

	<h2>ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER</h2>
<b>Title</b>	<b>Postal Contract variation for 1 year due to Covid 19</b>
<b>Report of</b>	Deputy Chief Executive
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	None
<b>Officer Contact Details</b>	Simon Hime - Document Centre Manager - 020 8359 2046

## Summary

The Council is currently operating a postal contract with Royal Mail via a Crown Commercial Services Framework which started in September 2016 for 3 plus 1 years, ending in September 2020. This Framework Agreement is due to expire in September 2020. A collaboration called the London Postal Group came together, made up from 28 London Boroughs, to consolidate their postage spend and call off from the Framework Agreement as a collective. The underlying advantage was that combining all post volumes would secure good savings for all the councils involved.

This report asks to approve a variation to the existing postal contract, until September 2021, to provide business continuity, due to delayed Covid interference, while a re-tender process gets underway in early 2021.

## Decisions

- 1. To approve a variation to the contract for 1 year until 14<sup>th</sup> September 2021, to continue postal arrangements with the existing supplier, Royal Mail.**

### 1. WHY THIS REPORT IS NEEDED

- 1.1 This report is seeking approval to a variation of the existing postal contract for a further 12 months to September 2021 as the existing contract is due to expire on 14th September 2020. It is intended that the London Postal Group will undertake a mini competition with all awarded suppliers on the new Framework for Lot 3/Lot 4 in Spring of 2021. This will ensure a competition between all suppliers on the framework and where both Quality and Price is tested further.
- 1.2 The London Postal Working Group have been in touch with Crown Commercial Services (CCS) over the past 7 months for updates and the deadline dates for submission of information by the providers has moved several times during this year (end of February 2020; then end of May 2020 and now 31 December 2020). The working party were preparing to go out for mini-competition in 2020, between all suppliers on CCS Framework for Postal Goods and Services (RM6017), as we thought that CCS framework would be ready for call off by end of May 2020 but this wasn't the case.
- 1.3 Officers had already secured authority to re-procure for a new contract via the Annual Procurement Forward Plan 2020/21. this was approved by the P&R Committee on 6<sup>th</sup> Jan 2020.

### 2. REASONS FOR RECOMMENDATIONS

- 2.1 As the contract was procured by a collaboration of many London Boroughs, the group decided to utilise the option of a one-year extension, which is now due to expire in September 2020. Now with the Covid situation and the delay in the new CCS contract going live, we are asking permission to approve a variation to the contract for 1 year to allow time for the CCS contract to go live and the re-tender process to start.
- 2.2 . Regulation 72 1 (C) of the Public Contracts Regulations 2015 (PCR) permits modification of an existing contract without a new procurement exercise and this regulation was highlighted under the Procurement Policy Note 01-20 at the beginning of the Covid restrictions. Under these Covid circumstances, it is proposed to utilise this clause and extend the current contract, due to the delay caused by the covid pandemic.
- 2.3 The Council's Contract Procedure Rules permit it to join contracts let by another contracting authority, LB Greenwich the lead authority for the London Postal Group

provided the letter to Royal Mail on behalf of the whole group, it is in accordance with their own rules and standing orders.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 Some other options were considered and disregarded,

- 3.1.1 Direct award via a new framework this was discounted as the new CCS framework is not concluded at this time.
- 3.1.2 Direct award as a separate contract outside the framework – this would pose a high risk of challenge by other providers in the market given the collective value of the contracts with all the boroughs is quite significant.
- 3.1.3 A full tender process – this would not be prudent as we wouldn't get prices on a discount that would be offered under a framework and plus we need at least 4 months for a full OJEU tender process. This arrangement would only be for 12 months and competition would most probably be limited as no one would want to spend that much time to submit tenders for just a 12 month contract.

### **4. POST DECISION IMPLEMENTATION**

- 4.1 The Council have secured authority to continue with the existing Contract, which, on approval of this report, will continue until September 2021.
- 4.2 The Mailroom service will continue to achieve the savings as described in this report with no disruption to service.
- 4.3 Failure to approve this variation will mean the Council will revert to non-contract prices which would increase postage spend by as much as 20% increase.

