

Cabinet – 8 February 2023

Payments System Contract Award

Portfolio: Councillor M.A. Bird, Leader of the Council

Related portfolios: All

Service: Transformation & Digital, Digital and Technology Services

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

- 1.1 To ensure that the Council has a system to receive payments (Payment Service) in place that is fit for purpose and continues to offer secure, compliant payment services to its customers.

2. Summary

- 2.1 The Council's current contract with Capita for a Payment Service system, associated financial services, software and products expires on 31 May 2023.
- 2.2 The award of this contract is a key decision as the total contract will be significant, potentially rising to approximately over £2,000,000 during the contract life.
- 2.3 The technology included in this contract will enable the Council to continue to offer customers' secure, compliant methods of payment. It will also, streamline the number of Payment Service systems that take payments and reduce complexities for customers when making payments to the Council for goods and services.

3. Recommendations

- 3.1 That following consideration of this report Cabinet approves the award of a contract for the provision of a Payment Service for the seven-year period from 01 June 2023 to 31 May 2030 with an anticipated value in the region of £2,038,000 to Capita Plc as described in paragraphs 4,7, 7.2 and 7.3.
- 3.2 That Cabinet delegate authority to the Executive Director of Resources and Transformation to enter into a contract and to subsequently authorise the

signing of any associated contracts or other related documents.

- 3.3 That Cabinet authorise the signing of this contract underhand as due to the nature of the services provided it is unlikely the Council would benefit from 12 years of protection under seal.
- 3.4 That Cabinet delegate authority to the Executive Director of Resources and Transformation, to authorise any variations to the contractual arrangements or other related documents for such services should this be required throughout the duration of the term of any contracts and provided they are in line with the Council's Contract Rules and any relevant legislation, including Public Contract Regulations 2015.

4. Report detail - know

Context

- 4.1 The Council currently has multiple payment methods supported by different methods of payment including online, chip and pin, assisted telephone payments and self-service automated telephone payments. Payments are supported by multiple gateway systems due to the absence of a standardised procurement process.
- 4.2 The Council also has multiple Payment Service systems; the Recommendation to Award Report that supported the contract award to Capita in May 2021, recommended that "we look to reduce complexity by contracting with a single Payment Service system to provide a Payment Platform Service in future which can also deliver Income Management capability."
- 4.3 Capita provides the Council's main Payment Service system and currently provides a range of Automated Financial Processing services and equipment including, Chip & Pin devices, telephone and web payment authorisations.
- 4.4 Streamlining the number of Payment Service systems has key benefits such as long-term cost saving achieved through negotiating competitive rates with a single supplier; provision of the latest financial processing digital technology which will support both the Council's Digital and Customer Experience Strategies.
- 4.5 Capita can supply the required goods/services within the Council's timescales.
- 4.6 The Council has made a significant investment to support replacing legacy payment system components over the last few years. To change to a new supplier and software at any time in the near future would introduce technical incompatibility between existing services and other supplier systems. This could potentially lead to disproportionate technical difficulties with implementation and operation.
- 4.7 The initial term of the proposed contract between the Council and Capita Business Services Limited will be five years. There will also be a provision for

the parties to agree and implement two, 12-month extension periods following the expiry of the initial five year term.

5. Council Plan priorities

- 5.1 Digital and Technology Services (DaTS) is an internal underpinning support service which is integral to all areas of the Council delivering its services to citizens. DaTS will enable the Council to deliver upon its priorities set out in the Council Plan.

6. Risk management

- 6.1 The risks associated with entering into this contract are minimal; the majority of the software licence subscriptions can be increased on a monthly basis and decreased on an annual basis.

7. Financial implications

- 7.1 Provision for revenue funding has been made in the medium-term financial outlook; DaTS will work closely with the Head of Finance to ensure any increases or decreases are flagged at the earliest available opportunity.
- 7.2 At the time of presenting this report to Cabinet the total contract value over 7 years is likely to be approximately £2,032,781.66 comprising of fixed costs of £221,279.31 and variable costs of £1,811,502.35. However, it is anticipated that additional software licences and services may be added into the contract during the initial 5-year term and subsequent extension periods.
- 7.3 All 'Merchants', including the Council, are liable to pay Transactional Costs for every card transaction processed. This is a variable cost that is included in Capita's service costs and as such, the final contract value of these costs can only be estimated.

