



Nottingham City Council Commissioning and Procurement Executive Committee

Date: Tuesday, 14 January 2025

Time: 9.30 am

Place: Ground Floor Committee Room, Loxley House, Station Street, NG2 3NG

Councillors are requested to attend the above meeting to transact the following business

Director for Legal and Governance

Governance Officer: Mark Leavesley

Direct Dial: 0115 8764302

- 1 Apologies for absence**
- 2 Declarations of interests**
- 3 Minutes** 3 - 8
Last meeting held on 10 December 2024 (for confirmation)
- 4 Partnership Dynamic Purchasing System and creation of a Dynamic Grant Process - key decision** 9 - 20
Report of Corporate Director for Growth and City Development
- 5 Exclusion of the public**
To consider excluding the public from the meeting during consideration of the remaining item in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
- 6 Exempt minutes confirmation** 21 - 28
10 December 2024

If you need any advice on declaring an Interest in any item on the agenda, please contact the Governance Officer shown above, if possible before the day of the meeting.

Citizens are advised that this meeting may be recorded, including by members of the public. Any recording or reporting on this meeting should take place in accordance with the Council's policy on recording and reporting on public meetings, which is available at www.nottinghamcity.gov.uk. Individuals intending to record the meeting are asked to notify the Governance Officer shown above in advance.

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Nottingham City Council

Commissioning and Procurement Executive Committee

Minutes of the meeting held at Loxley House, Station Street, Nottingham, NG2 3NG on 10 December 2024 from 9.30 am - 9.58 am

Membership

Present

Councillor Linda Woodings (Chair)
Councillor Jay Hayes (Vice Chair)
Councillor Cheryl Barnard
Councillor Ethan Radford

Absent

Councillor Corall Jenkins
Councillor Pavlos Kotsonis

Colleagues, partners and others in attendance:

Beth Brown - Director of Legal and Governance
Dawn Cafferty - Head of Procurement
Ken France - Head of Fleet and Depot Operations
Roisin Hickey - Energy Projects Officer (Solar Hub)
Mark Leavesley - Governance Officer
Mary Lester - Director for Resident Services
Neil Lindsay-Taylor - Leasehold Manager
Jorge Santana - Low Carbon Energy Projects Manager

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 19/12/2024. Decisions cannot be implemented until the working day after this date.

52 Apologies for absence

Councillor Jenkins) other business
Councillor Kotsonis)

53 Declarations of interests

None.

54 Minutes

The minutes of the last meeting held on 12 November 2024 were agreed as a correct record and were signed by the Chair.

55 Workwear and hand tools corporate contract - key decision

Ken France, Head of Fleet and Depot Operations, presented the report and stated the following:

- a) Nottingham City Council has a legal duty to provide suitable Personal Protective Equipment (PPE) for employees who may be exposed to a risk to their health and safety whilst at work delivering services to the citizens of Nottingham;

- b) to not procure and provide PPE would be a breach of the Personal Protective Equipment at Work Regulations 1992 (amended 6 April 2022 to include PPE for limb workers) and would leave the council liable for statutory intervention from the Health and Safety Executive, including fines (which are not insured and unlimited) and imprisonment;
- c) in addition, the Council would be unable to defend any civil claims made arising from inadequate or a lack of PPE, leaving the Council with a large financial exposure due to a high self-insured retention with external insurers, noting that most claims are met from Council funds.

Resolved to

- (1) approve undertaking a full tender process to procure a framework for the supply of workwear, uniforms, PPE and handheld tools, covering 2025-29 but on an initial period of 2 years, with an option to extend for a further 1+1 years at the sole discretion of the authority;**
- (2) delegate authority to the Strategic Director of Resident Services to call-off from the framework.**

Reasons for recommendations

- (a) Establishing a framework agreement with various suppliers that provides Nottingham City Council. The following will be able to access the framework, Nottingham City Council (NCC) Nottingham City Council Housing Services, and any other Nottingham City Council owned company.
- (b) A compliant mechanism that is compliant with PCR-2015/procurement Act 2023 and council constitution, the framework is for uniforms, PPE & hand tools. Under the terms of the framework, the user can establish 'call-off' agreements for their specific requirement.

