

**Committee:** Cabinet

**Date:** 7th March 2016

**Agenda item:**

**Wards:** All Wards

**Subject:** Award of Contract for School Meals Catering Service 2016

**Lead officer:** Yvette Stanley - Director of Children, Schools and Families

**Lead member:** Cllr Martin Whelton – Cabinet member for Education

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## **Recommendations:**

Members are asked to approve the recommendation that:

- A. The council award to Contractor B a contract for provision of the school meals catering service at Merton primary and special schools for a period of 3 years from 1 August 2016, with an option to extend for up to two further years at the discretion of the council.
  - B. In accordance with Contract Standing Orders (CSO 37.6) that authority be delegated to the Director of Corporate Services to exercise, in consultation with the Cabinet Member for Education and the Director of Children, Schools and Families, the council's option to grant one or more extensions of the contract term for any period up to two further years beyond the expiry of the initial contract term on 31 July 2019.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The purpose of this report is to seek the approval of Cabinet for the award of the contract for the provision of school meals at Merton Primary and Special Schools to Contractor B following a single stage tender process.
- 1.2. This new contract will be for an initial period of 3 years from 1 August 2016, with an option at the discretion of the council to extend the term for a further period or periods of any duration up to a maximum two years in total.
- 1.3. Members are further advised that the new daily charge for a school meal for the 2016-17 academic year will represent a reduction in the cost of meals for parents and schools.
- 1.4. Under the new contract, an allowance for the cost of schools' energy and the council's cost of monitoring the contract will be passed to the contractor, providing a further saving to schools and the council.

## **2 DETAILS**

- 2.1. The school meals catering contract provides a school meals service on a discretionary 'buy back' basis for all Merton primary and special schools with the exception of one maintained school, one free school and one primary academy, which have chosen to make their own arrangements outside of the council's central contract.
- 2.2. Following consultation with head teachers early last year, the current contract with ISS was extended for a short period and now expires on 31 July 2016.
- 2.3. At present, the school meals caterer provides approximately 9,600 meals per day across the 46 school sites within the borough where it operates. This has increased substantially since Universal Free School Meals for Infant (Key Stage 1 and reception) pupils was implemented in September 2014.
- 2.4. Currently the charges for meals provided for pupils eligible for free school meals are paid by schools. The charge to parents and carers of pupils in Key Stage Two who are not eligible for a free school meal is £2.10.

### Tender Process

- 2.5. A single stage 'open' procedure, as set out in the Public Contract Regulations 2015 (SI 2015/102) ("PCR 2015"), was used for the purpose of this tender exercise.
- 2.6. In accordance with the requirements of that procedure, potential contractors were requested to bid for the proposed contract following the publication of a Contract Notice in the Official Journal of the European Union. The tender opportunity was also advertised to interested bidders via the Contracts Finder website and through the London Tenders Portal - the tender process was conducted electronically using the portal.
- 2.7. Organisations were invited to submit a proposal based on a price per meal for the provision of school meals along with detailed method statements explaining how they would deliver the catering service. The information requested to support the price proposal required potential contractors to detail the breakdown of their costs.
- 2.8. The council stipulated that the contract would be awarded to the bidder whose tender was judged to be the most economically advantageous based on price and quality criteria. The relative weighting of criteria as between quality and price was discussed and agreed with representatives of schools – affordability of the school meal was a significant consideration for head teachers and, accordingly, 50% of the evaluation was based on pricing considerations and 50% on the assessment of qualitative criteria as set out in table 1 overleaf.
- 2.9. The qualitative criterion was further broken down into sub-criteria to take account of the priorities of schools in relation to the quality of service.
- 2.10. Prior to the issue of the invitation to tender the scoring methodology was agreed and details were set out for potential bidders within the documentation issued.
- 2.11. Contractors were also informed that in the event of a tenderer other than the current contractor being awarded this contract, the terms of the Transfer of

Undertakings (Protection of Employment) Regulations 2006 were likely to apply ( "TUPE Provisions").

- 2.12. Bidders were advised that the contract would be awarded in accordance with the assessment of bids against the criteria and weightings detailed below.

<b>Criteria</b>	<b>Weighting</b>
<b>Quality*</b> Based on assessment of written submissions verified by site visits and interviews in the following areas:	<b>50%</b>
<b>Quality of Product:</b> High Quality Food/ School Food Plan	20%
<b>Quality of People:</b> Competent People	35%
<b>Quality of Organisation:</b> Clear Standards/ Regulatory Compliance	15%
<b>Quality of Operation:</b> Dinner Money Collection/ Supply Chain Management	20%
<b>Quality of Plans:</b> Increasing Take Up	10%
<b>Qualitative Criteria Sub Total</b>	<b>100%</b>
<b>Price</b> Based on lowest meal price and ratios of food and direct staffing costs to overall meal price	<b>50%</b>
<b>Total Quality &amp; Price Scores</b>	<b>100%</b>

**Table 1 - Contract Award Criteria**

- 2.13. The return date for tenders was 14 December 2015. A number of potential bidders expressed an interest in Merton's contract and six potential bidders came to an open day run as part of the process. By the date set for delivery of tenders, the council received bid submissions from four organisations.

