



**London Borough of Hammersmith & Fulham**

**CABINET**

**14 OCTOBER 2013**

**EXTENSION OF SCHOOL MEALS CONTRACT WITH EDEN FOODSERVICES LTD.**

**Report of the Cabinet Member for Education : Councillor Georgie Cooney**

**Open Report**

A separate report on the exempt Cabinet agenda provides commercially sensitive information in connection with this contract.

**Classification:** For Decision

**Key Decision:** Yes

**Wards Affected:** All

**Accountable Executive Director:** Andrew Christie, Executive Director of Tri-borough Children's Services

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**1. EXECUTIVE SUMMARY**

- 1.1. This report seeks approval to extend the Council's contract with Eden Foodservices Ltd. for the provision of school meal services in the borough's schools for a further one year, up to 2 November 2014.
- 1.2. This contract was awarded by Cabinet on 7 September 2009 and commenced 2 November 2009. It was for a period of 3 years, with two options to extend up to a further 2 years if beneficial.
- 1.3. The first option to extend the contract with Eden, to November 2013, was taken up last year following consultation with schools, and was approved by the Executive Director for Tri-borough Children's Service under delegated powers in consultation with the Cabinet Member for Children's Services.

- 1.4. Following revisions to Contracts Standing Orders agreed by Council earlier this year, contract extensions are now treated as new spend and therefore require Cabinet approval when expenditure is above £100,000.
- 1.5. The service provided by Eden remains good value for money, taking into account both cost and quality. Results from the latest round of site inspections by the Council's client-side organisation show good levels of satisfaction, and neither Eden nor the Council have suffered the kind of adverse publicity or reputational damage that others have following concerns about the sourcing and quality of food supplies.
- 1.6. Exercising the remaining option to extend Eden's contract by a further year is also important to aligning its termination with those in the Royal Borough of Kensington and Chelsea (RBKC) and in Westminster City Council (WCC), and to delivering a single Tri-borough procurement for a new contract in 2014. Should, however, the Tri-borough school meals contract have not commenced on or before 3<sup>rd</sup> November 2014, the report seeks prior approval to delegate to the Cabinet Member for Education any further short-term contract extension needed to realise the Tri-borough objective.

## **2. RECOMMENDATIONS**

- 2.1 That the Council's contract with Eden Foodservices Ltd. for the provision of schools meals be extended to 2 November 2014.
- 2.2 That authority be delegated to the Cabinet Member for Education to approve any further decision needed in 2014 to extend the current contract with Eden beyond 2 November 2014, as an interim measure, in order to align contract termination with the commencement of a Tri-borough schools meals contract.

## **3. REASONS FOR DECISION**

- 3.1. There are three main reasons for these recommendations:
  - i) to ensure continuity of the H&F schools' meals service after 4<sup>th</sup> November 2013;
  - ii) to enable contract alignment between H&F, RBKC and WCC, support a single procurement, and aid delivery of a future tri-borough contract;
  - iii) to enable, should one be needed, a Cabinet Member Decision on any interim contract extension beyond 2 November 2014 in order to give effect to (i) and (ii) above.

## 4. INTRODUCTION AND BACKGROUND

### Background

- 4.1. As part of its 2006-2010 market testing programme, the Council competitively tendered a contract for school meals provision in 2009. The service, at that time, was provided by the Council's in-house Direct Service Organisation, which did not bid. Following the invitation of 6 tenders in early-2009, and the return of these by 3 organisations, Cabinet awarded the contract to Eden Foodservices Ltd. at its 7 September 2009 meeting. Eden's tender had scored highest on both quality and cost, and would deliver an improved service for less cost. Cabinet approved a 3-year contract with the option to extend up to a further 2 years if this delivers best value.
- 4.2. Once initial "teething" problems associated with first-generation outsourcings had been overcome (which in 2009 were significantly compounded by the introduction of new Jamie Oliver-inspired stricter nutritional standards), schools have been consistently satisfied with the service Eden provide. The first option to extend the contract beyond its initial 3-year period was approved by the Executive Director for Children's Services last year, in consultation with the Cabinet Member for Children's Services.

