

## Report of Head of Catering

Report to Chief Officer, Civic Enterprise Leeds (CEL)

Date: 03 May 2019

**Subject:** Approve the waiver of CPR 9.1 and 9.2 to enter into a new contract with the Yorkshire Purchasing Organisation (YPO) without seeking further competition, for a period of three years

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| Are specific electoral Wards affected?<br>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?<br>If relevant, Access to Information Procedure Rule number: 10.4(3)<br>Appendix number: 1, 2 and 3 | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |

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## Summary of main issues

1. Catering Leeds is responsible for the supply of meals to approximately 220 sites, mainly primary schools. In order to supply the meals, there is a requirement for grocery items. This value is estimated at £1,800,000 per year. The current arrangement with the YPO for the provision of groceries has been in place since 2010. Use of the YPO continues to demonstrate best value for money, and it is recommended that Leeds City Council (the Council) continue with the current arrangement for a further three years.
2. In order to determine best value for money benchmarking exercises have taken place which show that using the YPO continues to offer a minimum of £20,000 savings per annum against alternative suppliers. In addition, the YPO give annually a rebate of £31,000 and loyalty vouchers for groceries of approximately £26,000.
3. The YPO is a central purchasing body for the purposes of the Public Contracts Regulations 2015 (the Regulations) and the Council is able to purchase goods directly from a central purchasing body without the need to go out to further tender, as the YPO has already procured the goods in accordance with the Regulations.

4. This arrangement will require a waiver of CPR 9.1 and 9.2 which states that competition is required for procurements valued over £100,000 and that at least four written tenders should be invited.

### **Recommendations**

5. The Chief Officer of CEL is recommended to approve the waiver of CPR 9.1 and 9.2 to enter into a new contract with the YPO, without seeking further competition, for a period of three years, commencing on 1<sup>st</sup> August 2019 with an estimated value of £1,800,000.00 per annum.

## **1 Purpose of this report**

- 1.1 This report seeks approval from the Chief Officer CEL to waive CPR's 9.1 and 9.2 in order to enter into a new contract with the YPO, without seeking further competition, for the purchase of grocery items for a period of three years from 1<sup>st</sup> August 2019.

## **2 Background information**

- 2.1 Catering Leeds is responsible for the supply of meals to approximately 220 sites, mainly primary schools. In order to supply these meals, grocery items are required. The current value of this supply is approximately £1,800,000 per year.
- 2.2 The Council currently has an arrangement with the YPO which is due to come to an end on 23<sup>rd</sup> July 2019. The YPO is a central purchasing body for the purposes of the Regulations and the Council is able to purchase goods directly from a central purchasing body without the need to go out to further tender, as the YPO has already procured the goods in accordance with the Regulations.
- 2.3 For the period of 1 week, 24<sup>th</sup> – 31<sup>st</sup> July 2019, the time between the end of the current contract and the start of the proposed new contract, the YPO have agreed to honour the original agreement.
- 2.4 A benchmarking exercise has been undertaken to determine whether continuing with this arrangement represents best value for money to the Council going forward. Paragraph 3.4 below, details the benchmarking exercise that has taken place, and demonstrates that to continue to use the YPO for the purchase of grocery items, will make savings for the Council

## **3 Main issues**

### **Reason for Contracts Procedure Rules Waiver**

- 3.1 The current arrangement to use the YPO for the purchase of the necessary groceries to meet the needs of the Council is coming to an end.
- 3.2 If the Council decide to end the current arrangement with the YPO and undertake a formal tendering exercise, senior officers from the YPO have stated they would tender, but tendered pricing will be an unknown. It is anticipated that seeking competition via a procurement exercise could result in the Council incurring greater costs for the provision of groceries.
- 3.3 A benchmarking exercise has been undertaken. This has taken into account the most popular items purchased by Catering Leeds from the YPO.
- 3.4 Bestway was used to compare prices with the YPO. Bestway are a national wholesaler with local depots and are able to offer a supply of groceries as well.
- 3.5 The result of the benchmarking suggests Bestway would be over 2% more expensive than the YPO pricing.
- 3.6 This demonstrates that continuing to use the YPO still offers a saving of £21,000 per annum under the current arrangement. As with previous benchmarking it does not take into account either potential delivery costs, or the YPO rebate and loyalty bonus.

