINET

20 September 2016

Title: School Catering Procurement Strategy	
Report of the Cabinet Member for Social Care and Health Integration	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
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Accountable Director: Chris Bush, Interim Commissioning Director, Children's Care and Support	
Accountable Strategic Director: Anne Bristow, Strategic Director for Service Development and Integration	
Summary: <p>This report presents proposals relating to the procurement of frozen foods, groceries and other products via a mini competition from the Yorkshire Purchasing Organisation's (YPO) Food Framework Agreement. The procurement is being led by the London Borough of Havering on behalf of Procurement Across London (PAL), which LBBDD is part of.</p> <p>The contracts will commence on 1 January 2017 for a three-year period, with the option to extend for up to a further year, subject to satisfactory performance of the appointed contractor.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree to proceed with the procurement of contracts for the supply of frozen foods, groceries and other products by way of a joint call-off exercise, led by the London Borough of Havering, from the Yorkshire Purchasing Organisation (YPO) framework in accordance with the strategy set out in this report; and(ii) Delegate authority to the Strategic Director for Service Development and Integration, in consultation with the Cabinet Member for Social Care and Health Integration, the Strategic Director of Finance and Investment and the Director of Law and Governance, to conduct the procurement exercises and enter into the contracts and all other necessary or ancillary agreements with the successful bidder(s) in accordance with the strategy set out in this report.	
Reason(s) To ensure the Council can continue to provide its catering services to all Schools and other areas across the Borough.	

1. Introduction and Background

- 1.1 To meet its food and beverages requirements, the Council currently has four contracts which were called off of the London Contracts and Supplies Group (LCSG) Framework Agreement.

Each contract has been called off of separate Lots from the LCSG's Framework Agreement, which was led by the London Borough of Havering.

Contract	Supplier	Contract Commencement date and end date
Supply and Distribution of Frozen Food	Brakes	1 January 2013 to 31 December 2016
Supply and Distribution of Dried and Chilled Foods (Grocery)	Thomas Ridley & Son	1 January 2013 to 31 December 2016
Supply and Distribution of Meat	William White	New contact awarded in January 2016 for 4 years
Supply and Distribution of Fruit & Vegetables	Prescott Thomas	New contact awarded in January 2016 for 4 years

- 1.2 Two of the four contracts, the Supply and Distribution of Frozen Food and the Supply and Distribution of Dried/Chilled Foods (Grocery) expire on 31 December 2016 and new contracts will need to be put in place.

- 1.3 In addition, LBBD also has arrangements with four other suppliers to provide products that are not currently provided as part of the above named contracts:

- Pasta Products and Sauces– Pasta King
- Pasta Products and Sauces – Smart Food
- Frozen Meat products – NHCASE
- Cakes – Oh so Scrummy
- Frozen Cakes - NHCASE

- 1.4 Contracts were awarded under delegated authority with these suppliers but all are approaching their expiry dates.

- 1.5 Procurement Across London (PAL) is a working group made up of representatives from each London Borough. The following London Borough members of PAL have a requirement for Frozen Food and Dried/Chilled Food (Grocery) and each has agreed that their requirements shall be included as part of the mini competition, which is being led by the LB Havering, from the new YPO Framework. The participating Boroughs from PAL are Barking & Dagenham, Enfield, Greenwich, Havering, Tower Hamlets, Thurrock and Waltham Forest.

2. Proposed Procurement Strategy

- 2.1 Given that the current arrangements for the Supply of Frozen Food, the Supply of Dried / Chilled (Grocery) Food and the Supply of Fresh Cakes have proved successful and they meet all the necessary criteria for the Catering Services on-

going 'Food for Life' accreditation, the recommended procurement route for these requirements is for LB Havering to carry out a mini competition and e-auction, from the new YPO Framework on behalf of the participating Authorities of PAL. This is compliant with European Legislation and all suppliers on the Framework have been pre approved and accredited.

