

Committee: Cabinet

Date: 22 March 2021

Agenda item:

Wards: All Wards

Subject: Award of Contract for School Meals Catering Service 2021

Lead officer: Hannah Doody - Director of Community & Housing and Interim Director of Children, Schools and Families

Lead member: Cllr Eleanor Stringer – Joint Deputy Leader and Cabinet Member for Children and Education

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Recommendations:

Members are asked to approve the recommendation that:

- A. The council award to Bidder A (as detailed in the Confidential Appendix to this report) 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 2021 with an option to extend for up to two further years at the discretion of the council.
- B. That authority be delegated to the Director of Children, Schools and Families to exercise, in consultation with the Cabinet Member for Children and Education, 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 2024.
- C. Members are asked to note the new price charged for a school meal from 1 September 2021 will be £2.23 (currently £2.18) so that the estimated total value of this contract over the initial three year term will be approximately £11.5 million and over the extended term up to £19.2 million.

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 A following a single stage tender process.
- 1.2. This new contract will be for an initial period of 3 years from 1 August 2021, 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 to parents and schools for a school meal for the 2021-22 academic year will be £2.23.

- 1.4. Under the new contract, an allowance for the cost of schools' energy, waste charges and the council's cost of monitoring the contract will be passed to the contractor, providing a 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 three primary academies, which have chosen to make their own arrangements outside of the council's central contract.
- 2.2. Following consultation with head teachers in the autumn term of 2019, the current contract with Chartwells was extended for a further year and now expires on 31 July 2021. No further contract extension is permissible.
- 2.3. Due to COVID 19 restrictions, meal numbers are much reduced but, in normal circumstances the school meals caterer provides in excess of 9,000 meals per day across the 44 school sites within the borough.
- 2.4. Currently, the charges for meals provided for pupils eligible for free school meals are paid for by schools. This includes children in Key Stage One eligible for a free meal under the conditions of the Universal Infant Free School Meal grant. The charge to parents and carers of pupils in Key Stage Two who are not eligible for a free school meal is £2.18.
- 2.5. The contract awarded is for the provision of school meals during term time and does not govern the delivery of catering services during school holidays.

Tender Process

- 2.6. 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.
- 2.7. 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 in December, before the Brexit transitional arrangements ended on 31 December 2021. 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.
- 2.8. 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.
- 2.9. 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 determined in accordance with the previous discussions with schools – affordability of the school meal is 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. It should be noted that the minimum requirements for school meals are mandated by the National School Food Standards - <https://www.gov.uk/government/publications/standards-for-school-food-in-england>

- 2.10. 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. The invitation to tender detailed the agreed scoring methodology for potential bidders.
- 2.11. Bidders were required to submit as part of their tender submission a proposal in regard to adding Social Value.
- 2.12. Bidders were also advised of the focus of the council on achieving the commitments under its Climate Emergency Action plan and that they would be expected to detail in their bids how they proposed to assist the council in doing so. Among other issues, bidders were specifically asked to detail their proposals for promoting sustainable dietary choices, measuring and limiting greenhouse gas emissions, and reducing waste across the catering service. The scoring methodology incorporated the evaluation of sustainability across all the quality sub-criteria detailed below.
- 2.13. 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").
- 2.14. Bidders were advised that the contract would be awarded in accordance with the assessment of bids against the criteria and weightings detailed below.

Criteria	Weighting
Quality*	
Based on assessment of written submissions verified by site visits and interviews in the following areas:	50%
Quality of Product: High Quality Food/ School Food Plan	10%
Quality of People: Competent People	12%
Quality of Organisation: Clear Standards/ Regulatory Compliance	12%
Quality of Operation: Dinner Money Collection/ Supply Chain Management	12%
Quality of Plans: Increasing Take Up	4%
Price	50%
Based on lowest meal price and ratios of food and direct staffing costs to overall meal price	
Total Quality & Price Scores	100%

Table 1 - Contract Award Criteria

- 2.15. The return date for tenders was 5 February 2021. A number of potential bidders expressed an interest in Merton's contract and, by the date set for delivery of tenders, the council received bid submissions from six organisations.
- 2.16. Of these tender submissions, one from Bidder F was simply a sales brochure and its bid was, therefore, immediately discounted as not complying with the requirements of the council's Invitation to Tender having failed to submit any of relevant documentation.

Tender Evaluation

- 2.17. The evaluation of bids received was undertaken in three stages – an initial review of the bids to check completeness and to review grounds for exclusion, a detailed consideration and scoring of written quality and prices submissions followed by a final interview which was used to verify the written proposals received.
- 2.18. The evaluation process was supported and overseen by an officer from the council's Commercial Services team, 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. This officer was responsible for overseeing the moderation of tender scores and attended the final interviews.
- 2.19. As the first stage of the evaluation, bids were checked for completeness. At this point, it was noted that Bidder E had failed to submit a Pricing Schedule detailing its bid in terms of a proposed school meal price. The Council's Invitation to Tender specifically stipulated that a failure to submit a Pricing Schedule would mean that the tender submission could not be considered. Regrettably, therefore, this company was excluded from the tender evaluation having not submitted a compliant tender.
- 2.20. At this juncture, the remaining four bidders were also 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.
- 2.21. In the second stage of the evaluation process, the evaluation team 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, final scores based on written submissions were confirmed. The bidders' proposals were further verified through an interview during which each bidder was asked to clarify and support their bid proposals.
- 2.22. Following the conclusion of this process, the evaluation team determined that Bidder A scored best against the published criteria 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

three primary academies are part of the current borough-wide contract and have agreed to continue to do so.

- 3.2. 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. The council's cost in procuring and monitoring the contract are met through a charge of £64,000 per year payable by the contractor – accordingly, the council's management costs are fully covered without placing an extra financial burden on schools or the council.

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 feedback from surveys and monitoring visits to schools helped inform the development of the revised specification for the school meals contract and the award criteria and weightings used within the tender process.
- 4.2. A school bursar participated in the evaluation process and, in addition, 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. The council's Climate Change Project Officer also participated in the evaluation of bids.
- 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.

5 TIMETABLE

- 5.1. It is anticipated that the new contract which will commence on 1 August 2021.
- 5.2. Although school catering services fall under the "light touch regime" of the PCR 2015, the council proposes to make approval of the award of this contract subject to it observing a 'standstill' period of 10 days from notification to all tenderers of the council's intention to award to the successful tenderer. The standstill period will run from 30 March until 12 April 2021.
- 5.3. Provided no legal objection to the intended award has been raised with the council by any unsuccessful tenderer during this standstill period the contract will be formally awarded.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The value of the existing contract in 2018/19 financial year was approximately £3,625,000 based on meals provided to both pupils and staff.
- 6.2. During the latter period of 2019/20 and throughout the current financial year, the take up of meals was severely affected by pupils not attending school due to COVID 19 restrictions. Consequently, the current expenditure under the school meals contract is difficult to estimate accurately. However, for the purposes of tendering, the council estimated that the value of the new contract

is likely to be of the order of £3,725,000 per year assuming that school attendance will have returned to normal by September 2021.

- 6.3. The cost of the service is determined by the numbers of meals provided as against the meal price. The cost of meals provided 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).
- 6.5. Schools receive an allocation of funding for free school meals from within the Dedicated Schools Grant - the schools' funding formula is used to calculate the payment as part of their delegated budgets. In addition, funding for universal infant free school meals is paid by central government as a separate grant.
- 6.6. It is evident from the census data that eligibility for free schools in schools within the council's central contract has risen during the period of the COVID 19 pandemic. There was an increase from 16.6% of pupils on roll eligible for free school meals in the January 2020 census numbers to 20% of pupils in the October 2020 census. This equates to just under 400 extra children who are now eligible for a free school meal by reason of their families' financial circumstances although those under 7 would in any event have been entitled to a free meal under the Universal Infant Free School Meal scheme.
- 6.7. For pupils not eligible for free school meals, parents or carers at present pay £2.18 per meal.
- 6.8. 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.
- 6.9. 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 2020/21, the Schools' Forum agreed for the council to retain £40,000 from the Dedicated Schools Grant for this purpose.
- 6.10. As now, the staff cost and other costs incurred by the council to procure and manage the contract will be met by the catering contractor creating a continued saving for schools of £64,000 per year.
- 6.11. Under the new contract the caterer will credit schools 7p for each meal sold to meet their utility and waste costs.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The procurement process has been undertaken in accordance with Contract Standing Orders and as this is over the EU threshold, in compliance with the

requirements for the open procedure set out at Regulation 27 of the PCR 2015.

- 7.2. The procurement has been conducted transparently in accordance with the published methodology and by applying the evaluation criteria. Therefore there should be no risk of challenge. A 10 day standstill period will be run in accordance with the Public Contract Regulations 2015.

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 threshold for free school meal eligibility.
- 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 £9.50). Schools have agreed to this approach in general but may opt to ask the successful contractor to pay its staff the London Living Wage if so desired but at increased cost per meal.

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. During the current pandemic, in line with HM Treasury and Department for Education guidance, the Council arranged to pay the incumbent contractor on behalf of schools an agreed sum to cover its continued operating costs during the period of the lockdown. Schools remained open for pupils who are deemed vulnerable or are the children of key workers throughout this period. The

Council's expenditure was recharged in full to the schools participating in the central contract.

- 10.4. Similar arrangements would apply in the event of such events affecting the new contract and specific provisions to cover this eventuality have been included in the terms and conditions of contract issued to potential bidders.
- 10.5. 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 an officer from Commercial Services to monitor the tender procedures.

11 BACKGROUND PAPERS

Contract Standing Orders

Exempt Annex to Report