

Birmingham City Council

Report to Cabinet

22nd March 2022



Subject: Catering and Food Procurement Strategy for Cityserve/Civic Catering

Report of: Rebecca Hellard – Director of Council Management

Relevant Cabinet Member: Cllr Tristan Chatfield - Finance & Resources

Relevant O & S Chair(s): Cllr Mohammed Aikhlaq - Resources

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009820/2022		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential: Please note that Appendix 1 to this report is designated as exempt from publication under Schedule 12A of the Local Government Act 1972 – paragraph 3		

1 Executive Summary

- 1.1 This report sets out the procurement strategy and trajectory for the Council's catering and food service requirements for Cityserve and Civic Catering.

- 1.2 To set out and seek approval to a series of procurement measures relating to the Council's catering and food contracts to enable a more strategic long-term solution to be implemented.

2 Recommendations

- 2.1 That Cabinet approves:
- 2.2 The procurement strategy for catering of food service contracts for Cityserve and Civic Catering as set out in this report and the associated Exempt Information Appendix.
- 2.3 Delegates authority to the Director of Group & Capital Finance (Deputy S151 Officer), the Assistant Director Corporate Procurement or their delegate, in conjunction with the Chief Finance Officer or their delegate, and the City Solicitor or their delegate to approve the selection of successful bidder(s) following the conclusion of the tendering and to execute the necessary contractual documentation to affect this outcome.

3 Background

- 3.1 Historically Birmingham City Council's Corporate Procurement Service (CPS) supported Cityserve's food purchasing via a third-party, Pelican Procurement. With the introduction of a new Kitchen Management IT solution providing a Procure to Pay service direct with suppliers, it was decided to end the Pelican contract and bring food service purchasing in-house, effective from 1 April 2019. All existing contracts at this time were 'brokered' by Pelican but were directly between BCC and the Vendor.
- 3.2 Since the service was insourced to Cityserve in 2019, a number of the larger contracts have been retendered and a tender plan was developed to tender all contracts in line with EU Procurement Legislation and Council Standing Orders.
- 3.3 This report provides the updated procurement strategy for these contracts. Further details are provided in the Exempt Information appendix.
- 3.4 A list of all relevant contracts is detailed in Appendix 1.
- 3.5 The global pandemic and withdrawal from the EU have impacted circumstances within the food service marketplace, leading to significant supply chain issues including food shortages, increased prices, and further volatility. Consequently, a decision was made to halt any food service procurement activity until the market had settled to ensure Cityserve were not exposed to less favourable contract conditions and pricing.
- 3.6 During this time, extension options that existed within contract terms were exercised. Where such options did not exist Cityserve have continued to utilise contracts in order to ensure continuity of service provision. The Council is now in a situation where it continues to utilise certain contracts that have expired. The recommendations within this report set out an approach to addressing this.

- 3.7 Now there is a degree of stability, an initial review of current contracts and an options appraisal has been completed to identify how to bring expired contracts back in line with the BCC Constitution whilst a more optimal longer-term solution is explored and implemented.
- 3.8 Appendix 1 sets out the proposed contracting measures that need to be implemented whilst the Council develops and implements a comprehensive and more optimal strategic food service contract strategy. These measures will ensure the Council is compliant with Public Contract Regulations and Council Standing Orders whilst ensuring continuity of services to schools. The recommended approach is to undertake a series of direct awards to existing providers via established national frameworks as well as executing open tender procedures as detailed in the table attached.
- 3.9 Where this is not possible, the Council will undertake its own tender exercise with a view to maximising the Social Value benefits to the local economy and help to reduce the City's carbon footprint by actively seeking to minimise the number of food miles.
- 3.10 In parallel with these tendering actions, Officers from Cityserve supported by Corporate Procurement will undertake a detailed market consultation and engagement exercise to determine the most optimal longer-term solution for the Council's catering and food requirements.
- Possible outcomes for consideration: -
- 3.10.1 Award multiple contracts
 - 3.10.2 Award single strategic contract
 - 3.10.3 Award procurement specialist agency contract
- 3.11 Pelican buying company did not renew the contracts that expired in 2018 due to staff changes and difficulty in replacing procurement officers within Pelican. This failure to deliver was a contributing factor in the decision to terminate the Pelican contract and bring food purchasing in-house within the Cityserve organisation structure.
- 3.12 Corporate Procurement Services and Cityserve have successfully ensured that all contracts have remained commercially viable with respect to extreme pressures within the food industry. Where we have experienced pressure to increase prices, we have worked extremely hard to mitigate where possible through a collaborative approach for example looking at alternative items.

Listed below is the proposed procurement open tender process milestone plan and direct contract award via a framework.

