

ANGUS COUNCIL

POLICY & RESOURCES COMMITTEE – 27 OCTOBER 2020

EXTENSION OF DEBT COLLECTION AND SHERIFF OFFICER SERVICES

REPORT BY DIRECTOR OF FINANCE

ABSTRACT

This report seeks authority to extend the existing debt collection and sheriff officer contract for a period of one year and seeks authority to proceed with a procurement exercise for a new contract to start at the end of the one-year extension.

1. RECOMMENDATION

1.1 It is recommended that the committee agrees to delegate authority to the Director of Finance to:-

- i) Extend the existing contract with A. A. Hutton for a period of one year from 1 April 2021; and
- ii) Procure debt collection and sheriff officer services for a period of up to four years from 1 April 2022, with provision for extension for an additional two years subject to being satisfied with the performance of the contractor.

2. BACKGROUND

2.1 Debt collection and sheriff officer services for Angus Council are currently provided by A. A. Hutton who, following a tender exercise in 2014/15, were appointed to provide these services from 1 April 2015 for an initial four-year period, with the option to extend for a further period of 2 years from 1 April 2019, subject to satisfactory performance. The contract was duly extended but will expire on 31 March 2021.

2.2 The provision of high-quality debt collection and sheriff officer services is an essential requirement for the good management of the Council's income and in meeting the requirements and indicators for Council Tax and Non-Domestic Rates. The services the contract includes are:

- Council Tax (and water and waste water charges)
- Non-Domestic Rates
- Housing Benefit Overpayments
- Sales Ledger
- Former tenant rent arrears
- Pre-decree service of statutory notices and court documents
- Post decree/summary warrant services including the service of charges and evictions

The commission rates for the above debts are highly competitive and although, due to the COVID-19 pandemic, collections have reduced in 2020/21, which in turn reduces the commission paid to A. A. Hutton they have not required to approach the Council for financial support despite their loss of income. Recovery of Council Tax is the largest element of the contract and in 2019/20 some £2.3 million was collected through the contract.

2.3 Prior to conclusion of the current contract, a tendering exercise would in normal circumstances have been undertaken in order to select the debt collection and sheriff officer service provider from 1 April 2021. However, it has not been possible to undertake this exercise this year because of the significant additional workload caused by the COVID-19 pandemic. Due to the pandemic all recovery action was suspended from April to July 2020, and officers have been otherwise engaged in relocating the service to operate from the

homes of staff, combined with administering the Business Grants Scheme during the period April to July – a very significant task. During July to September the same officers have concentrated on managing the resumption of full recovery action which has now been undertaken successfully. In addition, to embark on such a procurement exercise significant support would be required from the Procurement team who are unable to provide this at this time due to the additional work required to process key suppliers support payments, primarily in the care sector, again as a result of the pandemic.

2.4 It is therefore considered essential to extend the existing contract for a further period of 1 year. Whilst the current contract does not provide for a third year of extension, there is provision in Procurement legislation which allows an extension to an existing contract where all of the following conditions apply: -

- (i) ***the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen.*** In this case, the modification has been brought about by the unforeseen and unprecedented circumstances created by the COVID-19 pandemic.
- (ii) ***the modification does not alter the overall nature of the contract.*** In this case, there is no change to the nature of the contract.
- (iii) ***any increase in price does not exceed 50% of the initial contract value or framework agreement.*** The initial contract expenditure has been £140,000 per annum. The one-year extension is also estimated to be in the region of £140,000 and is therefore well below 50% of the initial contract value.

2.5 A. A Hutton have confirmed they are willing to do this on the existing contract rates thereby protecting debtors from any cost increases which may otherwise have been sought by the contractor. Whilst extending the existing contract for 1 year is necessary because of the backlog of work and delays caused by the pandemic, it will also allow the Council to have a further period of continuity with A. A. Hutton using well established practices and procedures to attempt to recover the reduction in collections experienced due to the suspension of recovery action. This allows the Council to continue to move promptly and diligently back into recovery with a well-established partner who understands our requirements and has a good operational knowledge of the client base and local area. Although recovery action has now resumed no current year debts were passed to A. A. Hutton until September 2020 unlike normal practice where the first debts are passed to them by May of the new financial year by which time both collections and commission paid would have commenced. This has resulted in Council Tax collection levels being 5 months behind where they would normally be through no fault of our contractor. A final consideration is the possibility of the impact of a further wave of COVID-19 in the coming months both on the service and a tender exercise. Priority would be managing the service which would make progressing the tender difficult for ourselves and applicants.

2.6 The Committee is also being asked to agree to delegate authority to the Director of Finance to procure debt collection and sheriff officer services for a period of four years from 1 April 2022, with provision for extension for an additional two years subject to being satisfied with the performance of the contractor based on the proposals set out in Section 3 of this report.