Other options considered

- (a) Do nothing. This was rejected as the council would not be compliant with financial or procurement regulations and would risk the creation of informal arrangements across departments that would lead to inefficiencies and loss of a financial advantage obtained through procurement.
- (b) In addition, this would be a breach of the Personal Protective Equipment at Work Regulations 1992 (amended 6 April 2022 to include PPE for limb workers).

56 Approval to tender for solar PV operation and maintenance services - key decision

Roisin Hickey, Energy Projects Officer (Solar Hub), presented the report and stated the following:

- (a) Nottingham City Council (NCC) own and operate over 3,200 domestic solar PV systems installed on NCC social homes. These assets are split into two phases:

Phase 1 - which were purchased via the Housing Revenue Account (HRA) and
Phase 2 - which are owned directly by NCC;

- (b) around 10% of the total portfolio are installed at private houses where a tenant has opted to purchase the property under the right to buy scheme after solar panels were installed;
- (c) NCC also owns and operates around 30 individual commercial solar PV systems, installed on operational buildings, and commercial buildings owned by NCC and leased privately;
- (d) around 95% of assets receive Feed-in Tariff (FiT) payments, which was a government incentive to install renewable generation. The FiT income for both phases is detailed in Table 1 of the report;
- (e) the commercial solar PV systems installed on NCC's operational buildings also offer bill savings, as the building can use some free electricity produced by the solar panels rather than paying to import electricity from the grid. These significant bill savings to the authority are also detailed in Table 1 of the report;
- (f) funding for maintenance works has been secured via several budgets:

Phase 1: budget has been secured for this financial year, FY 2025/26 and FY 2026/27. This will be funded via the HRA, and the Solar Hub will re-charge them quarterly for all works completed during the period. HRA spend on solar maintenance has been agreed with the relevant Programme Manager in Housing Services;

Phase 2 & Commercial: budget has been secured for this financial year. Funds will be drawn down from reserve and allocated to cost centre 13021. It is anticipated that the budget allocated for this financial year will not be completely spent by March 2025. This has led to the recommendation for a sinking fund/reserve to be requested to be set up to ensure that the funding for the maintenance costs is available moving forward into the future financial years, thereby reducing possible impact on future Medium Term Financial Planning;

- (g) currently, an annual payment of approximately £220,000 is made from the General Fund to the HRA to repay a loan that funded the installation of the solar panels. There is a LKD currently in progress to transfer ownership of Phase 2 domestic assets to the HRA which would remove this payment. Should this be agreed, funding for the next two financial years will come from the savings this would release. If not agreed, budget for the next two financial years would need to be identified elsewhere at a later date;
- (h) the invitation to tender will stipulate that we may spend up to £2,299,498, but there will be no commitment to spend this in total;
- (i) where the forecast exceeds the available budget, priority will be given to the safety of assets to ensure they are operating safely, and those with a higher FiT rate to maximise returns to NCC and ensure budgets are not exceeded., and a detailed breakdown of the forecast for domestic and commercial solar assets is detailed in sections 2.3 and 2.4 of the report.

In response to questions, the following was also stated:

- (j) there will be separate audit trails for HRA and General Fund assets;
- (k) the figure of £3,272,576 in paragraph 8.1 of the report has been revised since the legal comments were obtained and the figure of £2,299,498 (as per recommendation 1) is now the correct one.

Resolved to

- (1) approve tendering for a 3-year contract, with a spend of up to £2,299,498, to procure a solar PV operation and maintenance service;**
- (2) delegate authority to the Director of Environment Sustainability to tender, award and enter into the contract;**
- (3) authorise setting up of a sinking fund / reserve to ensure that funding for the maintenance costs is available in future financial years, thereby reducing possible impact on future Medium Term Financial Planning.**

Reasons for recommendations

- (a) NCC are responsible for the safe operation and maintenance of their solar assets, and therefore have a duty of care to ensure they are inspected and tested regularly and pose no safety concerns to the tenants, building, building users, staff and members of the public.
- (b) Solar PV systems must be maintained and problems affecting performance, such as failed components replaced. This will provide the site with continued renewable energy and allow the authority to receive revenue from the FiT, as well as electricity savings on commercial sites.
- (c) Maintaining NCC's solar assets will continue to contribute to NCC's carbon neutral 28 aspirations and provide a cleaner environment for tenants, citizens, and visitors to Nottingham City.