Procurement Open Tender Phase	Anticipated Date
Stage 1: Invitation to Tender	
Issue ITT	22 nd April 2022
Clarification Period	20 th May 2022
Submission of Tender	Noon 27 th May 2022
Evaluation of Tender	3 rd June – 6 th June 2022
Delegated Procurement Report / Cabinet Meeting	June 2022
Notification of Contract Award	July 2022
Mandatory 10-day Standstill Period	TBC
Contracts Issued	July 2022
Stage 2: Contract Commencement	
Mobilisation Period	July 2022
Contract Commencement Date	1 st August 2022
Contract End Date (excluding extension periods)	31 st July 2023
Stage 3: Contract Management	
Bi-annually review meetings	31 st July 2023

Procurement Direct Framework Contract Award	Anticipated Date
Stage 1: Select Framework	
Review options	April 2022
Agree preferred framework	April 2022
Complete framework paperwork	May 2022
Contact supplier	May 2022
Agree terms with supplier	May 2022
Issue award letter	June 2022
Notify relevant framework authority	June 2022
Complete award notice	June 2022
Stage 2: Contract Commencement	
Contract Commencement Date	TBC
Contract End Date (excluding extension periods)	TBC
Stage 3: Contract Management	
Bi-annually review meetings	TBC

Procurement Plan for Long Term Strategy	Anticipated Date
Stage 1.	
Raise a PIN notice	May 2022
Undertake a detailed market analysis and engagement	May-August 2022
Complete benefits options appraisal	Sept 2022
Consolidate service requirements	Oct-Nov 2022
Scope tender documents	Dec 2022
Evaluate route to market	Dec 2022
Delegated Procurement Report / Cabinet Meeting	Dec 2022
Tender	Jan 2023
Contract award	Aug 2023

4 Options considered and Recommended Proposal

- 4.1 The recommended approach is to undertake a series of direct awards to existing providers via established national frameworks as well as executing open tender procedures as detailed in the table attached.
- 4.2 Renew contracts on a case-by-case basis for example Supply & Distribution of Fresh Halal Meat and Poultry, Halal Cooked Meat, Halal Sandwich Fillings and Associated Products which expired on the 31st December 2021. This option is rejected because it is time consuming and would not enable BCC to leverage its commercial capabilities.
- 4.3 Maintain and continue with the current situation and accept the risk, especially as some contracts have expired. This option is rejected because of the potential risk of supply disruption, non-compliance challenge and commercial disadvantages.

5 Consultation

- 5.1 Legal, HR, Finance, and Corporate Procurement have been consulted during the options appraisal. Consultation will continue throughout the tendering processes.

6 Risk Management

Details are set out in appendix 2.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

- 7.1.1 Cityserve has a huge positive social impact within Birmingham, both through the current levels of employment with the majority being Birmingham residents, and

through the provision of healthy, nutritious meals to children in areas of high deprivation at a time when 17% of British children live in food insecure households (Food Foundation 4 May 2020).

7.1.2 Cityserve key priorities of Children, Jobs & Skills and Health, also support the following Council objectives and priorities:

7.1.2.1. **Council Plan Outcome 1** – Birmingham being an entrepreneurial city to learn, work and invest in.

7.1.2.2. **Priority 1** – We will create opportunities for local people to develop skills and make the best of economic growth – Through Cityserve the Council directly employ and train approx. 1,000 predominately female, low paid workers from within the area.

7.1.2.3. **Priority 2** – We will strive to maximise the investment in the city and engage local employers to create quality jobs and opportunities for citizens. – Cityserve have our own “in house” food procurement team and liaise/contract manage each supplier directly whilst ensuring compliance to all signing and adhering to the Birmingham Charter. Cityserve have secured 50 apprenticeship places for kitchen managers to continue their development.

7.1.2.4. **Council Plan Outcome 2** – Birmingham is an inspirational city to grow up in.

7.1.2.5. **Priority 2** – We will work with early years services and all schools to improve educational attainment and standards. Studies have evidenced pupils participating in school meals “had a significant positive impact on attainment.” Previous research has found an improvement in the quality of school meals led to a significant improvement in attainment, behaviour and absences.

7.1.2.6. **Council Plan Outcome 3** – Birmingham is a fulfilling city to age well in.

7.1.3 Research by the Children's Food Trust shows that school meals are now consistently more nutritious than packed lunches, giving the children who eat them a better foundation for good health. Cityserve provide schools nutritional “School Food Plan” compliant meals incorporating healthy vegetarian options thus contributing to obesity reduction in children via sugar reduction alternatives etc. A poor diet also has significant effects on children's behaviour, concentration, and mood. Children with diets lacking in essential vitamins, minerals and essential fatty acids tend to perform worse academically, cannot concentrate and are more aggressive.

