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|  | <p style="text-align: center;"><b>Executive</b><br/>18<sup>th</sup> March 2008</p> <p style="text-align: center;"><b>Report from the Director of<br/>Housing and Community Care</b></p> |
| <p style="text-align: right;">Wards Affected:<br/>None</p>                        |   |
| <p><b>Authority to award contract for a Cook on Route Meals Service</b></p>       |   |

Forward Plan Ref: H&CC-07/08-36

**Appendix 3 is not for publication**

## 1.0 Summary

- 1.1 This report requests authority to award a contract for the provision of a cook on route meals service as required by Contract Standing Order No 88. This report summarises the process undertaken in tendering this contract and, following the completion of the evaluation of the tenders, recommends to whom the contract should be awarded.

## 2.0 Recommendations

- 2.1 That the Executive approves the discontinuation of the current tender process due to the fact that only one tender for the cook on route meals services was received, which was a qualified tender not in accordance with the tender instructions.
- 2.2 That the Executive approves an exemption from the tendering requirements of Contract Standing Orders for the good operational reasons described in paragraph 5.2 of the report.
- 2.3 That the Executive delegates to the Director of Housing and Community Care the final decision to award a contract for the provision of a cook on route meals service to apetito Ltd following conclusion of negotiations on outstanding issues.

- 2.4 That the Executive confirms that apetitio's Option A tender is used as the basis for the contract award referred to in paragraph 2.3 which requires the contractor to provide the service without the use of the Council's drivers.

### **3.0 Detail**

#### ***Background***

- 3.1 Currently, the Council's in-house Catering Service within Older People Services reheats frozen meals, in a central food production unit based at Wykeham Primary School in Neasden. The hot meals are packed in electrically heated boxes, and delivered by Brent Transport Services. The current range of meals delivered to house-bound service users, day centres and Luncheon Clubs are Western European, Asian Halal, Asian Vegetarian, Caribbean and Kosher. The present method of production has been used for over 20 years and is now less cost effective, and only offers a restricted choice for service users. The trend in producing and delivering welfare meals has moved to a 'cook on route' method where meals are chosen by service users, packed into specialist vehicles and reheated in small batches during the delivery round. This system offers greater choice of food for users, hotter meals at the point of delivery, improved nutritional value of food delivered along with more efficient use of resources.
- 3.2 On 12<sup>th</sup> February 2007 the Executive agreed that Officers invite tenders for the provision of a Meals Service using the Cook on Route method. Following this the report was called in for scrutiny due to the issues surrounding the possible use of Brent Transport Services drivers in the delivery of the meals for the new service. The matter was considered by the Forward Plan Select Committee on 27<sup>th</sup> February 2007. It was then returned to the Executive on 12<sup>th</sup> March 2007 and subsequently called into Full Council on 24<sup>th</sup> April 2007. The Executive on 12<sup>th</sup> March 2007 decided "that it be re-affirmed that officers should explore the possibility of saving money through making the Council's drivers available to any new contractor for the cook on route service."
- 3.3 This decision effectively delegated authority to the Director of Housing and Community Care to agree with the Director of Children and Families to decide how making drivers available to any new contractor would be integrated into the tender process. Based on options provided by Legal Services it was agreed to proceed on the basis of a part-only out-sourcing of the delivery service. However it would be for tenderers to decide whether to tender on the basis of this option or tender on the basis of doing all the delivery work itself.
- 3.4 The partial out-sourcing option is a way of asking tenderers how much they would reduce the cost of the service if the Council retained the delivery staff element of the service itself. The advantage of this is that there are no difficulties about whether the Council has legal powers to provide the service to a private company, and it is simply a decision on packaging where the Council has decided not to out source one element of the required service.

- 3.5 As a result of the above, the tendering process was considerably delayed and Officers updated the Executive with progress on 10<sup>th</sup> December 2007 including a new timetable and also sought authority to negotiate with tenderers over the terms of use of the Council's drivers should that be the preferred option once tenders were evaluated.