#### Tender Evaluation

- 2.14. The evaluation of bids received was undertaken in three stages – an initial review of written submissions and prices followed by visits to reference sites and a final interview which were both used to verify the written proposals received.

2.15. An evaluation team was established for the analysis of tenders as follows:

	Review of Written Submissions	Reference Site Visits	Interview Panel
Tom Procter, Head of Contracts & School Organisation			✓
Charlotte Groom, Headteacher of Haslemere Primary School			✓
Murray Davies, Contracts & Procurement Manager	✓	✓	✓
Michael Balamwezi, Principal Contracts Officer	✓	✓	✓
Karen Wilkie, Contracts Officer	✓	✓	
Rebecca Spencer, Health Improvement Officer	✓		✓
Vic Laws – AVL Consultancy	✓		

**Table 2 - Evaluation Team**

2.16. The evaluation process was supported and overseen by the council's Corporate Services Department with Amy Gibson, Commercial and Procurement Adviser acting in a quality assurance role to ensure EU procedures were complied with in full, and that the approach of the team to testing and scoring against the evaluation criteria was rational and consistent for all elements of the tender. To this end, she shadowed the evaluation team throughout the process, attending the tender visits and the interviews and overseeing the moderation of scores.

2.17. As the first stage of the evaluation, potential contractors were assessed against the mandatory and discretionary grounds for exclusion and on their turnover and experience of delivering a school meals service. All four bidders passed these threshold requirements.

2.18. The evaluation team initially assessed each tender against the pre-set evaluation criteria as detailed in Table 1 and marks were awarded to each bidder following a moderation exercise to arrive at a consensus score for each bidder. The bidders' proposal were further verified through visits to sites currently operated by the potential contractors. Finally, bidders were invited to attend an interview to clarify and support their bid proposals

2.19. Following this process Contractor B scored the highest so it is recommended the council awards the contract to this company.

### **3 ALTERNATIVE OPTIONS**

3.1. The making of arrangements for school meals is a legal requirement but, as budgets are delegated to schools, it is not essential that there is one borough-wide contract. However, all but one maintained school, one free school and one primary academy have indicated a wish to be part of a borough-wide

contract, since they felt part of the process. Schools were confident that the council was pursuing a specification reflecting their interests and seeking to improve the quality of service and value for money for them.

- 3.2. Furthermore, by requiring a charge of £60,000 per annum from the contractor for the council's monitoring role, the council has ensured its management costs are fully covered without placing an extra financial burden on schools.
- 3.3. Moreover, a centrally managed contract avoids the necessity for a school to spend extensive amounts of time making arrangements to procure and monitor their own services. It also ensures that primary and special school meals are to a consistent quality and healthy standard across the borough.

#### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. School headteachers have been extensively consulted in relation to their views about the school meals catering service. The outcome of that exercise informed the development of the revised specification for the school meals contract and the award criteria and weightings used within the tender process. Officers met with a selected group of head teachers to consider the outcome of the consultation exercise and to agree the approach to be adopted in the re-tendering of the service.
- 4.2. A nominated head teacher representative was invited to participate in the evaluation of tenders and sat on the interview panel at the last stage of the tender process.
- 4.3. The Corporate Procurement Team has been consulted at all stages throughout the process to ensure probity existed at all times and to ensure we are able to fulfil our obligations at a later date in the event of a Freedom of Information Enquiry.
- 4.4. The council also engaged AVL Consultancy – a company with expertise in procuring and managing school meal contracts on behalf of other local authorities - to support officers to develop the procurement strategy and assist in development of tender documentation and participate in the evaluation of bids received.

