

# Birmingham City Council

## Report to Cabinet

13<sup>th</sup> October 2020



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**Subject:** **PROCUREMENT STRATEGY FOR AN ENFORCEMENT AGENCY SERVICE FOR REVENUES COLLECTION**

**Report of:** **Director, Digital and Customer Services**

**Relevant Cabinet Member:** **Councillor Brigid Jones, Deputy Leader**  
**Councillor Tristan Chatfield, Finance and Resources**

**Relevant O &S Chair(s):** **Councillor Sir Albert Bore, Resources O&S Committee**

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Forward Plan Reference 007922/2020		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### 1 Executive Summary

- 1.1 To provide details of the procurement strategy for the provision of an enforcement agency service for revenues collection for a four-year period commencing 1<sup>st</sup> April 2021, following a further competition exercise using the Yorkshire Purchasing

Organisation's (YPO) Enforcement Agency Services Dynamic Purchasing System.

## **2 Recommendations**

That Cabinet:

- 2.1 Approves the strategy and the commencement of the procurement activity for an enforcement agency service for revenues collection following a further competition exercise using the Yorkshire Purchasing Organisation's (YPO) Enforcement Agency Services Dynamic Purchasing System (DPS) in accordance with the requirements and approach outlined in Section 3 of this report.
- 2.2 Delegates authority to the Director, Digital and Customer Services in conjunction with the Interim Chief Finance Officer (or their delegate), the Assistant Director, Development and Commercial (or their delegate), the Interim City Solicitor (or their delegate) to award three call off contracts for enforcement agency service for revenues collection to three suppliers following the completion of the further competition exercise pursuant to the YPO DPS.

## **3 Background**

### **3.1 Background and Service Requirements**

- 3.1.1 In view of the existing contract arrangements for enforcement agency services for revenues collection due to expire on 31<sup>st</sup> March 2021, replacement contracts are required to support the collection of revenues within the Digital and Customer Services Directorate.
- 3.1.2 There are a large number of domestic dwellings within Birmingham worth millions of pounds of council tax, business rates hereditaments and BID levies. There is a requirement for an enforcement service to collect outstanding debt where the Revenues Service has obtained a liability order and all other avenues of collection have been exhausted. The case will be passed to an enforcement agent who will use their powers where appropriate to recover and collect arrears.

### **3.2 Outcomes Sought**

The procurement process for the proposed enforcement agency service for revenues collection contracts is expected to deliver the following outcomes:

- improved levels of collection;
- to ensure arrears are collected in accordance with the Council's Anti-Poverty Strategy and Code of Conduct for Enforcement Agents and to adhere to statutory requirements in respect of Equal Opportunities, Health & Safety and Human Rights; and
- the protection of the image of the Council when recovering the debts on its behalf.

### 3.3 Market Analysis

- 3.3.1 The Enforcement Agency sector is an established market with specialist service providers ranging from small and medium enterprises up to large national organisations that will be interested in tendering for this opportunity.

### 3.4 Procurement Route

- 3.4.1 As per paragraph 4, the recommended procurement route is to use the YPO Enforcement Agency Services DPS to procure three suppliers to provide the required services.

#### 3.4.2 YPO Enforcement Agency Services DPS:

The DPS is an electronic system established to purchase goods, works or services which remains open throughout its duration for the ongoing admission of suppliers meeting the selection criteria and allows prequalified suppliers to participate in a customer's further competition for in scope services.

This DPS is for the provision of Enforcement Agency Services including high court enforcement. This includes the collection of all debt types which a contracting authority may have a requirement to collect and other services that an enforcement agent can typically provide.

There are currently 22 suppliers on the Enforcement Agency Services DPS which commenced on 1<sup>st</sup> April 2019. All suppliers must be registered enforcement officers and/or high court enforcement officers and comply with The Taking Control of Goods Regulations 2013, Taking Control of Goods Fees) regulations 2014 and The Certification of Enforcement Agents Regulations 2014 (including any amendments).

The rules for the operation of the DPS require that a further competition exercise is carried out with the opportunity to be sent to all providers.

