

London Borough of Hammersmith & Fulham

Report to: Cabinet Member for Children and Education

Date: June 2020

Subject: Extension of the School Meals Lot 1 and Lot 2 Contracts

Report of: Joe Gunning – Travel Care and School Meals Team Manager

Responsible Director: Jacqui McShannon – Director of Children’s Services

Summary

This report seeks approval to extend the Lot 1 School Meals contract for Primaries, Nurseries and Special Schools with Interserve Catering Services Ltd to 5th June 2021 (10 months and 4 days) and approval to extend the Lot 2 Schools Meals contract for Secondary Schools with Cater Link Ltd to 05 June 2021 (10 months and 4 days).

In June 2016, the Royal Borough of Kensington and Chelsea, Westminster City Council and Hammersmith and Fulham (H&F) set up a shared services framework agreement for the provision of school meals for a term of four years. H&F awarded a single supplier contract for an initial period of three years through from 6 June 2016 to 05 June 2019. H&F have subsequently extended to 31 July 2020 (13 months). A further extension to 05 June 2021 will enable officers to continue consultation with schools on the commissioning options moving forward and then subsequently procure and mobilise services which will support the council’s wider food poverty programme. School meals are a critical frontline service; therefore, an extension of the existing contract will maintain continuity of service whilst consultation and procurement activities run in parallel.

Recommendations

1. To approve an extension of the Shared Service Framework Agreement for the provision of school meals for 10 months and 4 days to the current Lot 1 provider (for Hammersmith and Fulham), Interserve Catering Services Limited from 01 August 2020 up until 5 June 2021 at a contract value of circa £2.337m.
 2. To approve an extension of the shared Service Framework Agreement for the provision of school meals for 10 months and 4 days to the current Lot 2 provider (for Hammersmith and Fulham), Cater Link Ltd from 01 August 2020 up until 5 June 2021 at a contract value of circa £0.436m.
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Wards Affected: All

H&F Priorities

Please state how the outcome will contribute to our priorities

Our Priorities	Summary of how this report aligns to the H&F Priorities
Building shared prosperity	Employment of local residents
Creating a compassionate council	A range of meal options to suit all students needs
Doing things with local residents, not to them	Consultation with schools and students to determine best procurement options moving forward.
Being ruthlessly financially efficient	Current contract represents good value for money for schools and is cost neutral service to the Council's budget.
Taking pride in H&F	Ensuring students receive a nutritious healthy meal each day and are able to thrive in school.

Financial Impact

The contract costs are borne by the schools and not Local Authority budgets. The contract costs are subject to variation in view of fluctuating meal volumes and contractual indexation increases.

Under the current arrangements, each school will pay the actual cost of the service based on the level of staff, overheads and meal price for their school. This model ensures that each school only pays for their own service costs whilst continuing to benefit from the economies of scale of being in a large volume contract.

Suppliers will invoice Schools directly and these invoices will be paid for by the Schools from their Dedicated Schools Grant. There are no cost implications for the Local Authority.

The invoices raised by the Contractors will be broken up into two types of charges:

- Fixed Charges: A monthly fixed charge that covers supplier staffing and overhead costs.
- Plate Charges: A monthly plate cost that is calculated by multiplying the tendered plate price by the number of meals served in the period.

Payments to providers are made by schools in arrears once services / meals have been provided and on the provision of validated data.

Legal Implications

This report seeks approval to extend the Lot 1 Contract with Interserve Catering Services Limited and the Lot 2 Contract with Cater Link Limited for school meals services, for a further 10 months and 4 days, from 1st August 2020 to 5th June 2021.

The Lot 1 Contract at Schedule 3, condition 2.4, provides that the Council may at its absolute discretion extend the Contract by any number of periods up to an aggregate period of two years (sub-Condition 2.4.1). The Contract was extended in June 2019 for a period of 13 months, and the further extension sought in this report is for 10 months and 4 days, from 1st August 2020 to 5th June 2021. Therefore, the aggregate extension period, should this report receive approval, will not exceed two years.

The Lot 2 Contract, again at Schedule 3, Condition 2.4 also allows the Council at its absolute discretion to extend the Contract by any number of periods, up to an aggregate of two years (sub-condition 2.4.1). This Contract was also extended in June 2019 for a period of 13 months and this report seeks approval for a further extension of 10 months and 4 days from 1st August 2020 to 5th June 2021 which will not exceed the aggregate two-year period allowed under the Contract.

