

CABINET PROCUREMENT & INSOURCING COMMITTEE

CONTRACT AWARD REPORT

Title of Report	Early Years Catering Service Call Off Contract Extensions
Key Decision No.	CE S173
CPIC Meeting Date	2 May 2023
Classification	Open Report with Exempt Appendix A:
Ward(s) Affected	All
Cabinet Member	Cllr. Caroline Woodley (Cabinet Member for Families, Parks and Leisure)
Key Decision	<p>_____</p> <p>Yes</p> <p>_____</p> <p>This results in the Council incurring expenditure or savings which are significant having regard to the Council's budget for the service/function</p>
Group Director	Jacque Burke, Group Director of Children and Education
Contract value, <u>both</u> Inclusive of VAT and Exclusive of VAT (for the duration of the contract including extensions)	3,526,406.73 INC VAT (2,938,672 EXC VAT) Based on Standard VAT rate.
Contract duration (including extensions e.g. 2 yrs + 1 yr + 1 yr)	4 years 1 + 1

1. Cabinet Member's Introduction

- 1.1. This report seeks to approve an 18 month extension to the existing call off contracts in place for catering provision for Hackney Children's Centres. The purpose of the extension is to allow for the review concerning the development of Children and Family Hubs to be completed by Summer

2023, and for the results of the review and recommendations to be implemented over a phased period from 2023 to 2024/25.

- 1.2 This report notes, in Legal comments, a potential risk of challenge from alternative providers. The Council has not been approached, over the last year, by alternative providers in relation to any intention the Council has to tender. The original open tender opportunity attracted only 3 responses including the incumbent. Previous extensions to this agreement have gone unchallenged with the current provider is comfortable with the proposed extension.

Group Director's Introduction

- 1.3 The Early Years catering services framework agreement was procured by Hackney Education in 2016 and was operational between the 1st August 2016 and 31st July 2020. All council-managed centres and two maintained schools with children's centres used the framework, and each one contracted individually with the sole service provider under the framework's call-off terms.
- 1.4 In 2020 the centre's individual call-off contracts were extended for a further year, until 31st July 2021. There was a further extension to the individual call-offs approved through CPIC to 31st January 2023 to provide for the completion of an insourcing review.

2. Recommendations

- 2.1. **It is recommended that the Cabinet Procurement and Insourcing Committee agree to the extension of the Early Years Catering Service Contracts for a further 18 months (from 1st February 2023 until 31st July 2024) to allow sufficient time for the project for the Development of Children and Family Hubs to be completed.**

3. Related Decisions

- 3.1. Childrens Centre Catering HPB Contract Award Report
- 3.2. Children's Centres Catering Services Extension 2020 - 2021
- 3.3. Children's Centres Catering Services Extension 2021 - 2023

4. Reasons for Decision/Options Appraisal.

- 4.1. The Early Years catering service framework was procured by Hackney Education in 2016 to support Hackney's children's centres. The catering service complies with the School Food Trust recommendations for food and drink for under 5s, and the Government Buying Standards for Food and Catering which relate to sustainable food procurement.
- 4.2. The original framework was in place for 4 years between the 1st August 2016 and 31st July 2020. All 6 council-managed centres used the framework, and

each centre contracted individually with the service provider under the framework's call-off terms. Two Children's Centres accessing the Service are school-based. Please refer to 5.6 below for further detail.

