

**Report of; Gillian Banks**

**Report to; Chief Officer**

**Date: 08 July 2014**

**Subject: To award to Victor Limited a contract call off from ESPO framework contract number 98 to the value of approximately £230,000.**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

- 1.1 This report seeks approval to call off from ESPO framework contract 98, up to 130 hot and ambient trollies of behalf of schools and children's services to support the implementation of the Universal Frees School Meal.
- 1.2 It is estimated that the purchase of the items will incur expenditure of up to £230,000 with Victor Limited, a supplier on the ESSPO/PRO5 framework.
- 1.3 An approval has already been obtained by Children's Services for The Catering Agency to utilise the PRO5 framework contracts in order to obtain a suitable contractor to supply the necessary equipment.
- 1.4 This procurement is on behalf of Children's Services who have the delegated capital funding together with an agreement for match funding from schools. This procurement is not being funded form the Catering Leeds budget.
- 1.5 Catering Leeds has explored the options available within the ESPO framework, and Victor Limited, best meet the requirements of the service.

## **Recommendations**

The Chief Office of Civic Enterprise Leeds is recommended to approve the purchase of the hot and ambient trollies by utilising ESPO framework contract 98.

### **1 Purpose of this report**

- 1.1 To provide reason for awarding to Victor Limited, a call off of additional heavy equipment, namely hot and ambient trollies, to the value of £230,000 from ESPO framework contract 98.

### **Background information**

- 2.1 Leeds City Council has been allocated a sum of money to facilitate the delivery of the free school meals programme in September 2014.
- 2.2 A series of audits have been undertaken to identify the ability of the existing kitchens to meet the demand of the increased number of anticipated meals. This has shown that a range of equipment will be required to be purchased, including up to 130 heated trollies.
- 2.3 The value of the goods required is in excess of the limit for advertising in the OJEU and as such the only practical solution would be to utilise an existing framework, established for the purposes of supplying catering equipment.
- 2.4 This has identified that the PRO 5 group of public buying organisations have established contracts for this purpose
- 2.5 The frameworks identified have been advertised in the OJEU and has been subjected to competition

### **3 Main issues**

- 3.1 Catering Leeds received authorisation to look at products with ESPO contract 98, with the purpose of fulfilling the additional requirements for UFSM in September 2014
- 3.2 The framework specifications were assessed and the Catering Leeds confirms that it meets the supply requirements in terms of (i) technical ability to provide the services that are required and (ii) quality and technical ability of the suppliers on the framework.
- 3.3 Catering Leeds asked suppliers from the appropriate section and subsection, as to whether they could meet the detailed specification.
- 3.4 A number of suppliers returned their offers. Each was reviewed to assess how the returns matched the specifications, and the costs involved.

3.5 Victor Limited is able to fully meet the specification with an existing model of hot trolley. Their price was the lowest for an already available product.

3.6 Victor Limited are able to meet deadlines for delivery.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 Catering Leeds consulted with procurement and agreed the framework as the most expedient way of sourcing this type of equipment for the free school meals programme.

4.1.2 The PPPU & PU Compliance and Regulation Team have been consulted and provided legal advice on the use of this framework at paragraph 4.5 to this report

4.1.3 A number of stakeholders have been consulted and Catering Leeds worked closely with children's services. This also includes a head teacher UIFSM steering group which was established in February. Head teachers, governors and elected members were consulted at an event on 27<sup>th</sup> February. All schools have had an opportunity to provide information about their own kitchen equipment needs.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 The impact of the positive outcomes of school meals is borne out by the Government's intention to implement the Universal Free School Meal from September 2014 as an attempt to improve standards of attainment within schools. This will have a positive impact on equality of provision.

### **4.3 Council Policies and City Priorities**

4.3.1 A key objective within the Best Council Plan 2013 – 2017 is to build a child friendly city. The delivery of pupil places through Basic Need is one of the baseline entitlements of a Child Friendly City and contributes directly to key outcomes identified within the Children and Young People's Plan 2011-2015 to 'improve healthy lifestyles' and 'encourage healthy eating' and 'increase uptake of free school meals'

4.3.2 Provision of free school meals is a statutory obligation.

### **4.4 Resources and Value for Money**

4.4.1 This procurement will not affect the Catering Leeds budget as ordering is on behalf of Children's Services and all costs will be passed on. A DDN and DCR for each school has been approved by Children's Services

4.4.2 The ESPO framework contract identified has been advertised in the OJEU and has been subjected to competition.

## **4.5 Legal Implications, Access to Information and Call In**

4.5.1 This is an administrative decision as defined under Article 13 of the Council's constitution. It does not require publication and is not subject to call-in under the Scrutiny Board Procedure Rules.

4.5.2 The Compliance and Regulation Team have reviewed the advertisement of the framework and are satisfied that the notice published in OJEU on 12 September 2012 clearly includes the Council within the bodies entitled to use lot 6 of the framework.

4.5.3 The framework agreement has been established, to the best of the Council's knowledge having reviewed this, in accordance with the Public Contract Regulations 2006 and is not the subject of any challenge.

4.5.4 Use of an established framework precludes the Council from holding a whole-of-market competitive process in procuring a service.

4.5.5 Use of an approved framework is fully in accordance with the CPRs, which define an Approved Framework as an agreement set up by an external organisation which has been authorised by PPPU/PU. It is considered that such authorisation is merited for this agreement.

4.5.6 This is an administrative decision. It does not require publication and is not subject to call in.

4.5.7 The Chief Procurement Officer has been advised that this report is required to meet the Council's obligations of transparency and openness. There are no other legal provisions requiring a further competition exercise to be carried out

## **4.6 Risk Management**

4.6.1 The supply of free school meals is a statutory obligation. The council requires a supplier of equipment to be able to supply equipment in a timely manner. Without this the council will fail to meet its statutory obligation

4.6.2 In reviewing whether an external framework should be approved for use by the Council, the prevailing risk is that there exist economic operators who are not appointed to the framework and who could challenge their exclusion from consideration for the contract. It is considered that in light of the information in this report, this risk is mitigated.

4.6.3 Additional risk is inherent in the lack of control which the Council has over the procedure for establishment of the external framework. There are no current or previous challenges to this framework of which the Council is aware and legal advice is that the procedures seem robust.

4.6.4 There is further risk in ensuring the entitlement of the Council to utilise the framework. It is considered that this framework is clearly open to the Council.

4.6.5 The supply of free school meals is a statutory obligation. The council requires a supplier of equipment to be able to supply equipment in a timely manner. Without this the council will fail to meet its statutory obligation.

## **5 Conclusions**

5.1 The award of a call off to Victor Limited from the PRO5/ESPO framework contracts for catering equipment is appropriate for LCC.

5.2 The framework meets its requirements in terms of technical ability to provide the services that are required and quality and technical ability of the suppliers on the framework.

5.3 Best Value will be obtained due to the fact that the providers have been subjected to a competitive tendering process.

5.4 Victor Limited can meet the required lead times.

## **6. Recommendations**

6.1 The Chief Office of Civic Enterprise Leeds is recommended to approve the call off award to Victor Limited, for the purchase of hot and ambient trollies from ESPO contract 98.

### **Background documents**

None

