

Contracts & Commissioning Board (CCB)

Regulation 19.3 Emergency Provision Report

Date of meeting	Emergency report requesting approval pursuant to Regulation 19.3 Tenders and Contracts Regulations
By	Rachel Flowers – Director of Public Health
Title	Lateral Flow Testing
Project Sponsor	Jack Bedeman, Consultant Public Health
Executive Director	Rachel Flowers – Director of Public Health Rachel Soni – Interim Director of Commissioning & Procurement
Lead Member	Cllr Janet Campbell - Cabinet Member for Families, Health and Social Care which includes Public Health Cllr Callton Young - Cabinet Member for Resources and Financial Governance
Key Decision	N/A

1. Recommendations

- 1.1 The Cabinet Member for Families, Health and Social Care is recommended to note the approval of the contract variation decision in accordance with the Councils Tenders and Contract Regulation 19 to extend the contract with GPS for the Lateral Flow Testing Programme for an additional 4 months at a cost of £556,553.85 to give an overall contract value of £833,436.75.

2. Background & strategic context

Lateral Flow testing for high-risk population groups who are asymptomatic was introduced by the Department of Health and Social Care as part of their strategy to manage the Coronavirus pandemic in December 2020.

There are two key aims of lateral flow testing:

- i. Surveillance
'finding out the incidence and prevalence of COVID-19 in the population, and changes to these over time; this may help give early warning to a potential outbreak situation (2 or more related cases)'
- ii. Active Case finding
'identifying positive cases of COVID-19 within the population, and ensuring they self-isolate to reduce transmission to other people; this could include regular testing of the contacts of a case'

Lateral Flow Antigen testing involves the processing of swab samples with a Lateral Flow device (LFD). The device detects a protein (antigen) when the person is infectious, highlighting a coloured strip on the device to show a positive result. Results are determined within 20 to 30 minutes of swab collection and do not require a lab for processing. They require minimal training to operate and do not need to be administered by a health professional.

LFD are for testing asymptomatic people; people with symptoms will be able to continue to access tests through the network of NHS Test and Trace facilities.

On 9th November, the Secretary of State for Health and Social Care asked councils to lead, direct and co-ordinate, with national support, a significant local testing effort focusing on locally determined targeted populations at high risk.

This spend meets the definition of 'essential spend' as it meets the following condition:

- Expenditure funded through ring-fenced grants

All costs are reimbursed by the Department of Health and are ring-fenced for the COVID-19 response. Funding received to support COVID-19 related activities led by Public Health come into the Public Health budget.

Following approval from CCB on 28 January 2021; a procurement exercise went live on the London Tenders Portal (ref. DN520446) for the provision of Lateral Flow testing. As we were unable to find a suitable workforce internally

that were available for the period of time, following a competitive exercise GPS were awarded the contract for a 6 week period as per the funding agreement with DHSC

Reason for Emergency Approval

During February, Croydon Council was instructed to undertake surge PCR testing in response to a variant of concern and the contracted provider was utilised to support workforce requirements. At the start of March another PCR surge had been instructed, GPS mobilised very quickly to be able to support the council and provide essential early contact to residents in the area.

Croydon Council was instructed to undertake surge PCR testing in response to a variant of concern and the contracted provider was utilised to support workforce requirements. Again at the start of March another PCR surge has been instructed, GPS mobilised very quickly to be able to support the council and provide essential early contact to asymptomatic residents in the area.

With each block of surge testing we undertake in response to a Variant of Concern (VOC) there is the risk that this will in itself lead to the need for further surge testing to be undertaken. This is either directly through the discovery of other cases of the same VOC within those tested through the surge testing, or through the discovery of other cases of the VOC, or another variant, through symptomatic testing in existing testing sites across the wider area due to genomic testing being fully switched on across the local area following the discovery of the initial VOC. Ordinarily 5% of tests have their genome tested but when a VOC is discovered this is applied to 100% of symptomatic tests within the local area. The decision to 'turn on' genomic testing is taken by DHSC. The decision as to whether further surge testing is required will likely be made by DHSC and PHE. At least two previous boroughs that have undertaken surge testing are now on their second lot of surge testing as a result of either the results from the surge testing or results from wider genomic testing.

As we have had two separate and unconnected surges within the borough it's highly likely that we will have more surges in the coming weeks, all reasonable expenses incurred by a surge test exercise are able to reimburse from DHSC. Rapid asymptomatic testing can pick up individuals in the community who are unknowing infectious therefore preventing onward spread, illness and loss of life.

It is essential that we maintain service continuity for lateral flow testing for various reasons:

- A) This is a vital element to our local outbreak control plans and controlling transmission of the virus
- B) To ensure the safety of our local residents and people working in the borough
- C) To support the central government roadmap to recovery

Therefore in order for us to meet our requirements as a Local Authority we would like to vary the existing contract to include an extended period of delivery and to include activities related to surge testing. Extending the contract will enable us to continue to have the service available via the incumbent provider and ensures that the contract is still compliant within the Council's Tendering and Contracting regulations. Having this extended period available will also provide the Authority the adequate time to undertake a full procurement exercise for this provision going forward.