Other options considered

- (a) Do nothing - doing nothing means that NCC will neglect its duty of care to ensure that the authority's solar PV assets are operating safely and pose no danger to building users and citizens. Systems that have developed a fault would no longer be providing free electricity to tenants/homeowners and the authority would not receive the expected FiT income nor electricity savings on commercial buildings where solar is installed. Furthermore, this would be a step back in the council's CN28 ambitions as more properties would rely on carbon-intensive grid electricity.
- (b) Use internal resource – this would require multiple MCS qualified electricians to be hired or trained up within NCC and housing services; these skills do not currently exist within the council. Currently housing services electricians cannot work on Phase 2 solar assets due to the ring-fencing of HRA funds. Additional

team resource would also be required for making appointments, buying in stock, processing any changes to systems etc. Due to anticipated fluctuation in the management of the solar assets, there is a risk with this option that the right level of internal resource would not be able to be maintained for a full-scale maintenance program. It is more favourable to have continuity of the program through the procurement of an external supplier.

57 Exclusion of the public

The Committee agreed to exclude the public from the meeting during consideration of the remaining items in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, as defined in Paragraphs 3 and 5 of Part 1 of Schedule 12A to the Act.

58 Housing disrepair claims: external legal support - key decision

The Committee approved the recommendations as per the fully exempt report.

59 District Heating Strategy: budget and procurement approval - key decision

The Committee approved the recommendations as per the fully exempt report.

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Subject:	Partnership Dynamic Purchasing System and creation of a Dynamic Grant Process		
Corporate Director:	Nicki Jenkins - Growth and City Development		
Director:	Bev Gouveia - Property and Economic Development		
Executive Member:	Cllr Ethan Radford – Skills, Growth and Economic Development		
Report author and contact details:	Aidan Jackson Aidan.jackson@nottinghamcity.gov.uk Tel 01158763150		
Other colleagues who have provided input:	Paul Rogers - Finance Del Sander / Tom Button - Legal Paul Ritchie - Procurement		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes
			<input type="checkbox"/> No
Reasons:	<input checked="" type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £750,000 or more
taking account of the overall impact of the decision			<input checked="" type="checkbox"/> Revenue
			<input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes
			<input checked="" type="checkbox"/> No
Type of expenditure:	<input checked="" type="checkbox"/> Revenue	<input type="checkbox"/> Capital	
If Capital, provide the date considered by Capital Board			
Total value of the decision: £40million (up to a maximum over four years - DPS up to £10m & DGP up to £30m)			
Note: the recommendations of the report are to establish procurement and grant application mechanisms only, with no obligation to spend or award funding. Call-offs will be subject to separate approval to accept external grant funding and invite tenders/bids, as set out in the Summary of Issues section below.			
Section 151 Officer expenditure approval			
Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/a			
Spend Control Board approval reference number:			
Commissioner Consideration Services			
Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Any comments the Commissioners wish to provide are listed in section 6 below.			
Wards affected: All			
Date of consultation with Executive Member: 02 October 2024			
Relevant Council Plan Key Outcome:			
Green, Clean and Connected Communities	<input checked="" type="checkbox"/>		
Keeping Nottingham Working	<input checked="" type="checkbox"/>		
Carbon Neutral by 2028	<input checked="" type="checkbox"/>		
Safer Nottingham	<input checked="" type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Living well in our Communities	<input checked="" type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input checked="" type="checkbox"/>		
Better Housing	<input checked="" type="checkbox"/>		
Serving People well	<input checked="" type="checkbox"/>		

Summary of issues (including benefits to citizens/service users):

Most of the work of the Economic Development service (ED) is delivered through externally funded programmes. Much of this coming through as Government grants. This is typically to help people get jobs/get better jobs/increase skills/build community confidence and support business to start, grow and prosper. It is mostly contracted to suppliers who are better placed to deliver the work than Nottingham City Council.

These suppliers are, usually, contracted through a series of repeating procurements and commissioning processes, which are usually time consuming and have the potential to cause delays in the delivery of the project, resulting in reduced time to maximise delivery and therefore increased risk of underperformance.

In addition, external funders are increasingly shortening the time between launch of a tender process to delivery, leaving little time for compliant procurement.