- 4.3. There have been two extensions authorised for the provision of the services. The second extension was provided to 31st January 2023 to enable alignment of commercial catering contracts and the finalisation of the Insourcing Review. There is currently a review ongoing in relation to the commercial catering contracts, in addition to the review of children's centres and the development of Children and Family Hubs to provide integrated services for families with children 0 - 19. In addition, an independent commission into affordable childcare commenced in March 2023. As a result Hackney Education is seeking approval for a further extension to enable the landscape of children's centres to be co-designed, and agreed.
- 4.4. The further extension period of 18 months will enable sufficient time for the transformation of a number of children's centres into Children and Family Hubs, and the future configuration of children's centre nurseries and their service needs to be agreed.
- 4.5. The extension will mitigate the risk of a non contracted service provision whilst the reviews are being finalised. The extension will enable the Council to work with the Centres and the Contractor to provide a continuing good service including support for staff and families.
- 4.6. The extension will enable any findings, learnings and strategies coming out of the work being undertaken by the Free School Meal task force to be considered and built into the work with the children's centres.
- 4.7. Due to the whole life value of the contract being in excess of £3,000,000, the department is seeking approval to further extend the call off contracts from Cabinet Procurement and Insourcing Committee. If extended, this service will continue to be paid for within the existing budget and no additional funding will be necessary. The cost of the meals is included within the childcare fees. The supplier is paid directly from each Children's Centres budget.
- 4.8. The Children's Centres and Nursery Schools with active call off contracts in place with the contractor are listed below:
 - Ann Tayler Children's Centre (Council)
 - Clapton Park Children's Centre (Council)
 - Comberton Children's Centre (Council)
 - Fernbank Children's Centre (Primary School - Jubilee)
 - Hillside Children's Centre (Council)
 - Linden Children's Centre (Council)
 - Woodberry Down Children's Centre (Council)
 - Comet Nursery School (Maintained Nursery School)

5. Alternative Options (Considered and Rejected)

- 5.1.1 **OPTION 1 - Do Nothing:** The Council lets the call off contracts expire on the 31st January 2023 and takes no further action – this was considered and rejected as the centres need to provide catering services to the community to meet their obligations to parents who pay for a service.

The Council has a declared commitment to support children and young people, the Centres provide a hub for local families to meet, engage and get support from a range of services.

- 5.1.2 **OPTION 2 - Re-tender:** The centres re-tender to renew the contracts – this option was considered and rejected at this moment in time. The option to re-tender is to be done in line with the assessment and outcome of the Children and Family Hub review and any Insourcing assessment.

- 5.1.3 **OPTION 3 - Insourcing:** - The Insourcing Review was not completed as the Early Years review was ongoing and has now been updated to feed into the Children and Family Hubs review and the review of affordable childcare. An Insourcing option will form part of the review and determination of any future tender for Centre catering provision.

6. Project Progress

6.1.1 Developments since the Business Case approval

- 6.1.2 Since the contract was awarded in 2016, the Service Provider has continued to deliver the service to a high standard of quality and works in partnership with centres successfully.

- 6.1.3 The Service Provider continued to provide off-site and remote services throughout the pandemic ensuring that they were able to come back to service following the pandemic.

6.2 Whole Life Costing/Budgets:

- 6.2.1 There is no central budget allocation for catering, as each Head of Centre manages their own children's centre budget, which includes an allocation for the purchase of catering services. The catering cost for centres managed by schools is accounted for within the delegated school budget funding formula.

- 6.2.2 The annual contract spend agreed across all centres during the original tender was £429,062.43 per annum. This equates to a value of £1,716,249.72 over the 4 year framework duration. The pricing was fixed for the duration of the framework, with the exception of the London Living Wage (LLW) rate which has increased annually.

CENTRE	2021-2023 (12 month figures)	2023-2024 * (12 month figures)
Ann Taylor	£ 87,621.62	£92,122.17
Clapton Park	£ 79,191.97	£85,647.76
Comerton	£ 72,208.78	£70,372.47
Fernbank	£ 73,907.66	£72,649.04
Hillside	£ 57,487.45	£63,271.60
Linden	£ 60,114.81	£68,610.03
Woodberry Down	£ 50,434.49	£51,898.40
Comet Nursery	£ 29,060.66	£30,517.21
TOTAL	£ 510,027.44	£535,088.68

TOTAL for 18 months	N/A	£802,633.02
TOTAL for 18 months with LLW increase *provision added	N/A	£827,633.02

- the figures are based on 2022 meal actuals

6.2.3 The recommendation is for an extension for 18 months, which equates to £802,633.02. There is also an additional £25,000 from 1st April 2023 for the increase in the LLW. This makes the total additional expenditure £827,633.02.

Total Cost of Contract:

Year	Total Value
2016 - 2020	1,716,249.72
2020 - 2021	2,226,277.05
2021 - 2023	2,991,318.05
2023 - 2024	3,526,406.73

At all centres the heavy and light equipment is bought and owned by the centre not the contractor. There are no additional equipment requirements for this contract.