### Structure of contract

- 4.3. The contract covers 45 H&F schools in total:
- 30 Primaries and 4 Nurseries;
  - 6 Secondary schools;
  - 3 Special schools;
  - 1 post-16 Maintained School (William Morris);
  - 1 PRU.
- 4.4. The contract is held between the Council and Eden Foodservices Ltd. (following schools' reluctance for it to be between them and the provider). The Council, through tri-borough CHS, manages the contract on behalf of those schools wishing to be party to it.

### Funding arrangements

- 4.5. The exact cost to Eden Foodservices of providing a H&F primary school meal is reported on the exempt part of this agenda, for reasons of commercial sensitivity and confidentiality.
- 4.6. Primary schools are provided funding from the Dedicated Schools Grant to cover the cost of free meals. The sale price of paid-for meals to parents is £1.85 per meal; this is less than the total cost to Eden of providing the meal. Given the imperative of volume to commercial viability – that is, being able to sell to parents at an affordable price that maintains uptake - schools receive a subsidy agreed by Schools Forum to cover the shortfall between the total cost and sale price, and the management fee needed to cover the cost of maintaining the CHS Client-side organisation that manages and monitors the contract on schools behalf.

- 4.7 The total value of the contract is £4.3m per annum, depending upon uptake. As a result of awarding the contract to Eden, the subsidy previously provided by the Council to maintain affordability and viability ceased in 2009.

**Current performance**

- 4.8 The tri-borough CHS Contracts Management Team hold monthly operational meetings with Eden, bi-monthly contract review meetings, and termly Schools' Meals Management meetings - for which Eden produce KPI data. The CHS Contracts Management Team also monitors meals at each school through a site visit once a term. Head Teachers and Eden then receive a report listing any actions required.
- 4.9 Results from the latest round of inspections show 12 out of 13 schools receiving a score of between 95 and 100 % and 1 out of 13 achieving between 90 and 95 %. (pass rate is 90%).

**Tri-borough collaboration**

- 4.10 Rather than tender three separate contracts, at different times, tri-borough CHS are keen to pursue a single procurement, with schools acquiring greater responsibility and local management for the new contract.

**5. PROPOSAL AND ISSUES**

- 5.1 The proposal to extend the Eden contract achieves two key outcomes:
- i) Consultation carried out with H&F schools shows that they wish the current contract with Eden to be extended.
  - ii) A contract extension facilitates a tri-borough procurement in 2014.
- 5.2 If approval to extend the contract were not agreed, H&F will need to tender a new contract on a single borough basis,

**6. OPTIONS AND ANALYSIS OF OPTIONS**

- 6.1. There are three options.

**Option 1. Terminate the contract and let schools make their own arrangements**

- 6.2. Given the lack of time available to schools to do this, this would result in potential disruption to a high-profile highly sensitive front-line service and major reputational damage. Schools have been advised of the direction of travel concerning a future tri-borough contract and they are supportive of this. It is highly unlikely that individual schools, especially Primaries, have sufficient capacity and expertise at the current time to consider an alternative to the current arrangement with Eden. If they competitively tender their own contract or decide to take in-house and directly provide the meals service themselves, schools would have to navigate a number of high-impact risks, including the applicability and management of the TUPE Regulations and Pensions requirements for affected staff, and

various logistical matters such as sourcing a supply chain with reduced buying power. The outcome of this course would most likely be a higher cost service, with adverse implications for uptake, viability, school budgets, and the funding of/ on classroom priorities. This option is **not recommended**.

**Option 2. Terminate the contract and H&F tender a single borough contract**

- 6.3. This option would run counter to the Council's direction of travel on tri-borough collaboration and, wherever possible, joint procurement and shared services to improve value for money. There are no resources to do this . It would negate the benefits of a single tri-borough procurement. This option is **not recommended**.

**Option 3. Extend the current contract with Eden to facilitate a Tri-borough service**

- 6.4 H&F schools are satisfied with the service they currently receive from Eden. Extending H&F's contract with them for a further year will help bring about alignment with RBKC and WCC.
- 6.5 A Working Group is currently consulting with schools and undertaking a soft-market testing exercise with current and potential providers to help shape a robust, good quality, value for money tri-borough contract. It is expected that the benefits of such a single tri-borough service will include:
- schools meals being delivered at the same or improved quality, but at lower cost;
  - this lower cost releasing DSG funds for different school priorities;
  - lower contract management and Client-side costs;
  - improved transparency of school meal funding.

