

London Borough of Hammersmith & Fulham

CABINET

2 SEPTEMBER 2019



**BUSINESS CASE & PROCUREMENT STRATEGY  
DYNAMIC PURCHASING SYSTEM (DPS) FOR PLANNED AND REACTIVE  
CAPITAL WORKS**

**Report of the Cabinet Member for Children and Education - Councillor Larry Culhane**

**Open Report with Exempt Appendix**

*Appendix 2 of this report is not for publication on the basis that it contains information, the disclosure of which would prejudice the business or commercial affairs of any particular person (including the authority holding that information), as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972.*

**Classification: For decision**

**Key Decision: Yes**

**Consultation:**

Finance, legal services, commercial & procurement, social value, risk, equalities

**Wards Affected: All**

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# 1 EXECUTIVE SUMMARY

- 1.1 This report, proposed by Children's Services, is seeking permission to carry out a procurement exercise to establish a Dynamic Purchasing System (DPS) in order to engage local Small and Medium Enterprise (SME) contractors to undertake repairs and maintenance and other construction related works at Council-owned properties.

The DPS will enable the Council to work with local contractors to carry out much needed repair and maintenance works to our schools, housing stock, parks and open spaces and our corporate buildings and therefore meet the Council's priority of being ruthlessly financially efficient by building a shared prosperity.

The DPS framework proposed will be used for:

- **Planned Repair and Replacement Programmes**
- **Emergency / Urgent (Responsive) Repairs**

- 1.2 The purpose of the DPS is to engage local organisations and SMEs to carry out works and services and support the Council's commitment to work with local businesses and invest in the local economy with a view to building shared prosperity by creating jobs in the borough and for the benefit of their community.
- 1.3 A Dynamic Purchasing System (DPS) is an "open" framework for the delivery of works, services and goods commonly available in the supplier market, which enables new and local suppliers to join at any time over the duration of the framework.
- 1.4 A traditional framework is "closed" with only the selected, and usually large, contractors appointed following a procurement exercise for the duration of the framework agreement and this therefore limits competition as new or local suppliers cannot join up.
- 1.5 The proposed DPS, which will be open for a duration of 4 years, is to encourage local traders to work with the Council and carry out much-needed construction related works to our buildings, which require continuous repairs to ensure they are safe and enjoyable places for our children and residents.

The objective of the DPS is to build shared prosperity within the community by doing things with residents, not to them.

- 1.6 It is essential that the Council has in place contractual arrangements to ensure it meets its obligations to maintain its schools, residential estate and

other buildings in a manner that is compliant with legal requirements, the Council's internal regulations and is financially efficient.

- 1.7 In view of the above, this report seeks approval, in accordance with Contract Standing Order 8.12, for the Business Case and Procurement Strategy for establishing a DPS framework.

## **2 RECOMMENDATIONS**

### **That the Cabinet:**

- 2.1 Approves the Procurement Strategy & Business Case set out in Appendix 1 for the procurement of a Dynamic Purchasing System (DPS) for repair and maintenance requirements to schools and other buildings for use with work packages of up to £350,000.
- 2.2 In relation to any works packages proposed, estimated to be in excess of £100,000, to be procured using the DPS, to waive pursuant to CSO 3 the requirements of Contract Standing Orders (CSO) 8 for prior approval of a procurement strategy, on the grounds that this is in the Council's overall interests.
- 2.3 In relation to any works package proposed to be procured using the DPS, to waive pursuant to CSO 3 the requirements of Contract Standing Order 10 in relation to the procurement process to be used, on the grounds that the circumstances of the proposed contract are covered by legislative exemptions.
- 2.4 Delegate the decision to appoint new contractors to the DPS, over its duration, to the Director of Children's Services in consultation with the Cabinet Member for Children and Education.
- 2.5 Note that it is not proposed that the DPS be available for use to procure works contracts in excess of £350,000 in value.
- 2.6 Approves that the award of any contracts recommended following a competitive tender exercise under the DPS framework, is delegated to the appropriate Chief Officer for awards up to £25,000, in accordance with CSO 17.1.
- 2.7 Note the decision to approve contracts in excess of £25,000, recommended following a competitive tender exercise under the DPS framework, is for appropriate Cabinet Member to make in accordance with:
- CSO17.2 - where the value of the contract is in excess of £25,000 but below £100,000

- CSO 17.3.1 - where the actual contract value exceeds £100,000 but is less than £5m.

