

<b>Report to:</b>	<b>CABINET</b>
<b>Report of:</b>	<b>HEAD OF CATEGORY – (FACILITIES MANAGEMENT) PROCUREMENT</b>
<b>Date of Decision:</b>	<b>17<sup>th</sup> May 2016</b>
<b>SUBJECT:</b>	<b>PROCUREMENT STRATEGY - Supply &amp; Distribution of Milk, Dairy products and Morning Goods F0258</b>
<b>Key Decision: Yes</b>	<b>Relevant Forward Plan Ref: 001475/2016</b>
<b>If not in the Forward Plan: (please "X" box)</b>	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
<b>Relevant Cabinet Member(s):</b>	<b>Cllr Stewart Stacey, Cabinet Member, Commissioning, Contracting &amp; Improvement</b>
<b>Relevant O&amp;S Chairman:</b>	<b>Cllr Waseem Zaffar, Corporate Resources</b>
<b>Wards affected:</b>	<b>ALL</b>

<b>1. Purpose of report:</b>
1.1 This report provides details of the procurement process and the tender strategy for the supply and distribution of milk, dairy products and morning goods. The private report contains any confidential market information which could impact on the tender process.

<b>2. Decision(s) recommended:</b>
That Cabinet :
2.1 Notes the contents of this report.

<b>Lead Contact Officer(s):</b>	Richard Tibbatts Head of Category – Contract Management
<b>Telephone No:</b> <b>E-mail address:</b>	Corporate Procurement Services, Economy Directorate  07827 367 245 <a href="mailto:Richard.tibbatts@birmingham.gov.uk">Richard.tibbatts@birmingham.gov.uk</a>
<b>Additional Contact Officer:</b>	Nikki Fox Pelican Procurement Services Ltd
<b>Telephone No:</b>	0121 303 0131
<b>Email address:</b>	<a href="mailto:nikki.fox@pelicanprocurement.co.uk">nikki.fox@pelicanprocurement.co.uk</a>

### 3. Consultation

#### 3.1 Internal

Officers from City Finance, Legal and Democratic Services and Procurement have been involved with the preparation of this report.

Representatives from People Directorate (Adults & Communities and Children, Young People & Families / Cityserve and Acivico (Civic Catering) have been involved with the preparation of this report.

The Operations Team Manager - Food Safety Team, Environmental Health has been involved with the preparation of this report.

#### 3.2 External

No external consultation has been carried out or was required.

### 4. Compliance Issues:

#### 4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

These proposals will support the Council Business Plan and, Budget 2016+ and Birmingham Business Charter for Social Responsibility (BBC4SR) principles via:

##### 4.1.1 Council Business Plan and Budget 2016+

A healthy, happy population:

- **Safety** – the contracted supplier will have policies covering food hygiene and food safety procedures. Additional information will be supplied by the supplier(s) enabling caterers to eliminate foods that could cause fatal injury to those who have allergies, and will provide products which do not contain harmful / adverse food additives.
- **Wellbeing** – to benefit from improved health and wellbeing by providing products that support healthy eating, and meeting the needs of the diverse community.
- **Poverty** – the employees of the provider engaged on this contract will be paid at the Birmingham Living Wage or above.

A strong economy:

- **Employment, education and training** – the successful supplier will be required to work with schools and colleges to help ensure that the young people of Birmingham are equipped with the right skills to match the requirements of the labour market.
- **Sustainability** – ensuring the best value pricing and products are obtained. By ensuring the supplier meets the needs of clients, resulting in the reduction of non-contract purchase and better value for the Council. The contracted supplier will help the Council in the provision of locally / UK sourced products and aid local economic development.

#### 4.1.2 Birmingham Business Charter for Social Responsibility

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of this contract. Tenderers will submit an action plan with their tender that will be evaluated in accordance with the approach set out in Appendix 1 and the action plan of the successful tenderer will be implemented and monitored during the contract period.

#### 4.2 Financial Implications

This proposed framework contract will not commit the council to any particular level of spend.

The products bought under this contract will be funded from within Strategic Directorates' approved budgets. Products purchased by schools will be funded from the schools delegated budget. Products purchased by Civic Catering will be funded from Acivico Ltd's budget.

Information on the breakdown of spend is included in the private report.