In order to resolve these issues, this proposal seeks to:

1. Establish a Dynamic Purchasing System (DPS) under the Public Contracts Regulations 2015 or a Dynamic Market under the Procurement Act 2023 if the procurement starts after 24 February 2025 but for the purpose of this report will be both be referred to as DPS)) to procure services from suppliers through a call off process where a Contract for Services is required. A DPS is a mechanism where a number of suppliers apply to be on a pre-qualified list from which through a call off process contracting can take place. It is similar to a framework but allows new suppliers to join the DPS at any time in the life of the DPS.
2. Establish a system that is analogous to a DPS as a Dynamic Grant Process (DGP) to issue grants to grant recipients through a call off process where a Grant Agreement is required. A DGP works in the same way as a DPS but is for suppliers to deliver grant work, not contracts for services

Both systems would contain pre-qualified suppliers and potential grant recipients who would be selected through a call off process. The systems will be facilitated using functionality within the Council's current eTendering platform.

These will enable Nottingham City Council to contract with delivery partners more efficiently and effectively for future programmes, including current funds such as the UK Shared Prosperity Fund, Create Growth Programme, and Multiply and future funds designed to help people gain jobs/better jobs/skills and qualifications, support business and communities.

Whilst there is a cost in managing this work as it is new there are savings for both the Council and suppliers. For the council as less time will be needed to review applications often looking at the same core information, and for suppliers as they will not need to repeat information in applications.

The DPS and DGP will have several specifications/requirements which suppliers/grant recipients will indicate they can deliver and would like to be considered for. When funds are secured, two processes will be enacted:

- as each fund has its own requirements the formal council approval processes will be followed (DDM, Capital Board, etc);
- all who have indicated they can deliver services or activities covered by the funds will be invited to bid. Selection will be made on a mix of price and quality. Where appropriate there may be several appointments ensuring cover across the City.

- call-off competitions will be managed to strict timetables and based on best practice.
 - a) request for bids will only go through the e-platform;
 - b) a strict adherence to submission time will be maintained;
 - c) all bids will be assessed and scored and will not just be done by ED staff but people from other departments and or organisations (e.g. EMCCA) may be considered;
 - d) once scored they will be moderated by at least two staff taking an overarching view;
 - e) all will be informed of the outcome.

The combined total is estimated at £40million.

An estimated maximum of £10m (25%) will go through the DPS and £30m (75%) through the DGP over four years. This reflects the amount that was managed by ED over the last six years. Note that the amounts are not confirmed or guaranteed.

The DPS is being used in a new way for Nottingham City Council but one that is used elsewhere in the country. The DGP is a novel solution.

- most other DPS systems have funding already allocated to them. This one will have funding allocated as tenders are successful. The other novelty is that all contracts will go through a call off process not on price alone. There are precedents as for example Worcestershire County Council operate a similar DPS.
- the DGP is a novel solution. It is in response to the issue that DPS contain Contracts for Service. Grants to suppliers need a different system. Procurement and Legal colleagues suggested this as an option as a solution. The practicalities have been discussed with officers who manage our external facing procurement system (Proactis) and the system can accommodate a grant process using the existing DPS functionality.

The DPS and DGP will address four issues.

Firstly

The time from launch to submission for bids is getting shorter; in 2017 it would be 12 weeks now funders give bidders 4-6, in order to get funding used more quickly. In addition, a number of tenders now ask bidders to work in partnership to produce a bid. Selecting organisations and people to help produce a tender in that short timescale may, unintentionally, exclude potential partners and lead to challenges under both procurement and/or subsidy grounds.

Secondly

Contracting with partners takes time and can lead to delays in funded delivery starting, taking at least three months (it can take six) from launch of a procurement or commissioning exercise to deliverers starting work. This often leads to funding congestion in the final stages of a project. Some short-term funding as a result is not sought or given as additional funding to current deliverers for convenience where timings do not allow the market to be tested.

Thirdly

When producing bids external support may be needed for specialist input. This may be brought in at short notice, not through a framework. The DPS and DGP will have a specification that includes such, reducing the risk of challenge from other suppliers.

Finally

When Nottingham City Council have contracted deliverers in the past, through competitive commissioning, a number of organisations were unsuccessful. They potentially would deliver quality outcomes for the City, but do not get selected. As a result, it is possible that some communities might miss out on support. The call off processes will put them in a better place.

All the above apply across the Council, not just to Economic Development, and it will be open for others to use. One risk of not meeting the challenges is that Nottingham City Council may not comply with the Procurement and the Subsidy Control Acts by not reaching out to a wide base before contracting.

