

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

3877

Author:

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Department:

Strategy and Resources

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Subject:

Contract Extensions to Mitigate the Impact of the Coronavirus Outbreak

Key Decision (decision valued at more than £1million):

Yes

Total Value:

£24,840,628 (Type: Revenue)

Decision Being Taken:

1) To approve the extension of existing contracts as set out in Appendix 1, to mitigate the impact of the Coronavirus outbreak on the continuity of delivery of Council services. 2) To agree dispensation from Contract Procedure Rules (4.1.1 and 4.1.2), in accordance with Financial Regulation 3.29 (operational reasons), to implement these extensions. 3) To delegate authority to the relevant Corporate Director to issue the contract extensions to suppliers. 4) To delegate authority to the relevant Corporate Director to approve future contract extensions as required, to ensure continuity of provision during the Coronavirus outbreak, in consultation with the Head of Contracting and Procurement.

Reasons for the Decision(s)

The contract extensions proposed are emergency measures to sustain the delivery of essential works, services and supplies during the current Coronavirus outbreak, when it will not be possible to renew contracts through a full procurement process. The majority of the extensions and the associated value of spend relate to the provision of Adult Social Care services. It is not currently feasible to undertake planned procurement activity, as the disruption caused by the outbreak impacts on the capacity of the market to respond to an open tender process, and the financial uncertainty of the current situation is likely to significantly impact on the cost-effectiveness and/or viability of any tenders that might be received. Additionally, there is reduced capacity within the Council to undertake non-emergency procurement activity, due to the emergency response needed to maintain essential services. In each case, the Procurement Team will ensure compliance with EU and UK Procurement Regulations, and will liaise with Legal Services to record the legal grounds for extension. The implementation of the contract extensions will be subject to the agreement of suppliers to continue with the delivery of the contracts on acceptable terms to the Council. Procurement and Legal Services will liaise with the client Department to consider longer terms sourcing options for each contract and to agree a plan for securing continued delivery through an appropriate compliant arrangement as soon as possible. Extensions will be implemented in each case only for the duration necessary, up to the maximum duration approved. This decision represents the first tranche of contracts that require extension, to continue delivery over the coming months. If further contracts are identified that requiring extending in the same circumstances, the delegation of authority to Corporate Directors to agree extensions will enable urgent action to continue the contracts and avoid the loss of essential services and supplies.

Briefing notes documents:

Appendix 1 Contract Extensions..docx

Other Options Considered:

- 1) Do nothing: this option is rejected, as existing contracts would expire and the delivery of essential services and supplies would cease, presenting significant risks across Council Departments and to the continued delivery of services to citizens during this critical period.
- 2) Award new contracts through procurement activity: procurement activity is planned to replace the expiring contracts, however, due to the current impact of the Coronavirus outbreak, it is not feasible to undertake open tendering at the current time. The current disruption to the market impacts on the capacity of suppliers to participate in open tenders, and the current financial uncertainty for providers is expected to impact on the pricing and viability of any tenders received. Additionally, capacity within the Council to undertake procurement is reduced due to the priority of managing the emergency response to the outbreak in the City, and so this option is rejected.

Background Papers:

None

Published Works:

None

Affected Wards:

Citywide

Colleague / Councillor Interests: None

Any Information Exempt from publication: Yes

Dispensation from Financial Regulations: Yes

Exempt Information:

Description of what is exempt: The legally privileged advice in relation to the contract extensions.

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. The public interest in maintaining the exemption outweighs the public interest in disclosing the information because it permits the decision-maker to receive full and frank advice about the legal issues without adversely prejudicing the Council's ability to consider and manage those issues.

Documents exempt from publication: COVID extensions 17 april.docx

Consultations: Those not consulted are not directly affected by the decision.

Crime and Disorder Implications: None

Equality: EIA not required. Reasons: This decision relates to the continuation of existing services and supplies, only.