#### **5 TIMETABLE**

- 5.1. It is anticipated that the new contract which will commence on 1 August 2016.
- 5.2. Although the services fall under the "light touch regime" of the PCR 2015, the council is still required to make approval of the award of this contract subject to observing a 'standstill' period of 10 days from notification to all tenderers of the council's intention to award to the successful tenderer. Provided no legal objection to the intended award has been commenced or raised with the council by any unsuccessful tenderer during this standstill period the contract will formally be signed.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. The value of the existing contract in 2014/15 financial year was approximately £3,645,000 based on meals provided to both pupils and staff.
- 6.2. On current trends, the take up of meals and, consequently, the value of the contract is likely to increase over the term of the new contract.
- 6.3. The meal price is paid for in two different ways:
  - (i) by the parent/carer of the child consuming the meal, or;
  - (ii) by the school, if the child is in receipt of a free school meal
- 6.4. Pupils may have an entitlement to a free school meal by reason of their family circumstances or under the government's universal infant free school meal scheme launched in September 2014. The scheme provides a free meal for all pupils in reception year and Key Stage 1 (up to the age of 7). As a consequence of the introduction of this scheme, meal numbers in Merton schools have increased by in excess of 50%.
- 6.5. Schools receive an allocation from within the schools' funding formula for free school meals. Funding for universal infant free school meals is paid by central government as a separate grant.
- 6.6. For pupils not eligible for free school meals, parents or carers at present pay £2.10 per meal. Schools have paid a small subsidy to reduce the cost of meals charged to parents, but in extending the contract by one term to August 2016 the price will remain at £2.10 with no subsidy from 1 April 2016.
- 6.7. The council is not responsible for payment of the costs of school meals except in the event of a school failing to make payment. Individual schools are invoiced for all meals consumed (both paid and free school meals for pupils and staff) on their sites. Schools are responsible to collect any debt incurred by parents and no liability is borne by the council.
- 6.8. The council's sole direct expenditure in relation to the school meals contract is limited to purchase of replacement for any kitchen equipment which is beyond repair, the cost of which is met from the Dedicated Schools Grant and not the council's core budget. For 2016/17, the Schools' Forum agreed for the council to retain £20,000 from the Dedicated Schools Grant for this purpose.
- 6.9. Budgets for free school meals are delegated to schools as part of the Dedicated Schools Grant – the reduction in the meal price will benefit schools although this is subject to level of free school meal uptake being maintained
- 6.10. Under the current arrangements, the staff cost and other costs incurred by the council to procure and manage the contract are met by schools. Those schools that are part of the catering contract arrangements pay the council an annual sum for the service by way of buyback through the Schools' Service Level Agreement - £43,170 was received from schools in 2015/16. A review of the cost of monitoring established this did not meet the council's costs once corporate charges were included so under the new contract, this cost will be met by a contribution by the contractor to the council of £60,000 per year. This results in a direct saving for schools of just under £280 per year for every 100 pupils on role. The saving to the council of £16,830 per year is part of Children

Schools and Families £200,000 saving agreed for 2016/17 in relation to services provided for schools.

- 6.11. The cost of utilities is at present paid for by schools. Under the new contract the caterer will credit schools 2p for each meal sold to meet utility costs giving a further benefit to schools.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The procurement process has been undertaken in accordance with Contract Standing Orders and the PCR 2015. Legal Services and Corporate Procurement have been consulted at various stages throughout the tender process.
- 7.2. As the procurement has been conducted transparently in accordance with the published methodology and by applying the evaluation criteria fairly and without discrimination, there are no particular procurement/legal risk issues.
- 7.3. Contract terms have been prepared by the council's Legal Services team.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. The tender documentation submitted by all selected tenderers was assessed against the threshold requirement to ensure bidders comply with current equalities legislation. This will ensure that contracts are awarded to organisations that have an equalities and diversity policy and practices which can impact positively on the delivery of the service.
- 8.2. As part of the tendering process the council developed within its specification a formal requirement for providers to reflect the need to cater for an increasingly diverse child population in delivering the school meals service. Bidders' submissions were assessed as to the extent their proposals address these issues.
- 8.3. The criteria considered meal price at 50% to ensure school meals could be affordable for families that do not meet the free school meal threshold.
- 8.4. The council also stipulated that bidders should submit tenders on the basis that the contract awarded would require the caterer to pay all staff a rate not less than the UK Living Wage (currently £8.25) – many of the staff working in school kitchens are paid below that rate at present.

## **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. There are no substantive crime and disorder implications arising from the recommendations contained within this report.

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1. All organisations that are awarded contracts must have a health and safety policy and procedures for effective health and safety and risk management.

Particular attention was given to assessing food hygiene procedures as part of the tender assessment.

- 10.2. The contract award is subject to the successful bidder agreeing to provide, if required, a guarantee undertaking from any parent company in order to mitigate any risks associated with a failure of performance by the council's chosen contractor
- 10.3. The EU procurement regulations allow a company to challenge a contract decision from a public body, especially on matters of procedure. To mitigate this risk a separate quality assurance role was established for a Procurement Advisor in Corporate Services to monitor the tender procedures.
- 10.4. There is always risk that a challenge may be made to any contract decision made under the EU procurement regulations. To mitigate this risk and ensure that the council followed proper processes, the tender exercise was carefully managed, with the conduct of the evaluation overseen by a corporate procurement officer, and legal advice obtained at relevant points.

## **11 BACKGROUND PAPERS**

Contract Standing Orders

Exempt Report