3. PROCUREMENT AUTHORITY

3.1 Sourcing Strategy

There are no current alternatives to procuring the supply of Debt Recovery & Sheriff Officer Services (a) within current internal resources and (b) due to the Scots Law legal requirement that certain debt enforcement proceedings can only be carried out by Sheriff Officers.

The tender will again include all of the following: -

- Council Tax (including water and wastewater charges);
- Non-Domestic Rates;
- Housing Benefit overpayments;
- Sales ledger debt recovery; and sales ledger diligence.
- Enforcement and diligence in relation to current and former tenant rent arrears;
- Pre-decree service of a variety of statutory notices and sundry court documents;
- Post-decree / summary warrant services including the service of charges and the carrying out of evictions;

The Recovery of Council Tax and Non-Domestic Rates is the largest component of this contract.

Only sheriff officers (officers appointed by the Scottish Sheriff Courts to formally enforce court orders) are qualified to provide this service. There are a number of firms of sheriff officers in Scotland but not all will be able to meet the contract requirements in terms of handling the volume of actions required and may not have the systems to support such a contract. None have headquarters in Angus but the current supplier, A. A. Hutton, have access to 7 offices across the country.

The contract requires only one lot in order to meet the Council's desire to continue to improve the coordination of its debt management activities.

No combined national Procurement Scotland or Scotland Excel framework agreements currently exist to meet this requirement it is split between Sheriff Officer and Debt Collection services which it is felt is not the best approach as it could lead to debts being passed between two different parties, two contact points for debtors and not having a cohesive approach to debt collection. Consultation has been undertaken with our Tayside Procurement Consortium (TPC) partners, Dundee City Council and Perth & Kinross Council. From that consultation, it is evident that there is no current appetite to pursue the systems and processes harmonisation necessary to enable collaborative procurement under the umbrella of the Tayside Procurement Consortium at this time but this will be kept under review.

The procurement is not considered to be a "major procurement" in terms of Financial Regulation 16.8.4. Approval of this Report would mean that the contract can be accepted without the need for further committee approval and in accordance with the new arrangements the contract award will be reported to committee for noting only.

3.2 Key Terms Proposed

It is envisaged that the contract will commence on 1 April 2022 for a 4-year period with an option to extend for up to a further 2 years. A break clause will be inserted into the contract after 2 years in case there is an opportunity to harmonise our arrangements with those of DCC and PKC.

The value of the supply is estimated at £140,000 per annum and £840,000 over the whole life of the contract, including any option to extend, based on previous relevant expenditure.

The contractual mechanism will be a sole supplier contract.

It is proposed to allow the bidders the option to submit "variant" pricing models alongside a compliant one to allow commercial flexibility and innovation

3.3 Procurement Procedure

It is considered that single stage ("open") tender procedure would be the best means of procuring the required supply here. This is because there will be a limited number of Sheriff Officer firms who could actually meet the contract requirements.

The contract opportunity will be openly advertised on the Public Contracts Scotland Portal in accordance with Council policy and as a means of securing good competition to deliver best value for money.

3.4 Contract Evaluation and Award Basis

Completed tenders returned to the Council shall be evaluated and the contract will be awarded on the basis of the most economically advantageous tender, on a mix of quality and price. The price/quality split applied will be 30% on price and 70% on quality (same as current contract). This approach is the basis for the existing contract and has been approved by the Corporate Procurement Manager as an appropriate departure from the Council's usual approach in accordance with Financial Regulation 16.14.2. In this instance the quality of the service is considered more important than the price and that is because we need a provider who can work with debtors in a sympathetic and constructive manner. This is even more

relevant given the impact of the pandemic on household incomes and the rise in cases of people struggling with debts.

The broad evaluation criteria and weightings will be:

Minimum supplier selection criteria (pass/fail) will be applied on:

1. Financial standing
2. Insurances
3. Bidders current sheriff officers' commission
4. Resources –adequate capacity for the contract
5. Equalities
6. Business Continuity

Separately, price/quality tender evaluation will be applied on criteria of:

Financial 30%

Quality 70%

The Corporate Procurement Manager has been consulted on the preparation of the strategy underlying this report and is satisfied that this approach is suitable and likely to produce best value and the most economically advantageous tender (MEAT) for the Council.

4. FINANCIAL IMPLICATIONS

The cost of the services are met in different ways. For Council Tax and Non-Domestic Rates the payment of commission is met from the 10% statutory addition, imposed when a summary warrant is granted, which is paid by the debtor. The effect on the Council's revenue budget is broadly cost neutral. The costs to the Housing Revenue Account relating to evictions are provided for and not expected to exceed the budgeted amount. The costs relating to the pre-decree service of a statutory notices and sundry court documents are in the main recovered from the debtor and again the position is expected to be cost-neutral for the Council.

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