A future tender for lateral flow testing will require a full procurement exercise that will have to be advertised and placed on the portal for a set time period; evaluated with a panel and responded too with a standstill period. The Authority will not be able to complete this process in the necessary timeframe unless there was a gap in provision which would be at high risk and at detriment to the local population. For this reason we would like to execute emergency regulations to vary the contract.

Regulation 19.3 TCR states

19.3 For Disasters and Emergencies where there is a clear need to provide a service or product immediately in the instance of a sudden unforeseen crisis or the immediate risk is to health, life, property or environment, compliance when these regulations may not be feasible. Any Director may place an order for supplies, services or works as the circumstances require after seeking approval from the chair of CCB, clearly stating the immediate procurements required. If that is not feasible for example due to outside of normal working hours then immediately after when reasonably feasible. A report of contracts awarded and any future procurements required will require approval by the Chair of CCB and if applicable Cabinet at the next available meeting after the event.

3. Financial implications

Funding for this service is provided as an external grant from DSHC and is ring-fenced funding specifically allocated for the COVID-19 response. This funding sits within the Public Health budget – cost code: C1400N

Contract Variation costings:

Details	Internal Capital	Revenue	Period of funding	External		Period of funding
				Capital	Revenue	
Cost of original contract					£248,761.20	15/02/2021 – 28/03/2021
Cost of variation					£556,553.85	29/03/2021 – 31/07/2021
TOTAL					£805,315.05	
Surge Testing – additional functionality (separate funding stream)					£7,039.70: Surge 1	01/03/2021 – 07/03/2021
					£21,082: Surge 2	07/03/2021 – 21/03/2021
Aggregated value					£833,436.75	

Although £564,480.00 was made available from the DHSC to the Authority for the original contract. We are assured that all reasonable costs can be reimbursed from the DHSC as outlined in a letter from Lord Bethell; dated 25 February 2021 to confirm that the Secretary of State has agreed to extend the Community Testing Programme until at least the 30th June 2021 and the commitment includes:

- The continued provision of tests, **financial support** and coverage against clinical negligence and product liability claims (for testing supervised by the local authority, as set out in the Secretary of State's letter of 23 December); and
- **ensure reasonable actual costs of test delivery are covered** (as detailed in my letter of 24 December)

Additional funding to support surge testing is provided by the DHSC; however due to the emergency nature of having to undertake this requirement at the time; the incumbent provider of the lateral flow testing was asked if they could provide this additional functionality.

During the time of the contract; the Authority has been requested to undertake two lots of surge testing. The first surge testing was required in New Addington and Fieldway. The second surge testing is currently being undertaken in South Norwood and Thornton Heath. There is a possibility that further surge testing may be required from now until the end of the extended period of the contract – 31st July 2021

4. Supporting information

Current Contract

Performance

GPS have performed well and responded eagerly to LBC's requirements, specifically with surge testing. Service user feedback has been excellent and was publicly broadcast on the ITV evening news at one of the testing sites. The individuals within the sites show themselves to professional and courteous at all time and have receive feedback to this extent.

To date the speed in which we are able to provide solutions to the LFT programme and the Surge requirements have resulted in saved expense, additionally the time to plan has subsequently been reduced and we know that we can respond to the needs of our communities well with regard to either LFT or Surge testing. GPS's ability to be flexible

with resource; in terms of quickly deploying a relevant and trained workforce has enabled the Authority to be able to response to these challenges.

Testing targets have been met and we have been satisfied that when figures are slightly under the projected target that the provider is able to pick up the following month.

5. Conclusion and reasons for recommendations

Lateral Flow Testing for asymptomatic people and having the necessary resource to conduct surge testing will need to continue to ensure we are managing the COVID-19 outbreak efficiently. Funding for this provision is provided via external grants by DHSC therefore this is not a cost pressure for the Authority. Funding for this provision is ring-fenced for the COVID-19 response and is sat within the Public Health budget.

Therefore in order to ensure we have service contingency we are recommending to undertake a variation to the original contract and to extend the contract with GPS until 31st July. This will allow the Authority the necessary time to undertake a new procurement process to ensure we have a contract in place beyond this point as long as central government continue to provide funding for this provision.

6. Outcome and approvals

Date agreed	
Service Director <i>(to confirm Executive Director has approved)</i> Rachel Flowers	20 May 2021
Lead Member <i>(for values over £500k, +25% contract value or +£1m)</i> Cllr Janet Campbell	20 May 2021
CCB – Rachel Soni, Chair	CCB1678/21-22 - 25 May 2021