- 3.7 A summary is attached as confidential Appendix 1 (Original Benchmarking Report Summary)
- 3.8 The YPO continues to work closely with the Council to identify and achieve further savings. This is being done by utilising non-branded items and purchasing cases rather than individual units where appropriate during the life of the contract. Regular review meetings will be held.
- 3.9 The YPO offers both a rebate and bonus loyalty scheme. For 2017 this amounted to £31,000 for the rebate and £26,000 for the loyalty scheme.
- 3.10 Partially due to potential pricing issues around Brexit, and that any new agreement would initially revert to standard YPO pricing from the commencement of a new agreement, the Council requested a standard discount from YPO prices. This was because the YPO could not commit to holding prices when there could be significant price change outside of their control, such as Brexit.
- 3.11 The YPO has agreed to offer a discount on their brochure prices, based on the summer 2019 YPO catalogue for the three year period for all items on the 'Leeds Price List & Order Form'. Price changes will occur as the YPO updated their catalogue, but the Council will continue to receive a discount. Please see attached confidential Appendix 3.
- 3.12 Given current YPO Pricing, this would give the Council an anticipated saving of £ 31,000 per annum, plus the usual rebate, estimated at £31,000 and loyalty bonuses of £26,000.
- 3.13 A summary is attached as confidential Appendix 2 – (Revised Benchmarking Report using New Proposal)

### **Consequences if the proposed action is not approved**

- 3.14 It is anticipated that seeking competition via a procurement exercise could result in the council incurring greater costs for the provision of groceries.

### **Advertising**

- 3.15 The YPO has confirmed that all of their grocery contracts are compliant with the Regulations and have been appropriately advertised in the Official Journal of the European Union (OJEU).

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 It is not considered that the content of this report or the recommendation made will have a significant impact on any particular ward or community and as such no consultation has taken place.

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

- 4.2.1 An Equality, Diversity, Cohesion and Integration impact assessment screening has been carried out. This indicates that the provision of a full range of meals will have a positive impact within the schools.

- 4.2.2 Religious considerations have been taken into account during this process and as grocery items are generally only component parts of meals, special dietary needs due to medical conditions will be accounted for during the assessment of individual diets.

### **4.3 Council Policies and Best Council Plan**

- 4.3.1 A key objective within the Best Council plan 2015-2020 is to build a Child Friendly City. The delivery of pupil places through Basic Need 1, one of the baseline entitlements of a Child Friendly City and contributes directly to the outcomes identified within the Children & Young Peoples Plan 2015-2019 to “improve healthy lifestyles” and “encourages healthy eating” and “increase uptake of free school meals”.

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

- 4.4.1 The arrangement to continue to use the YPO for the purchase of grocery items remain an essential element for provision of meals services across the Council.
- 4.4.2 The YPO will attend regular meetings to ensure they are meeting the requirements of the Council. These meetings will also discuss trends, and explore other areas where savings may be made.
- 4.4.3 The benchmarking undertaken has indicated significant savings by continuing to contract with the YPO. The benchmarking exercises undertaken suggest additional costs of at least £21,000 per annum under the previous proposal if the YPO was not to be used and this is before any allowance for delivery and rebates from the YPO.
- 4.4.4 The revised proposal from the YPO indicate that this saving would increase to £33,000 per annum, before delivery and additional rebates, by continuing to trade with YPO It is considered that going out to tender is likely to lead to a significant increase in costs.

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

- 4.5.1 The authority to procure was taken as a key decision and included on the list of forthcoming decisions and was therefore subject to call-in. This decision is a consequential decision of the original decision, so is a significant operating decision and not subject to further call in.
- 4.5.2 The Appendices to the report are Exempt/Confidential under Access to Information Procedure Rules 10.4 (3). The public interest in maintaining the exemption in relation to the confidential Appendix outweighs the public interest in disclosing the information and financial details which, if disclosed would adversely affect the business of the Council and the business affairs of a number of individual companies
- 4.5.3 The YPO is a central purchasing body for the purposes of the Regulations and the Council is able to purchase goods directly from a central purchasing body without the need to go out to further tender, as the YPO has already procured the goods in accordance with the Regulations.
- 4.5.4 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2, the content of the report should be noted. In making their final decision, the Chief Officer of CEL should be satisfied that the approved course of action represents best value for the Council.

## **4.6 Risk Management**

- 4.6.1 The YPO purchase goods and services on behalf of a large number of public bodies and as a result has immense buying power for products which are required under this contract. As the YPO are a central purchasing body under the Regulations they undertake the procurement exercise for the goods, works and services they offer to other public bodies in full compliance with the requirements of the Regulations.
- 4.6.2 Should the recommendation contained in this report not be approved it will mean the Council will have to purchase its groceries without any contractual arrangements in place, until such time as a contract could be procured and awarded.

## **5 Conclusions**

- 5.1 The current arrangement with the YPO ends on 23<sup>rd</sup> July 2019.
- 5.2 Benchmarking has been undertaken which suggests that significant savings would continue to be made by entering into a new contract with the YPO, being a minimum of £31,000 per annum, and likely to be significantly more, before delivery charges, the YPO rebates and loyalty bonuses
- 5.3 To continue to receive these reduced costs a new contract with the YPO needs to be in place as soon as possible.

## **6 Recommendations**

- 6.1 The Chief Officer of CEL is recommended to approve the waiver of CPR 9.1 and 9.2 to enter into a new contract with the YPO, without seeking further competition, for a period of three years, commencing on 1<sup>st</sup> August 2019 with an estimated value of £1,800,000.00 per annum.

## **7 Background documents**

- 7.1 None.