

	<p style="text-align: center;">Executive 10 December 2012</p> <p style="text-align: center;">Report from the Director of Children and Families</p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p style="text-align: center;">Authority to award a framework agreement for the provision of school meal services to Brent schools</p>	

Appendices 1 and 2 of this report are “Not for Publication”.

1.0 Summary

- 1.1 This report requests authority to award a framework agreement for the provision of school meal services (the “Framework Agreement”) as required by Contract Standing Order No 88. This report summarises the process undertaken in tendering this Framework Agreement and, recommends a method of appointment of contractors to the Framework Agreement.

2.0 Recommendations

- 2.1 That the Executive note that there has been amendment to the evaluation criteria approved by the Executive on 23 April 2013 for appointment to the Framework Agreement for the reasons detailed in paragraph 3.8.
- 2.2 That the Executive note the procurement process for the Framework Agreement as set out in section 3 of the report.
- 2.3 That the Executive authorise the Director of Children and Families in consultation with the Director of Legal and Procurement to approve the award of Framework Agreement and the appointment of 2 contractors onto the Framework Agreement for a period of 3 years from 4 January 2013 (with the option to extend for up to one year).

3.0 Detail

Background

- 3.1 Responsibility for the provision of school meals is delegated to schools and their governing bodies. Therefore, schools are able to make their own arrangements regarding the provision of school meal services. However through discussions between Council Officers and schools it was agreed that there were significant advantages from tendering the service as a framework agreement in joint collaboration with schools instead of individual schools tendering the services on their own. The associated benefits of jointly procuring the service through a framework agreement includes;
- Reducing the duplication of effort and the need for multiple tender processes by individual schools for the same service.
 - As part of joint working to procure the service, schools will be able share and utilise best practice from each other which will be incorporated into the tender documentation and would improve service delivery.
 - Standardising tender documentation (i.e. specifications, terms and conditions) and cost for meals across schools.
- 3.2 22 schools expressed an interest in being part of the joint procurement exercise and calling off their school meal services from the framework agreement when in place.
- 3.3 On 23rd April 2012, officers sought and obtained approval from the Executive for pre-tender considerations and the criteria to be used to evaluate tenders. Approval was also given to officers to invite expressions of interest, agree shortlists and invite tenders in accordance with the procurement timetable and evaluate them in accordance with the approved evaluation criteria.

The tender process

- 3.4 It was indicated in the report to the Executive of 23 April 2012 that consideration was being given to the inclusion of the Council's meals on wheels service as part of the procurement and also to the number of providers to be appointed to the Framework Agreement. In the event, Officers concluded it was not appropriate to include the meals on wheels service and the decision was taken to proceed with the procurement on the basis that the Framework Agreement was purely for the provision of school meal services for all schools in Brent. Further, Officers concluded, following discussions with schools that two providers would adequately provide the required service across schools and should be appointed to the Framework Agreement.
- 3.5 Advertisements were placed in the Official Journal of the European Union (OJEU), a catering trade journal and the local paper. Shortlisting

questionnaires, and an information pack containing the summary of service and tender approach were sent out and thirteen (13) contractors returned the questionnaires.

- 3.6 Shortlisting was carried out on the basis of the contractors' financial viability, technical ability and experience. Six (6) contractors passed the council's pre-qualification checks and on 16th August 2012 all six (6) contractors were invited to tender.
- 3.7 The Executive of 23 April 2012 approved certain pre-tender considerations, including the proposed evaluation criteria and weightings attributable to the evaluation criteria. The criteria and weightings were as follows:

Criteria		Weighting
Quality Criteria		50%
	The extent to which proposed menus meet current government food standards, special dietary requirements and encourage healthy eating	
	customer care - covering how feedbacks and complaints are incorporated to improve service provision	
	Ability to meet the requirements of the service specification.	
	Marketing strategy to encourage / increase meal uptake	
	mobilisation period and start up (ability of the contractor to ensure a smooth and seamless implementation of the new service)	
Price		50%

- 3.8 Following further discussions with schools wishing to use the Framework Agreement, it was concluded that a case study looking at how contractors proposed to provide various requirements at different schools may be a better way to assess the suitability of contractors.

Schools also proposed certain other criteria they considered would be helpful in evaluating tenders and suggested increasing the weighting to be given to quality criteria to 60% rather than 50%. Given that the Framework Agreement is to be used exclusively by schools, Officers considered it appropriate to take on board these further suggestions. As the timetable for procurement was short, with schools wanting to start using the framework as soon as it is let, Officers did not consider that there was sufficient time to revert to the Executive for approval of revised pre-tender considerations and proceeded to invite tenders using the evaluation criteria and weightings detailed below:

Criteria		Weighting
Quality Criteria		
Case Study		
	Case Study Question	20%
	Case Study Pricing Schedule	10%
General Quality Questions		
	Service Delivery	10%
	Approach to TUPE	5%
	Cashless system	5%
	Service Marketing	5%
	Client Relationship	5%
Price Criterion		
	Generic Pricing Schedule	40%

Evaluation process

- 3.9 A tender evaluation panel was formed, consisting of School Bursars and Head Teachers from Lyon Park Junior and Infant School, Wembley Primary School, Byron Court Primary School, Kingsbury Green Primary School, Granville Children Centre, Harlesden Primary School, Our Lady of Grace Infant School and Michael Sobell Sinai School and the Senior Category Manager from the Legal and Procurement Department.

