

Report of: Ruth Turner – Team Manager Environmental Health

Report to: Chief Officer Environmental Action

Date: 3 January 2017

Subject: Request to extend the award of contract for the provision of official food control interventions

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule 2.9 Appendix 2: Frequency of Interventions and Current rates 4.4.7 Appendix 3: Estimate of Costs by Risk Rating Appendix 2 and 3 to this report has been marked as exempt under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council. The information is exempt if and for so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In this case the report author considers that it is in the public interest to maintain the exemption	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

Leeds City Council meets its statutory obligations for the delivery of official food control interventions by employing external contractors to deliver part of that function. The existing contract expires on the 31 March 2017

A full joint procurement and evaluation process was undertaken in collaboration with Wakefield Council and a contractor which met the criteria of 50% Quality and 50% Price. This was determined to meet the requirements to deliver the contract from 1st November 2013

The current contract was awarded to Osborne Richardson to run from 1st November 2013 – 31 March 2016 (2 years 5 months) with an option to extend for a period of 12 months (such option not to be taken up more than twice). See Appendix 1: Delegated Decision Notification 2013. The first of the contract extensions is due to expire on 31st March 2017

A full review and evaluation of the current contract, knowledge and experience gained during the contract and lessons learned identified improvements and efficiencies which have been made

Chief Officer Environmental Action approval is now sought for award of the extension of the contract for a further final period of 12 months.

Recommendations

The Chief Officer Environmental Action is recommended to note the content of this Report and approve the recommendation to extend the award of contract for the provision of official food control interventions to Osborne Richardson from 1 April 2017 – 31 March 2018

1. Purpose of this report

- 1.1 The purpose of this report is to brief the Chief Officer Environmental Action on the delivery of the current contract and whether it continues to offer value for money
- 1.2 To seek approval by the Chief Officer Environmental Action to award the extension of contract in accordance with the current contract to Osborne Richardson
- 1.3 Duration of the contract extension: 01 April 2017 – 31 March 2018 (12 months)

2 Background information

- 2.1 Local Authorities have a statutory duty under National and European Legislation for Food Hygiene and Safety including the delivery of Official Food Control Interventions in accordance with designated requirements.
- 2.2 Under the provision of the Food Safety Act and associated European Legislation Councils are required to undertake regulatory duties and enforcement in food businesses. The Food Standards Act 1999 designates the Food Standards Agency (Agency) as the Competent Authority responsible for management of Official Controls. The Agency are also responsible for setting standards of service for local food authorities via a Framework Document, Codes of Practice and issued guidance.
- 2.3 The Agency has the function of monitoring the performance of enforcement authorities in enforcing relevant legislation. In May 2006 an audit of Leeds City Council's Food Law Enforcement Service's arrangement for Food Hygiene Inspections and Maintenance of the Food Premises Database was undertaken. An official report and action plan outlined areas for improvement and was implemented. This included improved delivery of the food inspection programme

and internal systems and procedures. This action plan has now been completed and signed off.

- 2.4 It was determined that there was insufficient internal staffing resource available to undertake this work. To resolve the situation and improve service delivery the procurement of an external contractor to undertake food hygiene interventions (inspections) was implemented in 2006. The use of external providers has been found to be an effective way to deliver certain aspects of the inspection programme.
- 2.5 A joint procurement process was undertaken by Leeds city Council and Wakefield District Council which resulted in the current contract being awarded to run from 1st November 2013 – 31 March 2016 (2 years 5 months) with an option to extend for a period of 12 months (such option not to be taken up more than twice). Knowledge and experience of contractor management and procurement has identified areas for improvement and we continue to incorporate these into the contract
- 2.6 The use of external contractors to undertake the routine inspections has allowed the deployment of internal staff to be utilised in high risk and approved premises, undertake enforcement action in continuous non-compliant food businesses and respond to more complex, reactive work that may have an impact on public health and safety such as; food poisoning outbreaks, food alerts, national incidents.
- 2.7 The use of external contractors will also allow resources to support the proposed introduction of a chargeable food business advice service.
- 2.8 Food hygiene interventions are part of a system for ensuring that food meets the requirements of food hygiene law. Following an inspection a food business will be given a score which will determine its rating and thus determine how frequently the business will be visited. The higher the score the higher the risk and the more frequent the intervention.
- 2.9 Each competent Authority must document, maintain and implement a Food Hygiene Intervention Programme that includes all the establishments for which the Competent Authority has food hygiene law enforcement responsibility.
- 2.10 The food hygiene intervention ratings are detailed in the Food Standards Agency's 'Food Law Code of Practice' – Chapter 5.6 (See Appendix 2: Frequency of Interventions and Current Rates)
- 2.11 Food Interventions: The volume of work and number of interventions/inspections required to be carried out under this Contract will depend on service priorities, the annual food service plan and approved programme of inspection. Approximately 1500 inspections in Leeds and 600 in Wakefield within the range of rated premises B – E are anticipated including higher risk new businesses (unrated premises). Additionally during the period of the Contract there may also be a requirement to undertake other intervention work as indicated within the tender document.