This DPS/DGP (with the working title of “Partnership DPS” and “Partnership DGP”) will enable Nottingham City Council to have pre-qualified suppliers/potential grant recipients for a number of specifications. If an organisation applies and is not successful in getting onto the list, they will get feedback and can apply again.

To support any potential bidders considering applying, Nottingham City Council may, subject to capacity, run market awareness events including tips on what Nottingham City Council are looking for from organisations. Thus, the Authority hopes to generate wide interest and help support the council in getting best value.

There will be a standard contract/grant agreement which will be customised to reflect each fund.

The proposed categories of services are:

1. Bid development and delivery (two elements of supporting bid writing and building partnerships to both bid and deliver projects);
2. Community and cultural development (promoting cultural cohesions, strengthening the social fabric, reducing deprivation, improving social mobility, engaging and co-designing programmes with communities, integrating refugees);
3. Supporting businesses (enabling start up, growth, and prospering, including external investment and new entrants to the City);
4. Supporting employability and skills development (helping people not working ~ especially those from disadvantage communities and/or health issue ~ to get jobs and skills, supporting people in work to get on at work with better qualifications and training, meeting the skill needs of the City)

Benefits to citizens, businesses and communities

The principal benefit is that funding will get to its citizens, businesses, and communities sooner, enabling delivery to be more effective without running the risk of it being compressed towards the end of a contract

The Council will benefit by:

- Speeding up the procurement of services and issuing funding;
- Widening the potential supplier base;
- Reduce council costs;
- Standardise processes leading to efficiencies in working practices;
- Improving its reputation for effective working with suppliers;
- Being seen as an exemplar of best practice.

Suppliers will benefit by

- Reducing time and effort in applying to Nottingham City Council for work
- Reducing speculative applications for funding
- Understanding processes
- Being able to spread delivery over a longer period of time instead of compressing delivering;
- Having more time to support people and businesses leading to better outcomes.

This is not a statutory duty.

The new procurement regulations (in place from February 2025) will, however, require public bodies to remove barriers to working effectively with the Voluntary and Community Sector. The LGA/NCVS guide to best practice for councils contracting with the VCS (to launch January 2025) notes this as a best practice means of achieving the above objectives.

The new procurement regulations do not have an analogous system to a DPS, therefore the need for urgency with this.

Exempt information: None

Recommendations:

- 1 To approve continuing the development of the DPS and DGP as a conduit for Nottingham City Council to effectively deliver funding received, through suppliers, and to delegate authority to the Corporate Director for Growth and City Development to manage the process.
- 2 To note that each successful grant application will need its own approval via the appropriate approvals process required by Nottingham City Council regulations and to meet the terms and conditions of that specific fund.

1. Reasons for recommendations

1.1 The DPS and DGP will enable Nottingham City Council when contracting with deliverers and grant recipients to:

- 1.1.1 award contracts and grants more quickly than at present bringing services to citizens and businesses sooner;
- 1.1.2 engage with a wider group of deliverers than at present allowing a deeper reach into all communities across the city;
- 1.1.3 give deliverers increased access to contracts with Nottingham City Council;
- 1.1.4 comply with both the procurement regulations and the subsidy control regulations;
- 1.1.5 quickly bring in different deliverers throughout the contract terms;
- 1.1.6 extend / augment programmes when a project gets extended by the funders to give Nottingham City Council;
- 1.1.7 standardise processes reducing variation in approaches to working with deliverers;
- 1.1.8 have a conduit to sub-contracting sitting alongside other procurement and commissioning methods.

2. Background (including outcomes of consultation)

2.1 Nottingham City Council bid for and receive grants to deliver a range of outcomes for citizens, businesses and wider communities, enabling them to prosper. Most of the funding is delivered through external organisations where

they are usually better placed than Nottingham City Council to deliver directly to local communities.