- 3.10 All tenders had to be submitted no later than 12 noon on 27th September 2012. Tenders were opened on 27th September 2012 and five (5) valid tenders were received. Details of tenderers are set out at Appendix 1. Sufficient hard and electronic copies of each tender were available to member of the evaluation panel.
- 3.11 During the evaluation process, it has become necessary to clarify with tenderers the method of evaluation of tenders. To this end, officers are writing to tenderers clarifying the method of evaluation and allowing tenderers further time to adjust their tenders. As certain schools wish to start using the Framework Agreement as from January 2013 and to avoid the delay in bringing this matter back to the Executive following clarification, members are recommended to authorise the Director of Children and Families in consultation with the Director of Legal and Procurement to approve the award of Framework Agreement and the appointment of 2 contractors onto the Framework Agreement for a period of 3 years from 4 January 2013 (with the option to extend for up to one year).
- 3.12 It is proposed the Framework Agreement will commence on 4th January 2013 subject to the Council's observation of the requirements of the mandatory standstill period noted in paragraph 5.3 below. It is intended for schools to start using the framework from mid January 2013. The schools would be able to call off the framework by-
- 3.12.1 a direct award to the highest ranking service provider on the framework without carrying out a mini competition where the terms laid down in the Framework Agreement are sufficiently precise to cover their particular call-off requirement. This method of call-off will be exceptional.
- 3.12.2 carrying out a mini competition exercise between the two contractors on the framework where there are additional and/or specific requirements to meet the school's needs i.e. different dietary requirements resulting from religious / cultural beliefs, TUPE implications, catering equipment maintenance, refurbishment / investment in school's kitchen (as required from the service providers by the school) etc.

It is envisaged that the majority of the call offs will be based on mini competitions as each school will have additional and/or specific requirements which will differ among schools. This will enable the service providers to price against these additional / specific requirements, agree it with schools which will ensure that the school's requirement can be adequately met.

4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval of the award of

the contract.

- 4.2 The estimated value of call-off contracts from the Framework Agreement is approximately £4.4 million over the maximum 4 year period.
- 4.3 It is anticipated that the cost of all call off contracts from the framework will be funded by schools and therefore, there is no financial impact on the Council.

5.0 Legal Implications

- 5.1 The estimated value of this Framework Agreement over its lifetime is higher than the EU threshold for Services. The provision of school meal services are classified as a Part B Service under the Public Contracts Regulations 2006 (the “EU Regulations”) and as such are not subject to the full application of the EU Regulations (save that there must be a technical specification contained in the contract documents and on award of the Framework Agreement the Council must issue a Contract Award Notice in the OJEU). Part B services are however subject to the overriding EU principles of equality of treatment, fairness and transparency in the award process. In addition, the award is subject to the Council’s own Standing Orders in respect of High Value Contracts and Financial Regulations as the estimated value of contracts called-off is in excess of £500k. As a result Executive approval is required for the award of the Framework Agreement.
- 5.2 Individual call-off contracts may be awarded subject to Executive approval to award the Framework Agreement and appoint the recommended tenderers to the Framework. Individual call – offs can be awarded without the need to separately advertise and procure through a full tender process. The Framework Agreement includes a prescriptive call-off protocol (“the Protocol”) that Schools must adhere too when calling off services under the Framework Agreement; the use of the Protocol is to ensure fairness and transparency.
- 5.3 Although school meal services are classified as Part B Services, Officers have decided that the award of this Framework should be subject to a voluntary minimum 10 calendar day standstill period before the Framework is awarded. The standstill period will begin the day after all Tenderers are sent notification of the award decision and additional debrief information will be provided to unsuccessful tenderers. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council’s award decision if such challenge is justifiable. However, if no such challenge or successful challenge is brought during the period, then as soon as possible after the standstill period ends, the successful tenderers will be issued with a letter of acceptance notifying them of appointment to the Framework Agreement which will commence on 4th January 2013.

5.4 Further Legal Implications are contained in Appendix 1

6.0 Diversity Implications

6.1 The service specification reflects the dietary requirements resulting from religious / cultural beliefs and health needs. All tenderers have demonstrated in their pre qualification questionnaire and tender responses that they will be able to meet these requirements i.e. the provision of halal and non halal meals, vegetarian meals, kosher meals etc.

7.0 Staffing/Accommodation Implications (if appropriate)

There are no staffing implications for the Council in letting the Framework Agreement. There may be staffing implications for schools calling-off contracts from the Framework Agreement and any current contractor's staff and in house staff (as appropriate) will be entitled to transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 to the appointed Contractor(s) on the Framework Agreement at the call off stage. There is provision within the call-off Protocol in the contract to ensure that providers on the framework can price for the service against TUPE information supplied by the incumbent.

8.0 Background Papers

There are no background papers in relation to this report.

Contact Officers

Jessica Nwoko
Legal and Procurement
Tel: 020 8937 1838
Email: Jessica.nwoko@brent.gov.uk

Mustafa Salih
Assistant Director Finance and Resources
Tel: 020 8937 3191
Email: mustafa.salih@brent.gov.uk

KRUTIKA PAU
Director of Children and Families