2.2 The recommended procurement strategy for the services that are currently being provided separately, as outlined in 1.3 of this report, is the following;

- **Pasta products and sauces (Pasta King) and (Smart Food)** – The procurement of the Pasta products and Sauces will be conducted compliantly under delegated authority due to the values and timescales required.
- **Fresh Cakes (Oh so Scrummy)** – LB Havering to carry out a mini competition and e-auction, from the new YPO Framework, Lot 8; Morning Goods, on behalf of the participating Authorities of PAL.
- **Frozen Cakes (NHCase)** - As these products are frozen they will be amalgamated into the Contract for the Supply of Frozen Food, as detailed in 2.1 above.
- **Frozen Meat products (NHCase)** - As these products are frozen they will be amalgamated into the Contract for the Supply of Frozen Food, as detailed in 2.1 above.

2.3 Following completion of the mini competitions, Corporate Procurement shall carry out a benchmarking exercise for all products to ensure that calling off of the Framework Agreement represents best value for money for LBBD. Corporate Procurement shall also actively baseline the product requirements to ensure value for money. If the outcome of the benchmarking exercise demonstrates that calling off of the Framework does not represent best value for money for LBBD then a Procurement Strategy report will be resubmitted with timescales, for approval.

Timetable for Mini Competitions

Task	Dates
LB of Havering to coordinate participating boroughs product requirements for each Lot.	July – mid September 2016
Cabinet Approval of Strategy Report	20 September 2016
LB of Havering to carry out mini competition for each Lot and advise each participating borough.	End September – beginning October 2016
Corporate Procurement to carry out a benchmarking exercise against the mini competition pricing.	Mid October 2016
Obtain approval to award each call off contract from the Framework by the relevant Chief Officer, in consultation with the relevant	End October / beginning November 2016

Cabinet Member(s), the Strategic Director of Finance and Investment and the Director of Law and Governance.	
Contract Commences	1 January 2017

3. Outline specification of the works, goods or services being procured

3.1 To Supply and distribute the following food to all schools and other catering areas within LBBB:

- Frozen Food, including cakes and frozen meat and vegetables
- Dried and Chilled Food including tin goods and chilled meat
- Cakes (fresh) – cookies and muffins

4. Estimated Contract Value, including the value of any uplift or extension period

The following is a breakdown of LBBB's current contract arrangements:

Contract Provision	Current Supplier	Annual Spend (1 April 2015 – 31 March 2016)	Contract End Date
Supply of Frozen Foods	Brakes	£986,603	31 December 2016
Supply of Dried and Chilled Foods	Thomas Ridley	£297,110	31 December 2016
Supply of Frozen Meat	NH Case	£85,211	31 December 2016
Cakes (fresh)	Oh so Scrummy	£55,287	31 December 2016
Cakes (Frozen)	NH Case	£1,667	31 December 2016
Total		£1,515,747	

4.1 The total estimated value of each LBBB Contract is:

Provision of Frozen Food £4,293,924 for a total 3 + 1 year Contract term.
 Provision of Grocery Food £1,188,440 for a total 3 + 1 year Contract term.
 Provision of Fresh Cakes £221,148 for a total 3 +1 year Contract term.

4.2 **Duration of the contracts, including any options for extension.**

It is recommended that each contract shall be for 3 years, with the option to extend for up to a further year.

4.3 Each Contract is subject to the EU Public Contracts Regulations 2015. Each Framework Agreement has been let in accordance with the EU Regulations by YPO and therefore OJEU compliant. LB Havering shall be responsible for ensuring they carry out the mini competition for Frozen Food, Grocery and Fresh Cakes in accordance with the Framework conditions.

4.4 **Recommended procurement procedure and reasons for the recommendation**

4.4.1 **Supply of Frozen Food, Groceries and other products**

The recommended procurement procedure for the Supply of Frozen Food, the Supply of Groceries and the Supply of Fresh Cakes is to call off of the new YPO Framework as a participating Authority member of PAL. There are currently 7 participating Authorities that each have a requirement for Frozen Food and Groceries.

