



## Mayor and Cabinet

### **Permission to procure report for School Kitchen Planned Preventative Maintenance (PPM) and Responsive Repairs Procurement**

**Date:** 9 March 2022

**Key decision:** Yes

**Class:** Part 1

**Ward(s) affected:** All

**Contributors:** Educational Estate Contacts & Compliance Manager, Senior Lawyer, Group Finance Manager - CYP

## Outline and recommendations

The purpose of this report is to seek agreement from Mayor and Cabinet to commence the procurement process for the school kitchen maintenance service.

The current School kitchen maintenance contract with Thermoserv Ltd commenced in January 2018 for a period of two years and four months with the ability to extend for a period of up to two years.

There are 25 schools in the centralised school meal contract and this contract supports the delivery of this service, providing Planned Preventative Maintenance (PPM), repairs, and replacement of catering equipment.

It is recommended that Mayor and Cabinet approves the procurement of an external contractor to maintain, repair and replace catering equipment within kitchens at schools in the central school meals contract using the Councils approved procurement e-tendering system (Pro-Contract Procurement Portal), which publishes opportunities through the London Tenders Portal and Contracts Finder. It is recommended that the Council procures a 3 years and 4 month contract with the option to extend for up to 2 years at the Council's discretion.

## Timeline of engagement and decision-making

- 15 January 2018 – Current contract commenced
- 20 November 2019 – Mayor and Cabinet report – The Future Delivery of School Meals extending the contract for 3 months to July 2020
- 25 March 2020 – Mayor and Cabinet Extension Report extending the contract to 31 July 2021
- 25 June 2021 – Executive Director for CYP – Extension of the contract for a permitted 9 months to April 2022
- 9 March 2022 – Mayor and Cabinet Permission to Procure Report
- June 2022 – Mayor and Cabinet Award Report
- July 2022 – Commencement of Contract

## 1. Summary

- 1.1 The current contract with Thermoserv Ltd delivers Planned Preventative Maintenance (PPM) and Responsive Repairs for those school kitchens included in the centrally provided catering contract. This contract began in January 2018 and is due to end on 30 April 2022.

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- 1.3 Following the exit of a number of schools from the main centralised school meals contract in July 2021, the cost of PPM for the remaining schools is circa £26,852 per annum. A balance of £101,824 is set aside as a budget for responsive repairs and replacements, either from the successful contractor's agreed schedule of rates or using competitive quotes from other suppliers for high value items. Therefore the contract has a maximum value of £128,676 per annum or £686,272 for the full term proposed.
- 1.4 The contract term is proposed as 3 years and 4 months with an option to extend for 2 years in order that it is coterminous with the main school meals contract and allows the exploration of options for the future delivery of the service.

## 2. Recommendations

- 2.1 Mayor and Cabinet are recommended to approve the procurement of an external contractor to maintain, repair and replace catering equipment within kitchens at schools in the central school meals contract for a term of 3 years and 4 months plus an option to extend of 2 years.

## 3. Policy Context

- 3.1 This proposal addresses Lewisham's Corporate Strategy 2018-2022 as follows;

### 3.1.1 Giving Children and Young People the Best Start in Life

The extension will continue to support the school meals service to ensure they can deliver a nutritious hot meal each day by ensuring all equipment used to deliver is operating efficiently.

### 3.1.2 Building an inclusive Local Economy

Employees will continue to receive the London Living Wage as a minimum. This has been found to help to stimulate growth in the local economy and improve health outcomes.

## 4. Background

- 4.1. A contract to deliver PPM and responsive repairs to 61 of the 67 school kitchens who were included in the previous catering contract commenced in January 2018 and following previously agreed extensions is due to terminate on 30 April 2022.
- 4.2. The Council will be out of Contract from May 2022 until the new contract is in place. During this period the service will manage urgent works with the Council's financial regulations carrying out quotes or single tender actions for direct award.
- 4.2 The PPM and repairs contract had a value of circa £274,000 per annum but with a reduced number of schools remaining it would have a maximum value of £128,676 per annum.
- 4.3 The service is delivered at no cost to the Council centrally as all spend is reclaimed from member schools.
- 4.4 The contract will continue to be cliented centrally by the Lewisham Catering Management Team who collect multiple quotes for high value items, assist with bookings, carry out regular inspections, and budget on behalf of member schools.
- 4.6 The contract will continue to provide PPM and repairs to kitchen equipment for all primary schools in the contract and 1 secondary school. The service is an essential part of the school meals delivery service. There is a 1 hour response target for the most urgent break-downs and this ensures that we are doing everything possible to get the service delivered and fulfil member schools legal obligation to provide a meal.

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- 4.7 The contract provides some protection from unexpected costs for member schools as the annual resource is pooled and the client works to within the collected budget.
- 4.8 The contract, including any extension, is not at a direct cost to the Authority as all funding is collected from schools to meet the expenditure. The contract is procured and managed on behalf of maintained, voluntary aided and academy schools.