7.2 Legal Implications

7.2.1 Section 114A of the School Standards and Framework Act 1998 sets out requirements for food and drink provided on school premises or at a place other than school premises.

7.2.2 School meals must be provided free of charge if pupil and/or a parent meet eligibility criterion set out within the Education Act 1996.

7.2.3 The Child and Families Act 2014 places a legal duty on all state-funded schools in England, including Academies and Free Schools to offer a free school lunch to all pupils in reception, year 1 and year 2 from September 2014.

7.3 Financial Implications

7.3.1 The estimated cost of the total food and non-food contract awards will be £5.6m. All costs incurred for food purchases will be recharged to our schools on an on-cost basis, across their individual budget codes.

7.4 Procurement Implications (if required)

This report concerns the procurement strategy for catering and food contracts for Cityserve and Civic Catering. Further details are included within the Exempt Information appendix.

7.5 Human Resources Implications (if required)

7.5.1 None identified

7.6 Public Sector Equality Duty

7.6.1 EQUA840.

8 Background Documents

8.1.1 Appendix 1

Appendix 1 BCC Contracts

BCC Contract Ref	Contract Description	Contract Start date	Contract End date	Current Supplier	Annual Estimated Contract Value
P0737	Supply and Distribution of Fresh Fruit & Vegetables and Free-Range Eggs	Dec-21	Nov-24	Arthur Brett	£650,000
F0256R	Supply and Distribution of Fresh Meat, Fresh Frozen Meat, Cooked Meat	Jan-17	Jan-21	Midland Foods	£170,000
F0258	Supply and Distribution of Milk & Dairy and Morning Goods	Jan-17	Jan-21	Johal Dairies	£265,000
F0257R	Supply and Distribution of Halal Fresh Meat and Poultry (un-stunned)	Jan-17	Dec-21	Spice Time	£405,000
F265	Supply and Distribution of Grocery	May-18	June-22	A.F. Blakemore	£1,700,000
F265	Supply and Distribution of Frozen Foods	Aug-18	Aug-22	Brakes	£2,500,000
F228	Supply and Distribution of Light Catering Equipment	Jan-14	Feb-18	WV Howe	£83,000
F228	Supply and Distribution of Disposables	Jan-14	Feb-18	Nobisco	£400,000
F214	Supply and Distribution of Food Court Concepts	Jan-14	Jul-18	Theo's/TUGO/ Pasta King	£43,000

There are a number of potential National Framework options available to BCC.

- ESPO
- TUCO
- YPO

Frameworks will provide a quick and compliant route for contract award. It is our intention to select the most appropriate frameworks which will enable a direct award.

This is the recommended option which will provide BCC compliance and mitigate/reduce the risk of potential challenge. The strategy will also offer an opportunity for further in-depth market engagement with the objective of reaching a long-term strategic decision.

Appendix 2 Risk Management

Key risks / risk assessment	Assessment	Risk	Mitigations
There is a risk of a successful procurement challenge from a non-contracted supplier as a result of BCC extending contracts without any form of competitive tendering evaluation.	Based on an assessment of the market, the likelihood of this risk occurring is low for the reasons set out below. It is therefore a measured and acceptable risk to take in the circumstances.	<ul style="list-style-type: none"> Potential supplier challenge leading to reputational damage to BCC 	<ul style="list-style-type: none"> The Council is tendering enabling other suppliers in the market to bid for these contracts Market intelligence suggests that issues such as driver shortages and supply chain issues as a result of COVID-19, no alternative suppliers may be able to take on a contract of this size in the short term. The time & cost for mobilising a new contract would be significant. Suppliers are unlikely to want to invest in light of the above short term.
Currently BCC is Non-compliance with PCR 2015	Under PCR 2015 Public bodies have a duty to tender and competitively award all appropriate contracts	<ul style="list-style-type: none"> Non-compliance Supplier challenge could result in contracts deemed non and void Reputational damage to BCC 	<ul style="list-style-type: none"> Award contracts via framework or open tender
Failure to comply with BCC Constitution D3 3.7 Extension of Contracts	Non-compliance with BCC Constitution	<ul style="list-style-type: none"> No report submitted for contracts extensions Cabinet refuse to support the strategy 	<ul style="list-style-type: none"> Report to Cabinet March 2022 Develop strategy for future contract awards Gain approval for future strategy from Cabinet
Limited competition within the unstunned Halal market	The Council has an ongoing requirement to provide Fresh Halal Meat and Poultry, Halal Cooked Meat, Halal Sandwich Fillings and Associated Products across Council sites and within Schools via Cityserve.	<ul style="list-style-type: none"> Not able to demonstrate value for money Potential supply problems Unable to get Cabinet approval 	<ul style="list-style-type: none"> The Council is tendering enabling other suppliers in the market to bid for these contracts