### **3 REASONS FOR RECOMMENDATIONS**

3.1 To support the Council in meeting its obligation in maintaining its buildings to:

- Provide a safe school environment for children to learn
- Provide a habitable home environment for our residents
- Provide a welcoming environment for people to work
- Take pride in Hammersmith and Fulham by ensuring the sustainability of our buildings for future generations.
- And to also support the Council's objective of being the greenest borough.

3.2 To have in place a framework of qualified contractors, providing various construction, mechanical and electrical and other works related services, who can carry out much-needed improvement, repair or replacement works to the Council's buildings and green spaces.

3.3 To have contractors in place in who can quickly respond to cases of emergencies at our schools and other council buildings and ensure the health and well-being of children and residents.

3.4 To meet the Council's priority of being ruthlessly financially efficient by engaging with local businesses to provide works at competitive prices.

3.5 To promote social values within the community by building on shared prosperity and supporting the local economy by using local contractors.

3.6 To comply with the requirements contained in Contract Standing Orders to seek approval for this Procurement Strategy before commencing a procurement exercise to implement a DPS framework.

### **4 PROPOSAL AND ISSUES**

4.1 It is proposed to procure a DPS framework to deliver the Council's obligation to repair and maintain its schools, educational establishments and be accessible to other departments for the delivery of construction related works to other Council-owned buildings and improve our parks and open spaces. The need for this requirement for schools is set out in detail in the Business Case (Appendix 1).

#### **Background**

4.2 Children's Services

The Council entered into contract with 3BM, a consultancy company, in April 2013 to provide “Education Support Services” and over time this transpired into the company being our first point of contact for repair works to schools, up to the value of £250,000. This was written into the CSOs (10.2c) effective from 2016. The company would act as a management contractor, managing the works which it then sub-contracts to others.

Our contractual arrangement with 3BM is to expire on 31 July 2019, following an extension which was approved in December 2017, and is not being considered for further extension.

Children’s Services have previously had no dedicated procurement resource within the service and a replacement contract has not been procured to commence on the 1 August 2019.

Until the proposed DPS is in place, and due to the low volume of urgent /responsive repair works anticipated in the next 6 months, it is proposed that the general principles of the CSOs (10.2a), in relation to request for quotes (RFQs) for works under £25,000 in value is followed to procure repair works contractors for our schools. In the event that a contractor cannot be procured using an RFQ, whether due to the works exceeding £25,000 in value or otherwise, the approval of waivers will be sought in accordance with CSO 3.

#### 4.3 Housing Services

Following the termination of their contract with Mitie, Housing Services have entered into several interim contractual arrangements, to July 2020, to ensure the continuous repair and maintenance service provision to the Council’s residential stock. During this interim period, Housing will develop their procurement strategy for a new service provision.

#### 4.4 Facilities Management

The Council’s Facilities Management contract with Amey, which was operated under the Tri-Borough agreement, has ended, and some service provisions are being brought back in-house and low value contracts have been awarded for certain requirements.

#### 4.5 Parks and Open Spaces

The Council is committed to improving the boroughs parks and open spaces. This is reflected in the 15 Green Flag awards the borough has achieved for high standards of maintenance and facilities within our Parks and open spaces. With S106 funding, improvements to a number of our parks and open spaces will support the Council’s objective of being the greenest borough.

## **Long Term Contracts**

- 4.6 Long-term, complex and high value contracts, such as those set up by Housing to replace Mitie, can take up to 12 months to procure and it is therefore proposed to implement a DPS framework, which can take 3 to 6 months to establish.

## **The Business Need**

- 4.7 Detail of the types of works needed to be carried out on school buildings are detailed in the Business Case at Appendix 1 and the Schools Stock Condition Survey results at Appendix 2 (exempt). The purpose of the DPS framework is to enable the Council to undertake further competitions amongst local contractors to deliver our requirements, in relation to:

- **Planned Repair and Replacement Programmes**
- **Emergency / Urgent (Responsive) Repairs**

- 4.8 Planned Repair and Replacement Programme Works will be identified from stock condition surveys and other planned programmes, to improve, fully repair or replace:

- Multi-Works
  - Roofs
  - Drains and drainage systems
  - Building fabrication and structures (internal and external)
  - Heating and boiler systems
  - Electrical and lighting equipment
  - Windows
  - CCTV and intercom/security equipment
  - Horticultural / Landscaping
  - Other construction related works, which the Council is responsible for.
- The Multi-Works Lot will be a combination of all the other Lots combined, to ensure value for money from have a single contractor delivering all the works during one time period, logistical efficiency and mitigate against disruption to the educational programme of schools.