### ***The Tender Process***

- 3.6 Advertisements were placed in the trade press and the local paper on 1<sup>st</sup> November 2007 to seek initial expressions of interest from which elicited 7 initial enquires. The Executive had previously approved the use of a single-stage tender process. A tender pack comprising Contract Conditions and Service Specification, Instructions for Tenderers and a Form of Tender and Response Document were sent to each company expressing an interest. Two companies subsequently advised that they would not be submitting a tender, both giving the reason that they had other competing business interests at the time.
- 3.7 The tendering instructions stated that the contract would be awarded on the basis of the most economically advantageous offer to the Council and that in evaluating tenders, the Council would follow a two-stage evaluation process. Only those tenderers reaching a satisfactory standard at stage 1 would proceed to full evaluation at stage 2. Tenderers were advised that the Council would use the criteria set out in paragraph 3.11 at Stage 1 and that shown in Appendix 1 at Stage 2.

### ***Evaluation Process***

- 3.8 The tender evaluation was carried out by a panel of officers from Central Finance, Human Resources and Older People Services in Housing and Community Care. A panel of meals service users also participated in tasting sessions of the food to be used in the service.
- 3.9 All tenders had to be submitted no later than 13<sup>th</sup> December 2007. Tenders were opened on 14<sup>th</sup> December 2007 and one valid tender was received. This tender was from one of the major providers in this small highly specialised market. This company had submitted prices for both option B (using the Council's delivery staff) and option A (not using the Council's delivery staff). One copy of Part 1 of the tender was separated into sections and given to the relevant member of the evaluation panel with expertise in that area. Each member of the panel read the tender and using evaluation sheets noted down their comments and scored how well each of the Stage 1 award criteria was addressed.
- 3.10 At this point it was noted that this one tender was non-compliant in a number of respects. For example, tenderers had been asked for a standard price per meal irrespective of the type, and instead variable prices were submitted depending upon the ethnic meal type. In addition, tenderers had been asked to include within their prices the costs of taking a transfer of staff transferring under the TUPE (the transfer of undertakings legislation), and the tenderer had not done so because they felt that insufficient information was provided. However in view of the fact that only one tender had been received, it was clearly not in the Council's

interests to disqualify that tenderer for submitting a non-compliant bid, and it was agreed to continue with a full evaluation to determine whether the tenderer could deliver the Council's specification.

- 3.11 The panel met on 3<sup>rd</sup> January 2008 and the submission was marked by the whole panel against the Stage 1 criteria which were:
- Economic & Financial Standing,
  - Business Probity, Health & Safety (Written Documentation),
  - Food Hygiene (Written Documentation),
  - Quality Assurance and Control (Written Documentation),
  - Nutritional Standard (Written Documentation),
  - Packaging (Written Documentation) and
  - Delivery Arrangements (Written Documentation).

The tenderer was evaluated as meeting the Council's requirements on all criteria and therefore the panel agreed that the tender could proceed to the Stage 2 evaluation.

- 3.12 Stage 2 of the evaluation included taking up references, a visit to an existing service operation to evaluate the practices and the implementation of documented procedures supplied in Stage 1, a tasting panel of current service users and a presentation by the tenderer on contract implementation and environmental aspects followed by an interview.

- 3.13 The evaluation panel met again on 23<sup>rd</sup> January 2008 to score the Stage 2 criteria and the resulting matrix is attached as Appendix 1. The matrix shows that the tender exceeds the benchmark score on all non-price evaluation criteria. On price, option A (without the use of the Council's drivers) is cheaper.

- 3.14 The tendered prices for each of the options were considered against the current costs of the service and the costs of the Council's drivers and are shown in detail at Appendix 2. It can be noted that it is more cost effective for the service to be delivered without the use of the Council's delivery staff and the proposed savings of £481,000 can only be achieved in this way. In addition the tenderer requires the delivery staff to be available between the hours of 11.30am and 3.00pm to in order to deliver the service within the tender price. Officers are aware that the finishing time may well cause difficulties with the timings of the Council's afternoon school and Day Centre transport routes, and so choosing Option B carries the risk that the quality of service of either schools transport or the meals delivery will fall.