Pelican Procurement Service Ltd (Pelican), the food procurement agent for the Council will benchmark the proposed prices against current market prices and renegotiate with the supplier as applicable. The impact of any price changes will be analysed by Pelican and circulated to Directorates prior to implementation.

The tender process will be resourced by Pelican with representatives from Corporate Procurement Services (CPS) and service directorates who will contribute to the development of the detailed specification and the tender evaluation process.

In tendering these requirements the Council will collaborate with Improvement and Efficiency West Midlands (IEWM). Therefore any of the region's 33 local authorities can utilise this framework agreement instead of undertaking their own tender process. 2% will be added to pricing and collected as a rebate to be paid to Birmingham City Council.

#### 4.3 Pre-Procurement Duty under the Public Service (Social Value) Act 2012

Consideration of how this project might contribute to achieving the Council's priorities and improve the economic, social and environmental well-being of the relevant area was discussed with key stakeholders (Cityserve, Acivico – Civic Catering and Adults and Communities) and this is reflected in the requirements, being relevant and proportionate to the overall contract. Additional stakeholder consultation was not required to achieve this as sufficient information on how social value could be achieved was available to key stakeholders.

The process for securing this social value during the procurement will be through the Birmingham Business Charter for Social Responsibility

#### 4.4 Legal Implications

The Council's powers for the provision of food are:-

- Section 1 Civic Restaurants Act 1947 which allows it to establish restaurants for the provision for the supply to the public of meals.
- Section 19 Local Government (Miscellaneous) Provisions Act 1976 which allows it to provide food and drink within recreational facilities inside or outside its area.
- Section 512 Education Act 1996 which allows the Council to provide meals to registered pupils at maintained schools.
- Section 145 of the Local Government Act 1972 confirms that a local authority may do, or arrange for the doing of, or contribute towards the expenses relating to the

provision of refreshments held by them.

#### 4.5 Public Sector Equality Duty

An initial screening to decide whether the planned procurement for the supply and distribution of milk, dairy products and morning goods had any relevance to the equality duty (contained in Section 149 of the Equality Act 2010), of eliminating unfair/unlawful discrimination and to promoting equality and human rights was conducted on 3<sup>rd</sup> February 2016.

The screening identified there was no requirement to assess it further and completion of an Equality Assessment form was not required

#### **5. Relevant background / chronology of key events:**

- 5.1 Milk, dairy products and morning goods are currently supplied to the schools meals service (Cityserve), older and younger adult residential homes and day centres managed by the People Directorate; and Civic Catering managed by Acivico Ltd.
- 5.2 Cityserve provide a whole school catering service including breakfast, mid morning break, lunchtime, after school, staffroom service, internal and external functions, and require milk, dairy products and morning goods to enable them to produce menus that comply with the Requirements for School Food Regulations 2014.
- 5.3 The existing contract for the supply & distribution for milk, dairy products and morning goods commenced on the 20<sup>th</sup> August 2012 following Delegated Authority approval from the Assistant Director of Procurement in conjunction with the Director of Finance and the Director of Legal and Democratic Services on 3<sup>rd</sup> July 2012.
- 5.4 The contract was awarded to Johal Dairies for a period of 4 years. The contract expires on 19<sup>th</sup> August 2016.
- 5.5 It is intended to tender the contract as one lot as per the existing contract. Multiple lots were considered but discounted as unattractive and unviable to suppliers due to the low Average Drop Values.
- 5.6 It is proposed that the new contract starts on 20<sup>th</sup> August 2016 for a period of 4 years.
- 5.7 This start date will be in advance of the new school year and will allow sufficient time for contract mobilisation during August if required.
- 5.8 The tender process will be resourced by Pelican with representatives from Corporate Procurement Services (CPS) and Service Directorates who will contribute to the development of the detailed specification and the tender evaluation process.
- 5.9 The successful tenderer(s) will be required to adopt the requirements for the Business Charter for Social Responsibility, including the payment of the Birmingham Living Wage to employees of the providers engaged on these contracts

The outline specification and tender strategy is included in Appendix 1.

**6. Evaluation of alternative option(s):**

6.1 To do nothing – this option was discounted as the Council would have no compliant means of purchasing milk, dairy products and morning goods.

