

<p style="text-align: center;"><b>LBHF</b>  <b>London Borough of Hammersmith &amp; Fulham</b></p> <p style="text-align: center;"><b>OFFICER DELEGATED DECISION</b></p> <p style="text-align: center;"><b>16<sup>th</sup> Jan 2017</b></p>	
<b>ENFORCEMENT AGENT CONTRACT</b>	
<b>Report of the Director</b>	
<b>Open Report</b>	
<b>Classification - For Decision</b>  <b>Key Decision: No</b>	
<b>Wards Affected: All</b>	
<b>Accountable Director: Hitesh Jolapara, Strategic Finance Director</b>	
<b>Report Author: Jamie Mullins, Head of Recovery</b>	<b>Contact Details:</b> Tel: 020 8753-1650 E-mail: <a href="mailto:Jamie.Mullins@lbhf.gov.uk">Jamie.Mullins@lbhf.gov.uk</a>

AUTHORISED BY:

**Hitesh Jolapara has signed this report.**

DATE: 11 March 2019

## **1. EXECUTIVE SUMMARY**

- 1.1. The council currently employs 2 Enforcement Agent Companies (Newlyn's Plc & Whyte & Co) to assist in the recovery of unpaid Council Tax and Business Rates. The current contracts have been in place since 2003 and have been extended recently to ensure the service was maintained. Enforcement Agents collect their fees, which are now laid down in legislation, from the debtors who owe the outstanding amounts. These fees collected by the Enforcement Agents can range from £300k - £400k per year.
- 1.2. However, to satisfy current legislative requirements, the Council needs to undertake a procurement process to employ 2 Enforcement Agent Companies to continue to support recovery in both aforementioned revenue areas. The proposal is to award a contract for a minimum of 4 years through a Dynamic Purchasing System let by the Yorkshire Purchasing Organisation (YPO),

which the Council can access. The cost of access to the YPO framework is £1,500.00.

- 1.3. As part of any specification, suppliers will be required to have Vulnerability Policies and be influenced to include Social Value options and we will assess provider's commitment as part of our evaluation mechanism. This will include strict guidelines for the collection of debt from households that may contain children, with the council seeking advice for the guidelines from charities that work with children and debt advice services.
- 1.4. A Vulnerability Policy should be based on what steps a supplier would take should there be a case where a vulnerable person has been identified. Any Policy should include the National Standard guidelines for taking control of goods and Enforcement Agent's responsibilities to protect those who are vulnerable or socially excluded. Whilst there is no legal definition of a vulnerable person, a vulnerable adult could include older people, disabled people, a seriously ill person, recently bereaved, single parent families, pregnant women, anyone over the age of 18 who has a learning disability or a mental health problem or somebody who has difficulty in understanding, speaking or reading English. Any policy should also include training for staff to be able to identify when a person is vulnerable and understand what steps to take and to avoid causing distress to children.
- 1.5. As this market is a nationally managed market, there are no known local providers in the field. However, it is expected that Social Values should include apprenticeships for local people, training, workshops etc with no extra cost to the Council.

## **2. RECOMMENDATIONS**

- 2.1. To approve the re-procurement of enforcement agents to assist in the recovery of unpaid Council Tax and Business Rates through the use of a Dynamic Purchasing System set up by the Yorkshire Purchasing Organisation (YPO).
- 2.2. To waive the competition requirements contained in Contract Standing Orders and to approve to carry on the current arrangement with the existing suppliers until the 31<sup>st</sup> March 2017 to ensure continuity of service delivery.
- 2.3. To note and approve the cost involved in accessing the YPO's Dynamic Purchasing System is £1,500.00.
- 2.4. To delegate the decision to award the contract to the Strategic Finance Director (Hitesh Jolapara) in consultation with the Cabinet Member for Finance (Cllr Max Schmid).

## **3. REASONS FOR DECISION**

- 3.1. Enforcement Agents are a vital additional resource for the collection of both outstanding council tax and business rates. They recover approximately

£1.5m per year for the council and recover their fees direct from the debtor. There is no cost to the Council.

