

## **CABINET**

**2 SEPTEMBER 2014**

### **GATEWAY 3 CONTRACT AWARD: ENFORCEMENT AGENT SERVICES – REVENUE AND BENEFITS**

Portfolio Holder: Councillor Jarrett, Finance and Deputy Leader

Report from: Mick Hayward, Chief Finance Officer

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#### **SUMMARY**

This report seeks permission to award a contract for Enforcement Agent Services – Revenues and Benefits to the suppliers identified within the exempt appendix. This Gateway 3 report has been approved for submission to Cabinet after review and discussion at the Business Support Directorate Management Team Meeting and the Procurement Board.

The Business Support Directorate Management Team has recommended that this project be approved as a Category B, High risk procurement.

#### **1. BUDGET AND POLICY FRAMEWORK**

- 1.1 This procurement is within the Council's budget and policy framework.
- 1.2 The statutory duty to enforce monies owed to the Council by business rate debtors is provided by the Local Government Finance Act 1988, the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (SI.1989/1058)
- 1.3 The statutory duty to enforce monies owed to the Council by council taxpayers is provided by the Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement Regulations 1992 (SI.1992/613).
- 1.4 The total value of debt passed to the contractors over the life of the contract is estimated at £4.4m but the cost to the Authority is £nil, with the contractor generating their revenue through the statutory fees added to debts.

## **2. BACKGROUND**

- 2.1 Medway Council currently collects Council Tax from just over 112,000 households and National Non Domestic Rate (NNDR) from just over 6,000 business properties. The annual amount anticipated to be collected after the deduction of benefits, discounts and exemptions is £210m. In addition, approximately £500,000 of recoverable benefit overpayments are passed to debt agencies each financial year.
- 2.2 Whilst the majority of people liable for these charges pay in a timely fashion, there are a significant number who fail to do so. The Council currently employs two firms of enforcement agents to encourage payment from those who continue to fail to meet their obligations.
- 2.3 There is no direct funding from external sources, with the cost of this service to the Council being minimal due to all costs being passed on to those people whom debts are being collected from.
- 2.4 Enforcement Agent firms collect any outstanding balances in addition to their fees and subsequently pass on the entirety of the balance on a monthly basis to Medway Council. It is a requirement of this contract that a dedicated Medway Council bank account be maintained for the secure keeping of all monies due to the Council.
- 2.5 Following consultation at central government level and further to the Taking Control of Goods Regulations 2013 all fees as of April 2014 have been prescribed and standardised. In light of this, there is little need for an emphasis to be placed on price, allowing the Council to focus on the quality aspect in evaluating all returned tender submissions.

## **3. PROCUREMENT PROCESS**

### **3.1 Procurement Process Undertaken**

- 3.1.1 This service has been procured under the restricted procedure, through advertisement on the Kent Business Portal and additionally an OJEU notice. Category Management went to the open market for the Councils Enforcement Agent Services – Revenues and Benefits requirement, and 17 expressions of interest were received. Of these, 11 Pre-Qualification Questionnaires were received, with 9 proceeding to Tender stage.
- 3.1.2 Having issued Tender documentation to 9 suppliers, 8 Tenders were returned on time, the details of which are available within the exempt appendix that accompanies this report.

### **3.2 Evaluation Criteria**

- 3.2.1 The evaluation criteria used within this procurement process was 90% Quality / 10% Price. The prices submitted by tenderers are available within the exempt appendix.

## 4. BUSINESS CASE

### 4.1 Delivery of Procurement Project Outputs / Outcomes

The following procurement outcomes/outputs identified as important at Gateway 1 to the delivery of this procurement requirement have been appraised in the table below to demonstrate how the recommended procurement contract award will deliver said outcomes/outputs.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?	How will recommended procurement contract award deliver outputs/outcomes?
1. Collection Rate: Council tax	Through the recovery of a sufficiently high proportion of outstanding debt	Revenue and benefits contract manager	Monitored monthly; Reviewed with contractor at quarterly meeting	The suppliers, as detailed within the exempt appendix, shall collect monies due to the Authority
2. Collection Rate: NDR	Through the recovery of a sufficiently high proportion of outstanding debt	Revenue and benefits contract manager	Monitored monthly; Reviewed with contractor at quarterly meeting	The suppliers, as detailed within the exempt appendix, shall collect monies due to the Authority
3. Collection Rate: HB Overpayments	Through the recovery of a sufficiently high proportion of outstanding debt	Revenue and benefits contract manager	Monitored monthly; Reviewed with contractor at quarterly meeting	The suppliers, as detailed within the exempt appendix, shall collect monies due to the Authority
4. Official Complaints Upheld	Via the monitoring of complaints received and the following up of these to ensure bailiffs acting as agents of the Council do so in an appropriate manner	Revenue and benefits contract manager	Monitored monthly; Reviewed with contractor at quarterly meeting	The Revenue and Benefits contract manager will monitor complaints received, and manage them in consultation with the suppliers, as outlined within the exempt appendix