LB Havering will act as the lead Authority to conduct both the call off competitions, including an e-auction. The consolidation of the participating Authorities will be based on requirements for volumes, products and delivery requirements for the further competition. Each Authority will enter into its own call off contract.

Consolidated spend across these Authority's for Frozen Food and Groceries is circa. £15.2m pa. Details on product requirements for Fresh Cakes is currently being gathered by LB Havering so consolidated spend detail on Fresh Cakes is not yet known.

Given the large aggregated spend for Frozen Food and Groceries by the participating Authorities this presents the opportunity to achieve economies of scale through the YPO Framework.

If LBBD were to run its own procurement for their product requirements it may not necessarily achieve the same value as calling off of the PAL/YPO Framework given its aggregated spend.

There are no local suppliers on any of the Framework's. To ensure a fair and equal process Corporate Procurement shall engage with local SME's as part of the baseline process laid out in 2.3 of this report.

The benefits of joining the PAL/YPO Framework include;

- PAL/YPO as a large scale procurement may achieve economies of scale
- The greater buying leverage of PAL/YPO brings a larger product package to the market which should ensure value for money through the anticipated volume of spend. If LBBD were to procure as a lone entity they may not achieve the same value for money.
- Accessing the YPO Framework would save LBBD the time, cost and resource involved in running a full and compliant OJEU tender process.
- Suppliers on the Framework have been pre-approved ensuring they meet a minimum standard.
- Pre-determined core buying list.
- Full range of all meat produce, frozen and grocery, including Halal.
- Farm assured organic ranges

- Produce standards for school meal provision that enables as a minimum the Soil Associations Bronze award
- Flexible delivery schedules
- Contract management and compliance to reporting requirements supporting Food for Life Catering Mark Standards.
- Each participating Authority is able to negotiate their own Rebate Share which will be payable directly to the Authority.

By consolidating each Authorities requirement to create a core list of products through PAL/YPO should result in savings for each participating Authority. As a result of several Authorities requirements being consolidated it should give each participating Authority access to greater savings than would be available to each Authority individually.

This should also save the participating Authorities paying for additional staff resources to manage the setting up and running of individual contracts.

Each participating Authority will potentially be able to access certified produce. Certified produce guarantees the environmental standards.

Although prohibited by EU law from requesting produce from the UK, it is possible to request seasonal produce. The objective is to maximise the amount of UK grown seasonal produce. UK produced provisions consumed in season will often have a lower environmental impact than imported produce, which supports British farmers. Corporate Procurement liaised with LB Havering to find out what the product baseline was and what impact, if any, requesting local produce had on the baseline. Their response was it is currently unknown what that impact is, however they confirmed that the base principle of seasonal produce is that the produce is available and cheaper though maybe only for a short growing season, also that the supplier is available to source, for a limited period, produce that has an oversupply in the market.

Although YPO have made available the suppliers named for each Lot of their Framework, it is currently unknown whether each of these suppliers is able to provide to the greater London area although it is reasonable to assume this as some currently provide products to LBBD.

The LB of Havering is currently coordinating the core list of products from each participating Authority in order to carry out a mini competition and e-auction from the specified Lots from the YPO Framework. The LB of Havering estimates that all three mini competitions shall be completed around the end of September beginning of October 2016. It will not be known until then if calling off of the Framework represents the best value for money for LBBD, therefore, it is recommended that following the outcome of each mini competition, Corporate Procurement undertake a benchmarking exercise in order to ascertain that calling off of the Framework is the best option for LBBD before entering into a call off contract for frozen food, grocery food and fresh cakes.

4.5 The contract delivery methodology and documentation to be adopted

- 4.5.1 All suppliers will deliver directly to the schools kitchens and some non school locations that are managed by Catering staff. All deliveries are originated from

purchase orders raised from Head Office based at the Town Hall. All contracts are monitored, and invoices paid by the Business Support Unit and monitored by the Business Support Unit via Catering Head Office based at the Town Hall.

