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| Meeting | Cabinet Resources Committee |
| Date | 25 February 2013 |
| Subject | Corporate Contract Extensions |
| Report of | Deputy Leader of the Council / Cabinet Member for Resources and Performance |
| Summary | This report seeks authority for the extension of contracts identified by Corporate Procurement as necessary to maintain business as usual delivery during transition of services to the Council's New Support & Customer Services Organisation (NSCSO) partner. This is required for existing contract arrangements which are due to expire in the period 1 March 2013 to 30 June 2013 for which transition arrangements have been delayed in light of Judicial Review. |

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| Officer Contributors | Kevin Bates, Head of Procurement Susan Lowe, Procurement Manager |
| Status (public or exempt) | Public |
| Wards Affected | All |
| Key Decision | Yes |
| Reason for urgency / exemption from call-in | N/A |
| Function of | Executive |
| Enclosures | Appendix A - Contracts for extension during transition arrangements to NSCSO Partner |
| Contact for Further Information: | Susan Lowe 020 8359 7212 |

1. RECOMMENDATIONS

- 1.1 That the Cabinet Resources Committee approve the extensions to the existing contracts as identified in Appendix A, valued at cost £3,108,000.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee Report Agenda Item 5, 1 December 2008 approving entry into contract with Xerox for lease of MFD devices.
- 2.2 Cabinet Resources Committee Report Agenda Item 7, 2 November 2009 approving entry into framework contract for print suppliers.
- 2.3 Cabinet Resources Committee Report Agenda Item 13, 2 March 2011, approving the extension of the termed maintenance contracts for one year with effect from 1 April 2011.
- 2.4 Cabinet Resources Committee Report Agenda Item 5, 24 May 2011, Contract Procurement Plan Commercial Services, MFD contract extension for period 1 April 2012 to 31 March 2013.
- 2.5 Cabinet Resources Committee Report Agenda Item 18, 4 April 2012, approving the extension of the termed maintenance contracts for a nine month period to 31 December 2012.
- 2.6 Cabinet Resources Committee Report Agenda Item 9, 17 December 2012, approving the extension of the termed maintenance contracts for three months to 31 March 2013.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan 2012-2013 includes the priority of 'Better services with less money' with one of its key strategic objectives to deliver an efficient council, with services designed to meet the changing needs of residents through more efficient ways of providing services.

4. RISK MANAGEMENT ISSUES

- 4.1 The contracts highlighted in Appendix A have been identified as due to expire during the period 1 March 2013 and 30 June 2013 with continued requirement past the contract expiry date. Corporate Procurement have identified a risk should arrangements not be put in place to maintain business as usual under contract during the transition period to the NSCSO partner overseeing contract arrangements. Discussions with the NSCSO partner regarding transition of contracts cannot be concluded due to a revision to the NSCSO contract commencement date in light of Judicial Review.
- 4.2 The Council will continue to ensure that the contracts identified in Appendix A are compliant with all the service requirements of the contracts. Extension to the contract arrangements will deliver business as usual during transition to NSCSO partner arrangements and address OJEU regulations.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Pursuant to the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between those with a protected characteristic and those without; promote good relations between those with a protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination. Private contractors providing public services on behalf of the council must, also, comply with this duty.
- 5.2 The tender submissions for the corporate cleaning contracts included an undertaking on the delivery of equalities with due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- 5.3 The proposed service contract extensions will enhance the Borough's reputation as a good place to live and work and will assist in delivering business continuity and a first class service to its community.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Appendix A identifies the contracts which require extension to accommodate transition to NSCSO partner arrangements.
- 6.2 The Corporate Procurement team have identified the contracts detailed in Appendix A as an ongoing requirement which are essential to maintain business as usual for the authority.
- 6.3 The extensions identified are required to deliver contract compliancy during the transition period.
- 6.4 The total number of contracts requiring extension is 30, the value of contract extensions identified in Appendix A for the period of extensions will be £3,108,000. The cost of the contract extensions will be contained within the relevant service budgets.

7. LEGAL ISSUES

- 7.1 One of two, existing, judicial review applications, referred to within this report, is due to be heard in March 2013. It is anticipated that the outcome of the hearing will be known prior to the, deferred, start date for the NSCSO contract.
- 7.2 The consent of, each, relevant, contractor/provider will be required for extension of each contract. It is expected that consent will be obtained, in each case. Each extension must be captured in writing and executed, in each case, on behalf of, both, the contractor/provider concerned and the Council.

- 7.3.1 In any case where the value of the extension, when added to the original contract value, does not take the total contract value above the, relevant, European threshold, the European procurement rules will not be triggered. In such cases, the Council need only comply with the principles of fairness, transparency and non-discrimination.
- 7.3.2 In any case where the value of the extension, when added to the original contract value, does take the total contract value over the, relevant, European threshold, there must be compliance with the Public Contracts Regulations 2006 (as amended).
- 7.3.3 In any case where the original contract value was such that the contract was tendered in accordance with European procurement rules, care will need to be taken to ensure that the extension of the contract, in question, does not result in non-compliance with European procurement rules.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Council Constitution, Part 3, Responsibilities for Functions, Sections 3.5 and 3.6 detail the responsibilities of the Cabinet Resources Committee
- 8.2 Council Constitution, Contract Procedure Rules – Section 5.6 details the rules and acceptance thresholds in relation to contract extensions and stipulates that:
 - 5.6.1.1 The initial contract was based on a competitive tender or quotations;
 - 5.6.1.2 the initial contract has not been extended before; and
 - 5.6.1.3 the value of the extension is less than half the cost of the existing contract without the extension and has a budget allocation having had regard to the following:
 - i. If initial contract was subject to EU tender procedure that the extension option was declared within the OJEU notice; acceptance report (Delegated Powers Report/Cabinet Resources Committee Report) and the contract includes extension clauses
 - ii. If initial contract value was subject to sub EU threshold procedure (Barnet tender/ quotation process) the extension does not take the value past EU threshold

As some of the contracts referred to in Appendix A have been extended before (Rule 5.6.1.2) and the cumulative value of the extensions is greater than £173,934 (Table 5-1), Cabinet Resources Committee approval is required for these contract extensions.

9. BACKGROUND INFORMATION

- 9.1 Transition arrangements and discussions will not be concluded prior to the end of contract dates for existing contracts highlighted in Appendix A as a direct result of the Judicial Review.

- 9.2 As a result of 9.1 Corporate Procurement have identified existing contracts as recorded in Appendix A with start and end dates; provision of service/supply; confirmation of ongoing requirement for provision; and, extension recommendation which is required to deliver business as usual.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

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| Cleared by Finance (Officer's initials) | JH/MC |
| Cleared by Legal (Officer's initials) | SS |