

Cabinet 3 June 2020	 TOWER HAMLETS
Report of: Debbie Jones, Corporate Director Children and Culture	Classification: Unrestricted
Contract Services Supplier Contracts 2020/2021	

Lead Member	Councillor Candida Ronald - Cabinet Member for Resources & the Voluntary Sector
Originating Officer(s)	Ronke Martins-Taylor, Divisional Director Youth and Commissioning Jenny Pittam, Interim Head of Contract Services
Wards affected	N/A
Key Decision?	Yes
Forward Plan Notice Published	13 May 2020 – General Exception Notice
Reason for Key Decision	Financial Threshold
Strategic Plan Priority / Outcome	A dynamic outcomes-based Council using digital innovation and partnership working to respond to the changing needs of our borough.

Executive Summary

This report sets out a request to approve extensions for Contract Services that are let jointly for the Procurement Across London (PAL) group. The PAL group is a London and Regional Catering Managers consortium and it includes the following councils:

- Havering,
- Barking & Dagenham,
- Enfield,
- Waltham Forest,
- Tower Hamlets,
- The Royal Borough of Greenwich
- Thurrock Unitary Authority

PAL contracts are managed by London Borough of Havering One Source procurement team on behalf of the London Borough of Tower Hamlets.

This report is required because there have been delays by London Borough of Havering One Source in procuring catering contracts in time due:

- to changes in their procurement leadership team,
- loss of department staff; and
- capacity issues.

The PAL group contracts that are the concern of this report expired variously in September 2018 and December 2019. This resulted in all PAL local authorities being in breach of local authority Procurement Regulations.

Concern about the delays in awarding the new PALs contracts were raised by the PAL group at their meeting in October 2019 and it was agreed to complain formally, in writing, to the Head of Procurement at London Borough of Havering One Source; and to ask for an explanation for the contract delays. In February 2020 a response was received from One Source who promised to dedicate more resources to the PAL group and to procure contracts by summer 2020.

Although the Mayor and Burgesses of the London Borough of Havering have signed contract extensions LBTH must now seek local approval to authorise expenditure. Approval will:

1. Enable the London Borough of Tower Hamlets to regularize its current use of the extended PAL contracts;
2. Ensure that, if needed, following the end of the extended PAL contracts the relevant Corporate Director has delegated authority to undertake monthly expenditure until Havering has awarded new contracts;
3. Allow London Borough of Tower Hamlets enough time to follow its own internal due processes to authorize the award and expenditure against those contracts.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Approve, in line with the timetable below, the contract extensions that are let jointly for the Procurement Across London (PAL) group; and
2. Delegate authority to the Corporate Director to authorise monthly expenditure until new contracts have been awarded by Havering One Source.

1 REASONS FOR THE DECISIONS

- 1.1 Contract Services manages vital catering services for the provision of school meals as well as other catering and hospitality services requirements. Continuation of the provision of these live services is essential in order to feed our customers. There is also need to ensure a continuation of supplies to meet the needs of Contract Services whilst the correct procurement due diligence for the award of the contracts is undertaken. In addition to this there is a need to ensure that food supplies are not disrupted during the Covid-19

pandemic lockdown.

2 ALTERNATIVE OPTIONS

- 2.1 “Do nothing’: This option is not recommended as it would result in LBTH Contract Services being in a longer term breach of local authority Procurement Regulations.

3 DETAILS OF THE REPORT

- 3.1 This report sets out a request to approve extensions for Contract Services that are let jointly for the Procurement Across London (PAL) group. The PAL group is a London and Regional Catering Managers consortium and it includes the following councils:

- Havering,
- Barking & Dagenham,
- Enfield,
- Waltham Forest,
- Tower Hamlets,
- The Royal Borough of Greenwich
- Thurrock Unitary Authority

The aim of PAL is to achieve best value for the purchase of goods and services by combining the borough wide purchasing power and working collaboratively. PAL contracts are managed by London Borough of Havering One Source procurement team on behalf of the London Borough of Tower Hamlets.

This report is required because there have been delays by London Borough of Havering One Source in procuring catering contracts in time due:

- to changes in their procurement leadership team,
- loss of department staff; and
- capacity issues.

The PAL group contracts expired variously in September 2018 and December 2019.

This resulted in all PAL local authorities being in breach of local authority Procurement Regulations.

Concern about the delays in awarding the new PALs contracts were raised by the PAL group at their meeting in 15th October 2019 and at that meeting it was agreed to formally write a complaint to the Head of Procurement at London Borough of Havering One Source.

In December 2019, a letter of complaint, about the delay in procuring and awarding new contracts, was sent to the Head of Procurement at London Borough of Havering One Source. The letter asked for an explanation for the

delays and for assurances to the PAL group that the contracts would be tendered going forward on time (see Appendix 1).

The Head of Procurement at London Borough of Havering One Source finally responded to the complaint from PAL group on 3 February 2020; and confirmed that following a restructure One Source would dedicate staff to work on the procurement of the contracts that were timetabled to be awarded by mid-Summer 2020. In addition, they also indicated that they had finalised the letting of the Disposables contract following a considerable delay. (see Appendix 2).

The Mayor and Burgesses of the London Borough of Havering signed agreements with all contractors supplying to the PAL group agreeing to 6-8 month extensions to allow for the procurement of the contracts to take place. The agreements were received by the PAL group on 26th February 2020. The PAL group was informed that the agreed extensions covered all parties who use the frameworks.