- 2.2 This work is a mixture of service contract and grants. The mix varies according to what the funders state in their contracts with the Council and the nature of the funding.
- 2.3 The timescale from launch of a tender to funders expecting delivery to start is getting shorter. Procuring service contracts and/or issuing grants for such can take longer than the expected timescales from funders leading to a late start and compressed activity.
- 2.4 Winners of service contracts/grant agreements are often the same organisations. We wish to ensure that our reach is as wide as possible.
- 2.5 Some funders ask for submission of a bid from a partnership. If successful, the organisations involved then usually become the deliverers. With the reduced timescales for bidding outlined above it is not possible to procure such, leading to not bidding or using exemption processes. Under the Subsidy Control Act 2022 we are asked to consider the possible impact on trade across all parts of the UK. Issues have arisen where exemption from financial regulations was needed for one project which limits spend with a partner and reduces flexibility.
- 2.6 The DPS / DGP will enable Nottingham City Council to reduce the timescale from winning funds to delivery, give a wider pool of organisations who could deliver that funding, and reduce the risk of a challenge under either the procurement or the subsidy regulations.
- 2.7 There are times when developing a bid that at short notice we need to bring in specialist consultancy support. There is no known framework for such, with such companies coming in as exemptions from the financial regulations. The DPS and DGP will allow NCC to bring such in quickly, without facing a possible challenge under the procurement or subsidy regulations.
- 2.8 The Procurement Act 2023 has a stated aim to make it easier for Voluntary Community Sector organisations to gain contracts with Contracting Authorities (e.g. Local Authorities). The Local Government Association have produced a best practice guide for achieving such (to be launched early 2025) which identifies a DPS/ DGP as a means to achieve that.
- 2.9 The concept was developed in Spring/Summer of 2024 and a consultation document was sent to all current organisations that are contracted for similar delivery, and those who were not successful in recent rounds. In addition, two face to face group consultation events were held, and four 1-2-1 discussions. The responses were generally positive and made suggestions that have been incorporated into the latest version of the proposal.
- 2.10 Internally at Nottingham City Council it was discussed with:
 - all in Economic Development, and people from Regeneration, and Communities who work regularly with delivery partners in similar ways;
 - DLT, who gave approval to continued developing;
 - the Executive Member.

2.11 The responses were almost all positive. The negative comments coming from currently successful organisations who were concerned that they may get less funding in the future, if we have a wider group of organisations that we could work with.

2.12 From the start discussion were held with procurement who have advised on and steered the development of the DPS/DGP.

3. **Other options considered in making recommendations**

3.1 In relation to the use of other procurement and grant spend solutions it should be noted that on occasions it may be that one of these alternative options is a more effective option (for example if funding is required to be spent with a College or University) and may still be utilised where required.

3.2 To continue as present with one off procurements and commissioning - when funding is received, Nottingham City Council will carry out a procurement or commissioning exercise to identify delivery partners. Where there is urgency, Nottingham City Council will use exemption from financial regulation processes. This was rejected as Nottingham City Council need a solution that can work quickly in compliance with procurement and subsidy regulations.

3.3 Establish a framework or series of frameworks for funding - this was rejected as it would not give the flexibility to bring in new suppliers when needed, or if a strong supplier failed to get on the framework at the first attempt. In addition, as funding requirements can change from one grant to another, Nottingham City Council would need a series of such, each taking time as much time to establish as this one DPS.

3.4 Wait for the new procurement regulations to be enacted - the new regulations are promoted as giving greater flexibility than at present, including the opportunity to establish 'open frameworks' (ones that can be reopened for new applicants once a year) and "Dynamic Markets" (the successor to DPS~ However this is currently only for above threshold contracts. The LGA and others are urgently pushing for this to be changed). Neither are as effective as a DPS. The new regulations start in February 2025. A solution is sought sooner than that in order to have quality suppliers in place for any funding available from April 2025.

3.5 To use existing products on the market, for example the Crown Commercial Services (CCS) DPS for training - this DPS, and others on the market, were reviewed and a conversation held with CCS about their training DPS. This is specifically for standalone training services mainly for work-based training and includes Apprenticeships and a variety of qualifications up to level 5. If Nottingham City Council were to use that it would enable Nottingham City Council to deliver some of the training element of the DPS but not in an integrated way working with an individual in a holistic way. Nottingham City Council wish to work with people combining for example job search skills, financial management, health advice and basic skills and qualifications training. The CCS DPS would do one part leaving the rest to be managed by a different deliverer.

3.6 To categorise all work as grants, not contracts, for services - this was rejected as although much of the work is grant, this a) limits the ability to performance manage contractors and b) misrepresents some of the relationships funding asks Nottingham City Council to have with suppliers. Should a deliverer not

deliver as expected there is the need to work with them to improve, which the DPS gives us.