\*\*Contracts for Asbestos (survey and removal) and Fire Doors (survey and replacement) may be included as part of DPS or we may use alternative procurement method, such as further competition of an existing framework.

These works are not deemed to be critically urgent and will therefore be scoped or grouped in to packages, schools or residential buildings within a particular ward or within close proximity to each other so as to maximise delivery and logistical efficiency and achieve value for money for the Council and the schools.

- 4.9 The framework will also be used for **Urgent Repairs** works to be carried out in a short period of time (hours or days) as there could be an imminent risk to the health and safety and wellbeing of our children and residents.

Emergency / Urgent repairs usually include:

- Structural failure
- Fire damage
- No power
- No water
- Gas leak
- No heating
- Blocked toilets and drains
- Water leaks
- Damaged window or door
- Fire alarm, smoke detector or Co2 detector failure
- Lifts not working.

- 4.10 In such cases of emergencies, the Council has a duty of care to provide responsive service to support our schools, children and residents and ensure our buildings are safe and secure for continuous use by ensuring that contractors are on site within a reasonable time to carry out critical repairs.

### **What is a Dynamic Purchasing System?**

- 4.11 A Dynamic Purchasing System (DPS) is an electronic tendering system used to purchase commonly used goods and services. Unlike traditional frameworks, which are closed to new entrants for their duration, a DPS allows suppliers to apply to join or decide to leave at any time during its term. The other general principles of a DPS are:

- Managed through e-tendering portal
- Can follow an annual re-let to supplier market
- Continuous supplier management
- Multiple Categories/Lots/Workstreams
- Competitive call-off process.

Another benefit of a DPS is that it is an ideal platform for local SMEs to work with the Council, which supports the Council’s Business Support Programme to help local companies and support the local economy.

4.12 In the first instance, and in accordance with Regulations 57-64 of the PCR 2015, a DPS framework is implemented by carrying out a selection exercise that engages contractors who self-certify their capabilities, in terms of:

- Experience (Case Study examples)
- Health & Safety
- Accreditations / Certification
- Adherence to regulations and laws (Race and Equality, etc...)

4.13 As the DPS framework is considered an “approved” or “pre-qualified” list of contractors, they will not be required to submit indicative prices for works as part of setting up the DPS. Bidder/ contractor prices are only proposed when a competition or quote is called for.

An **example** of the structure of the DPS Framework:

DPS Repairs and Maintenance					
Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6
Multi-Works	Roofs	Windows	Fencing	Electrics	Heating
Multiple contractors	Multiple contractors	Multiple contractors	Multiple contractors	Multiple contractors	Multiple contractors

Other Lots to be included, but not limited to:

- General Build
- Drains and drainage systems
- CCTV (cameras, DVD and monitoring system)
- Downpipes/Guttering
- Groundworks
- Lighting
- Intercom/Security
- Lifts
- Horticultural and Landscaping



The Multi-Works Lot will be a combination of all the other Lots combined, to ensure value for money from have a single contractor delivering all the works during one time period, logistical efficiency and mitigate against disruption to the educational programme of schools.

\*\*As mentioned above, contracts for Asbestos (survey and removal) and Fire Doors (survey and replacement) may be included as part of DPS or we may use alternative procurement method, such as further competition of an existing framework.

- 4.14 Following the set-up of the DPS framework, the Council will be able to undertake competitive tenders or quotation exercises amongst the contractors on each Lot/Workstream.
- 4.15 Direct award of contracts under the DPS framework are not permitted. Where a contract exceeds the EU thresholds for works or services (as applicable) then a restrictive procedure with shortened timescales has to be used to expose the requirement to competition. Below the EU threshold an adapted form of the provisions of CSO 10 can be used, either to get a price quotation from all the companies on the relevant lot of the DPS for up to £25,000, and for £25,000 up to the EU threshold, a tender among all the companies on the relevant lot of the DPS.
- 4.16 Where a single contract exceeds £100,000 in value, the usual requirement of Contract Standing Orders is to have Cabinet approve a Procurement Strategy and Business Case. Here it is proposed to waive this requirement, on the basis that the DPS can be used instead for Planned/package works, valued between £25,000 to £350,000, as this enables contracts to be tendered in a short period and therefore have contractors on site at the earliest convenience, such as school half term.
- 4.17 Depending on value, detailed specifications and pricing schedules will be developed for each package of works and all contractors applicable per Lot/Workstream will be invited to tender and submit their method statements for delivering our requirements and propose prices for the works. Contractors will be allowed a period of 30 days (minimum) to submit their proposals and tenders will be evaluated and awarded on the Most Economically Advantageous Tender (MEAT) based on Quality/Price award criteria of:
- Quality (Technical) – 40% (inclusive of Social Value)
  - Price (Commercial) – 60%
- 4.18 Under the EU public procurement rules, the award criteria for the Quality (Technical) element of the tenders can be specified in the procurement