#### 3.4.3 Sourcing Strategy

##### 3.4.3.1 Contracts will be awarded to three suppliers on the basis of:

- Incentivising performance on the levels of collection between the three;
- Volume of debt - demand fluctuations can be more manageable if we have a choice of suppliers with whom to adjust volumes;
- Spreading the risks - if one of the suppliers runs into financial or business difficulties, the Council have other suppliers to fall back on;
- Having more than one supplier will increase the ability to circumvent service disruptions if they arise and give greater business resilience.

#### 3.4.4 Duration

The DPS allows Contracting Authorities to specify a contract period, based on the term that will best suit their requirements. The proposed three contracts will be for a period of four years (with a break clause after year 2 and 3).

### 3.4.5 Scope and Specification

3.4.5.1 The scope and specification of the services is for enforcement agent services for the collection and enforcement of unpaid Council Tax, Business Rates and BIDS in respect of Liability Orders obtained by the Council:

- Enforcement Agents must be a member of the following recognised professional bodies or equivalent: Civil Enforcement Association (CIVEA) and Credit Services Association (CSA);
- The Enforcement Agents shall adhere to the Taking Control of Goods Regulations 2013; Taking Control of Goods (Fees) Regulations 2014; Certification of Enforcement Agents Regulations 2014, Data Protection Act 2018 and GDPR;
- Provide enforcement agent services at no cost to the Council with all fees/costs being charged to the debtor on behalf of the Council, this must be strictly in accordance with those specified in the relevant statutory instruments;
- Tracing Services; the process of locating a debtor that can't be found at their place of residence, Enforcement Agents will make no charge for tracing a debtor, irrespective of whether they are successful or not;
- The Enforcement Agents shall be required to collect statistical information and provide monthly management reports to the Council that will demonstrate their effectiveness in delivering the contract;
- Offer a reasonable range of payment options for all debtors which should include facilities to pay by electronic means, cash and cheque;
- The Enforcement Agent shall determine vulnerability, the impact of the vulnerability on the ability to pay, and act appropriately, ensuring the Vulnerable Debtor has had opportunity to seek independent advice.

### 3.4.6 Further Competition Assessment

#### 3.4.6.1. Evaluation and Selection Criteria

The criteria used will be 100% quality that will include social value. Price is not an evaluation criterion as fees charged to collect debt are statutory in accordance with the Taking Control of Goods (Fees) Regulations 2014.

The evaluation of tenders will be assessed as detailed below:

#### **Initial Assessment A (Pass / Fail)**

<b>GENERAL INFORMATION</b>	<b>Scoring Assessment</b>
Potential Supplier Information	Information only
Minimum Insurance Requirements	Pass / Fail
Declaration	Pass / Fail
Payment by BACS	Information only
Health & Safety	Information only

Those organisations that pass all sections of Assessment A will proceed to the next stage.

### **Assessment B - Quality - Written Proposals (Weighting 100%)**

The assessment will be assessed on the criteria below:

<b>Criteria</b>	<b>Sub-Weighting</b>
Service Delivery	20%
Organisation and Resources	25%
Quality Management/Performance	30%
Customer Care	5%
Social Value	20%

Tenderers will be required to score more than the quality threshold of 60 marks i.e. a score of 60% out of a maximum quality score of 100.

### **Overall Evaluation**

The evaluation process will result in comparative quality (including social value) for each tenderer. The maximum quality score will be awarded to the tender that demonstrates the highest for quality (including social value). Other tenderers will be scored in proportion to the maximum scores in order to ensure value for money. The recommendation for contract award will be to the first three ranked tenders.

#### **3.4.7 Evaluation Team**

The evaluation of the tenders will be undertaken by officers from the Revenues Service within the Digital and Customer Services Directorate, supported by Corporate Procurement Services.

#### **3.4.8 Indicative Implementation Plan**

The indicative implementation plan is as follows:

Cabinet Approval (Strategy)	13 <sup>th</sup> October 2020
Issue Invitation to Tender	21 <sup>st</sup> October 2020
ITT Deadline Submission	16 <sup>th</sup> November 2020
Evaluation Period	Nov / Dec 2020
Contract Award	Jan 2021
Mobilisation Period	February / March 2021
Contract Start	1 <sup>st</sup> April 2021

### 3.4.9 Service Delivery Management

#### 3.4.9.1 Contract Management

The contract will be managed by the Head of Revenues, Digital and Customer Services Directorate.