4.5.2 By utilising the Framework Agreement LBBD are bound to use their terms and conditions of Contract.

4.6 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contracts

4.6.1 Until the mini competition is carried out it is unknown whether calling off of the Framework represents the best value for money. This will not be known until the mini competition has been completed and the recommended benchmarking exercise has been carried out by Corporate Procurement.

4.6.2 The YPO Framework has a supplier rebate is set at 1%. This rebate will be split on a 50/50 basis with LB Havering; both YPO and LB Havering will collect their respective share by invoice from the successful supplier on a quarterly basis directly. Other London Boroughs may wish to negotiate additional rebates based upon their individual spends from the successful supplier and collect from the supplier on the same basis. Any additional rebates negotiated will form part of LBBD's call off contract.

4.6.3 This will be subject to Elevate gainshare.

4.7 Criteria against which the suppliers are to be selected and contract is to be awarded

4.7.1 For the procurements through the YPO Framework:

Price – 50%

Quality – 50%, which includes delivery, customer service and added value.

4.8 How the procurement will address and implement the Council's Social Value policies

4.8.1 Deprivation is high and obesity levels in Barking and Dagenham being significant and complex. To maintain the current school meal will ensure our healthy meals are accessible to all children.

4.8.2 Eating a healthy diet, in particular a school meal has a positive impact on educational attainment. This has been evidenced as part of the research into the work behind the Infant free school meal. Since September 2014 all children in reception, year 1 and year 2 in state-funded schools in England get a free lunch at school resulting in over 5000 additional children eating every day.

4.8.3 Other benefits include:

- Access increased buying power and economy of scale to progress to Gold Food for Life. Meeting this standard enhances the quality and provenance of the meal on the plate. Increasing the 5% free range 15% of organic produce and from scratch menu items plus a meat free day.

- Affordability not only maintains our current customer base but directly competes with unhealthy packed lunches
- Contributes towards the achievement of Healthy Schools London – working in partnership encouraging school meal uptake including free school meals.
- Supports the journey of the School Food Plan.
- Is compliant with and meets, Government Nutritional standards
- The provision of the school meals service, which is popular, successful and award winning and raises civic pride.

4.8.4 LBBB's school food based standards accommodate all dietary needs, meets LBBB's Catering Services' commitment to ensure the local school population are healthy; achieve more at school, improving civic pride and social responsibility.

4.8.5 Future consideration may be required for provisions to comply with Food for Life accreditation

5. Options Appraisal

5.1 Option One – Access Relevant ESPO Framework Agreement;

For Frozen Food and Grocery

ESPO Framework 83 Multi temperature food and non food distribution;

This contract allows the selection of the following:

Lot 1 – Supply and distribution of grocery and provisions

Lot 2 – Supply and distribution of frozen food and

Lot 3 – A one stop shop for the Supply and distribution of multi temperature food, provisions and non food.

There are numerous suppliers on the Framework for each lot. LBBB's incumbent provider for frozen food, Brake Bros are on Lots 1 and 2 and LBBB's incumbent provider for grocery, Thomas Ridley is on all three Lots.

As there is more than one supplier that can meet LBBB's requirements for each lot it is not possible to carry out a direct award and so a mini competition is required to be carried out.

Pros

- Quick route to market. Framework is EU compliant and means that LBBB would not need to run a full procurement process. This would save LBBB time and resource involved in running a compliant tender process in line with OJEU legislation.
- Suppliers on the contract have been pre approved.
- Lot 1 Grocery – there are 3 suppliers able to distribute to the greater London area
- Lot 2 Frozen – there are 3 suppliers able to distribute to the greater London area
- One stop shop - there are 2 suppliers able to provide a complete service in the greater London area
- The requirement to run a mini competition which should drive value for money amongst competitors.