documents for the individual requirements. However these are likely to require bidders to submit method statements on, for example:

- Programme Delivery
- Staffing Resources
- Customer or Stakeholder Engagement
- Defects and Liability
- Key Performance Indicators
- Quality Assurance
- Social Value
- Environment

4.19 The DPS will also be used to obtain quotes for the delivery of **Urgent (Responsive) Repairs** should there be a risk to the health and wellbeing of the children, residents or buildings.

4.20 Under this operational model contractors will be required to submit **prices only** within a short timeframe and have resources available to be on site as soon as required. The lowest quote received will be the preferred contractor.

A list of items typically covered under Urgent (Responsive) Repairs is at paragraph 4.8.

4.21 All tenders and requests for quotes (RFQs) will be conducted via the Council's e-tendering portal ([capitalesourcing.com](http://capitalesourcing.com))

## **5 OPTIONS AND ANALYSIS OF OPTIONS**

5.1 A number of options have been taken into consideration for the continued delivery of repairs and construction related works to our schools and other Council buildings. These include:

**Do nothing** – this is not an option as the Council has an obligation to maintain the schools' fabric and ensure they are safe for children.

**In-house** – Children's Services does not have an in-house team of qualified or specialist contractors to undertake repair and maintenance services at our schools, however, Housing and Facilities Management are in the process of bringing some of their service provisions in-house.

In the long-term, Children's Services would like a collaborative approach for an in-house/Council branded service delivery and will work with Housing, FM and other services to achieve this goal.

**Traditional Frameworks** - There are various OJEU compliant frameworks that are easily accessible that can provide qualified repairs and maintenance contractors; such as Fusion 21. Traditional frameworks are awarded to a list of contractors who remain in place for the 4-year duration. Other contractors **cannot** join such frameworks during their duration. This type of framework limits us to awarding a contract(s) to a large national contractor, usually, with no local knowledge of our schools or investment in our community.

**Full Tender – Sole Contractor** – A full OJEU procurement exercise can take up to 12 months, commencing with a full review of the current repairs provision, setting up a stakeholder panel, drafting a full specification of requirements, key performance indicators (KPIs), compiling quality/technical questions, defining the evaluation methodology and obtaining approval of a Business Case and Procurement Strategy before publishing the tender pack.

An advantage of having a sole contractor is contract management will be streamlined and manageable and will enable Council Officers to concentrate on other tasks.

**Dynamic Purchasing System (DPS)** – As with tendering for a sole contractor, the pre-procurement tasks can take some time to define however the procurement exercise usually takes 3 to 6 months. In setting up a DPS a full specification, KPIs and technical questions will not be required. The establishment of the DPS itself is a pre-qualification exercise using selection criteria.

Following the establishment of the DPS, the Council can then undertake mini-competitions amongst the local suppliers/contractors, per the defined Lots/workstreams, which is fair and open. How this is done depends on whether the individual requirement is above or below the EU threshold.

Other benefits of a DPS is that, unlike a traditional framework, new contractors can join throughout the duration, which encourages greater competition amongst local contractors and meets the Council's commitment of economically supporting the local businesses and the community. All DPS applicants are assessed to ensure they meet the Council's compliancy thresholds.

Based on the above, the proposed option is to implement a DPS framework to deliver repairs and maintenance and other construction-related works to our schools and be accessible to other Council Departments.

## **6 CONSULTATION**

- 6.1 It is also proposed to hold a supplier event with a view to promoting the benefits of DPS to local enterprises.

- 6.2 We will work with colleagues from across the Council to garner support for a collaborative working relationship to implement a contract that will financially benefit the Council and support the local economy.
- 6.3 Furthermore, we will work with stakeholders to ensure the delivery of repair works without detrimental impact to residents, workers, schools' programmes and children's education.