- 3.2. The YPO has established a Dynamic Purchasing System (that meets the requirements of the Public Contracts Regulations 2015 (as amended) which allows the Council to have access to 21 pre-qualified suppliers of this service who have met the industry standards of economic and financial standing, acceptability and capacity. Furthermore, the YPO will facilitate the procurement on the Council's behalf through their e-procurement portal.
- 3.3. The YPO will provide access to template documents which have been developed in conjunction with the civil enforcement industry.
- 3.4. The use of the Dynamic Purchasing Systems will speed up the process substantially with a view to having new contractual arrangements in place by April 2017. The current contract expires on the 31<sup>st</sup> October 2016 and both Enforcement Agents currently appointed have agreed to continue on the same terms until a decision is made.

#### **4. PROPOSAL AND ISSUES**

- 4.1. The main issue is that if we do not take the opportunity of using the YPO'S Dynamic Purchasing System to source enforcement agents and decide as an alternative to conduct our own procurement exercise, it would delay the award of new contracts for probably 8 to 10 months.
- 4.2. The use of a DPS as a means of sourcing suppliers is an efficient means of procurement for the Council as it saves significant costs in officer time in not only preparing the contract documents, but also managing tendering and evaluation processes.

#### **5. OPTIONS AND ANALYSIS OF OPTIONS**

**The following options have been considered:**

- 5.1. Do nothing. This is not an option as the Council needs this service to enforce compliance and deliver income that it is owed.
- 5.2. Secondly, consideration was given to running its own tender exercise, but it will take months to complete and be an inefficient use of the Council's resources.
- 5.3. The third option was to identify a potential framework agreement or other similar arrangement that the Council could access. The YPO is a central purchasing body that provides centralised purchasing and ancillary purchasing activities compliant with the public Contract Regulations 2015 (as amended). In this regard, it has been established that the Council has access to the Dynamic Purchasing System that the YPO has established. Whilst

there is a fee of £1500.00 to access the DPS, it is considered the preferred option as it would significantly speed up the procurement process.

## **6. CONSULTATION**

- 6.1. No consultation was required.

## **7. EQUALITY IMPLICATIONS**

- 7.1. No risk of negative equality impacts have been identified arising from the recommendation of this report to proceed with this process to award a contract to 2 Enforcement Agent Companies.
- 7.2. The impact on the residents and businesses of the borough will remain the same as any new contract arrangement will provide an equivalent level of service to the current provision.

## **8. LEGAL IMPLICATIONS**

- 8.1. The proposed contract is a service concessions contract and is subject to the Concession Contracts Regulation 2016 (CCS) as the value of the contract exceeds £4,104,394.00 to which the CCS applies. The Council is required to comply with the CCS which includes the requirement to publish a concession notice.
- 8.2. Implications verified/completed by: Kar-Yee Chan, Solicitor, 020 8753 27

## **9. FINANCIAL IMPLICATIONS**

- 9.1. The main financial implication is the continued recovery of outstanding council tax and business rate income as outlined in section 3.1 above. The one off costs of £1,500 for procuring this service via the Yorkshire Purchasing Organisation can be met from existing budgets.
- 9.2. Implications verified/completed by: (Gary Ironmonger, Finance Manager Extn 2109).

## **10. IMPLICATIONS FOR BUSINESS**

- 10.1. This is a contract to employ Enforcement Agents for the recovery of outstanding Council Tax and Business Rates due to the Council. As noted in section 1.5 above, the tendering process and final contract will ensure that as much social value is extracted from this contract as possible, with a view to the contractor signing up to obligations to provide employment opportunities to local residents and also sourcing supplies and materials from within the borough.
- 10.2. Implications verified by Antonia Hollingsworth, Economic Development Learning & Skills Tel:020 8753 1698

## **11. RISK MANAGEMENT**

- 11.1. Market testing, delivering the best possible service at lowest cost to the local taxpayer is a key corporate risk, risk number 4 on the corporate risk register. The service deals with a highly sensitive issue and as such is also noted on the council's risk register associated with delivering a legal duty to the public purse through recovery of debts owed to the council.
- 11.2. Implications verified by: Michael Sloniowski, Risk Manager, telephone 020 8753 2587.

## **12. PROCUREMENT**

- 12.1. The Corporate Procurement Team, as part of its support for this project, identified the Dynamic Purchasing System being offered through the Yorkshire Purchasing Organisation as a potential solution. The recommendations contained in the report are supported as a way forward.
- 12.2. Implications verified by: Alan Parry, Interim Head of Procurement, (Job – Share) Telephone 020 8753 2581

## **13. BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

- 13.1. None