- 3.15 The contract is due commence on 30<sup>th</sup> June 2008 and requires a full 3 month lead in period to enable the contractor to source vehicles and set up premises.

#### **4.0 Financial Implications**

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval of the award of the

contract.

- 4.2 The estimated value of this contract is approximately £960,000 per annum.
- 4.3 A representative of Brent Council's Financial and Corporate Resources Department was a member of the evaluation panel.
- 4.4 It is anticipated that the cost of this contract will be funded from the existing budget. Under Option A (without Council drivers) the average tender cost per meal delivered by the contractor is £5.69 which is a saving of £3.14 per meal on the current service. This will achieve an annual saving of £528,116 based on the current number of meals produced. However this amount will be reduced in 2008/09 due to the contract not commencing until 30<sup>th</sup> June 2008 and by additional staffing costs relating to the contract award (see further appendix 3).
- 4.5 Under Option B (with Council drivers) the tender cost per meal without transport is an average of £4.63, the cost of using Council drivers based on current meal numbers and adding an inflation figure of 2.4% for 2008/09 is £2.09 per meal giving an overall cost of £6.72. However there is no guarantee that the Council driver costs will be maintained at this level as in previous years increases have been significantly above the Council's budgetary limits. This option would only achieve an overall annual saving of £354,880 which is which is £173,236 less than Option A. The same reductions in the first year's saving would apply as in paragraph 4.4 above.
- 4.6 The two options are summarised below.

| Line | Description  | Option A Without Council Drivers | Option B With Council Drivers | Increased costs or (Savings) from Option B Compared to Option A |
|------|--|----------------------------------|-------------------------------|---|
| 1    | Cost per meal  | £5.69                            | £6.72                         | -£1.04  |
| 2    | Saving per meal compared to current contract   | -£3.14                           | -£2.11                        |   |
| 3    | Full-year annual saving compared to the current contract                             | -£528,118                        | -£354,880                     | +£173,236   |
| 4    | Part-year saving in 2008/09 (due to contract starting on 30 June 2008)               | -£396,087                        | -£266,160                     |   |
| 5    | Less potential staffing costs relating to contract award                             | £100,000                         | £100,000                      |   |
| 6    | Less potential costs of setting up an admission agreement with apetito (if required) | £30,000                          | £30,000                       |   |
| 7    | Net saving in 2008/09  | -£266,087                        | -£136,160                     |   |
| 8    | Saving from re-letting the meals contract taken in 2007/08 budget                    | -£169,000                        | -£169,000                     |   |
| 9    | (Surplus to budget saving) / + Budget saving shortfall                               | (£97,087)                        | +£32,840                      |   |

Thus Option A is the cheapest alternative and exceeds the budget saving taken in 2007/08. Achievement of the savings has been delayed by the extended time taken to let this contract.

4.7 The Adult Social Care Transformation Board has commissioned a review of transport services in Brent this review will be carried out by consultants Northgate Kendric Ash and will cover the following:

- Actions to transport arrangements in the light of the priorities to increase self-directed support and modernise day care within our Adult Social Care Transformation programme.
- SEN Transport arrangements
- The In-house transport service
- Shared Services and Collaboration

The review will pick up the implications for the Council and our in-house transport provider following the decision of the Executive upon the provision of the meals service being considered within the report.

4.8 The Director of Children and Families has commented that the savings stated in this report relate to savings achievable by Housing and Community Care and that there will be a knock-on increase in costs for Children and Families. This is because Brent Transport Services stand to lose this area of work and hence a source of income. As their costs are largely fixed they will not be able to reduce costs to the same extent as the loss of income. This will mean that the costs payable by other users of Brent Transport Services such as Special Educational Needs will increase. The current review of transport services in Brent is expected to explore this issue as well as try to identify savings and report back on the full implications.

## **5.0 Legal Implications**

5.1 The estimated value of this contract over its lifetime is higher than the EU threshold for Services and the award of the contracts is therefore governed by the Public Procurement legislation. However because the contract is a Part B services, it did not need to be tendered in accordance with the full requirements of the legislation. It will however be necessary to send a contract award notice to the Official Journal of the European Union.