Cons

- It cannot be demonstrated to deliver value for money until a mini competition is run.
- There are few suppliers on the Framework for each Lot that can distribute to the greater London area and so there is limited competition.

For Cakes

ESPO Framework 833 – for Supply of Fresh cakes.

Pros

- Quick route to market. Framework is EU compliant and means that LBBD would not need to run a procurement process. This would save LBBD time and resource involved in running a compliant tender process in line with OJEU legislation.
- Suppliers on the contract have been pre approved.
- The requirement to run a mini competition which should drive value for money amongst competitors.

Cons

- It cannot be demonstrated to deliver value for money until a mini competition is run.
- There are only two suppliers named on the Framework and so there is limited competition

5.2 Option Two - Competitive Tender

The level of spend across each of the contracts is over the OJEU limit of £164,176. Should LBBD run an open procurement incorporating multi lots, it is required to be carried out in line with EU Legislation, in that an OJEU advert and statutory timelines are required to be adhered to.

Pros

- By carrying out a multi lot tender LBBD's requirement for grocery, frozen food, pasta, including pasta sauces and cakes can all be tendered at the same time.
- An open lot multi tender will expose the opportunity to the open market and thus should encourage greater competition and drive value for money amongst potential bidders.
- By going to market with an all encompassing multi lot tender this could save LBBD future time and resource as it involves one multi lot tender exercise completed at the same time as opposed to running separate tenders.
- Approaching the market with a multi lot tender ensures the opportunity is accessible to SME's and will show LBBD's willingness to engage with local suppliers.
- Will provide LBBD with the opportunity to build their requirements to shape the supply chain, e.g. by encouraging larger suppliers to engage with local SME's
- Will provide LBBD with the opportunity to include in the contracts clauses for the encouragement of the supplier's to employ local people.

Cons

This option was rejected for the following reasons:

- This option will take significant time given the statutory timelines that must be adhered to when running an OJEU tender exercise. An OJEU tender will take between 2/3 months to complete. There will also be considerable time and effort of resource involved to complete the procurement.
- There will be the opportunity to test the market and run a tender exercise separately to demonstrate if PAL/YPO is delivering value for money, although this is a timely exercise.
- All of the Lots for a multi lot tender would be over the OJEU limit of £164,176. There is no evidence to suggest that there are SME's or local suppliers able to meet the financial threshold requirements, demonstrate they have the experience of providing a similar service or provide and distribute the required products on the scale required. To investigate this option an OJEU PIN notice should be placed to commence engagement with the market to establish whether there are any local suppliers interested and able to meet LBBD's requirements.

5.3 Option three - Source Locally

The opportunity exists to source products locally from local butchers, bakeries and green grocers. Market engagement would need to be carried out with local businesses to understand if they are able to meet all the requirements of the council. This approach is likely to support local SME's within the borough whilst also ensuring there is local investment in the area.

This option was rejected as market engagement would need to be undertaken to understand if this is a viable option. This option should be explored for future viability.

Corporate Procurement shall engage with local suppliers to see if they are able to supply the product requirements as part of the benchmarking exercise.

5.4 Option Four - Access Relevant Yorkshire Purchasing Organisation (YPO) Framework

YPO have just concluded a procurement exercise in order to set up a Framework Agreement which consists of the following Lots;

Lot 1 – 10 Suppliers	Lot 2 – 10 Suppliers	Lot 3 – 5 Suppliers	Lot 4 – 7 Suppliers	Lot 5 – 6 Suppliers
Groceries	Frozen Foods	Community Meals	Meal Concepts	Fruit & Vegetables
Brakes Turner Price Bestway David Miller Thomas Ridley JJ Food Service Blakemore Bidvest Freshfayre Kent Frozen Foods	Hopwell's Turner Price David Miller Blakemore JJ Food Service Brakes Bestway Thomas Ridley NH Case Bidvest	Apeito Punjab Kitchen NH Case Tillery Valley Anglia Crown	TUGO Bidvest Smartfood UK Pasta King Chicken Joe's Brakes NH Case	Ron Chalker Ralph Livesey Brakes GW Price Stuart Foods MA Forshaw

