

By:	Patrick Leeson, Corporate Director for Education, Learning and Skills
To:	Roger Gough, Cabinet Member Education and Health Reform
Subject:	Schools Catering Framework Agreement
Classification	For publication

Summary	This report seeks retrospective approval to enter the Framework Agreement established to support School Catering Contracts within the County. The obligation to support schools with the provision of school meals is referenced in the 2012/13 directorate business plans; however the references are not sufficient to provide authority to affix the council's seal to the document and therefore a Cabinet Member decision is being sought.
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## 1. Background Information

- 1.1 The previous countywide school meals contract ended on 31st July 2012 and school budgets for catering were devolved to the individual schools. Therefore it is no longer possible to arrange a county wide school meals contract. In order that KCC can offer schools some level of contract support it has been necessary to create a Framework Agreement from which individual schools can, if they wish, secure contracts with approved providers. This has allowed KCC to set the specification of service provision and to ensure that EU procurement rules are adhered to, whilst allowing the individual contracts to be maintained between the school and the winning service provider for that area. KCC will continue to provide advice and support in relation to the management of the contract and the requirements of health and safety and other legislation.
- 1.2 As a result of the changes described it was no longer possible to offer service providers the use of one school's kitchen to provide meals for a different school.
- 1.3 Tenders were invited on two Framework Agreements, one for schools with cooking facilities on site and one for schools with no cooking facilities. Those providers wishing to tender for the second agreement would have to resolve the issue of providing meals at servery only schools. This approach led to significant issues during the tendering process, as it is unusual for contractors in this market to have access to a county wide network of production kitchens.
- 1.4 When a school decides that it wishes to be part of the Framework, it purchases a 'call off' contract from the Framework. Should a school choose to make their own arrangements for school meals they may engage a private contractor as a single site contract.
- 1.5 In establishing the Framework, it was agreed that the County be divided into 'lots' based on divisional boundaries. One firm has been selected as

the approved provider for each lot and all establishments using the Framework have contracted direct with that provider without the need for further competition.

## **2. The Procurement Process**

- 2.1 An opportunity was posted on the South Eastern Business Portal (SEBP) on 26 January 2012 for contractors to provide catering services to publicly funded educational establishments in Kent.
- 2.2 15 Expressions of Interest were received.
- 2.3 A Prequalification process was undertaken from which 15 responses were received.
- 2.4 Following evaluations of the Prequalifications, 15 contractors were invited to tender during February 2012.

## **3. Tender**

### **3.1 Tender Evaluation & Selection Criteria**

The tender evaluation model was weighted as follows:

<b>Criteria</b>	<b>Weighting</b>
Cost/Price	60
Quality	40

Specifically:

- Cost - final tendered price
- Quality - a combination Method Statements, Contract Innovation and Service Improvement

### **3.2 Tender Response**

Of the 15 contractors invited to tender 7 responses were received.

## **4. Tender Evaluations & Scores**

- 4.1 Quality Evaluations were carried out by the Client Services Team in accordance with a pre-determined set of scoring matrices. Once these evaluations had been carried out and the scores recorded, a financial evaluation was carried out and scored accordingly.
- 4.2 Post Tender Clarifications:

Initial evaluations raised a number of queries with tenderers. The most significant of which was the lack of response to the Servery Framework Agreement. After initially receiving expressions of interest from all bidders for both the Kitchen and Servery Frameworks, the majority responded only with Kitchen bids once they realised they would not have access to production kitchens for these contracts.

The small number of providers who had responded for the Serveries only agreement had selected a small number of the total lots and/or the response did not represent adequate competition or interest, i.e. some lots were not included in the bids, and it was agreed that it was not possible to progress with this tender.

In order to remedy the issue that had arisen it was agreed that a new servery procurement process would be conducted within which would be the offer of arrangements for the use of production kitchens at other schools. All bidders were requested to submit a second round of bids for the servery Framework on the basis of a number of schools being identified to them as potential production kitchens.

Prior to the due date for submission of these re-specified bids, all bidders attended a post-tender clarification interview. All providers responded positively to the approach, but all raised identical concerns around the costs associated with the servery schools and in particular, the costs of transporting meals from the production kitchen to the servery kitchen. A significant proportion felt that the resulting meal prices to servery schools would be so high that it would be unaffordable to parents and make their overall bids appear uncompetitive.

In response to these concerns, bidders were asked to provide their pricing, supported by a breakdown of the associated costs including the transport element and in addition a “blended price” option. This enabled KCC to evaluate possible options for provision via a Framework Agreement for all schools and to understand the impact of the transport costs on possible provision.

The blended prices requested were designed to achieve consistency in the meal price offered to each district by their allotted Contractor, rather than having different prices to schools with kitchens and schools with serveries only and to achieve affordable servery meal prices.