- 2.12 High risk Category A inspections will be carried out by in-house staff
- 2.13 The joint procurement and contract process has enabled us to improve consistency and service provision to residents, businesses and customers across both Authorities. Along with the recognition of revenue budget pressures and utilising resources and services across the Authorities.

3 Main issues

- 3.1 The existing Leeds/Wakefield contract expires on the 31st March 2017 and Leeds City Council and Wakefield Council need confirmation on the arrangements for the provision of official food control interventions within their respective authorities.
- 3.2 Both Councils are ready to continue with the process and collaboration in order to make arrangements for the continuation of the contract once approval has been confirmed.
- 3.3 The Food Standards Agency (FSA) are currently undertaking a consultation process on how the regulation of food businesses will be undertaken in the future – ‘Regulating Our Future (RoF)’

4 Corporate Considerations

4.1 Consultation and Engagement

No formal consultation taken. Service falls within statutory requirements

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 No specific issues relating to the re-letting of this contract.

4.3 Council policies and Best Council Plan

- 4.3.1 Maintenance of an effective food intervention programme facilitated by this contract fully supports the Councils policies on Public Protection and priorities on Health and Well Being

4.4 Resources and value for money

- 4.4.1 The current contract includes added value for money following improvements made from the previous Leeds contract. This is achieved by implementing additional audit reporting, improved contract management, assistance with the development of internal employees, better consistency across West Yorkshire.
- 4.4.2 The contractor has confirmed that there will be no increase to the current rates paid (see Appendix 2: Frequency of Interventions and Current rates)

- 4.4.3 Discussions with procurement have confirmed that it would not be possible to vary the current contract
- 4.4.4 Should the option to extend the current contract not be taken up then a new procurement process will need to be carried out with a formal tender process. It should be noted that given the timescale, there will be a gap in the service provision which will put pressure on the Councils internal resources to cover the period during which the tendering process will take place.
- 4.4.5 Following the FSA consultation RoF there may be changes to the way the Council regulates food businesses. Extending the contract for a period of 12 months will enable the Council to review how the food inspection programme is delivered in line with FSA guidance
- 4.4.6 Should the Local Authority have to employ officers to carry out the projected inspection work it is estimated that 3 Full time equivalents would be required. It should be noted that this estimate would be for inspections only and would not include any regulatory enforcement work.
- 4.4.7 It is estimated that the cost for the extension of the contract for the year 2017-2018 will be in the region of £56k (See appendix 3: Estimate of Costs by Risk Rating)

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The current contract was procured in accordance with Councils contract procedure rules with assistance and guidance of colleagues in the Procurement Unit both at Leeds and Wakefield.
- 4.5.2 The extension of the contract is permitted under the contract terms. Wakefield Council is seeking approval to extend under their Council Governance.
- 4.5.3 The decision to extend will not be subject to call-in

4.6 Risk Management

- 4.6.1 Leeds and Wakefield Council would be unable to discharge their duties effectively under National and European Food Hygiene and Safety Legislation.
- 4.6.2 If the request for approval is not provided this will lead to failure to meet official food controls and failure to complete the food intervention programme and may lead to audit by the Food Standards Agency, the Competent Authority.
- 4.6.3 Failure to meet the Food Standards Agency, Framework Agreement and targets would be referred to the Board at the Agency as the Competent Authority responsible for overseeing the delivery of official controls by Local Authorities.

- 4.6.4 The Board has the power to institute the Service to the full standard on the Authority's behalf and fully recharge the cost to the Authority including all disbursements and on costs
- 4.6.5 Extending the contract for a period of 12 months will allow the Council to react to any changes implemented from the FSA RoF consultation

5 Conclusions

- 5.1 The current contract with the proposed changes continues to meet the quality requirement within the contract and price requirements as identified in the section above. It represents Best Value to the Council
- 5.2 Wakefield Council have submitted an options appraisal under their procurement procedures. It has been confirmed that this has been approved.

6 Recommendations

- 6.1 The Chief Officer Environmental Action is recommended to note the content of this report and approve the recommendation to award the extension of the contract for the provision of official food control interventions to Osborne Richardson from 1st April 2017 to 31st March 2018.
- 6.2 The recommendation to extend the contract to Osborne Richardson has been agreed by Wakefield Council

7 Appendices

- 7.1 Appendix 1: Delegated Decision Notice 2013 – Current Contract
- 7.2 Appendix 2: Frequency of Interventions and Current rates
- 7.3 Appendix 3: Appendix 3: Estimate of Costs by Risk Rating

8 Background documents

- 8.1 None