4. **Consideration of Risk**

- 4.1 Time to approve the DPS and implement it - the new procurement regulations come into force on 24 February 2025. The equivalent to a DPS is for only above threshold contracts. This is far above the contract Nottingham City Council are likely to need in the DPS (a range of about £100,000 to £1,500,000 - most at the lower end). Should internal approvals take longer than expected it will fall.
- 4.2 Time to implement the DPS - current funding for most economic Development contracted work expires on 31 March 2025. New funding is expected to be announced by EMCCA in early 2025. This leaves very little if any time to successfully conclude a commissioning/procurement process for the new fund to start on 1 April 2025. As a result, current deliverers who would hope to be funded again, may start to lose good staff. In addition, the Economic Development department may be restructured with the loss of good staff.
- 4.3 Managing the DPS costs more than at present - currently staff spend time evaluating organisations' ability to apply and then the details of what they are offering. The first stage will be removed. Contracting more effectively will lead to indirect costs savings in terms of deliverers achieving outcomes over a longer period of time.
- 4.4 No take up from suppliers - the consultation went out to all current suppliers and a number who were unsuccessful. All said they would join when it started.
- 4.5 There is more take up from suppliers than anticipated - in the last round of UKSPF funding Nottingham City Council received about 35 applications for one strand and 50 overall. Key requirement of taking up work from the DPS / DGS making it clear that suppliers have to start quickly in Nottingham may restrict suppliers.
- 4.6 More suppliers than expected apply through the call off competitions - Economic Development have a proven track record of turning round applications within two weeks. The process is outlined above.
- 4.7 Nottingham City Council receive no or vastly reduced funding - EMCCA (The East Midlands Combined County Authority) have indicated that they plan to essentially roll over funding for one year from April 2025. Similarly, DCMS (the Department for Culture Media and Sport) have stated they will do the same for the Create Growth N2 programme. Amounts are unknown but the national Government has indicated that UKSPF funding will be at 60% of previous spending. At the same time, they have indicated there will be a restructuring of funding in the Getting Britain working white Paper, indicating new restructured funding will become available. In addition, Nottingham City Council may receive other funding; for example, the Community restructuring Fund which needs spending quickly (announced 11 September with a requirement that most of the fund is spent by 31 March 2025).
- 4.8 Nottingham City Council receive more funding than is anticipated under the DPS and DGP - over the last six years Economic development received about

£40M in funds to disburse or spend. The total programme is set at that level but the DPS lasting for only four years. This gives sufficient head room. However, if more funding is received then this will be managed by 1. Not all funds needing to go through the DPS/DGP. For example, if asked to manage a programme on behalf of EMCCA on a region wide approach this may be procured separately. 2. The DPS can only last four years. During that time the Procurement Act 2023 will be enacted and may have other opportunities for similar contracting processes.

- 4.9 Staff managing the DPS leave Nottingham City Council with no direct replacement - in the current financial situation it is likely that there will be staff turnover. In setting up the process more than one person will be trained in using the system thus mitigating if staff leave. The DPS and DGP is supported by procurement who will train staff in its use.
- 4.10 It is not compliant with the Subsidy Control Act 2022 - as all suppliers will be selected through an open market competition a subsidy assessment will show there is no subsidy at that point. However, where partners give businesses support there could be an indirect subsidy through that work. Current and previous projects have given subsidies through the Minimal Financial Arrangements contained within the Act.
- 4.11 As the subsidy implications will vary with the grant funding conditions in each fund, a full subsidy assessment will be completed for each fund as it is gained.

5. **Best Value Considerations**

5.1 Best value is demonstrated by:

- saving supplier and Nottingham City Council staff time. Suppliers have to register once on the system and staff assess it once instead of having to supply that information every time;
- reducing time spent on seeking suppliers;
- the redesign of work being a more efficient way of working to ensure compliance with procurement and subsidy law;
- a wide availability across the council. Although this is developed by Economic Development the DPS and DGP can be used by other departments across the council (e.g. communities and regeneration).

5.2 Development want the DPS and DGP to be in place as soon as is practicable to maximise efficiencies. Opening it beyond Nottingham City Council use would increase deployment time through negotiations with other Local Authorities.