Social Value Considerations:

Not applicable

Decision Type:

Leader's Key Decision

Subject to Call In:

No
The call-in procedure does not apply to the proposed decision because the delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The Chair of the Overview and Scrutiny Committee (or Vice-Chair) in his/her absence has been consulted and agreed both that the decision proposed is reasonable in all circumstances and that it should be treated as a matter of urgency.

Person Consulted: Chair of the Overview and Scrutiny Committee
Consultation Date: 09/04/2020
The contract extensions proposed are emergency measures to sustain the delivery of essential works, services and supplies during the current Coronavirus outbreak, when it will not be possible to renew contracts through a full procurement process as it is not currently feasible to undertake planned procurement activity.

Advice Sought:

Legal, Finance, Procurement

Legal Advice:

This advice is exempt from publication and is contained within an exempt appendix.
Advice provided by Andrew James (Team Leader Contracts and Commercial) on 17/04/2020.

This decision seeks approval to:

1. Extend a number of existing contracts for business as usual for a period of 6 months, with a value of £24,680,000.
2. Extend one contract for 12 months for business as usual for a period of 12 months, with a value of £160,000.

These contracts in items 1 and 2 cover a number of services that are paid based on actual performance. These are set out in Appendix 1 and relate to business as usual activity.

3. Delegate authority to the relevant Corporate Director to issue the contract. Details of specific contract values and extension duration are contained within Appendix 1.

4. Dispensation from Contract Procedure Rules (4.1.1 and 4.1.2), in accordance with Financial Regulation 3.29 (operational reasons).

Due to the Coronavirus outbreak, it is not currently feasible to undertake planned procurement activity as the disruption caused impacts on the capacity of the market to respond to an open tender process. The financial uncertainty of the current situation is likely to significantly impact any tenders received and would be difficult to assess and achieve value for money on the service being procured. Contracts will only be extended for the minimum necessary period and only up to the maximum approved in the decision and only on those supporting Council priorities and statutory duties.

Approval to delegate authority for further contract extensions in the future to relevant Corporate Directors is also requested. This will also be for those contracts only deemed necessary to ensure service continuity is maintained during the current situation and only on those services supporting Council priorities and statutory duties. These will need to be in consultation with the Head of Contracting and Procurement, Legal and Finance to ensure regulations are adhered to and Medium-Term Financial Plan (MTFP) budgets are not adversely impacted.

MTFP budgets for contracts contained within this decision are held across all Council departments. No MTFP financial pressure is expected to occur as a result of extending the decision, however, each budget holder for the respective contract needs to ensure finances are managed with this existing provision and that any new MTFP savings in 2020/21 and onwards are not adversely impacted. The Procurement team will need continued communications with those areas impacted by this decision.

The other financial impact to consider in extended existing contracts is the loss of any opportunity in receiving reduced contract prices by not undertaking planned procurement activity. This opportunity is unquantifiable, but also unlikely in the current market and circumstances. This needs to be considered in the above dialogue led by the Procurement team, however.

Approval for dispensation from Contract Procedure Rules (4.1.1 and 4.1.2), in accordance with Financial Regulation 3.29 (operational reasons), is requested to implement the extensions and must only be approved in conjunction with the Legal advice contained within this decision.

Advice provided by Philip Gretton (Finance Analyst) on 24/04/2020.

Procurement Advice:

There are no significant concerns with the recommendations set out in the report. The contract extensions are proposed as emergency measures to sustain the delivery of essential works, services and supplies during the Coronavirus outbreak. The Procurement team will ensure that any extensions are made in accordance with the Governments Public Procurement Notice 01/20.

Advice provided by Sue Oliver (Category Manager - Procurement) on 16/04/2020.

Signatures:

David Mellen (Leader/ PH Regeneration, Safety and Communications)

SIGNED and Dated: 23/05/2020

Candida Brudenell (Corporate Director for Strategy and Resources)

SIGNED and Dated: 12/05/2020

Laura Pattman (Strategic Director of Finance) - Dispensation from Financial Regulations

SIGNED and Dated: 11/05/2020

Chief Finance Officer's Comments: