

CABINET

19 December 2012

Title: Framework Agreement for the Supply of Certain Foodstuffs	
Report of: Cabinet Member for Children's Services	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
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Accountable Divisional Director: Meena Kishinani, Divisional Director of Strategic Commissioning and Safeguarding	
Accountable Director: Helen Jenner, Corporate Director of Children's Services	
Summary <p>This report seeks approval for the Council to participate in a Framework Agreement being led by the London Borough of Havering for the supply of i) dried, chilled goods and groceries; and ii) frozen goods. The Framework Agreement is for a duration of four years beginning on 1 January 2013, with no option to extend. The procurement of the Framework Agreement has been led by the London Borough of Havering on behalf of a number of participating authorities including Tower Hamlets, Waltham Forest, Enfield, Redbridge, Greenwich and Haringey and was advertised for use by all London Boroughs and public authorities as part of the London Contracts Supply Group (LCSG).</p> <p>The contracts are for the goods used in school kitchen for the preparation of school meals. The total spend by the Council over the next four years is anticipated (based upon previous use and future forecasting) to be in excess of £7m. The value of the previous four years was £7.1m. This is funded from the Dedicated Schools Grant (DSG).</p> <p>Following the tender exercise led by the London Borough of Havering, the contracts were awarded to two; Brakes (frozen goods) and Thomas Ridley (grocery products and dried food). These are the same providers that have been supplying the described goods for the past four years as part of the current Framework Agreement which expires on the 31 December 2012, with no option to extend.</p>	
Recommendation(s) <p>The Cabinet is recommended to agree that the Council be named as a participating authority in a four-year Framework Agreement, led by the London Borough of Havering and involving a number of other participating authorities, for the provision of (a) dried and chilled goods and groceries, and (b) frozen goods, for use in the preparation of school meals.</p>	

Reason(s)

The current Framework Agreement expires on 31 December 2012, with no option to extend. A decision to not subscribe to the new Framework Agreement would present a real risk of a break in service provision or, where service provision were to continue, it would be at a significantly increased cost.

1. Introduction and Background

- 1.1 The current Framework Agreement for the supply of i) dried, chilled goods and groceries; and ii) frozen goods was awarded in December 2008 and expires on 31 December 2012.
- 1.2 Following a tender exercise, led by the London Borough of Havering, the new contracts have been awarded for a new Framework Agreement - commencing on 1 January 2013 - to two suppliers: Brakes (frozen goods) and Thomas Ridley (dried, chilled goods and groceries). These are the same providers that have been supplying the described goods for the past four years as part of the current Framework Agreement.
- 1.3 Following a key decision taken by the Executive Director for Finance (London Borough of Havering) on 14 March 2012, permission was granted for the tender process to commence and for this to be undertaken jointly with the other authorities previously mentioned with officers from Havering being the lead officers on both contracts.
- 1.4 A basket of the most frequently used items for both ranges was drawn up by the Catering Managers from Havering and all the other authorities. A set of requirements was specified and made common for all Boroughs where possible to permit ease of operation by suppliers.
- 1.5 An open tender procedure was used as there are a limited number of suppliers able to provide a wide range of goods. The contract was advertised in accordance with European Legislation and a total of five suppliers submitted completed documents for the supply of frozen goods and four suppliers bid for the dried, chilled goods and groceries contract.
- 1.6 The assessment of the tenders was split 60:40 price and quality and further weighting was carried out to ensure the qualitative aspects important to the Catering Managers were addressed appropriately. For example delivery of service was rated highly.
- 1.7 The bids submitted by the companies were assessed for completeness and accuracy and the contracts awarded accordingly. Details of the tenders received and award process and scoring are available separately if required.

2. Proposal and Issues

- 2.1 It is proposed that Cabinet agrees to the Council being named on the resultant Framework Agreement emanating from the recent tender exercise completed by the London Borough of Havering for the provision of:

- a) Dried, chilled goods and groceries; and
- b) Frozen goods

- 2.2 This approach has the benefits of continued partnership with neighbouring authorities, continues to build upon existing success as well as realising the strengthened buying potential of a consortium. The contracts are for the good used in the preparation of school meals.
- 2.3 The particular contractual method recommended to Cabinet (a Framework agreement) has additional advantages. It does not oblige the local authority to purchase any particular volume from a provider. As the tender would be issued on behalf of some or all of the participating authorities the quality assurance requirements would be identical, leading to efficiencies on the local authorities' side in their respective commissioning and procurement services.
- 2.4 Both Brakes and Thomas Ridley lead the way in products and ingredients designed especially for schools. There is a commitment to educating, promoting healthy eating and encouraging the benefits of a balanced diet. In particular, both suppliers are required as part of the tender process to be able to provide specific products that help customers meet Food for life Bronze, Silver and Gold criteria.
- 2.5 Both suppliers are required to monitor and evidence production standards in particular the provenance of the products they supply e.g. Red Tractor , Fair Trade and organic, working closely with the Food Standards Agency to review and up date the range on a regular basis.
- 2.6 Under the current framework agreement, both suppliers have worked in partnership with the Schools Catering Service to develop new and attractive, healthy meal options as well as embracing school level initiatives and contributing to the promotion of school meals generally. All products used are nutritionally analysed to ensure compliance with School Food Standards and nutritional content.
- 2.7 The framework will be accessible to all boroughs subscribed to the Framework Agreement, namely; LB Tower Hamlets, LB Waltham Forest, LB Enfield, LB Redbridge, LB Greenwich and LB Haringey, and advertised for use by all London Boroughs and public authorities as part of the London Contracts Supply Group. (LCSG)
- 2.8 Each of the above named boroughs has indicated their wish to participate from the commencement of the framework. The framework agreement will run for four years from 1st January 2013