Lot 6 – 14 Suppliers	Lot 7 – 6 Suppliers	Lot 8 – 11 Suppliers	Lot 9 – 7 Suppliers
Chilled Foods	Fresh & Cooked Meats	Morning Goods	Sandwiches & Wraps
Brakes JJ Food Service CFC Food Partners Freshfayre Blakemore Bidvest FP Processing Bestway Ralph Livesey Thomas Ridley Turner Price West Country Milk Stuart Foods Clegg's	James Burrows Midlands Foods Underwood's MC JW Young Welsh Bros Clifton's QM	Coulton's Ron Chalker FP Processing Brakes Kent Frozen Foods Morris QB JJ Food Service West Country Milk MA Forshaw's Stuart Foods Haigh's (Guiseley)	Tiffin Sandwiches Adelie Tastes of Chester Capital Catering Lime Tree Foods Shaw & Lisle Anchor Catering

**For Frozen Food, Grocery and Fresh Cakes – Lots 1, 2 and 8.
Recommended Option**

Pros

- Quick route to market. Framework is EU compliant and means that LBBD would not need to run a full procurement process. This would save LBBD time and resource involved in running a compliant tender process in line with OJEU legislation.
- The requirement to run a mini competition which should drive value for money amongst competitors.
- Our incumbent supplier for Frozen Food - Brakes, and our incumbent supplier for Grocery, Thomas Ridley are named on the Framework along with other suppliers although the information on whether all suppliers named on the Lot are able to supply to the Greater London area is not yet available from YPO.
- PAL/YPO as a large scale procurement may achieve economies of scale
- The greater buying leverage of PAL/YPO brings a larger product package to the market which should ensure value for money through the anticipated volume of spend. If LBBD were to procure as a lone entity they may not achieve the same value for money.
- Accessing the YPO Framework would save LBBD the time, cost and resource involved in running a full and compliant OJEU tender process.
- Suppliers on the Framework have been pre-approved ensuring they meet a minimum standard.
- Pre-determined core buying list.
- Full range of all meat produce, frozen and grocery, including Halal.
- Farm assured organic ranges
- Produce standards for school meal provision that enables as a minimum the Soil Associations Bronze award
- Flexible delivery schedules

- Contract management and compliance to reporting requirements supporting Food for Life Catering Mark Standards.
- Each participating Authority is able to negotiate their own Rebate Share which will be payable directly to the Authority.

Cons

- It cannot be demonstrated to deliver value for money until a mini competition is run.
- Our incumbent supplier for Fresh Cakes, Oh so Scrummy, is not on the Framework, although this is not surprising as Oh so Scrummy is a branded product.
- Although some of the Suppliers on the Frameworks are London based, none are based in LBBB although as part of YPO's invitation to tender Suppliers were required to provide information on locally sourced produce.
- The Framework is new and as yet there are no details available on whether any supplier has stipulated conditions around minimum order vales or delivery charges.

6. Equalities and other Customer Impact

- 6.1 The schools meals offer takes into consideration dietary needs, including Halal provision per cultural requirements.

7. Other Considerations and Implications

- 7.1 The implications of not being able to use the aforementioned suppliers would result in over 50 of the boroughs kitchens, not being able to produce any school meals for the borough's school children that take up school meals, schools would not be able to meet their statutory requirements in respect of FSM pupils

- 7.2 **Risk and Risk Management** - Catering will monitor all of the Contracts and hold regular contract meetings with each Supplier. Kitchen managers are required to provide regular feedback on supplier performance which will be fed back to the Framework holder.

Catering management may carry out regular visits and audits to sites, which includes assessment of the offer, standard of food provided.

An online catalogue will be hosted on Oracle for a basket of goods for each contract.