6.2 The alternative procurement options are in Appendix 1.

**7. Reasons for Decisions (s):**

7.1 To enable the Council to tender for this requirement and deliver a contract for the supply and distribution of milk, dairy products and morning goods.

**Signatures**

Chief Officer(s): .....

Richard Tibbatts

Head of Category Facilities Management

**Date**

Cabinet Member(s): .....

Councillor Stewart Stacey

Cabinet Member for Commissioning, Contracting and Improvement

**Date**

**List of Background Documents used to compile this Report:**

**List of Appendices accompanying this Report**

1. Outline specification and tender strategy

## **Appendix 1: Outline specification and tender strategy**

### **Outline Requirements**

#### **1. SERVICE REQUIREMENTS**

The Council has an ongoing requirement to support the Directorates in the supply and distribution of milk, dairy products and morning goods for their service users.

There is a requirement for milk, dairy products and morning goods to be delivered to the following service areas:

- Children Young People and Families, including Cityserve
- Adults & Communities
- Acivico Ltd - Civic Catering

Currently 370+ Birmingham City Council units require a supply and distribution service for milk, dairy products and morning goods with multiple deliveries per week.

#### **2. OUTCOMES EXPECTED**

A stakeholder group consisting of representatives from People Directorate (Children, Young People & Families and Adults & Communities) and Economy Directorate (Civic Catering) has been established to review the current contractual arrangements, new opportunities and lessons learned from the current contract. From this the stakeholders identified their key outcomes needed from this contract, these are:

- Price and cost reductions.
- The supply and distribution of goods in accordance with the tender specification.
- The need for suppliers to demonstrate current quality and hygiene certification to the required standards from an approved inspection body.
- Ensure deliveries to the units are within their required delivery time frames.
- % of product availability
- Opportunities to implement Council policies where appropriate.
- To ensure suppliers have contingency plans to deal with unforeseen circumstances and demands.
- A minimum or reduced order lead time.

#### **3. MARKET ANALYSIS**

Research of the market place has identified only a small number of suppliers who have the capability and capacity to provide the full range of goods required to a large number of sites within required delivery windows throughout the City;

Pelican's knowledge and market experience of foodservice suppliers and consultation with the stakeholder group support this decision. During the course of the tender process Pelican will work with a stakeholder group of representatives from each Directorate who will use this contract.

#### **4. PROCUREMENT OPTIONS**

In considering the options available the stakeholder group identified the key outcomes (see above) required in order to deliver an effective service to its end users. Delivery models and possible outcomes, research and considerations led to the following options being considered:

##### **Option 1**

Tender the contract for the supply and distribution of milk, dairy products and morning goods via one supplier covering the full range of products (to ensure consistency of product quality and pricing). This would give one order point, ease of ordering and pricing. The framework agreement will be available to other West Midlands authorities. This is the preferred option as it gives the greatest opportunity to deliver improvement and achieve the desired outcomes. The contract as a collaborative framework arrangement, will enable the council to benefit from a rebate on spend.

### **Option 2**

Use of other West Midlands authority frameworks. This was rejected as there are currently no other frameworks available that would cover the needs of this contract and meet the policy objectives of Birmingham's Business Charter for Social Responsibility

### **Option 3**

Tender a Birmingham only Framework Agreement. This option was rejected as other local authorities, would not be in a position to utilise the framework agreement. Also, the Council may lose any opportunity for rebates from other organisations using the framework.

### **Option 4**

Continue to purchase from existing supplier when the current contract expires. This is not recommended option as it contravenes the Public Contracts Regulations 2015 and the Council's Standing Orders relating to contracts.

**Option 1** is therefore recommended for acceptance.

## **5. PROCUREMENT APPROACH**

### **Contract Duration and Advertising Route**

Supply & distribution of milk, dairy products and morning goods for the duration of 4 years to one supplier with a termination of convenience clause of 3 months notice to accommodate business changes to Directorates and service requirements that may occur during the term of the contract.

The tender opportunity will be advertised via [www.finditinbirmingham.com](http://www.finditinbirmingham.com), Contracts Finder and the Official Journal of the European Union (OJEU).