**Option 3 is the recommended option.**

## **7. CONSULTATION**

- 7.1. Schools have been asked to sign up to the extension by the 6<sup>th</sup> September. To date, 42 have replied and have agreed to the extension and 3 have not replied. Eden would be content with this extension under the current terms and conditions.

## **8. EQUALITY IMPLICATIONS**

- 8.1 There are no immediate equalities implications arising from the report's recommendation to extend the current contract with Eden. Equality Impact Assessments were undertaken when the contract was tendered in 2009, and again when a Cabinet Member Decision agreed an increase in the sale price of meals to parents in 2011. A full EIA will be conducted as part of the preparations for the new tri-borough contract.

8.2 Implications discussed with: Carly Fry, Opportunities Manager. Tel 0208 753 3430.

## **9. LEGAL IMPLICATIONS**

9.1. The Bi-Borough Director of Legal service confirms the contract provides for extension to 4 November 2014.

9.2. Implications verified/completed by: Andre Jaskowiak, Senior Solicitor tel: 020 7361 2756.

## **10. FINANCIAL AND RESOURCES IMPLICATIONS**

10.1 The School Meals Contract value in 2013/14 is £3.9 million. The value of the contract extension for Adult Meals is estimated to be £400k, which is in line with prior year expenditure on staff meals. The total value of the school meal contract in 13/14 is likely to be in the region of £4.3m.

10.2 Eden have confirmed an increase in the contract price of 40% of CPI for food and 60% of any NJU agreed labour increase. The latter is expected to take the price per meal over the current delegated budget. It is our expectation that any over spend on this budget, will be covered from DSG carry forward in the current financial year.

10.3 Implications verified /completed by: Lize Ferreira, Finance Manager tel 0208 753 1899.

## **11. RISK MANAGEMENT**

11.1. The report proposals positively contribute to the Enterprise Risk register entries, no 1. Managing Budgets and no.2 meeting the Customer Needs and Expectations. Operational procurement risk management responsibility rests with the procuring department, in this case Tri-borough Children's Services. Should a significant risk emerge from the extension of this contract the exposure to this would be recorded through the Children's Services Portfolio and raised with its management team. The report proposals ensure that adequate provision of schools meals is maintained through extending the contract with Eden Food Services. It is also recognised that through exercising the remaining option to extend Eden's contract by a further year the council is aligning its procurement strategy with that of the Royal Borough of Kensington and Chelsea (RBKC) and Westminster City Council (WCC) with the objective to deliver a single tri-borough procurement for a new contract in 2014. Performance of the contractor is measured through a key set of indicators.

11.2. Implications completed by: Mike Sloniowski 2B Risk Manager tel 0208 753 2587.

## **12. PROCUREMENT AND IT STRATEGY IMPLICATIONS**

- 12.1. The schools meals contract awarded by Cabinet in September 2009 provides for two 1-year extensions being made to the contract, if this is beneficial. Recent changes to the Council's Contract Standing Orders require such contract extensions to be approved by Cabinet where the expenditure exceeds £100,000.
- 12.2. The increase in the contract price reported above in paragraph 10.2 is in accordance with the formula agreed between the Council and Eden in 2009; namely, 60% of any NJU agreed pay increase, and 40% of CPI indice 01 (food and non-alcoholic drinks).
- 12.3. The Director of Procurement and IT Strategy has advised Tri-borough CHS on this matter, and supports the report's recommendations. These are aimed at maintaining good quality value for money schools meals in H&F throughout 2014, followed by an even more efficient tri-borough arrangement thereafter.
- 12.4. Implications completed by: John Francis, Principal Consultant H&F Corporate Procurement 020 8753 2582.

### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	Cabinet Key Decision 7 <sup>th</sup> September 2009: Award of School Meals Contract 2 <sup>nd</sup> November 2009 to 4 <sup>th</sup> November 2012 (published).	John Francis x2582	Corporate Procurement, FCS 3 <sup>rd</sup> Floor, West Wing, Hammersmith Town Hall.
2.	Consultation papers issued to H&F Schools on whether they wish to see the Eden contract extended (published).	Lynne Richardson School Contracts Manager 07947 706 526	Children's Commissioning 2 <sup>nd</sup> Floor, Orange Zone, Kensington Town Hall. Hornton Street W8 7NX