6. **Commissioner comment**

6.1 The Commissioners are content with this report. (19/12/2024)

7. **Finance colleague comments (including implications and value for money/VAT)**

7.1 The proposal is to create a Dynamic Purchasing System with a maximum spend of £10m to procure services over 4 years and a Dynamic Grant

Process to disperse funding of up to £30m over 4 years, therefore enabling timely operations within Economic Development, negating the constraints listed above in the Summary of issues section.

- 7.2 Procurement and Legal legislation are paramount on this to ensure financial security with suppliers and beneficiaries subject to relevant checks.
- 7.3 If match funding or additional expenditure is required to progress it will have to go via the spend control process, and any other relevant financial process such as Delegated Decisions must be adhered to.
- 7.4 Grant terms must be followed through this process, and all Grants are required to be included in the Grant register. Any changes must be validated and included in the forecast and budget.

Paul Rogers, Commercial Finance Business Partner - 06/12/2024

8. **Legal colleague comments**

- 8.1 As a contracting authority, the Council is entitled to establish and use a DPS for commonly used purchases which are generally available on the market and meet the authority's requirements (*regulation 34(1), Public Contract Regulations 2015*).
- 8.2 Discussions around establishing a DPS and DGP are still at early stages and will require legal services to obtain further instructions in relation to what form the tender and legal documentation will take.
- 8.3 Whilst the detail on the categories of services under the DPS are not currently finalised, that detail can follow, if approval is given, following which Legal Services can then advise on compliance.
- 8.4 The Council will need to ensure it is proceeding in accordance with the Public Contracts Regulations 2015 (the Procurement Act 2023 as may be appropriate), the main funding agreements under which the Council will receive its funding, the Subsidy Control Act 2022 and the Council's Contract Procedure Rules.
- 8.5 It is noted that the recommendations under this report are reserved for the establishing of a DPS and DGS only and that no expenditure or issuing of grant funding is being proposed.
- 8.6 Given the nature and complexity of this procurement there may be need to instruct external legal assistance in relation to advising and preparing contractual documentation to support this procurement.

Del Sander, Solicitor (16/12/24) & Tom Button, Team Leader, Contracts and Commercial (18/12/24)

9. **Other relevant comments**

9.1 **Procurement**

The setting up of a DPS and DGP will allow the client department to seek solutions to the funding requirements from a number of suitably qualified and experienced suppliers to meet the terms of the grant funding. Historically this has caused

problems for the client with regards to the selection process and onboarding suppliers in a timely manner.

The DPS and DGP when set up will cut the onboarding timescales and allow Nottingham City Council to focus on the cost and quality elements of the demand in order to achieve compliance and better outcomes for the money being spent. Procurement colleagues will assist with the processes involved in compliance with our Contract Procedure Rules and statutory duties.

Paul Ritchie, Procurement Category Manager - 29/11/2024

10. **Crime and Disorder Implications (If Applicable)**

10.1 The crime and disorder implications are minor as the funding will help people get into work and have better jobs. This tends to lead to people not committing crimes or engaging with disorder.

11. **Social value considerations**

11.1 The programmes delivered by Economic Development focus on social value considerations and we:

- help people into work, focussing on those with most need of that help especially those with long term health issues, and to get better jobs, with new skills, and qualifications, including Apprenticeships;
- support people to live better lives by improving their literacy, numeracy, digital, and social skills;
- increase social cohesion by funding activities to bring communities together including events, sharing cultural activities, improvements to spaces, and buildings;
- support businesses to start, grow and prosper alongside helping existing businesses move to Nottingham, creating new employment and using business premises;
- improve family cohesion, through work to enable the adults in children's lives to improve their knowledge so that they can better support the Children through school.

12. **Regard to the NHS Constitution (If Applicable)**

12.1 N/a

13. **Equality Impact Assessment (EIA)**

13.1 An EIA is not currently required as there are no funds attached to the proposal. Each fund will target particular groups, and an EIA will be produced for each fund, with due regard given to anything identified in it.

14. **Data Protection Impact Assessment (DPIA)**

14.1 A DPIA is not currently required as there are no funds attached to the proposal. Each fund will target particular groups and a DPIA will be produced for each fund, with due regard given to anything identified in it

15. Carbon Impact Assessment (CIA)

15.1 A CIA is not currently required as there are no funds attached to the proposal. Each fund will target particular groups, and a CIA will be produced for each fund, with due regard given to anything identified in it

16. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

16.1 None.

17. Published documents referred to in this report

17.1 None.

Document is Restricted

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