The following table details the catering contracts that have signed agreements by London Borough of Havering One Source to extend the contracts until they are re-procured. The type and value of the contracts for the proposed duration of the new contract is also detailed in the table.

Contract Title	Contract Expiry Date	Award Date with Extension	Contract Value for duration	Framework Duration with Call off opportunity	Comment
Light Catering Equipment Framework (Nisbets & VW Howe)	31/12/2019	30-Aug-20	£69,960	Dual contract award 2 years 4 months	Approval is needed for the use of PAL group extended contracts and on-going monthly expenditure until LBTH procurement due diligence is complete.
Fresh & Frozen Meat & Poultry (WW Meats)	31/12/2019	31-Jul-20	£3,583,440	Sole supplier with backup 4 years	
Fresh Fruit & Vegetables (Prescott Thomas)	31/12/2019	31-Jul-20	£800,000	Multiple supplier award 2 Years	
Groceries, Dried, Tinned, Chilled/Frozen Foods (Thomas Ridley)	31/12/2020	31/12/2020 no extension required	£7,345,018	Sole supplier 4 Years	Approval is needed for expenditure against this PAL group contract until LBTH procurement due diligence is complete
Catering Disposables (Tri Star)	01/09/2018	Awarded January 2020	£114,133	Sole supplier 2 years 4 months	Approval is needed for expenditure against this PAL group contract.

Delays in the procurement process led by Havering One Source have adversely impacted on LBTH's ability to adhere to its own Procurement due diligence. In order to pre-empt this happening in future this report also requests that the Corporate Director is given delegated authority to approve expenditure on a monthly basis thereafter from July/August 2020. In addition to this the Groceries, Dried, Tinned, Chilled/Frozen Foods contract ends in December 2020 and thereafter, should there be a delay in awarding the new contract this may also need an extension. The extensions will give enough time for Havering One Source to award new contracts; and LBTH time to follow our own Procurement due diligence.

One Source has proposed that due to the resource intensive procurements that they include provisions in future frameworks to allow the procurements to be staggered, reducing the strain on future resource.

Although the Mayor and Burgesses of the London Borough of Havering have signed contract extensions LBTH must now seek local approval to authorise expenditure. Approval will:

- Enable the London Borough of Tower Hamlets to regularize its current use of the extended PAL contracts;
- Ensure that, if needed, following the end of the extended PAL contracts the relevant Corporate Director has delegated authority to undertake monthly expenditure until Havering has awarded new contracts;
- Allow London Borough of Tower Hamlets enough time to follow its own internal due processes to authorize the award and expenditure against those contracts.

4 EQUALITIES IMPLICATIONS

4.1 Not Applicable

5 OTHER STATUTORY IMPLICATIONS

5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

- 5.2 The council is obliged as a best value authority under Section 3 of the Local Government Act (1999) to “make arrangement to secure continuous improvement in the way in which it functions are exercised having regard to a combination of economy, efficiency and effectiveness”. Contract extensions are needed in order to ensure continuity in the delivery of the meals service and ensure best value through the procurement of new PAL group contracts.

6 COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report requests approval to enter into contract extensions that are let jointly for the consortium of local authorities called the Procurement Across London (PAL) group.
- 6.2 There is no commitment on Tower Hamlets to spend to the value of the contract as it is a framework contract. Spend will only be incurred based on demand for supplies.

7 COMMENTS OF LEGAL SERVICES

- 7.1 Section 17 of the Children Act 1989 imposes a general duty on local authorities to safeguard and promote the welfare of children within their area who are in need. The Council also has a statutory duty to promote the well-being of its residents under the Care Act 2014.
- 7.2 The Council has the legal power to undertake the activities identified in this report.
- 7.3 This report seeks approval of the extension of the contracts relating to catering services procured via the Procurement Across London (PAL) group.
- 7.4 Whilst the report defines the actions required as an extension of these contracts, under the Public Contracts Regulations 2015 the extensions constitute direct awards as their value exceeds the relevant threshold contained in the Regulations and the maximum length of four years established under Regulation 33 for Framework agreements.
- 7.5 This means that the contracts should ordinarily follow the normal procurement route and be advertised. However, a new competition in itself must also comply with the requirements and timescales set out in the regulations which will take some considerable time to complete and the Council is beholden to the completion of the PAL’s retender timescales.
- 7.6 Considering that a considerable delay in re-procuring these contracts has occurred due to the Havering One Source lack of resources and restructure it is clear that the Council has no intention to avoid competition or act anti-competitively.
- 7.7 It is anticipated that the new procurement exercise will be carried out mid-Summer 2020 and the direct awards will ensure continuity of the services and avoid the exposure of vulnerable people to risk. Therefore, the most

expedient approach is to issue direct awards for such a period to the existing PAL contractors and subsequently month by month awards but only in as far as is necessary to allow for the completion of the new procurement.

7.8 It is notable that guidance provided by the Government demonstrates the expectation that the provision of free meals to eligible children should not be affected by the Covid-19 outbreak and that services are provided even if the School is open only for certain groups or closed.

7.9 There are no direct legal Equality Act 2010 issues arising from this report

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

Appendix 1 – Complaint letter to One Source

Appendix 2 – Response to complaint letter from One Source

- NONE

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

Officer contact details for documents:

N/A