5.2 Normally the award of such a contract is subject to the Council's own Standing Orders in respect of High Value contracts and Financial Regulations. However here only one tender was received which was non-compliant, and it is therefore not possible to make an award that reflects the tender process as described in the original instructions to tenderers. It will also be necessary to negotiate with the proposed contractor on some of the issues on which it was non-compliant. It is therefore recommended that the Executive approve the discontinuation of the tender process, and approve an exemption from the tendering requirements of Contract Standing Orders to allow a contract to be awarded directly to the sole tenderer. Contract Standing Order 84 allows

the Executive to approve an exemption from any provision of Contract Standing Orders where there are good operational and/or financial reasons. Here, the fact that a tender process was followed which resulted in only one non-complaint tender that is nevertheless capable of meeting the Council's requirements means that there are good operational reasons for granting the exemption.

- 5.3 Due to the need for the non-compliant issues to be resolved, it is proposed that the decision to award the contract is delegated to the Director so that these matters can be negotiated with apetito. However the Executive are being asked to confirm whether that final decision to award should be on the basis of option A or option B.
- 5.4 If a final decision is made to award a contract to apetito then the drivers in Brent Transport Services currently spending part of their working time on delivering hot meals will be affected by that decision even though they personally would not transfer to apetito under TUPE, as under option A they will no longer be required to deliver these meals while under option B they would be delivering these meals under apetito's day-to-day management. Even if no Council employees transfer under TUPE the Council will still be obliged under TUPE to inform the trade unions recognised by the Council in respect of these drivers of the implications of the contract award for these drivers. The Council may also be obliged under TUPE to consult with these trade unions with a view to agreement in respect of the proposal to use apetito's Option A and not its Option B tender.

## **6.0 Diversity Implications**

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications. In fact it will offer a choice of meals in each of the existing ranges of cultural meals and also the opportunity to add different types of cultural meals should demand arise, even on a very small scale.

## **7.0 Staffing/Accommodation Implications**

### **7.1 Accommodation**

The current premises used for regenerating meals at Wykeham Primary School are rented from the Education Service and will be returned to them.

The Meals Service offices at East Lane Business Park are sub-let from Brent Transport Services and would be handed back to them with the remaining staff accommodated at Mahatma Gandhi House.

- 7.2 The tenderer is proposing to deliver the service from newly acquired premises in Brent, either in Brent Park or Wembley Park. This will allow the contractor to employ local people and to contribute to the local economy.

### **7.3 Staffing**

These issues are addressed in Appendix 3 (exempt from publication)

## **8.0 Background Papers**

- 8.1 Executive Report 12<sup>th</sup> February 2007
- 8.2 Briefing papers for the Forward Plan Committee on 27<sup>th</sup> February 2007
- 8.3 Executive on 13<sup>th</sup> March 2007
- 8.4 Full Council 24<sup>th</sup> April 2007
- 8.5 Executive Report 10<sup>th</sup> December 2007
- 8.6 Meals Service Invitation to Tender File

### **Contact Officers**

- Ros Howard, Head of Service - Older People
- Jayne Spencer, Section Manager (Contracts) – Older People Services
- Charles Wattleby, Section Manager (Meals Service) – Older People Services

