

London Borough of Enfield

Subject: Payment Merchant Acquirer
Cabinet Member: Cllr Maquire
Executive Director: Fay Hammond

Key Decision: KD 5381

Purpose of Report

1. **To provide the Council with merchant acquiring services and hardware (chip & pin machines) in order to process customer payments made by debit and credit cards.**

Proposal

2. To seek approval to award a contract to GPUK LLP trading as Global Payments, calling off from the Crown Commercial Services (CCS) Framework (RM6118) for the annual contract price set out in the confidential Appendix B for a contract period of 3 years plus 1.

Reason for Proposal(s)

3. The Council's current merchant acquiring provider is GPUK LLP trading as Global Payments). The contract expired on 31st March 2021 however the contract allowed for a 2-year extension option which expires on 31st March 2023.
4. In February 2020 CCS awarded a framework agreement for merchant acquiring and gateway services which could be used by local authorities. The Framework has 3 suppliers; GPUK LLP trading as Global Payments, Worldpay and Barclaycard.
5. In order to make an informed decision, a review of the procurement options was undertaken. Extend the existing arrangements with GPUK LLP trading as Global Payments, consider a new framework agreement or undertake a formal tender process.
6. To ensure due diligence and value for money, banking experts 'Focus on Banking' were asked to advise the Council. Existing tariffs/costs were reviewed and compared to the most competitive tariffs that could be achieved, either through a full tender or by direct award via a framework agreement.

7. GPUK LLP trading as Global Payments. were assessed as the most viable and cost-effective provider. A direct award to GPUK LLP trading as Global Payments via the CCS Framework was the most appropriate option and, based on current tariffs would save the Council approximately £75,000 based on current contract fees over the life of the new contract.

Relevance to the Council Plan

8. A modern Council must provide a number of flexible payment options to customers in order to maximise income and prevent non-payment.

Background

9. The Council allows customers to pay for services using debit and credit cards. This payment method remains popular with our customers. 149,000 customers paid the Council with a debit or credit card in 2020/21. The Council currently accepts card payments via the Councils website and at libraries and other Council buildings in the borough where chip & pin machines are installed.
10. The CCS Framework includes a number of 'Lots'. The details of the services included in each Lot are included in Appendix A. The Council requires the goods/services under Lot 1 which include:
 - face to face card (card present) acquiring
 - card acquiring equipment (chip & pin machines)
 - fraud avoidance
 - additional mandatory requirements
11. Merchant acquiring is an integral part of card payment processing. Acquirers enable merchants to accept card payments by acting as a link between merchants, issuers, and payment networks. It provides authorisation, clearing and settlement of monies, dispute management and information services to merchants.
12. All payment methods incur processing fees. Payment by direct debit is encouraged as it's the cheapest option however payment by card remains a viable payment option.
13. Merchant acquiring transaction fees for collecting card payments are made up of three elements:
14. Interchange – A large proportion of the fee taken (approx. 60%) is passed on to the card issuing bank. This cost is known as 'interchange'. There are several different interchange rates and these vary depending on the card type as well as the method of payment. Interchange rates are identical for all merchant acquirers.
15. Scheme fees - A smaller amount of the fee collected is paid to Mastercard or Visa as scheme fees. Scheme fees differ slightly between merchant

acquirers although for most contracts, the difference in scheme fee costs between providers is relatively small.

16. Processing Fee - The remaining element of the fee is retained by the merchant acquirer as their margin to cover the costs for handling the transaction and provide an element of profit.
17. Since 2015 there has been significant changes to UK interchange rates as a result of the European Commission legislating to cap fees. This means that the interchange rate for all UK consumer credit cards is now 0.3% and 0.2% for all UK consumer debit cards. Previously interchange rates for some cards were as high as 1.85% depending on the payment method. Although some adjustments were made to the interchange rates for commercial cards, they remain relatively high up to 1.9% depending on the card type and payment method.
18. The Council is currently charged on an 'interchange plus plus' structure. This is where a set processing fee is charged above the published interchange rates and scheme fees. The alternative to this fee structure is 'blended rates' which is where a single tariff is charged per transaction type and covers interchange, scheme fees and the processing fee.
19. 'Interchange plus plus' is viewed as a fairer and more transparent charging structure as any movements in interchange rates/scheme fees are immediately reflected in the monthly charge. Additionally, the processing fee retained by the merchant acquirer is visible rather than being hidden within other costs as the fees are broken down into the three separate elements.
20. The CCS Framework and thus new contract with GPUK LLP trading as Global Payments. going forward is based on an 'Interchange plus plus' basis.