#### 3.4.9.2 Performance Management

Performance will be monitored based on collection rates, case status, case progression/turnaround, outcomes, and the number of valid complaints received. Monthly performance reports are to be supplied in an agreed format to allow comparison between enforcement agents and financial years. Benchmarking data is to be provided on request to allow performance to be compared with that achieved for other councils to whom the Enforcement Agency is contracted. Audits will be undertaken by the council at agreed intervals to ensure cases are being progressed in line with legislation, the contract, CIVEA guidance, and Council policy. Strategic and operational meetings will take place at agreed intervals, at which any concerns regarding performance or compliance will be raised and addressed.

### 3.5 Allocation of Work

Contract spend will be distributed equally amongst the three providers within year one, with the providers each receiving one-third.

For the first-year, accounts will be issued to each enforcement agent on a rolling weekly basis with the first ranked tenderer receiving work in week one, the second ranked in week two, third ranked in in week three, first ranked in week four and so on and so forth. In years two, three and four the frequency of issuing will change in order to ensure enforcement agents receive the correct percentage of cases which is reflective of their contract performance.

Following each year performance measures within the contract will be monitored and reviewed on an annual basis to re-distribute the spend for the forthcoming year as detailed below:

- the first ranked performing provider receiving 40%.
- the second ranked performing provider receiving 33%.
- the third ranked performing provider receiving 27%.

## **4 Options Considered and Recommended Proposal**

4.1 To undertake an open procurement process – This approach was discounted on the basis that using a DPS demonstrates better value for money.

4.2 To use a collaborative framework agreement – There is a Dynamic Purchasing System awarded by Yorkshire Purchasing Organisation (YPO) that covers the services required. This is the recommended option on the basis that the DPS provides a suitable number of suppliers who are the main players in the marketplace for enforcement. The suppliers have been prequalified as to their

suitability, including compliance with the required regulations. The reduced timescales to award a contract meet with the Council's requirements.

## **5 Consultation**

5.1 None

## **6 Risk Management**

6.1 The CPS approach is to follow the Council Risk Management Methodology and the Procurement and Contract Management Teams are responsible for local risk management. CPS maintains a risk management register and documentation relevant for each contract. The risk register for this framework agreement has been jointly produced and owned by CPS and Revenues, Digital and Customer Services. Arrangements are in place to ensure operational risks for the framework agreement are mitigated as detailed in **Appendix 1**.

## **7 Compliance Issues:**

7.1 How are the recommended decisions consistent with the Council's priorities, plans and strategies?

7.1.1 This project will make a direct contribution and is consistent with the Council's Priorities and Plan 2018 – 2022 (updated 2019) These policies are outlined below:

- Birmingham is a great city to live in; the Council is committed to the development of enough high-quality new homes to meet the needs of a growing city, and the proposals within this report to accelerate housing growth in the City by providing new homes for rent on the proposed sites. New homes will help ease pressure on the housing waiting list that currently has around 13,000 people registered as in housing need.
- Birmingham is a fulfilling city to age in; the links between health and housing are well recognised. New thermally efficient, economical to run new homes which are designed to high standards of quality and internal space standards will be more affordable for residents and offer a higher quality of life leading to better health outcomes.

### **7.1.2 Birmingham Business Charter for Social Responsibility (BBC4SR)**

Compliance with the BBC4SR will be a mandatory requirement for tenderers and form part of the conditions of this contract. Tenderers will need to produce an action plan with commitments proportionate to the value of this contract. These actions will be monitored and managed during the period of the contract.

## 7.2 Legal Implications

7.2.1 The Council has a legal duty to ensure cost effective billing, collection and recovery of council tax, business rates and BID levies due to the Council and requires an enforcement agent service to fulfil its statutory obligations arising under the Local Government Finance Act 1988 to manage the financial affairs of the Council.

7.2.2 Under S.111 Local Government Act 1972 the Council has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

### 7.2.3 Pre-Procurement Duty under the Public Services (Social Value) Act 2012

Consideration of how the enforcement agency service for revenues collection contract might improve the economic, social and environmental well-being of the City and whether to undertake any consultation were discussed at the planning stage. It was agreed not to conduct further consultation on the basis that the BBC4SR would satisfy the Council's obligation under this Act, with relevant proposals from tenderers to secure such improvement being evaluated during the process.