## **7 EQUALITY IMPLICATIONS**

- 7.1 It is not anticipated that there will be any direct negative impact on groups with protected characteristics, as defined by the Equality Act 2010, from these Business Case and Procurement Strategy proposals (set out in the Recommendations).

Implications completed by: Fawad Bhatti, Social Inclusion Policy Manager, tel. 07500 103617.

## **8 LEGAL IMPLICATIONS – CONTRACTS AND PROCUREMENT**

- 8.1 This report seeks approval for a procurement exercise in relation to the establishment of a Dynamic Purchasing System (DPS). This is a mechanism for establishing an approved list of contractors in a way that is compliant with the Public Contracts Regulations 2015 (the PCR) which implement the EU public procurement regime. The Procurement Strategy at Appendix 1 describes the process to be used to establish the DPS, and the presentation of this Business Case and Procurement Strategy is in accordance with CSO 8.
- 8.2 Similar to a framework, individual contract requirements are called off from the DPS.
- 8.3 The process to appoint a contractor to carry out an individual package of work is proposed to vary according to the value of the proposed works. Some of the Council's requirements will be categorised as works (for which the minimum value threshold is £4,551,413), while some will be services, (for which the requirement is £181,302). For a contract to be awarded compliantly in excess of these values using a DPS, then a restrictive process has to be followed, and this is further explained in Appendix 1.
- 8.4 Where the proposed call-of contract is below the EU threshold, then a process similar to what would apply under Contract Standing Orders, if a DPS were not being used and open competition were being used instead, is being proposed. However use of the DPS instead of the open competition has the added advantage of using pre-approved contractors.

- 8.5 The different processes to apply for different values of work/ services will be set out in the draft DPS Agreement made available to those expressing an interest in being appointed to the DPS.
- 8.6 As neither above EU or below EU threshold call-off contracts will be procured in a way that accords with CSO 8 on procurement strategies and CSO 10 on competition requirements, it is proposed that these are waived for the individual call-offs. The process for waivers is set out in CSO 3, and one of five permitted grounds has to be made out in applying for the waiver. Here the waiver of CSO 8 is sought under the permitted ground of “Council’s overall interests”, while the waiver of CSO 10 is sought under permitted ground that a legislative exemption applies.
- 8.7 Other delegations are sought in relation to the appointment of contractors to the DPS and the award of individual call-off contracts.
- 8.8 Officers are recommended to work with Legal Services to ensure that there are contract terms that accurately capture the way that the Council wishes to use the DPS, to avoid any challenges to its use.

Implications verified/completed by: Deborah Down, senior associate with Sharpe Pritchard LLP, on secondment to the Council.  
ddown@[sharpepritchard.co.uk](mailto:ddown@sharpepritchard.co.uk)

## **9 FINANCIAL IMPLICATIONS**

- 9.1 The setting up of this DPS will provide access to a wider supply chain and increase competition ensuring ruthless financial efficiency in line with the Council’s priorities. In addition, it should streamline the procurement process.
- 9.2 This report is not recommending the award of any contracts at this stage however after a further competition is undertaken, to ensure value for money is achieved, a separate decision report on contract awards will be produced for approval in accordance with the recommended delegated approval processes proposed at Section 2 of the report and will need to ensure that any works are fully funded.
- 9.3 Monies for schools reactive maintenance is available from Schools Central Services (DSG) of £1.4m. We have also accumulated capital balances set aside and approved by Cabinet for spend on the planned School Capital Maintenance Programme. This is £7.6m of School Condition Allocation and Capital Maintenance grants.

- 9.4 The cost of developing and administering this DPS will be met by charging a 3.5% administration fee on top of the contract price awarded.
- 9.5 The HMRC Construction Industry Scheme covers most construction work. It requires the Council to deduct money from a contractor's payments and pass these to HMRC as advance payments towards the contractor's tax and National Insurance. In setting up the DPS, the service will need to work closely with Finance to ensure that payments to contractors appointed to the framework comply with HMRC requirements.

*Implications completed by Tony Burton (Head of Finance - Children's Services & Education), Tel. 07909 004710*

*Implications verified by: Emily Hill, Assistant Director, Corporate Finance, tel. 020 8753 3145.*

## **10 IMPLICATIONS FOR BUSINESS**

- 10.1 The proposal has the potential to create local economic and social value, including many business opportunities for local small and medium size enterprises across various trades and services.
- 10.2 The service will include economic and social value considerations in tender specifications and will utilise the Council's Local Supply Chain Programme to identify, engage and prepare local suitable businesses.

