

Approval to rely on Regulation 72 (1) (b) of the Public Contract Regulations 2015 to modify the Council's Bill Payment Services contract with AllPay Limited

Date: 7th March 2023

Report of: Senior Finance Manager

Report to: Chief Officer, Financial Service

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The purpose of this report is to seek approval to rely on Regulation 72 (1) (b) of the Public Contract Regulations 2015 to modify the current Bill Payment Services contract with AllPay Limited with a contract value of circa £227,500 per annum by lengthening the contract term under the same terms and conditions for a period of twelve months with the option to extend for a further twelve months. The total contract value for two years would be approximately £455,000. The estimate is calculated using the proposed rates from Allpay from 1st April 2023.

Recommendations

- a) It is recommended that the Chief Officer Financial Services approves the use of Regulation 72 (1) (b) of the Public Contract Regulations 2015 to modify the current Bill Payment Services contract with AllPay Limited to vary the end date to 31st March 2025 with a value of circa £455,000. under the same terms and conditions, using the proposed rates provided by Allpay from 1st April 2023.

What is this report about?

- 1 The Council's contract for the provision of Bill Payment Services was extended in March 2022 for 12 months and is due to expire on 31st March 2023 with no further provision to extend the contract.
- 2 Although the use of this method of payment is decreasing over time, the volumes remain significant (approximately 431,450 transactions per annum currently) and it is a vital method of payment for a substantial number of residents. Continuity of Bill Payment Services continues to be essential.
- 3 There are a number of technical requirements for a change in provider that would need system changes to this and other revenue systems. To implement a new system would require a project to be initiated to manage the change. The project would require further business analysis, application engineering, solution architecture and data architecture resources to support the change to a new supplier in addition to any business change endeavours to embed the new solution. Currently, technical resources have been prioritised to IT and digital projects contributing to enable the authority to meet current financial challenges. IDS have indicated that further resources continue not to be available currently and have provided an estimate of the cost of change of approximately £38,300. To change provider at this stage would be uneconomical and technically unviable.
- 4 It is therefore necessary to modify the current Bill Payment Services contract with AllPay Ltd to vary the end date of the contract by 24 months to 31st March 2025. Allpay have proposed an increase to current rates of both Post Office Barcode and Paypoint transactions of 13p per transaction to 53p and 52p per transaction respectively. Decreasing activity volumes reduce the impact of this rate increase on the overall increase to the contract value. At current activity levels, the increase in rates means an increase in cost of £56K p.a. from an estimate of £171,500 for 22/23 to £227,500 for 23/24. For the variation period of the contract to March 2025 the overall contract value is £455,000 which is 46% of the original contract value of approximately £1m.
- 5 This additional period should allow the necessary technical resources to access the technical change requirements to allow a full procurement procedure to be conducted.

What impact will this proposal have?

- 6 By utilising the existing contract, the Council will be able to continue with its current Bill Payment arrangements until such time as a new contract has been awarded.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 7 The proposals will support the delivery of outcomes across all three pillars.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

- 8 No ward members have been consulted in relation to this decision. Colleagues from Procurement and IDS have been consulted on an ongoing basis.

What are the resource implications?

- 9 The contract modification is considered the best option since the current contractor, AllPay Ltd, has already demonstrated value for money through the original tender exercise and as such, the immediate cost and resources required to run a further competitive exercise have been reduced.
- 10 Varying the existing contract period by up to twenty-four months will enable appropriate technical resources to be committed to the procurement.

What are the key risks and how are they being managed?

- 11 The contract is proactively managed and monitored regularly to ensure the benefits of the services are maximised. As already agreed at the time of award, the Contractors' performance will be continuously measured over the life of the contract.
- 12 It is essential that the Bill Payment Service is maintained to ensure that the Council continue to meet its financial commitments. The key risk is that without a Bill Payments solution the directorate will be forced to revert to time-consuming and inefficient processes, thereby losing the benefits enjoyed so far under the current arrangements as well as substantial inconvenience to our service users.

What are the legal implications?

- 13 The Chief Officer, Financial Services has the required authority to make the proposed decision under the Director of Financial Services sub-delegation scheme.
- 14 This is a Significant Operational Decision and is not eligible for call in as the value of the decision is below £500k.
- 15 There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 16 Under the Regulations the provisions of Regulation 72 (1) ((b) a contract may be modified without a new procurement procedure where additional services by the original contractor have become necessary and were not included in the original procurement, where a change of contractor:
- (i) cannot be made for economic, technical reasons; and
 - (ii) would cause significant inconvenience or substantial duplication of costs for the Council, provided that any increase in price does not exceed 50% of the value of the original contract.
- 17 It is considered that all the above conditions are met due to the reasons set out at paragraphs 3 and 4 above. However, if Regulation 72 (1) (b) is used incorrectly, and it is subsequently determined that the above conditions are not met, the Council may be open to legal challenge

that it has breached the procurement rules. Further, an aggrieved contractor could potentially argue that it has missed out on a competitive opportunity and thereby seek damages for that loss of opportunity.

18 The above comments should be noted. In making their final decision, the Chief Officer, Financial Services, should be satisfied that the course of action chosen represents best value for the Council.

Options, timescales and measuring success

What other options were considered?

- 19 Do nothing is not an option as the Council will not be able to meet its financial commitments. Modifying the contract by up to a further twenty-four months will enable the council to undertake a full Bill Payment services procurement exercise and award a contract on a longer-term basis.
- 20 Other options considered include the GCloud framework which facilitates the purchase of commoditised, cloud-based services. These services are 'off the shelf', pay-as-you-go cloud solutions. Three potential suppliers were identified including the incumbent however consideration of this framework would entail further research to assess the cost of change of supplier which the timescales do not allow. Consideration was also given to a newly awarded framework NEPO505 for Payment Card Services which went live in September 2022 however this does not include the Bill Payment Services required and is not therefore a viable option.

How will success be measured?

- 21 Success will be measured by
- Bill payment arrangements being maintained
 - New Bill Payment services procured, and a contract awarded to commence by 1/04/2025.

What is the timetable and who will be responsible for implementation?

22 01/04/2023. The Principal Exchequer Services Manager.

Appendices

None

Background papers

None