### **Martin Cheeseman**

Director of Housing & Community Care



## APPENDIX 1 - PROCUREMENT OF MEALS SERVICE 2008 – TENDER EVALUATION MATRIX STAGE 2

| Stage 2   | Apetito without Council Delivery Staff |       |        | Apetito with Council Delivery Staff |       |         | Benchmark Min Acceptable Scores |       |       |
|---|--|-------|--------|-------------------------------------|-------|---------|---------------------------------|-------|-------|
|   | Weight                                 | Score | Total  | Weight                              | Score | Total   | Weight                          | Score | Total |
| Food Hygiene Practices (site visit)                                 | 20                                     | 4     | 80     | 20                                  | 4     | 80      | 20                              | 4     | 80    |
| Application of H&S (site visit)                                     | 20                                     | 4     | 80     | 20                                  | 4     | 80      | 20                              | 4     | 80    |
| Quality Control   | 15                                     | 4     | 30     | 15                                  | 4     | 30      | 15                              | 4     | 60    |
| Experience (paper submission and References)                        | 20                                     | 5     | 100    | 20                                  | 5     | 100     | 20                              | 4     | 80    |
| Quality Management System (the quality manual in practice)          | 10                                     | 3     | 30     | 10                                  | 3     | 30      | 10                              | 4     | 40    |
| Complaints Procedure/Handling                                       | 5                                      | 3     | 15     | 5                                   | 3     | 15      | 5                               | 4     | 20    |
| Staff Management  | 10                                     | 4     | 40     | 10                                  | 4     | 40      | 10                              | 4     | 40    |
| Quality of Meals (practical demonstration)                          | 20                                     | 4     | 80     | 20                                  | 4     | 80      | 20                              | 4     | 80    |
| Range of Meals  | 15                                     | 4     | 30     | 15                                  | 4     | 30      | 15                              | 4     | 60    |
| User acceptability (Assessed by a User Panel)                       | 40                                     | 5.5   | 220    | 40                                  | 5.5   | 220     | 40                              | 4     | 160   |
| Food Suppliers  | 10                                     | 4     | 40     | 10                                  | 4     | 40      | 10                              | 4     | 40    |
| Packaging of Meals (practical demonstration / user panel)           | 15                                     | 4     | 60     | 15                                  | 4     | 60      | 15                              | 4     | 60    |
| Portion Sizes   | 20                                     | 4     | 80     | 20                                  | 4     | 80      | 20                              | 4     | 80    |
| Nutritional Content (practical demonstration)                       | 20                                     | 3     | 60     | 20                                  | 3     | 60      | 20                              | 4     | 80    |
| Delivery Systems (site visit)                                       | 15                                     | 4     | 60     | 15                                  | 4     | 60      | 15                              | 4     | 60    |
| Vehicles  | 15                                     | 5     | 75     | 15                                  | 5     | 75      | 15                              | 4     | 60    |
| Environmental Policy  | 10                                     | 4     | 40     | 10                                  | 4     | 40      | 10                              | 4     | 40    |
| Equalities/Recruitment  | 10                                     | 3     | 30     | 10                                  | 3     | 30      | 10                              | 4     | 40    |
| Business Continuity   | 5                                      | 4.5   | 22.2   | 5                                   | 4.5   | 22.2    | 5                               | 4     | 20    |
| Price   | 20                                     | 4     | 80     | 20                                  | 0     | 0       | 20                              | 4     | 80    |
| Best Value (proposals for increasing efficiency over contract term) | 5                                      | 4     | 20     | 5                                   | 4     | 20      | 5                               | 4     | 20    |
|   |  |       | 1352.5 |                                     |       | 1272.55 |                                 |       | 1280  |

### Panel Members

Weight =weighting, the relative significance of the element  
 Score =score on a 1- 6 scale as indicated  
 Total =weighting multiplied by score

### Key to Scores

- 0 Does not meet Council's requirements
- 1-2 Partly meets the Council's requirements
- 2-3 Mainly meets the Council's requirements
- 4 Meets the Council's requirements
- 5-6 Exceeds the Council's requirements