*Implications verified/completed by: Alben Karameros, Programme Manager, Economic Development, tel. 020 7938 8583.*

## **11 COMMERCIAL IMPLICATIONS**

- 11.1 The procurement strategy proposal is in line with the Council's CSOs and the Public Contracts Register (PCR) 2015. The dynamic purchasing system (DPS) is a compliant procedure where, unlike a traditional framework, suppliers can apply to join at any time. This also makes the DPS more accessible to SMEs, while ensuring the Authority has access to a pool of pre-qualified suppliers.
- 11.2 The DPS requires continuous supervision and administration to ensure all suppliers are evaluated in line with the PCR 2015 requirements. As a result, resource allocation shall be decided prior to advertising the DPS.
- 11.3 The DPS will be advertised in accordance with the Regulations in Tenders Electronics Daily (TED) and Contracts Finder.

*Implications verified/completed by: Andra Ulianov, Head of Contracts and Procurement, 07776672876.*

## **12 SOCIAL VALUE CONSIDERATIONS**

- 12.1 The Procurement Strategy cannot give assurance that Social Value will be delivered by each contract however the purpose of the DPS framework is to engage with local contractors/SMEs to deliver construction related works to our schools and other buildings.
- 12.2 Under the Public Services (Social Value) Act 2012 the Council must consider how its spending could also generate wider benefits to the community in terms of economic, social and environmental well-being. The delivery of Social Value is one of the Council's priorities and it shall be delivered as part of every contract procured by the Council.
- 12.3 The DPS aims to support the local economy by creating jobs and apprenticeships for local residents and will therefore support the Council's priority of "Building shared prosperity" in the borough during the period of the framework.
- 12.4 In undertaking further competition exercises for larger Planned works packages, bidders will be also be asked to evidence how that will support the Council's priorities by offering volunteering time to help rough-sleepers, supporting green projects and by being a responsible buyer.
- 12.5 The award criteria for contracts over £25,000 will include a weighting of 5% for Social Value commitment, as part of the Technical/Quality responses. This weighting will increase by 5% each year, to 15%, over the next 2 years.
- 12.6 Considering the nature of the services to be procured, it is a good opportunity for the Council to engage with local suppliers.

*Implications verified/completed by: Agueci Ilaria, Procurement Consultant, tel. 020 8753 4762.*

## **13 IT IMPLICATIONS**

- 13.1 As the DPS will be established using Capital E-Sourcing (noted in Appendix 1 – Point 9.2) there are no IT implications resulting from this proposal. However, if this not the case and a different system will be used to administer the DPS, H&F IT Services should be consulted.
- 13.2 IM Implications: A Privacy Impact Assessment should be completed to ensure all potential data protection risks resulting from the establishment of

the DPS are properly assessed with mitigating actions agreed and implemented.

13.3 *Implications verified/completed by: Karen Barry, Strategic Relationship Manager, tel. 020 8753 3481.*

## **14 RISK MANAGEMENT IMPLICATIONS**

14.1 The Council requires a repairs service which meets its objectives, which provides flexibility in how it manages assets to deliver a higher level of satisfaction in its repairs service, which ensures compliance with all statutory health and safety requirements and which delivers on a range of other policies including social value and use of local suppliers.

14.2 In line with its ruthlessly financially efficient priority, the Council also needs to demonstrate that the repairs service and associated contracts within the proposed Dynamic Purchasing System demonstrate and deliver value for money in managing and maintaining its properties to an appropriate standard.

14.3 These should be procured in line with the Public Contracts Regulations (PCR) 2015 and with the Council's Contracts Standing Orders. These actions will mitigate the risk of contract/procurement challenge.

14.4 *Implications verified/completed by: David Hughes, Director Audit, Fraud, Risk and Insurance, tel. 020 7361 2389.*