6.3 **Savings**

- 6.3.1 There will be no financial savings achieved from the continuation of this contract. A provision in the contract to facilitate any transition out of the contract for children's centres will mitigate commercial risk and will assist in the provider being able to relocate staff within their other Hackney services
- 6.3.2 LLW is paid to staff and will continue to be payable under the extended agreement. By continuing to pay LLW, it will provide some security for staff whilst the Hackney Education reviews are being undertaken.
- 6.3.3 Increases in ingredient provision is in line with current cost of living pressures with the provider and the children's centres working together to mitigate this whilst maintaining a high quality and nutritious meal provision.
- 6.3.4 As part of the recommendation the provider would develop an off site service for one of the current children's centres to ensure service continues and the member of staff currently employed is retained. Review of potential alternatives had indicated a significant cost to the centre.

7. **Sustainability Issues**

7.1 **Procuring Green**

- 7.1.1 The service specification sets the sustainable requirements of the food supplied and the contractor's operations. In their tender response, the contractor committed to delivering services that reduce negative sustainability impacts.
- 7.1.2 Issues of waste in terms of food, packaging and utilities were key areas assessed in the Invitation to Tender.

- 7.1.3 Internal kitchen reduction and management of waste is also covered within the existing specification. It is the responsibility of the contractor to control supplier deliveries, including switching off the engines of delivery vehicles when on establishment premises.
- 7.1.4 An emphasis is placed upon delivering vegetarian and vegan meals for children where appropriate. This underpins the importance of supplying more plant-based meals, and mitigates the environmental impact of using animal products in food.

7.2 Procuring for a Better Society

- 7.2.1 Equality and Diversity assessment was included in the initial tender evaluation. In order to qualify, all bidders were required to have a written equal opportunities and/or race relations policy and to demonstrate how they monitor supply chain adherence to these policies. Existing catering staff will be protected under TUPE.
- 7.2.2 Working with the provider whilst the Early Years children's centre review and transformation of centres to Children and Family Hubs is ongoing will provide protection and opportunities for those staff currently employed by the provider.
- 7.2.3 The extension will ensure a seamless provision of service in the period in question and a seamless transition of the determined service supporting children and families.
- 7.2.4 London Living Wage continues to be payable under the contract, which will continue to have a beneficial effect on catering staff.

7.3 Procuring Fair Delivery

- 7.3.1 Any economic impact arising from the continuation of this service will be entirely positive. Any improvement in child health will lead to a reduction in health costs.

8. Equality Impact Assessment and Equality Issues:

Not applicable - continuation of existing service provision.

9. Alternative Options (Considered And Rejected)

Please refer to Section 5.1 above.

10. Tender Evaluation

Not applicable - continuation of existing service provision.

11. Contract Management Arrangements

11.1 Resources and Project Management (Roles and Responsibilities):

11.1.1 The Hackney Education Senior Procurement Category Manager is responsible for the centralised management of the framework agreement.

11.1.2 The resulting call-off contracts are in place between each centre and the contractor. As a result, the day-to-day contract management is undertaken by each centre. The Strategic Head of Children's Centre also retains an overview of the service, managing the overall budget and providing additional support, if required. Regular contract monitoring meetings will continue to be held.

11.1.3 Once the mandatory rollout has been completed, the Council's contract management system will be used as the primary contract management tool. This will enable efficient communication with suppliers and the tracking and monitoring of performance, whilst also facilitating dashboard summaries and snapshot reports for senior managers.

11.2 Key Performance Indicators:

KPIs are centred around the criteria set out in the table below:

Targets	Monitoring
1. Food Nutritional, Quality & Service Standards – Complies with Eat Better Start Better Guidelines, Presentation, Taste, Portion control, Wastage, Timeliness	Meals to be delivered as agreed, on time, portion sizes correct and dining facilities to be returned in agreed time and to agreed standards, according to each Centre's specific requirements.
2. Food Hygiene / Health & Safety / Cleanliness Compliance - Tidiness, EHO Reports, Completion of mandatory operational documents, e.g. temperature recording, cleaning schedules etc.	Confirmation of annual deep clean, details of number of quality audits/ inspections including failures identified and action taken to remedy, compliance with statutory and legislative food hygiene and safety requirements.
3. Staff performance and welfare	Monthly monitoring report to include training undertaken, complaints/ concerns and action taken to remedy to be detailed in the Complaints Book and details of accidents/ injuries/ near misses to be recorded in the Accident Book to be held in the Kitchen.