7.3 Safeguarding Children

- Adhering to government nutritional standards.
- Linked to allergen menus for healthy eating agenda in association with Soil Association, Food for Life criteria.

- 7.4 **Health Issues** - By ensuring the provision of a healthy school meal offer, with options and choices; all dietary needs meets with LBBB's Catering Services' commitment to ensure the local school population are healthy; achieve more at school, improving civic pride and social responsibility.

8. Consultation

- 8.1 Consultation for this procurement has taken place through circulation of this report to relevant Members and officers. The proposals within this report were also considered and endorsed by the Corporate Procurement Board on 15 August 2016.

9. Corporate Procurement

Implications completed by: Euan Beales, Head of Procurement and Accounts Payable

- 9.1 The Councils Contract Rules require all contracts over £50,000 to be competitively tendered. The only part exemption to this rule is the use of open and accessible frameworks.
- 9.2 This report outlines the intention to utilise frameworks as the preferred routes to market, which comply with EU Procurement regulations in terms of their award. The report outlines that mini competitions will be completed, at this stage value for money cannot be confirmed, but due to time constraints an open market procurement would not be possible.
- 9.3 To ensure Value for Money is achieved, it is recommended that a benchmarking exercise is conducted in the open market and, based on the results, a further open procurement may be required.

10. Financial Implications

Implications completed by: Daksha Chauhan, Group Accountant, Children's Finance

- 10.1 This report requests approval to proceed with the procurement of contracts as detailed in section 2 of this report. The procurement for these goods and services is being undertaken by Procurement Across London (PAL) consortium which consists of 7 authorities, including the London Borough of Havering. Approval is sought for the London Borough of Havering to run a mini competition off the Yorkshire Purchasing Organisation (YPO) food framework and the ESPO street food framework for the goods and services to be procured.
- 10.2 The estimated cost of these framework contracts for the Council is £1,515,747 p.a. (£6,062,988 for 4 years including the extension). This spend is budgeted and is recovered through income generated by the catering service through traded services with schools.
- 10.3 The YPO Framework has a supplier rebate is set at 1%, with an opportunity to negotiate further rebates dependent on the level of spend. Any savings accrued as part of this contract will be subject to gain share at the agreed rate between the Council and Elevate. This will be calculated on actual data and usage on a monthly basis.
- 10.4 The report also seeks approval for Corporate Procurement run a benchmark exercise in conjunction with the PAL/YPO processes to ensure that value for money is being achieved through the Framework Agreements.

11. Legal Implications

Implications completed by: Bimpe Onafuwa, Contract and Procurement Lawyer

- 11.1 This report is seeking approval for a number of procurement exercises. Firstly, it is requesting permission to join in the process of calling off the Yorkshire Purchasing Organisation's Food Framework. It is intended that LBBD will collaborate with participating authorities that are part of the Procurement Across London (PAL) group, with LB Havering leading the mini-competition.
- 11.2 The Public Contracts Regulations 2015 (the Regulations) permit contracting authorities to call-off valid frameworks in order to procure goods, services or works, as required. Such frameworks should have been set up in accordance with the Regulations.
- 11.3 Nonetheless, when calling off this framework, the exercise has to be in compliance with the principles of the Regulations. This procurement process therefore has to be transparent, non-discriminatory and fair. Clause 2.1 of this report indicates that the contract will be advertised amongst suppliers on the YPO framework, while clause 4.7 explains that the evaluation criteria will be on a 50% quality and 50% price basis. Additionally, clause 2.3 sets out the timetable for completion of the procurement exercise. These show evidence of a fair tender exercise.
- 11.4 So long as the strategy in this report is adhered to, and the procurement exercise is conducted transparently and fairly, due compliance with the procurement principles can be met. Legal Services therefore do not see a reason why the recommendations of this report which seek approval for procurement exercises should not be approved.

Background Papers Used in the Preparation of the Report: None

List of appendices: None