## **15 BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

None

## **16 LIST OF APPENDICES**

Appendix 1 – Business Case – School Repair and Maintenance

Appendix 2 –Children's Services Stock Condition Survey - EXEMPT



## APPENDIX 1:

# **BUSINESS CASE RELATING TO SCHOOLS REPAIRS AND MAINTENANCE SERVICES**

## BUSINESS CASE

### **1 WHY THE PROCUREMENT IS NEEDED**

- 1.1 The Council manages a stock of over 60 schools and children centres which require ongoing repairs and maintenance to ensure they are safe, secure, warm and weathertight for children to receive their education. The school stock is made up of a mixture Victorian and post-war built buildings, which due to their age require constant repairs to their fabrication and equipment to ensure they are fit for purpose for our children.
- 1.2 The Council is wholly responsible for 45 of the 60 schools and has partial responsibility for the repairs and maintenance of the remaining 15.
- 1.3 Until the 31 July 2019, and in accordance with CSOs (10.2c), school repair and maintenance have been managed through an arrangement with 3BM, a consultancy company acting as management contractor, however this contract will be not be extended beyond this date.
- 1.4 This procurement is needed as the Council has a legal obligation to maintain its schools and other educational establishments, such as nurseries, so they can be used as a safe environment to educate our children and future generations.
- 1.5 Due to the ages of our schools, Children's Services has received requests from Headteachers for multiple repairs, such as:

#### ***Sir John Lillie Primary School***

This a Victorian era build school which has had multiple breakdown of the boiler plant room, which was installed in the 1980s and unable to integrate with today's digital technology.

Recently, the control panel for the boiler plant required further repairs to ensure the school was heated.

On a previous occasion, the school has had to be closed as the boiler failed completely due to the pressure placed on it.

### **Avonmore School**

This a post-war built school building with a flat roof that does not allow for sufficient draining of rainwater and is therefore subject to “ponding” whereby water remains in place on the rook for a long period of time and eventually causes problems, such as bowing and leaks. Due to its age and recent heavy rainfall, the roof is in dire need of repair.

The leaking roof caused the school a number of inconveniences to its educational programme and resulted in 2 classrooms being taken out of use in the nursery area. Such issues represent a health and safety risk to the children.

1.6 Other incidents that have occurred at other Council-owned schools include:

- No running water for sanitation, cooking or drinking – our Quantity Surveyor had to purchase palettes of water from local high-street supermarket and arrange for them to be delivered to the school. But for this intervention, the school would have had to close.
- Leaking roofs in main/assembly halls – Headteacher having to resort to putting multiple buckets in the hall to catch rainwater.
- We have also had blocked drains and flooded toilets, which are not only a health and safety risks but does not make for a pleasant environment in which children should learn.

1.7 With the increase in population, there is a high demand for school places, which means more pressure on their fabric and environmental systems.

1.8 In view of this, the Council needs to have contractors in place to provide repairs and maintenance service to its schools and other buildings we are responsible for so that they can meet demands and be sustainable for future generations.

### **Long Term Solution**

1.9 In order to maintain our schools a number of procurement options were considered, as detailed in sections 3 and 4 below, and the preferred option is to establish a DPS framework to deliver the Council’s obligation to repair and maintain it school stock and be accessible to other Council departments.

1.10 The DPS framework will be for a term of 4 years (maximum) and consist of multiple Lots or workstreams to support the works require such as:

- Planned Repair and Replacement Programme

- Emergency / Urgent (Responsive) Repairs

- 1.11 The purpose of a DPS is to engage local organisations and SMEs to carry out works and services and support the Council's commitment to work with local businesses and invest in the local economy with a view to building shared prosperity by creating jobs in the borough and for the benefit of their community.
- 1.12 A Dynamic Purchasing System (DPS) is an "open" framework for the delivery works, services and goods commonly available in the supplier market, which enables new and local suppliers to join at any time over the duration of the framework.
- 1.13 A traditional framework is "closed" with only the selected, and usually large, contractors remaining in place for the duration of the framework agreement and this therefore limits competition as new or local suppliers cannot join up.
- 1.14 The establishment of a framework of qualified contractors, providing various construction, mechanical and electrical and other works related services, to carry out much-needed repair or replacement works to the Council's buildings, would show that the Council believes in providing safe and secure places in which to educate our children.
- 1.15 A DPS framework would mean having experienced contractors in place in who can quickly respond to cases of urgent works at our schools and other council buildings and ensure the health and well-being of children and residents.
- 1.16 A DPS framework will encourage local businesses to work with the Council in ensuring the longevity of our schools, residential properties and municipal buildings for the benefit of the community.

## **2 FINANCIAL INFORMATION**

- 2.1 To encourage SMEs to bid for some the planned works contracts, it is proposed to tender some low value packages.
- 2.2 As the DPS is aimed at SMEs, the Council's financial turnover threshold can be a deterrent to small organisations participating in contract opportunities.
- 2.3 Adopting a lower threshold, will encourage SMEs to provide high standards of delivery and offer value for money and innovation in comparison to larger competitors.