### **5. IMPLICATIONS OF DECISION**

#### **5.1 Corporate Priorities and Performance**

- 5.1.1 By having access to appropriate, cost effective and fit for purpose contracts, the Mailroom can support all Service Areas within the Council to achieve their priorities and ensure that residents and businesses are supported and grow sustainably.

### **6. Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 6.1.1 The approximate spend with Royal Mail for the 1 year is £250,000. This spend is covered by all Services Area post budgets.

This post contract works on costs per item, on actual volumes. Hence if the volume of post decreases due to services finding alternative ways to communicate, the spend and savings figures will drop accordingly. The Council are currently posting approximately 50,000 items per month, (35,000 items during Covid) this includes, first and second class, large letters and parcels, recorded and special deliveries.

The Council are continuing to encourage services areas to present their post in a better condition, and with improving the quality of the post that is sent to Royal Mail, will achieve higher savings.

## 6.2 Social Value

6.2.1 The Public Services (Social Value) Act 2013 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Before commencing a procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

## 6.3 Legal and Constitutional Reference

6.3.1 Paragraph 4.1 of the Council's Contract Procedure Rules states that any procurement, including extensions and variations to contracts set out in the Annual Procurement Forward Plan and approved by the Policy and Resources Committee is deemed as authorised, irrespective of the contract value.

6.3.2 Paragraph 4.2 of the Council's Contract Procedure Rules states that any procurement, which has not been authorised as set out in Clause 4.1 must be authorised in accordance with Article 10 of the Constitution, Table B.

6.3.3 In line with Article 10 of the Constitution, Table B and current practice, variation or extension acceptance and documentation for contracts with a value of up to £500,000 must be authorised by a Full Officer Delegated Powers Report, provided it is within Budget, which is the approval sought under this report.

6.3.4 Regulation 72 (1) C of the PCR states that Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:

(c) where all of the following conditions are fulfilled:—

(i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;

(ii) the modification does not alter the overall nature of the contract;

(iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.

The delay to the procurement of a new Framework Agreement was as a result of the Covid pandemic which the Council did not foresee. In light of this the Council especially working in conjunction with the London Postal Group is not able to procure a new contract prior to this contract expiration. The Council therefore seeks a one year extension as a result of the impact of the covid pandemic, the overall nature of the contract remains unaltered and the increase in price, does not exceed 50% of the value of the original contract therefore the Council meets the requirements provided for by the Regulation 72 (1) PCR exemption

## 6.4 Risk Management

6.4.1 The failure to extend the contract will expose the Council to higher market rates, and loses the economies of scale by collaborating with many London Boroughs, which will have an impact on existing Council Budgets.

6.4.2 There is no change to the existing supplier base, therefore, I do not foresee any major issues to arising from this variation.

## 6.5 Equalities and Diversity

6.5.1 The Under the Equality Act 2010, the Council and all other organisations exercising public functions on its behalf must have due regard to the need to:

a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

b) advance equality of opportunity between those with a protected characteristic and those without;

c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; religion or belief; sex; sexual orientation; race. It also covers marriage and civil partnership with regard to eliminating discrimination.

6.5.2 The supplier, Royal Mail, has been approved as a supplier of postal services by the Crown Commercial Services, a Public Procurement Consortia set up by Central Government to provide framework contracts and guidance for Public Contracting Authorities. Part of the selection and evaluation process involved equality and diversity in service delivery. Royal mail met the CCS's criteria and was appointed to the framework.

## 6.6 Corporate Parenting

6.6.1 Not applicable to this decision

## 6.7 Consultation and Engagement

6.7.1 Not applicable to this decision

## 6.8 Insight

6.8.1 Not applicable to this decision.

## 7. BACKGROUND PAPERS

7.1 Policy and Resources Committee, 6<sup>th</sup> Jan 2020, Annual Procurement Forward Plan 2020-2021

<https://barnet.moderngov.co.uk/documents/s56939/Annual%20Procurement%20Forward%20Plan%20APFP%2020202021.pdf>

## 8. DECISION TAKER'S STATEMENT

8.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision-making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations. The decision is compliant with the principles of decision making in Article 10 of the constitution.*

**Chief Officer:** Cath Shaw

**Signed:**



**Dated:** 11 September 2020