## **5. SERVICE COMMENTS**

### **5.1 Financial Comments**

- 5.1.1 The procurement requirement and its associated delivery (as per the recommendations at Section 6), will be funded from existing revenue budgets. The cashable savings of £4,000 per annum would be realised in 2015/2016 as a consequence of charges no longer being made by enforcement agents for the execution warrants as at present.
- 5.1.2 Further detail is contained within Section 1.1 Financial Analysis of the **Exempt Appendix** that accompanies this report.

### **5.2 Legal Comments**

- 5.2.1 The contract value is above the financial threshold set out under the EU public procurement regime, and so the Public Contracts Regulations 2006 (“the Regulations”) require that the works be advertised via an OJEU notice.
- 5.2.2 The procurement process followed in this instance complies with the requirements of the Regulations and thus of the EU public procurement regime.
- 5.2.3 The procedure followed ensures that the Council’s primary objectives for procurement are met, as required by Rule 1.2.1 of the Council’s Contract Procedure Rules (“the CPRs”).
- 5.2.4 In addition, advertising the procurement on the Kent Business Portal ensure compliance with rule 3.3 of the CPRs, which sets out the advertising requirements for procurements of this type.
- 5.2.5 Upon approval of Gateway 3 all documentation must be forwarded to Legal Services to be formally completed with the Contract Completion Form signed by Category Management. This is to ensure the contract is properly logged on the Council’s contract register.

### **5.3 TUPE Comments**

- 5.3.1 The TUPE regulations could potentially apply to this award if a contractor currently providing the service is unsuccessful in the new award. The relevant criteria for TUPE to apply is that there is a service provision change, the same service will be continued by a new contractor and there are employees/workers assigned to the service being transferred. Following guidance and clarification from the two incumbent suppliers, it is believed that TUPE will not apply to this procurement.
- 5.3.2 The council is neither the transferor nor transferee in this award.

## **5.4 Procurement Comments**

- 5.4.1 Category Management has facilitated an invitation to tender process as per both relevant legislation and the Council's contract procedure rules. The restricted procedure has been followed, with the utilisation of preference lotting (whereby suppliers must preference between the available Lots) to ensure that no supplier is successful in being awarded more than one Lot.
- 5.4.2 This service is a concession contract, which is defined as being a contract under which the consideration given by the contracting authority consists of or includes the right to exploit the provision of the service(s) under the contract.
- 5.4.3 A contract under which the provider derives the majority of income from payments by the users of the service or work(s), rather than a payment by the contracting authority is a key characteristic of a concession contract. Another defining feature is that the provider has to carry the risks inherent in the provision of the service (i.e. the risk of making a loss).
- 5.4.4 This is to say, that suppliers generate their income through the enforcement of debts due to the Council. The fees added to debts are controlled and regulated through the Taking Control of Goods Regulations 2013.
- 5.4.5 Category Management recommends regular contract management through the establishment and monitoring of Key Performance Indicator's, in addition to regular contract review meetings between the Supplier, the Revenue and Benefits team and Category Management to ensure a high level of service is continually attained throughout the life of the contract.
- 5.4.6 Further to this, engagement between Revenue and Benefits and Category Management is required in readiness for a Gateway 4 paper, in addition to undertaking the consideration as to whether or not the 2 year extension to this contract shall be taken.

## **4.5 ICT Comments**

- 4.5.1 There are no implications for ICT.

## **5. PROCUREMENT BOARD**

- 5.1 The Procurement Board considered this report on 13 August 2014 and supported the recommendation set out below.

## **6. RECOMMENDATION**

- 6.1 It is recommended that Cabinet approve the award of a contract to the suppliers as highlighted within the exempt appendix.

## 7. SUGGESTED REASONS FOR DECISIONS

- 7.1 The contract term for the current bailiff contract is due to end on 1 January 2015, and the successful collection of all monies due to the Council is necessary to ensure cash flow over coming years. The recommendation above is provided on the basis of the tender process and evaluation undertaken as summarised in the report.

### LEAD OFFICER CONTACT

Name  Title   
Department  Directorate   
Extension  Email

### BACKGROUND PAPERS

The following document has been relied upon in the preparation of this report:

Description of Document	Location	Date
Gateway 1 Procurement Commencement: Bailiff Services – Revenues and Benefits	<a href="http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=23438">http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=23438</a>	Cabinet 8 April 2014