8. Legal implications

- 8.1 As the proposed procurement from Capita is via a compliant Framework Agreement which the Council is permitted to use, the contract is not subject to the Council's Contract Rules and the legal implications associated with the proposed contract do not raise any significant issues. The risk of any legal challenge materialising is very low and the Council's Procurement Team have been fully involved in the procurement.
- 8.2 The contract which will be signed between the Council and Capita Business Services Ltd contain fixed terms and conditions which have already been negotiated and fixed under the terms of KCS Procurement Services Y20023 Framework. Therefore both the Council and Capita must accept these terms and conditions. Capita have not requested any modifications to the contract.
- 8.3 Given the likely value of the proposed contract, it is normally recommended that both parties seal the contract as a deed. This is consistent with the requirements

of the Contract Rules in relation to Strategic Contracts with a value of over £500,000, although the Contract Rules do not apply to purchases of services via an existing compliant Framework Agreement.

As a matter of law the sealing of a contract extends the ability of the Council to pursue an action through the courts in the event that the Council needed to take legal action against the supplier in relation to their failure to comply with the contract, to twelve years instead of the usual six years from the date on which the cause of the action accrued. However due to the nature of the services provided in this case, it is unlikely the Council would actually benefit from 12 years of protection under seal. Therefore it is proposed that the contracts be signed on behalf of the Council rather than being sealed. This will also simplify the completion of the contract.

9. Procurement Implications/Social Value

- 9.1 The commercial advantages of using a compliant framework agreement are flexibility and reduced timescales of procurement procedures.
- 9.2 The KCS Procurement Services Y20023 Framework was selected as being the most appropriate to meet our needs. The Framework provider Kent County Council, facilitates KCS Framework. The Public Sector is entitled to use this framework, which includes the option to make a Direct Award, outlined as; "Placing an order with any capable supplier awarded on the framework agreement, without re-opening competition, following the criteria set out below. Regulation 33(8)(a) of the Public Contracts Regulations 2015 (PCR 2015) sets out the criteria for making a direct award where a framework agreement is concluded with more than one supplier...".
- 9.3 Advice and guidance has been given by the Corporate Procurement Team throughout this process. The award process which the Council has carried out has been undertaken in accordance with the requirements of the Public Contracts Regulations 2015 and gave consideration to social value in line with the Public Services (Social Value) Act 2012 and was in compliance with the Council's Contract Rules.

10. Property implications

- 10.1 None.

11. *Health and wellbeing implications*

- 11.1 Replacement of the middleware, automation of payment services and future proofing payment technology and equipment will ensure our work force has access to modern technology not only enhances employee satisfaction gained from being able to work in an agile and flexible way, it also increases efficiency and performance by enabling customers to access 24/7 digital payment services.

12. Reducing Inequalities

12.1 An Equalities Impact Assessment (EqIA) ref: PPSRT623 was presented to the Equalities Team for further advice and guidance. Although the Equalities Team advised that an EqIA is not required on this occasion as the service being provided is not directly presented to the user, they have given approval to the draft submitted.

12.2 Entering into this contract will not have a visible effect or impact on any existing policy, procedure or service

13. Staffing implications

13.1 None.

14. Consultation

14.1 Informal consultation has been carried out with internal stakeholders impacted by this contract, for example the Capita Payments User group consisting of staff who take payments across the Council, as well as the Procurement Team and Legal Services.

15. Decide

15.1 Cabinet is requested to approve the recommendations made in section 3 of this report.

16. Respond

16.1 In the event that Cabinet approve the award of this contract, Digital and Technology Services and Procurement will work closely with Capita up until the end of May 2023 to ensure that the contract is tailored and fit for purpose.

17. Review

17.1 Performance against the contract will be reviewed quarterly.

Appendices

None

Background papers

None

Author

Janice Freeman-Phillips
DaTS Programme Manager – Business Systems
✉ Janice.Freeman-Phillips@walsall.gov.uk
☎ 650812

Signed



Deborah Hindson
Executive Director – Resources & Transformation

8 February 2023

Signed



Councillor M Bird
Leader of the Council

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