

# **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

## **Policy and Resources Cabinet Board**

15 December 2016

### **Report of the Head of ICT and Corporate Procurement - S John**

#### **Matter for Decision**

**Wards Affected:** All

## **Supply of Various Food Products and Associated Items**

### **Purpose of the Report**

1. To seek approval to put arrangements in place to ensure the continuation of the supply to Neath Port Talbot County Borough Council of various food products and associated items.

### **Executive Summary**

2. The report seeks authorisation to exclude the requirements of competition, to suspend Rule 2.2 of the Council's Contracts Procedure Rules and to make direct awards to the suppliers on the WPC Frameworks as set out in Table 1.

### **Background**

3. The WPC body ceased to exist on 31st March 2016 and its procurement functions were taken over by the National Procurement Service ("NPS").

4. The NPS determined to put frameworks in place for the Supply of the Products and issued anticipated award dates for the same and such dates were due to coincide with the WPC Expiry Dates.

5. However, the NPS subsequently advised that the development of the initial tender documentation for the NPS Frameworks has taken longer to complete than expected.

6. As a result of the issues outlined in paragraph 5 above, the NPS has revised its original award dates for the NPS Frameworks on a number of occasions and in order to ensure continuation of supply several Lead Authorities in the WPC have been required to extend their respective WPC Frameworks.

7. The NPS has recently restructured all NPS Frameworks and has issued a further revised anticipated award date of June 2017 for the NPS Frameworks.

8. For the reasons set out below, in order to ensure continuity of Supply of the Products, it is necessary to make a direct award to the Suppliers, substantially based on the arrangements under the respective WPC Framework, for a period of six months from the WPC Framework Expiry Dates together with an option to extend up to a maximum period of an additional six months.

9. The reasons:

9.1 Given the issues set out in paragraph 7 above, the continuity for Supply of the Products is at risk between the WPC Framework Expiry Dates and the further revised and current anticipated NPS Frameworks award date of June 2017.

9.2 A direct award substantially based on the arrangements under the WPC Frameworks will ensure that:

9.2.1 The Council and the Suppliers will be able to work together seamlessly since the current arrangements are familiar to all parties;

9.2.2 The Council will be afforded the protection of working with the Suppliers as they were assessed and approved during the WPC tendering process, which is of particular importance given the high risk present in relation to the supply of food and beverages products.

9.3 Following the award of the NPS Frameworks, time will be required:

9.3.1 to undertake potential benchmarking exercises and/or mini competitions under the proposed NPS Frameworks; and

9.3.2 to allow sufficient time for the implementation of new contracts under the NPS Frameworks, especially if new suppliers are appointed since a transition period will be required.

## **Financial Impact**

10. The conditions of contract that applied under the WPC Frameworks will continue to apply to the direct award arrangements so as to ensure greater certainty of price.

## **Equality Impact Assessment**

11. An Equality Impact Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the initial screening assessment it has been determined that this proposal does not require an Equality Impact Assessment.

## **Workforce Impacts**

12. Continuity of supply is critical to ensure efficient management and Supply of the Products to all Council service users.

## **Legal Impacts**

13. The WPC Frameworks are treated as separate items as the subject matter of each is distinct from the other.

14. Even though the requirement to competitively tender the agreement by way of a European based tender is not applicable, the Council is required by the general obligations of transparency, equal treatment, non-discrimination and proportionality that derive from the Treaty on the Functioning of the European Union (TFEU) when an agreement of this kind is of 'certain cross border interest'.

15. The Council would contend that an agreement of this kind is unlikely to have 'cross border interests'.

16. It would be contended that the risk of challenge is somewhat limited here as it is the Council's intention to utilise the proposed NPS Frameworks for the eventual appointment of suppliers and such exercises will be undertaken during the proposed extension periods.

17. In addition, the Council must ensure that suitable contractual arrangements can be put in place for Supply of the Products in a safe manner with approved suppliers without delay and to ensure continuity of supply is not disrupted for the Council's service users.

18. In addition, the Council must comply with its own internal CPRs which provide that the Council will, whenever possible put contracts of this value out to open competition.

19. Rule 2.2 of the CPRs provides that where the value of the contract is between £5,000 and £50,000 at least three written quotations must be sought. As part of the Recommendations, an exclusion of the CPRs will be sought.

## **Risk Management**

20. This Report seeks to minimise the risk to the Council by ensuring continuity of Supply of the Products from approved Suppliers following the WPC Framework Expiry Dates.

## **Consultation**

21. There is no requirement under the Constitution for external consultation on this item.

## **Recommendations**

It is recommended:

22. That the requirements of competition are excluded and Rule 2.2 of the Council's Contracts Procedure Rules is suspended.

23. That authority is given to make a direct award to the Suppliers and for the Council to enter into contract with the Suppliers for the Supply of the Products set out below for a period of six months from the following dates together with an option to extend up to a maximum of a further six months:

23.1 Soft Drinks, Crisps, Snacks & Confectionery from 1st January 2017

23.2 Alcoholic & Associated Beverages from 1st March 2017

23.3 Fruit & Vegetables from 1st March 2017

23.4 Water Coolers from 1st June 2017

## **Reason for Proposed Decisions**

24. To ensure continuity of Supply of the Products pending the implementation of new contracts under the NPS Frameworks.

## **Implementation of Decisions**

25. It is proposed for the three day call in period to apply.

## **Appendices**

26.1 Appendix 1: Table 1

26.2 Appendix 2: Table 2

## **Officer Contact**

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APPENDIX 1

Table 1

WPC Framework	WPC Framework Suppliers*	WPC Framework Expiry Dates	NPS Framework anticipated award date
Soft Drinks, Crisps, Snacks & Confectionery	Weekes Bros (Merthyr) Limited	31st December 2016	June 2017
Alcoholic & Associated Beverages	Molson Coors Brewing Company Limited, Heineken UK Limited, Hurns Beer Company, Matthew Clark Ltd, Fine Wines Direct UK Ltd, Celtic Wines Limited	28th February 2017	June 2017
Fruit & Vegetables	Slice & Dice Ltd	28th February 2017	June 2017
Water Coolers	Princess Gate	31st May 2017	June 2017

\* Where there is more than one Supplier referenced the Suppliers are ranked.

TABLE 2

WPC Framework	Estimated value of spend for proposed initial six month extension	Estimated value of spend for proposed additional six month extension (i.e. 12 month estimated spend)
Soft Drinks, Crisps, Snacks & Confectionery	£19,450.00	£38,900.00
Alcoholic & Associated Beverages	£2,365.00	£4,730.00
Fruit & Vegetables	£9,595.50	£19,191.00
Water Coolers	£2,450.00	£4,900.00