Main Considerations for the Council

21. The CCS Framework agreement has a 3-year contract period with the option of a further 1-year extension. CCS recommend that any call off contracts do not exceed the expiry of the framework agreement itself by more than two years. This means that the Council could award a call off contract that runs to February 2025.
22. The merchant acquiring tariffs, available via direct award are very competitive and in two cases below the levels the Council could expect to achieve via an open tender process. All three providers have proposed interchange plus plus pricing and GPUK LLP trading as Global Payments offers the most competitive processing fee/margin as set put in Appendix A (confidential part B of the report).

Safeguarding Implications

23. No safeguarding implications arising from the report.

Public Health Implications

24. No public health implications arising from the report.

Equalities Impact of the Proposal

25. No equalities impact of the proposal from the report.

Environmental and Climate Change Considerations

26. No environmental and climate change considerations from the report.

Risks that may arise if the proposed decision and related work is not taken

27. Without merchant acquiring services the Council cannot accept customer payment by debit or credit card as payment processing will not exist. This may result in payments not being made and may reduce income collected by the Council which in turn will impact on the Council's finances and bad debt.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

28. None

Financial Implications

29. All costs to be met from existing budgets

Legal Implications

30. Legal Implications provided by MP on 16/11/21 based on version of report circulated on 9th November 2021 timed at 17:56hrs.
31. The Council has the power under s.1(1) Localism Act (2011) to do anything individuals generally may do providing it is not prohibited by legislation and subject to Public Law principles. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way.
32. Under s.111 Local Government Act (1972) local authorities may do anything, including incurring expenditure or borrowing which is calculated to facilitate or is conducive or incidental to the discharge of their functions.
33. In accordance with CPR 10.1 the Council is expected to upload the authority obtained to award this contract onto the E-Tendering Portal for contracts exceeding £500,000.

34. The Council must ensure that when directly awarding the contract, it does so in accordance with the Framework rules for direct award. The Council must also ensure compliance with its Constitution, Contract Procedure Rules (CPRs) and the Public Contracts Regulations (2015) (PCRs). The Council must continue to have due regard to all the above, along with the procurement principles of transparency, equal treatment and proportionality throughout the procurement and contract award process.
35. In accordance with CPR 7 (in particular, CPR 7.2) the Council should have (at pre-procurement stage) considered whether additional security would be required from the successful provider. For contracts with a value between £500,000 - £1,000,000 in value, the Council should consider whether additional security (in one of the forms outlined in CPR 7.3) is required from the contractor. Should such security not be required, then the CPRs require the reason as to why no security was required to be stored and retained on the E-Tendering Portal for audit and transparency purposes. The Council should liaise with the Procurement & Commissioning Hub for assistance on this if required.
36. The resulting call-off contract and all supplementary documentation (where applicable) must be in a form approved by the Director – Law & Governance ahead of contract commencement.
37. The Council must comply with its obligations relating to obtaining best value, in accordance with the Local Government (Best Value Principles) Act (1999). And throughout the lifetime of the contract, service departments must ensure that the Council complies with CPR 26 and particularly CPR 26.2 in this regard.
38. This report constitutes a Key Decision, therefore officers must ensure the Council's Key Decision process is adhered to, at all times.

Workforce Implications

39. Not applicable

Property Implications

40. Not applicable

Procurement Implications

41. Any procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015).
42. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal including future management of the contract.
43. All awarded projects must be promoted to Contracts Finder to comply with the Government's transparency requirements.
44. Where a contract has not been procured via the LTP, then the signed contract, call off agreement and supporting DAR etc, must be sent to procurement.support@enfield.gov.uk who will create a record in the LTP and promote to contract finder to ensure the Council meets its transparency obligations.
45. The CPR's state that contracts over £100,000 must have a nominated contract owner in the LTP, and for contracts over £500,000 there must be evidence of contract management, including, operations, commercial, financial checks (supplier resilience) and regular risk assessment uploaded into the LTP.
46. The use of the CCS Framework for this contract is compliant and allows for an award to Global pay which will allow the Council to make savings.

Options Considered

47. There is an alternative method of the Council receiving customer card payments by using what is known as a third-party processor instead of a merchant acquirer. The disadvantage of using a third-party processor is they are too vigilant in guarding the risk profile of their merchant accounts. They tend to hold, freeze, or terminate a merchant's account whenever they detect any unusual activity, such as attempts to process a single transaction that's much larger than what the merchant typically averages.
48. In practice this could mean the disruption of the Council receiving customer payments promptly. There are no third-party processor suppliers on the CCS framework.

Conclusions

49. By awarding a 3 + 1 year contract to GPUK LLP trading as Global Payments. via the CCS Framework Agreement (RM6118) the Council will be able to continue accepting customer payments made by debit and credit cards and will also benefit from a reduction in card processing fees.

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Date of report

Appendices

Appendix A - CCS Framework (RM6118)

Appendix B – Commercially sensitive Private & Confidential