Furthermore, Regulation 72(a) of the Public Contracts Regulations 2015, allows for such modifications, irrespective of their monetary value, *“where such modifications have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses state the scope and nature of possible modifications or options as well as the conditions under which they may be used and do not provide for modifications or options that would alter the overall nature of the contract”*. Accordingly the modification to enter into the extension period satisfies Regulation 72(a).

The extensions to Lot 1 and 2 Contracts should be entered into by way of formal deed of variation.

Implications completed by: Hannah Ismail, Solicitor, Sharpe Pritchard LLP, tel: 020 7405 4600

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Background Papers Used in Preparing This Report

N/A

DETAILED ANALYSIS

Proposals and Analysis of Options

1. This report seeks the approval of an extension to the contracts for both Lot 1 and Lot 2 of the shared Service Agreement for school meals to enable officers to consult schools on commissioning options, develop the associated procurement strategy and commission services. Performance has been of a consistently good standard and an extension enables the council to continue with the ongoing review and consultation with schools on future options.
2. There are a number of food related workstreams and innovation programmes running in Hammersmith and Fulham. These include the Universal Free School Meals Pilot at Fulham College Boys and Woodlane High School as well as the roll out of Free Breakfast Clubs. In conjunction there are innovation and evaluation programmes to shape future services, policy and delivery.
3. Initial consultation with schools has been undertaken to understand their appetite for alternative delivery models. Officers have explored a range of options and developed a medium-term plan for procurement of a central contract that is detailed in a separate report titled School Meals Procurement and Commissioning. In the long-term, officers will be drafting a proposed food strategy with ambition to develop the food poverty programmes further. In the interim we propose a short-term solution detailed in option 1 to enable progression of the medium and long-term proposals.
4. In the event the medium-term proposal (School Meals Procurement Strategy from 6 June 2021) is delayed due to unforeseen circumstances and this poses a critical risk to the mobilisation or launch of services, officers would progress a short-term interim solution.
5. Following concerns last year regarding Interserve's financial resilience, Officers have continued to monitor the financial health of Interserve Catering Services Limited and a credit rating report dated 05 March 2020 showed the company as low risk, a further report dated 26 March 2020 maintained that position. There have been no concerns regarding Cater Link Ltd's financial health. A credit report dated 02 July 2019 showed the company as low risk. A further report dated 26 March 2020 maintained that position.

Option 1 – Extend Current Contracts to June 2021

6. It is recommended to extend the current contract to 05 June 2021 (11 months) to continue consultation with schools on procurement options for School Meals provision. The statutory responsibility for School Meals remains with the Governing Body therefore appropriate timescales are required to enable Head Teachers to consult. The extension will maintain an essential service used by children and young people in H&F which enables school aged children eat at least one nutritionally balanced meal each day.

Option 2 – Allow the current contracts to expire in July 2020 and for schools to make their own arrangements.

7. This option is not recommended. There is insufficient time for schools to conduct effective procurement exercises and this will put a critical frontline service at risk. Schools who wish to make alternative arrangements will need sufficient time to consult with parents and governors and to mobilise services. Some Head Teachers have previously expressed an appetite for a Council commissioned service as they lack procurement and commissioning expertise as well as appropriate resource to conduct such an exercise.

Reasons for Decision

8. School Meals are an essential service used by children and young people in the London Borough of Hammersmith & Fulham (H&F) which enable that school aged children have access to at least one nutritionally balanced meal each day.
9. The provision of free school meals is a statutory provision within the Education Act 2003. Each governing body has a duty to provide free lunches for eligible pupils and to provide the opportunity for other pupils to buy lunch.
10. School meals across H&F contracts are currently provided by Interserve Catering Services Limited for Primary and Nursery Schools and Cater Link Limited for Secondary Schools and a Pupil Referral Unit. The arrangements for current contracts were established following a shared services procurement exercise in 2015 and 2016. The contract arrangements are split into two lots. Lot 1 for Primary Schools and Nurseries and Lot 2 for Secondary Schools. There are 28 schools/nurseries in Lot 1 (Interserve) and 6 schools in Lot 2 (Cater Link Ltd).
11. Contracts commenced 6 June 2016 for an initial period of three years through to 05 June 2019 and have been subsequently extended to 31 July 2020. A further extension to 05 June 2021 will enable officers to consult with schools on the commissioning options moving forward and then subsequently procure and mobilise services.
12. The latest data available from APSE advise the average cost of a school meal across England in 17/18 was £2.75. It has been calculated based on the total

cost of services in H&F divided by the total volume of meals provided, that the overall current average cost of a meal in H&F Primaries, Nurseries and Special Schools is £2.92. There is however a range with the nurseries and special schools with an average total cost per meal at £4.16. The average cost in secondary schools is £2.15 per meal. This is largely reduced in secondary schools as a result of the gross profit from sales being deducted from the fixed overheads. Given this range the cost of the meal is not expected to vary greatly, however those with low school enrolment numbers will be expected to see higher unit costs. As a result, the current costs are within the expected range.

13. Performance of the contractor is assessed through the Technical School Meals Monitoring. For Lot 1 in Autumn 2019, 20 monitoring visits were completed with an average score of 99%. The pass mark is 95%. One school achieved 92%. Recommendations were put to the provider and on reinspection two weeks later they achieved a score of 100%. Regular contract monitoring meetings are also held with the provider including menu setting. For Lot 2 five monitoring visits were completed in Autumn 2019, all schools passed with an average score of 98%. The monitoring reports are shared with the Head Teacher by the School Meals Technical Adviser and any feedback or comments are raised with the provider. Responses remain timely and proactive in developing solutions. Each school is monitored on a termly basis and scoring of both providers is consistently high.

Equality Implications

14. There are no direct negative equality implications for protected groups because of the proposed extension of these contracts and approval of payments as set out in the Recommendations, under the Equality Act 2010.
15. It is anticipated that there will be a neutral impact on protected groups through the continued provision of school meals, which will enable children and young people are provided a nutritionally balanced meal according to their dietary requirements with very few changes to the service.
16. *Implications verified by: Fawad Bhatti, Policy & Strategy Officer, tel. 07500 103617*

Risk Management Implications

17. *The proposals are made in accordance with the Council Being Ruthlessly Financially Efficient Priority, clearly there is need for continuity of service and providers have been subject to a performance review that has determined a reasonable level of satisfaction. As the requirement to provide school meals is a statutory provision the Council is ensuring that this duty is being fulfilled and risks are managed. Ongoing performance monitoring of the contractors will be an essential in ensuring that the providers continue to deliver a high-quality service for our local schools.*
18. *Implications verified by: Michael Sloniowski, Risk Manager, tel 020 8753 2587*

Procurement

19. The author of the report is requesting approval for an eleven months extension to the Shared Service Agreement for the provision of School Meals for Hammersmith and Fulham with Interserve Services Ltd for Lot 1 and Cater Link Ltd for Lot 2. Both proposed extensions would commence on 1st August 2020 to 5th June 2020 and have a lifetime value of £2.337M (Lot 1) and £436,000 (Lot 2).
20. An extension to an Above Threshold Contract, or one that has become above Threshold when previous modifications and extensions are taken into account, is only permissible under Contract Standing Orders ([CSO's 25](#)) if the Contract includes a clear and unambiguous extension provision to extend the contract term on the same terms and conditions and the price for the extension is either included in the Contract or the price is calculable with reference to review provisions within the Contract.
21. Legal advice has been sought, as set out for modifications of Above Threshold Contracts in CSO 24.4., who have ascertained that the extensions are permissible under the Regulations. In all cases evidence of contractor performance Value for Money and benchmarking must accompany a request for an extension. It is considered that the author of the report has addressed these requirements in the body of the report.
22. Where legal advice confirms an extension is permissible, then for all contracts (irrespective of value) where the award of contract decision referred to provision for a contract extension AND the contract terms made explicit provision for an extension (ie reg 72(1)(a) of the Regulations applies, approval must be sought by the SLT Member.
23. *Implications completed by: Joanna Angelides, Procurement Consultant, 20208 753 2586*

Consultation

24. Officers will launch consultation with schools in parallel to the extension on recommended long-term procurement options. This will allow schools time to engage with their stakeholders, whilst maintaining continuity in service. Early indications from schools suggest that the majority of schools are not currently in a position to consider alternative delivery models / procurement options. A meeting was arranged with Head Teachers to discuss the concept of an insourced delivery model; however, at that time no responses were received, so the meeting postponed until the upcoming consultation period.

List of Appendices:

N/A