#### 4.3 Second Round Bids

Second round bids were received a week after the interviews. Each Lot was evaluated individually with regard to whether there was an option to award under the original bid, or whether a blended offer needed to be considered.

### 5. Recommendations for Award

**Summary of Successful Bids:** As below

School District	Contractor Award	Value (£ per annum)
Ashford A	Compass Group	£85,970
Ashford B	Greenwich Service Plus	£564,153
Canterbury	Greenwich Service Plus	£623,617
Dartford	Compass Group	£632,083
Dover	Greenwich Service Plus	£478,638

Gravesham	Greenwich Service Plus	£457,872*
Maidstone	Greenwich Service Plus	£746,571
Sevenoaks	Greenwich Service Plus	£550,853
Isle of Sheppey	Compass Group	£234,099
Shepway	Cater Link	£511,474
Swale	Principal Catering Consultants Ltd	£903,752
Thanet	Cater Link	£895,490
Tonbridge & Malling	Greenwich Service Plus	£663,208
Tunbridge Wells	Greenwich Service Plus	£568,987
<b>Single Sites:</b>		
Maidstone A	Greenwich Service Plus	£37,463
Thanet A	Compass Group	£32,323
Thanet B	Compass Group	£39,905
Thanet C	Greenwich Service Plus	£29,880
Thanet D	Greenwich Service Plus	£25,312
Tonbridge & Malling A	Greenwich Service Plus	£15,867
<b>TOTAL</b>		<b>£8,097,517</b>

\*Award Amendment July 2012

## 6. Post Award Amendments - July 2012

- 6.1 Following receipt of a challenge from Initial Catering Services (T/A Eden Food Services) on 1 June 2012 and a subsequent review of the procurement process, KCC conceded to amend the award for the Gravesham lot. This amendment was negotiated between all parties concerned and Greenwich Service Plus agreed to this change in award with no detrimental effect to their original tender offer for all remaining lots awarded to them.
- 6.2 Two companies have asked for the Framework Agreements to be novated. The necessary financial checks have been carried out and instructions have been received that the novations should go ahead as requested. The Framework allows for these actions to be taken but they are included here for information. These are:
- Eden - Initial Catering Services Ltd will be novated to Rentokil Initial Services (UK)
  - Greenwich Services Plus Ltd will be novated to Greenwich Service Solutions Ltd

## **7. Further developments**

- 7.1 In order to finalise the process and create the Framework Agreement, Legal Services received a request to affix the council's seal to it. The relevant record of the Cabinet Member's decision was requested in order to verify that the correct authority was in place and that the Kent County Council Seal could be affixed.
- 7.2 A signed record of decision sheet was duly received by Legal Services and the seal affixed.
- 7.3 A similar process had run alongside the creation of the School Catering Framework Agreement to create an agreement for the provision of school cleaning services. Problems had been identified with the authority needed to affix the seal to this agreement and Democratic Services had been contacted in order to investigate that process. As the same processes had been followed for the Catering contract it was agreed that the Catering Framework, although sealed, should be investigated too.
- 7.4 It was established that, although a genuine attempt had been made to secure the proper authority, certain statutory and administrative requirements of the decision making process had been omitted for both Framework agreements and as such, there was no authority for the catering Framework Agreement to have been sealed.
- 7.5 Thorough research was conducted to establish whether a delegation to officers to implement the Framework Agreement existed within the Medium Term Financial Plan, Budget Book and annual plan entries. Although there were several entries related to the future of school budgets and to the provision of services it was agreed that they were not sufficiently robust to provide the authority needed to seal the agreements and that a Cabinet Member decision would need to be taken.
- 7.7 Work towards the execution and implementation of a Cabinet Member decision began. However this process was further delayed by the need for careful investigatory work into the robustness of the procurement process and therefore the Framework agreement. It is important that the Cabinet Member be fully informed and in receipt of a viable and legal way forward when taking any decision.
- 7.8 The likelihood and scale of the risk is deemed to be very low now that the initial issues have been settled and as with any decision this risk must be contemplated by the Cabinet Member in relation to the risk of the other options available to him. These being, not sealing the agreement and continuing to put the council at risk, incurring the responsibilities of the contractual arrangement with none of the protections it affords, or dissolving the agreement and running another procurement process to create a new agreement. The risks associated with these two options are high, both reputationally and financially. The risk of signing off the original agreement in comparison is low. Legal challenges to date have been resolved and it is unlikely that any of a similar vein will return.

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**8. Cabinet Committees**

- 8.1 This decision is being taken outside of the Cabinet Committee process. The Chairman of the Council was consulted and has agreed that the decision should not be deferred until the next meeting of the Cabinet Committee.

**9. Recommendations:**

That the Cabinet Member AGREE:

1. That the School Catering Framework Agreement be approved.