<p>4. Customer satisfaction</p>	<p>Provider will be in regular communication with the Centre Manager, children and parents for feedback on the service including timeliness, quality of food, variety of meals and presentation. An annual survey and analysis of results will also be conducted.</p>
<p>5. Equipment maintenance</p>	<p>Sufficient light equipment will be maintained to meet the needs of the service at each Centre. Any defects to be reported in the monthly monitoring report.</p>

12. Comments of the Group Director of Finance and Corporate Resources

- 12.1 The recommendation in this report is for the Early Years catering contract to be extended for a further 18 months from February 2023. The cost of this will be £827,633 which includes an allowance made for an additional £25,000 from 1st April 2023 to accommodate an increase in the London Living Wage.
- 12.2 The cost of the contract will be met within existing resources and the supplier will be paid directly from each individual Children’s Centre budget. Within school catering provided by external suppliers there have been cost of living pressures which have led to increases in school catering costs. However, within the children’s centres both the supplier and the centre are working together to mitigate costs as much as possible while maintaining a high quality and healthy meal provision.

13. Comments of the Director Legal, Democratic & Electoral Services

- 13.1 The call-off contracts for the Early Years Catering Service expired on 31st January 2023 and this Report sets out the reasons why it has not been possible to undertake a procurement process to appoint provider(s) to continue service provision after such date. Therefore it is proposed to award a contract extension in respect of such call-off contracts to meet the current needs. Paragraph 4.8 of Contract Standing Orders states that, in respect of a variation of contract, if the total cost of the contract inclusive of the proposed variation is above £2m, approval must be sought from Cabinet Procurement and Insourcing Committee. Therefore the Cabinet Procurement and Insourcing Committee is authorised to approve this variation.
- 13.2 It should be noted that there is, therefore, some risk to the Council that a challenge to the award of the contract extensions could come from competitors the Council has not approached to undertake the services. If such a challenge were successful it is likely that the Council would be liable to pay the lost profits of a party who has successfully challenged as well as the costs of bringing such a challenge and potentially a fine from the government for a breach of the Regulations. This should be considered in the decision to approve the awards of contract in this Report.

14. Comments of the Procurement Category Lead

- 14.1 This report sets out the recommendation for the extension of the Early Years Catering Service Contracts for a further 18 months (from 1st February 2023 until 31st July 2024) to allow sufficient time for the Children and Family Hub Review and commission into affordable child care to be completed. Following the noted reviews, the department will:
- Exit the service, whilst still supporting the families and children, including the number and location of the children's centres and affordable child care;
 - The current reviews will also consider the means of service provision including insourcing;
 - Tender where required, the defined service provision.
- 14.2 The recommendations coming out of the Insourcing Review, Children and Family Hubs and affordable childcare reviews will determine the procurement route in agreement with the service area. It is recognised that not having a service contracted places risk on the Council for the period required to complete the noted Reviews. Retaining the services of the provider enables the centres to continue to support families in the borough at a level that is currently recognised as good and retains excellent feedback.
- 14.3 The previous extension was predicated on an Insourcing Review which was not completed due to COVID delays, internal resourcing issues and consideration of staff and consultations. The risk of the reviews not completing and putting us in a similar situation has to be recognised and firm timing commitments required and agreed.
- 14.4 There is recognition that during the initial extension, the impact of COVID resulted in a significant reduction in the service provision required, which has taken some time to get up to "normal" levels. It is also recognised that delays in decisions regarding insourcing impacted the ability to agree on any procurement route but importantly the number of centres and support required.

Appendices

EXEMPT Appendix A - Review Information

Exempt

By Virtue of Paragraph(s) 3 Part 1 of schedule 12A of the Local Government Act 1972 this report and/or appendix is exempt because it contains Information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Background Papers

None

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