### **Procurement Route**

The requirement will be tendered using the open route on the basis that:

- It can be clearly defined; and
- There are a limited number of suppliers able to service the contract

## **6. TENDER STRUCTURE (INCLUDING EVALUATION AND SELECTION CRITERIA)**

The structure of the tender will be as follows:

- Stage One – Pre- Qualification Stage (PQQ)
- Stage Two – Award (to be entered into DPS Approved Supplier List)
- Stage Three – Further Competition Exercise
- Stage Four – Scheme-Specific Contract Award
- Ongoing – Contract Management

### **PQQ Stage**

The PQQ will require tenderers to complete a pre-qualification questionnaire which requires the following to be fully answered. The documents will be available for new entrant suppliers to access for the duration of the DPS. Suppliers whose submissions have been rejected at any stage will also have the opportunity will have the opportunity to modify their return if their circumstances have changed.

Pass / Fail

- Supplier Information
- Grounds for Mandatory Exclusion
- Grounds for Discretionary Exclusion (Part 1 and Part 2)

- Economic and Financial Standing
- Technical and Professional Ability
- Additional Selection Questions
  - Environmental Management
  - Insurances
  - Compliance to Equality Duties
  - Health & Safety
  - Compliance to the Birmingham Business Charter for Social Responsibility

#### Scored Section

- Experience and Competence (80%)
- References (20%)

Tenderers that pass the selection criteria will process to the Further Competition stage.

#### **Further Competition Stage**

Individual procurement exercises will be undertaken for specific projects using the following evaluation criteria of 30% quality, 10% social value and 60% price, as agreed at the stakeholder group meeting. These ratios were established having due regard to the corporate document 'Advice and Guidance on Evaluating Tenders'.

#### **Quality (30%)**

Criteria	Overall Weighting	Sub-Weighting
Specific product criteria	100%	41.0%
Vehicles and deliveries		34.0%
Management Structure		7.0%
Order lead time and order management		9.0%
Supplier premises		9.0%

Tenderers who score less than 60% of the quality threshold i.e. a score of 300 out of a maximum quality score of 500 may not take any further part in the process.

Interviews may be required to understand and to clarify any questions or concerns arising from the written evaluation stage.

#### **Social Value (10%)**

Criteria	Overall Weighting	Sub-Weighting
Local Employment	100%	10.0%
Buy Birmingham First		16.0%
Partners in Communities		20.0%
Good Employer		16.0%
Green and Sustainable		18.0%
Ethical Procurement		18.0%

Tenderers will be expected to submit their proposals on how they intend to deliver social value. Responses will be scored against a pre-determined evaluation model and evaluated in accordance with their submission.



## **Pricing (60%)**

Tenderers will be expected to price against a pre-determined specification for each project

### **Combined Price/Quality/Social Value Evaluation**

The evaluation process will result in comparative price, quality and social value scores for each tenderer. The maximum quality score will be awarded to the bid that demonstrates the highest for quality, the maximum price score will be awarded to the lowest acceptable price and similarly the maximum social value score will be awarded to the bid that demonstrates the highest social value. Other tenderers will be scored in proportion to the maximum scores in order to assess value for money. The weighted scores will be added together to determine the successful bid

## **Overall Evaluation**

The evaluation process will result in comparative quality, price and social value scores for each tenderer. For each element (quality, social value, price), the tender obtaining the highest marks will be awarded the maximum score for that element, with other tenders being allocated scores on a pro-rata basis

## **Evaluation Team**

The evaluation of tenders will be undertaken by officers from:  
People Directorate (Adults & Communities and Children, Young People & Families / Cityserve and Acivico (Civic Catering)

## **Indicative Implementation Plan**

Cabinet Approval (Strategy)	May 2016
OJEU Notice Issued	May 2016
Clarification Period	May 2016
Tender Return Date	June 2016
Tender Evaluations	June 2016
Tender clarifications	July 2016
Delegated Contract Award	July 2016
Mobilisation period (if applicable)	August 2016
Contract Start	August 2016

## **7. SERVICE DELIVERY MANAGEMENT**

### **Contract Management**

The contract will be managed by Pelican Procurement Ltd. Any performance issues will be addressed in conjunction with the Head of Category Contract Management; Corporate Procurement Services.

### **Performance Monitoring**

Day to day performance of the contract will include a number of key performance indicators (KPI's) that will measure the delivery of the outcomes. KPI's will be developed by the stakeholder group during tender development and will also include KPI's for measuring how suppliers will meet the requirements of the Birmingham Business Charter for Social Responsibility.