3. Options Appraisal

- 3.1 **Do Nothing:** The current Framework Agreement – and thus contractual relationship with the relevant suppliers - expires on the 31st December 2012. This option would result in either a discontinuation, or reduction, in service provision, or the maintenance of service provision at what is likely to be a significantly increased cost.
- 3.2 **LB Barking and Dagenham tenders its own contracts for the supply of i) dried, chilled goods and groceries; and ii) frozen goods:** A tender exercise of

this magnitude could not be completed by the expiry date of the current Framework Agreement. This would therefore realise some, if not all, of the risks outlined in the 'Do Nothing' option, and would also mean that even once a procurement exercise is completed, LB Barking and Dagenham would not realise the potential buying-power of a consortium approach.

- 3.3 **Consider alternative procurement options:** There are potentially alternative procurement opportunities that could be considered. These include, but are not limited to; ESPO grocery and frozen frameworks; Universities Catering Association frameworks; or a possible Central Buying Consortium (CBC). Each of these would require a degree of evaluation prior to any recommendation as the viability of these options is unknown at this stage.
- 3.4 **Subscribe to the Framework Agreement lead by the London Borough of Havering:** This is the recommended option for the reasons outlined in the 'Reasons' section and discussed throughout this report.

4. Consultation

- 4.1 There has been extensive consultation with all boroughs involved in the creation of this Framework Agreement throughout the procurement process. This report has also been circulated to members of Children's Services DMT for discussion and to other key stakeholders whose comments have been incorporated within the report.

5. Financial Implications

Implications completed by: Dawn Calvert, Finance Group Manager

- 5.1 The purpose of this Framework agreement is to ensure that the provision of dried, chilled goods, groceries and frozen goods is secured from the most economically advantageous provider(s) for the duration of four years.
- 5.2 The Framework agreement in no way commits the Council to any expenditure with any particular provider. Catering Services provide a school meals service which is agreed with schools via a Service Level Agreement (SLA). Individual schools meet their service level agreement costs from their delegated budget (funded by the DSG).
- 5.3 The Framework may result in savings by joint working, economies of scale and by use of shared services where possible. The framework contract when signed will be for 4 years. It is expected to continue to deliver value for money.

6. Legal Implications

Implications completed by: Daniel Toohey, Senior Lawyer

- 6.1 The Council has the power to enter into contracts for the supply of dried, chilled goods, groceries and frozen food ("the supplies") under section 1 of the Local Government (Contracts) Act 1997 on the basis that such Services are properly required for the discharge of Council's duties.

- 6.2 As the estimated value of the services exceeds the EU threshold for services (currently £156,442), there is a legal obligation to comply with the general EU Treaty principles of equal treatment of bidders, non-discrimination and transparency in procuring the services.
- 6.3 In compliance with Rule 3.6 of the Council's Contract Rules which requires the strategy for the procurement of contracts of above £400,000 in value to be submitted to Cabinet for approval prior to procurement of such contracts.
- 6.4 The report states that the Framework Agreement to which this report relates was the subject of an open procedure tendering exercise conducted by Havering; the open procedure is a form of tendering exercise compliant with the EU procurement regulations. Assuming Havering officers have complied with the regulatory requirements Legal see no barrier to using such a Framework.
- 6.5 In compliance with Regulation 19(10) of the EU Regulations, the report states that the proposed Framework Agreement will not exceed a four-year period.
- 6.6 The Government actively encourages collaborative working between local authorities. The Local Government White Paper – "Strong and Prosperous Communities" – encouraged joint commissioning of services by local authorities and highlighted its potential benefits, including achieving economies of scale.

7. Other Implications

- 7.1 **Risk Management** - There are no adherent risks with regard to this contract. The contract is a Framework Agreement for the supply of dried, chilled good, groceries and frozen foods.

The Framework agreement in no way commits the Council to any expenditure with any particular provider. Furthermore, all expenditure will be from the DSG, and not General Fund.

The current Framework Agreement – and thus contractual relationship with the relevant suppliers - expires on 31 December 2012. This option would result in either a discontinuation, or reduction, in service provision, or the maintenance of service provision at what is likely to be a significantly increased cost.

- 7.2 **Contractual Issues** - As this operation is funded exclusively from the DSG it does not fall under the purview of Elevate.

Background Papers Used in the Preparation of the Report:

- Cabinet Report and Minute "Framework Agreement for the Supply of (i) Dried, Chilled Goods and Groceries and (ii) Frozen Goods", 9 September 2008.
- London Borough of Havering Cabinet Report; "Framework Agreement for the Supply of (i) Dried, Chilled Goods and Groceries and (ii) Frozen Goods", 14 March 2012

List of appendices: None