

Commissioning and Procurement Executive Committee – 10 December 2024

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| Subject: | Workwear and hand tools corporate contract | | |
| Corporate Director: | Colin J Parr – Communities, Environment and Resident Services | | |
| Executive Member: | Cllr N Khan – Strategic Regeneration, Transport & Communication | | |
| Report author and contact details: | Michael Walker, Michael.walker@nottinghamcity.gov.uk , Neil Lindsey-Taylor, Neil.lindsey-taylor@nottinghamcity.gov.uk | | |
| Other colleagues who have provided input: | Sohaib Chaudhry – Finance Anthony Heath – Legal Paul Ritchie – Procurement Naomi Matthew – Data Protection Nasreen Miah – Equalities Clare Foster – Carbon Reduction | | |
| 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 | | |
| Total value of the decision: £2.5m | | | |
| 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 | | | |
| 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: 25/10/2024 | | | |
| Relevant Council Plan Key Outcome: | | | |
| Green, Clean and Connected Communities | <input checked="" type="checkbox"/> | | |
| Keeping Nottingham Working | <input type="checkbox"/> | | |
| Carbon Neutral by 2028 | <input type="checkbox"/> | | |
| Safer Nottingham | <input checked="" type="checkbox"/> | | |
| Child-Friendly Nottingham | <input type="checkbox"/> | | |
| Living Well in our Communities | <input type="checkbox"/> | | |
| Keeping Nottingham Moving | <input checked="" type="checkbox"/> | | |
| Improve the City Centre | <input checked="" type="checkbox"/> | | |
| Better Housing | <input type="checkbox"/> | | |
| Serving People Well | <input checked="" type="checkbox"/> | | |
| Summary of issues (including benefits to citizens/service users): | | | |
| 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. | | | |
| To not procure and provide PPE would be a breach of the Personal Protective Equipment at Work Regulations 1992 (amended on 6 April 2022 to include PPE for limb workers) and would leave the council liable for statutory intervention from the Health & Safety Executive (HSE) including fines (which are not insured & unlimited) and imprisonment. | | | |

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, most claims are met from Council funds.

Exempt information: None.

Recommendations:

- 1 To approve undertaking a full tender process to procure workwear, uniforms, PPE and handheld tools, covering 2025-29 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 To delegate authority to the Strategic Director of Resident Services to call off from the framework.

1. Reasons for recommendations

- 1.1 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.
- 1.2 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.

2. Background (including outcomes of consultation)

- 2.1 The current framework for the provision of Workwear, uniforms, PPE & hand tools ended on 01/10/2024. The current supply framework has already been extended and cannot be extended any further as it will be a breach of the procurement regulations.
- 2.2 The contract will be split into separate lots, which will be delivered by one single supplier per lot.

3. Other options considered in making recommendations

- 3.1 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.
- 3.2 In addition, this would be a breach of the Personal Protective Equipment at Work Regulations 1992 (amended on 6 April 2022 to include PPE for limb workers).

4. Consideration of Risk

- 4.1 Supplier Failure – there will be a contract and scoring mechanism within the Framework terms that means any supplier that does not meet its obligations can be removed from the Framework. Supplier Performance can be monitored and managed utilising contract management within the service and utilising expertise within procurement services.

5. **Best Value Considerations**

- 5.1 DIY- do it yourself: this is the current process the council uses to procure PPE and has been reviewed to evidence good governance and compliance with Health & Safety At Work Act 1974 (HASAWA), whereby the council has successfully defended several litigation cases due to the council's ability to evidence that the right PPE was procured and provided to employees to undertake their duties.
- 5.2 In addition, the DIY approach of a central provider of PPE allows the councils to tightly control costs and standardise what PPE is purchased and provided to the colleagues to discharge the council's statutory duties.

6. **Commissioner comments**

- 6.1 The Commissioners are content to approve this procurement. (22/11/2024)

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

- 7.1 This decision is to seek permission to undertake the tender process for the procurement of PPE, uniform and workwear. The current contract is due to expire and would look to seek a contract for a period of 4 years.
- 7.2 There has not been previously budget set aside for this contract, but the mechanisms around how this was funded was through the recharge/reallocation of costs associated with the purchase of various PPE, uniform and workwear to the various departments.
- 7.3 The correct treatment of this going forward is to create an expenditure budget to cover the cost of purchasing the equipment, as well as an income target in the service for all related reallocations in which the PPE is distributed to various departments.
- 7.4 Best value would be applied as the securing of the new contract would be through the NCC procurement framework.
- 7.5 As everything that is purchased should be reallocated to the responsible departments, there should be no MTFP implication on the council.
- 7.6 However, it is the service area's responsibility to monitor these expenses and reallocations and to mitigate any shortfalls associated with this contract.

Sohaib Chaudhry, Senior Commercial Business Partner – 3 September 2024

8. **Legal colleague comments**

- 8.1 This report seeks authority to create a framework that offers the Council, and other bodies, a compliant route to market to purchase Workwear, Uniforms, PPE and handheld tools. It would be helpful if the decision also expressly authorises the Council to create and manage the operation of the proposed framework.
- 8.2 The proposed decision creates no significant legal issue.

- 8.3 It may be prudent for the proposed terms and conditions of the framework agreement and the call-off contracts to be reviewed by the Council's contract and commercial team.

Anthony Heath, Head of Legal - 17 October 2024.

9. **Other relevant comments**

9.1 Procurement

Procurement Colleagues will assist with the tendering exercise in order to let a fully compliant, value for money contract.

Paul Ritchie, Procurement Manager – 22 October 2024

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

10.1 N/A

11. **Social value considerations**

11.1 N/A at this point as social value considerations are implemented through the procurement process and award criteria whereby there is a social value weighting.

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

12.1 N/A

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

13.1 An EIA has been undertaken and due regard will be given to any implications identified in it.

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

14.1 A DPIA is not required for the procurement of PPE as no personal information e.g. no personal measurements, are provided as part of the specification provided in the ITT.

15. **Carbon Impact Assessment (CIA)**

15.1 A CIA has been undertaken and due regard will be given to any implications 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.