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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 14 January 2025 from 9.30 am - 9.55 am

Membership

Present

Councillor Linda Woodings (Chair)
Councillor Jay Hayes (Vice Chair)
Councillor Corall Jenkins
Councillor Ethan Radford
Councillor Pavlos Kotsonis

Absent

Councillor Cheryl Barnard

Colleagues, partners and others in attendance:

Dawn Cafferty - Head of Procurement
Aidan Jackson - Bidding and Funding Unit Manager
Mark Leavesley - Governance Officer

Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 22/01/2025. Decisions cannot be implemented until the working day after this date.

60 Apologies for absence

Councillor Barnard – other Council business

61 Declarations of interests

None.

62 Minutes

The Committee agreed the minutes of the meeting held on 10 December 2024 as a correct record and they were signed by the Chair.

63 Partnership Dynamic Purchasing System and creation of a Dynamic Grant Process - key decision

Aidan Jackson, Bidding and Funding Unit Manager, presented the report and stated the following:

- a) 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;

- a) 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;
- b) in addition, external funders are increasingly shortening the time between launch of a tender process to delivery, leaving little time for compliant procurement;
- c) in order to resolve these issues, the proposal seeks to:
 - i. 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;
 - ii. 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
- d) 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;
- e) 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;
- f) 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;
- g) 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 and call-off competitions will be managed to strict timetables and based on best practice:
 - i. as each fund has its own requirements the formal council approval processes will be followed (DDM, Capital Board, etc);

- ii. 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;
- h) 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;
- i) 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.
- j) 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;
- k) 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;
- l) the Council will benefit by:
 - speeding up the procurement of services and issuing funding;

- widening the potential supplier base;
 - reduced council costs;
 - standardised processes leading to efficiencies in working practices;
 - improved its reputation for effective working with suppliers;
 - being seen as an exemplar of best practice;
- m) 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;
- n) 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;
- o) the new procurement regulations do not have an analogous system to a DPS, therefore the need for urgency with this.

Resolved to

- (1) approve continuing the development of the Dynamic Purchasing System and Dynamic Grant Process as a conduit for Nottingham City Council to effectively deliver funding received, through suppliers, for a period of 4 years from an effective date of February 2025, and delegate authority to the Corporate Director for Growth and City Development to manage the process;**
- (2) 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.**

Reasons for recommendations

- a) The DPS and DGP will enable Nottingham City Council when contracting with deliverers and grant recipients to:
- i. award contracts and grants more quickly than at present bringing services to citizens and businesses sooner;
 - ii. engage with a wider group of deliverers than at present allowing a deeper reach into all communities across the city;
 - iii. give deliverers increased access to contracts with Nottingham City Council;

- iv. comply with both the procurement regulations and the subsidy control regulations;
- v. quickly bring in different deliverers throughout the contract terms;
- vi. extend / augment programmes when a project gets extended by the funders to give Nottingham City Council;
- vii. standardise processes reducing variation in approaches to working with deliverers;
- viii. have a conduit to sub-contracting sitting alongside other procurement and commissioning methods.

Other options considered

- a) 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.
- b) 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.
- c) 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.
- d) 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.

- e) 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.

- f) 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.

64 Exclusion of the public

The Committee agreed to exclude 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 outweighed the public interest in disclosing the information, as defined in Paragraphs 3 and 5 of Part 1 of Schedule 12A to the Act.

65 Exempt minutes confirmation

The Committee agreed the exempt minutes of the meeting held on 10 December 2024 as a correct record and they were signed by the Chair.