## 7.3 Financial Implications

7.3.1 The fees charged by all enforcement agencies are statutory in accordance with the Taking Control of Goods (Fees) Regulations 2014, with these being a fixed fee structure. Enforcement Agent charges will be recovered directly from the debtor and therefore there is no direct cost to the Council.

7.3.2 The estimated value to the successful tenderers, based on historical data projected usage and the statutory fees, is approximately £4,700,000 per annum. Enforcement Agency statutory fees are deducted first prior to collected arrears being passed to the Council.

7.3.3 The tender process will be resourced by CPS and the Council's Evaluation Team who will contribute to the development of the relevant documentation and evaluation processes. The costs will be contained within approved budgets.

## 7.4 Procurement Implications

7.4.1 This report concerns the procurement strategy for the enforcement agency service for revenues collection contract and the implications are detailed throughout the report.

## 7.5 Human Resources Implications

7.5.1 The procurement activity and the subsequent contract management will be undertaken by Council staff.

## 7.6 Public Sector Equality Duty

7.6.1 A relevance test to decide whether the planned procurement for the enforcement agency service revenues collection contract has any relevance to the equality duty contained in Section 149 of the Equality Act 2010 of eliminating



unfair/unlawful discrimination and to promoting equality and human rights was conducted on 2<sup>nd</sup> August 2020, reference EQUA546. The screening identified there was no requirement to assess it further and completion of an Equality Assessment form was not required.

## **8 Appendices**

### **8.1 List of Appendices accompanying this Report:**

1. Appendix 1 - Risk Assessment

## Appendix 1 – Risk Assessment

Risk No	Risk description	Risk mitigation	Residual / current risk			Additional steps to be taken
			Likelihood	Impact	Prioritisation	
1.	Insufficient tender responses to ensure competition.	Requirement using DPS YPO Framework with large number of suppliers. Also contact potential bidders to advise of opportunity.	Low	Low	Material	None
2.	Tender results challenged.	Issue report on procurement procedures followed to show due diligence.	Low	Low	Material	None
3.	Contractor(s) ceases trading during the contract period.	Check financial statements for solvency as a tender qualification already undertaken as part of the YPO framework, and on an on-going basis as part of the Supplier Performance Review.	Low	Low	Severe	Situation kept under on-going review by Contract manager and reported as part of Supplier Performance Review process.
4.	Contractor merges (or bought) by competitor.	Check of financial statements of parent company already undertaken by YPO for the framework. And on-going consult with Legal Services and novate contract if applicable.	Low	Low	Material	Situation kept under on-going review by Contract manager and reported as part of Supplier Performance Review process.
5.	Under performance from supplier	Monitoring of supplier performance at regular intervals with built in review meeting. Levels of work linked to performance.	Low	Medium	Severe	Situation kept under on-going review by Contract manager and reported as part of Supplier Performance Review process.

6.	Reputational risk from unethical practices	Monitoring of supplier and customer complaints at regular intervals with built in review meeting. Levels of work linked to performance.	Low	Low	Material	Situation kept under on-going review by Contract manager and reported as part of Supplier Performance Review process.
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**Measures of likelihood/ Impact:**

Description	Likelihood Description	Impact Description
High	Almost certain, is expected to occur in most circumstances. Greater than 80% chance.	Critical impact on the achievement of objectives and overall performance. Critical opportunity to innovate/improve performance missed/wasted. Huge impact on costs and/or reputation. Very difficult to recover from and possibly requiring a long term recovery period.
Significant	Likely, will probably occur in most circumstances. 50% - 80% chance.	Major impact on costs and objectives. Substantial opportunity to innovate/improve performance missed/wasted. Serious impact on output and/or quality and reputation. Medium to long term effect and expensive to recover from.
Medium	Possible, might occur at some time. 20% - 50% chance.	Waste of time and resources. Good opportunity to innovate/improve performance missed/wasted. Moderate impact on operational efficiency, output and quality. Medium term effect which may be expensive to recover from.
Low	Unlikely, but could occur at some time. Less than 20% chance.	Minor loss, delay, inconvenience or interruption. Opportunity to innovate/make minor improvements to performance missed/wasted. Short to medium term effect.

**Key:**

Severe	Immediate control improvement to be made to enable business goals to be met and service delivery maintained/improved
Material	Close monitoring to be carried out and cost effective control improvements sought to ensure service delivery is maintained
Tolerable	Regular review, low cost control improvements sought if possible