## APPENDIX 2 – PRICE AND SAVINGS ANALYSIS

| <b>COOK ON ROUTE MEALS SERVICE TENDER - PRICE ANALYSIS</b> |                      |                          |                    |                      |                       |
|--|----------------------|--------------------------|--------------------|----------------------|-----------------------|
| <b>OPTION - WITHOUT BTS STAFF</b>                          |                      |                          |                    |                      |                       |
| <b>Type</b>  | <b>No. Meals p/a</b> | <b>Tender Unit Price</b> | <b>Total Cost</b>  | <b>Cost per meal</b> | <b>Container Type</b> |
| <b>Hot Meals</b>   |                      |                          |                    |                      |                       |
| Western European   | 97867                | 4.72                     | £461,932.24        |                      |                       |
| Kosher   | 14976                | 9.17                     | £137,329.92        |                      |                       |
| Asian Veg  | 14277                | 6.82                     | £97,369.14         |                      |                       |
| Asian Halal  | 281                  | 6.82                     | £1,916.42          |                      |                       |
| Caribbean  | 31209                | 6.82                     | £212,845.38        |                      |                       |
|  | 158610               |                          | £911,393.10        | £5.75                | Foil                  |
| <b>Frozen Meals</b>  |                      |                          |                    |                      |                       |
| Western European   | 3735                 | 2.45                     | £9,150.75          |                      |                       |
| Kosher   | 4285                 | 6.90                     | £29,566.50         |                      |                       |
| Asian Veg  | 494                  | 4.55                     | £2,247.70          |                      |                       |
| Asian Halal  | 0                    | 4.55                     | £0.00              |                      |                       |
| Caribbean  | 1066                 | 4.55                     | £4,850.30          |                      |                       |
|  | 9580                 |                          | £45,815.25         | £4.78                | cPET                  |
| <b>Total Cost</b>  | 168190               |                          | <b>£957,208.35</b> |                      |                       |
| <b>Cost per meal</b>                                       |                      |                          |                    | <b>£5.69</b>         |                       |
| <b>SAVINGS PROJECTION</b>                                  |                      |                          |                    |                      |                       |
| 08/09 current meal cost                                    |                      | £8.83                    |                    |                      |                       |
| Tendered Cost  |                      | £5.69                    |                    |                      |                       |
| Current Meal numbers                                       | 168190               |                          |                    |                      |                       |
| Saving based on £8.83                                      |                      | £528,116.60              |                    |                      |                       |

| <b>COOK ON ROUTE MEALS SERVICE TENDER - PRICE ANALYSIS</b> |               |                   |                      |               |                |
|--|---------------|-------------------|----------------------|---------------|----------------|
| <b>OPTION - WITH BTS STAFF</b>                             |               |                   |                      |               |                |
| Type   | No. Meals p/a | Tender Unit Price | Total Cost           | Cost per meal | Container Type |
| <b>Hot Meals</b>   |               |                   |                      |               |                |
| Western European   | 97867         | 3.59              | £351,342.53          |               |                |
| Kosher   | 14976         | 8.04              | £120,407.04          |               |                |
| Asian Veg  | 14277         | 5.69              | £81,236.13           |               |                |
| Asian Halal  | 281           | 5.69              | £1,598.89            |               |                |
| Caribbean  | 31209         | 5.69              | £177,579.21          |               |                |
|  | 158610        |                   | £732,163.80          | £4.62         | Foil           |
| <b>Frozen Meals</b>  |               |                   |                      |               |                |
| Western European   | 3735          | 2.45              | £9,150.75            |               |                |
| Kosher   | 4285          | 6.90              | £29,566.50           |               |                |
| Asian Veg  | 494           | 4.55              | £2,247.70            |               |                |
| Asian Halal  | 0             | 4.55              | £0.00                |               |                |
| Caribbean  | 1066          | 4.55              | £4,850.30            |               |                |
|  | 9580          |                   | £45,815.25           | £4.78         | cPET           |
| BTS 08/09 Drivers Cost                                     |               |                   | £351,517.10          |               |                |
| <b>Total Cost</b>  | 168190        |                   | <b>£1,129,496.15</b> |               |                |
| Food cost per meal   |               |                   |                      | £4.63         |                |
| Add 08/09 BTS Cost   |               |                   |                      | £2.09         |                |
| <b>Cost per meal</b>                                       |               |                   |                      | <b>£6.72</b>  |                |
| <b>SAVINGS PROJECTION</b>                                  |               |                   |                      |               |                |
| 08/09 current meal cost                                    |               | £8.83             |                      |               |                |
| Tendered Cost +BTS cost                                    |               | £6.72             |                      |               |                |
| Current Meal numbers                                       |               | 168190            |                      |               |                |
| Saving based on £8.83                                      |               | £354,880.90       |                      |               |                |
|  |               |                   |                      |               |                |
|  |               |                   |                      |               |                |
|  |               |                   |                      |               |                |