## 5. Procurement Options Considered– Route to Market

- 5.1. An external contractor is being procured because the Council has neither the skills not capacity to deliver such repair and maintenance works.
- 5.2. The ESPO Commercial Catering Equipment – Supply, Installation, Maintenance, ire and Kitchen Design Framework (98) – Lot 3 was also considered but the contractors listed are mainly manufacturer’s engineers dealing with their own specific equipment. As the contract already employs a wide variety of makes and models a more general knowledge would be required for servicing and repairs. As this is quite a specialist area requiring locally based engineers to fulfil response targets, there is significant risk that there would be a low number of bidders who could meet the requirement therefore use of a framework has not been recommended.
- 5.3. Insourcing – It would not be possible to insource the contract for the following reasons:
  - 5.3.1 Whilst the option to insource was explored and recommended with the wider school meals contract, the current smaller size of the contract and the requirement for a variety of skilled operatives (plumbers, electricians, and gas and specialist engineers) means the option to insource would no longer be viable, due to the lack of internal expertise.
  - 5.3.2 School kitchens are unlike many other comparable establishments (restaurants or cafes) and the requirement to repair at sometimes very short notice means that a contract with a schedule of rates agreed is advantageous in speeding up call outs and ensuring meals can be delivered as per school’s statutory requirements.

## 6. Procurement Project Plan

- 6.1. The procurement opportunity will be advertised via the Council’s online tendering system (Pro-contract Procurement Portal), which publishes opportunities through the London Tenders Portal, Contracts Finder.
- 6.2. Suppliers will be able to tender for this contract via the Pro-Contract Procurement Portal and will be assessed on a criteria of price, quality with a percentage of 50/50 split. The quality weighting will include between 5% - 10% Social Value in line with the Council’s procurement policies.
- 6.3. The successful supplier will be recommended for award of contract, following a further report to Mayor and Cabinet.
- 6.4. Proposed Procurement Timetable

Activity	Proposed Date
Tender Documents Issued	20 <sup>th</sup> March 2022
Tender Returns	24 <sup>th</sup> April 2022
Evaluation	May 2022
Internal Approvals - M&C	June 2022

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Award	June 2022
Contract Commencement	Mid-July 2022

## 7. Financial implications

- 7.1. As such there is no direct implication for the Local Authority (general fund).
- 7.2. Funds will be collected from schools to cover their PPM (Planned Preventative Maintenance) and to set aside a budget for repairs and replacements. The collection will be based on meals served and is likely to equate to around 12p per meal (based on usual annual uptake). Any unused budget will be transferred back to schools at the end of the contract.
- 7.3. The budget collected will be based on a similar amount per meal as previously for the remaining schools. We don't anticipate any significant implications for schools. The client team has successfully remained within or close to the set budget since the contract commenced in 2018 and will continue to do so.

## 8. Legal implications

- 8.1. The report seeks approval to future delivery of a schools kitchen maintenance service by an external provider. Given the potential spend on this contract it would be categorised by the Contract Procedure Rules as a Category A contract. The report sets out the other options considered and explains why an open procedure is the recommended option.
- 8.2. Assuming that Mayor and Cabinet accepts the recommendation for future delivery by an external provider, Contract Procedure Rules place requirements on how that should happen. The Rules require that when letting contracts steps must be taken to secure value for money through a combination of cost, quality and competition, and that competitive tenders or quotations must be sought depending on the size and nature of the contract (Rule 5). Given the potential spend on this contract the Public Contracts Regulations 2015 ("Regulations") will also apply. The requirements of both Contract Procedure Rules and the Regulations would be satisfied by use of an open tender procedure. The process for procurement and the award of the contract would have to be in accordance with the Contract Procedure Rules. As a Category A contract, it would be for Mayor and Cabinet to take a decision on the award of any contract.
- 8.3. The decision is a key decision and must be included in the Key Decision Plan.
- 8.4. In taking this decision, the Council's public sector equality duty must be taken into account. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.
- 8.5. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for Mayor and Cabinet, bearing in mind the issues of relevance and proportionality. Mayor and Cabinet must

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understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

- 8.6. The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found on the EHRC website.

## **9. Equalities implications**

- 9.1. All companies tendering are expected to provide details of the equal opportunities policies they have in force, to demonstrate that they meet Council standards as applicable.

## **10. Climate change and environmental implications**

- 10.1. The Council's Environmental objectives will be addressed in the contract documentation and form part of the criteria used in the tender evaluation.

## **11. Crime and disorder implications**

- 11.1. No crime and disorder implications arise from this report or the proposed contract extensions

## **12. Health and wellbeing implications**

- 12.1. This service supports the provision of school meals at member schools aligning to Schools Food Standards, and Silver Standard Food for Life Partnership level. This contributes towards Lewisham's Health and Wellbeing Strategy in terms of improving health and achieving a healthy weight.
- 12.2. The contract will ensure that the school meal contractor for 25 member schools can deliver a nutritious hot meal each day by keeping kitchen equipment operational.

## **13. Social value implications**

- 13.1. The tenderers will be asked a method statement question to demonstrate what social value they can deliver through the contract.

## **14. Background papers**

- 12.1 School kitchen FM Award Report – Mayor and Cabinet - November 2017
- 12.2 School Meals and School Kitchen Contract Extension Report – Mayor and Cabinet – March 2020
- 12.3 School Kitchen Contract Extension Report – Executive Director for CYP – June

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## 15. Glossary

Term	Definition
PPM	Planned Preventative Maintenance
EHRC	The Equality and Human Rights Commission

## 16. Report author and contact

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## 17. Comments for and on behalf of the Executive Directors for CYP

17.1. XXXX

## 18. Comments for and on behalf of the Director of Law, Governance and HR

18.1. Mia Agnew, [Mia.Agnew@lewisham.gov.uk](mailto:Mia.Agnew@lewisham.gov.uk), 020 8314 7546

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