2.4 See “Financial Implication” above for budget information.

### **3 OPTIONS APPRAISAL AND RISK ASSESSMENT**

#### **Current position**

- 3.1 The council entered into an “Education Support Services” contract with 3BM Limited in April 2013.
- 3.2 3BM is a registered “mutual society” company set up by former employees of public sector organisations, such as Councils, to deliver public services and have a positive social impact.
- 3.3 3BM is considered a “consultancy” and has no contractual experience of delivering repairs and maintenance or construction related works however the Council’s Contract Standing Orders directed that works to schools and educational establishments, up to the value of £250,000, must be managed through this contract.
- 3.4 In December 2017 the Leader of the Council approved an Urgent Decision Report for a further extension to the contract to 31 July 2019 however it is not being considered to extend beyond this date.
- 3.5 Due to limited time available to undertake any competitive tender process for a replacement to the 3BM contract, and lack of procurement support, it is proposed as an interim measure to undertake request for quotes (RFQ), and for works over £25,000 obtain waivers for the provision of urgent/emergency (responsive) repairs to our schools.

### **4 OPTIONS AND ANALYSIS OF OPTIONS**

- 4.1 A number of options have been taken into consideration for the continued delivery of repairs and construction related works to our schools and other Council buildings. These include:

**Do nothing** – this is not an option as the Council as an obligation to maintain the schools’ fabrication and ensure they are safe for children.

**In-house** – Children’s Services does not have an in-house team of qualified or specialist contractors to undertake repair and maintenances services at our schools, however, Housing and Facilities Management are in the process of bringing some of their service provisions in-house.

In the long-term, Children's Services would like a collaborative approach for an in-house/Council branded service delivery and will work with Housing and FM to achieve this goal.

**Traditional Frameworks** - There are various OJEU compliant frameworks that are easily accessible that can provide qualified repairs and maintenance contractors; such as Fusion 21. Traditional frameworks are awarded to a list of contractors who remain in place for the 4-year duration. Other contractors **cannot** join such frameworks during their duration. This type of framework limits us to awarding a contract(s) to a large national contractor, usually, with no local knowledge of our schools or investment in our community.

**Full Tender – Sole Contractor** – A full OJEU procurement exercise can take up to 12 months, commencing with a full review of the current repairs provision, setting up a stakeholder panel, drafting a full specification of requirements, key performance indicators (KPIs), compiling quality/technical questions, defining the evaluation methodology and obtaining approval of a Business Case and Procurement Strategy before publishing the tender pack.

An advantage of having a sole contractor is contract management will be streamlined and manageable and will enable Council officers to concentrate on other tasks.

**Dynamic Purchasing System (DPS)** – As with tendering for a sole contractor, the pre-procurement tasks can take some time to define however the procurement exercise usually takes 3 to 6 months. In setting up a DPS framework, a full specification, KPIs and technical questions will not be required for setting up the DPS. The establishment of the framework itself is a pre-qualification exercise.

Following the establishment of the DPS framework, the Council can then undertake mini-competitions amongst the local suppliers/contractors, per the defined Lots/workstreams, which is fair and open.

Other benefits of a DPS is that, unlike a traditional framework, new contractors can join throughout the duration, which encourages greater competition amongst local contractors and meets the Council's commitment of economically supporting the local businesses and the community. All DPS applicants are assessed to ensure they meet the Council's compliancy thresholds.

Contract awarded under the DPS, will be approved in accordance with CSO 17.

## **Recommended option**

Based on the above, the proposed option is to implement a DPS framework to deliver repairs and maintenance services to our schools and be accessible to other Council Departments.

## **5 PROCUREMENT STRATEGY**

- 5.1 Going forward, a long-term solution in the form of establishing the DPS, for a repairs and maintenance service provision to our schools is to undertake a procurement exercise to contractors to deliver both planned and reactive repairs service to our schools. This will be procured in accordance with the EU public procurement rules for the establishment of a DPS.

## **6 SOCIAL VALUE, LOCAL ECONOMIC AND COMMUNITY BENEFITS**

- 6.1 The implementation of a DPS is to engage local organisations and SMEs to carry out works and services and support the Council's commitment to invest in the local economy and build on shared prosperity by creating jobs in the borough and for the benefit of their community
- 6.2 Social Value commitment from contractors will be included in the procurement of the long-term contracts to benefit the local community. Contractor commitments could be based on tackling worklessness, apprenticeship placements, volunteering contractor time to schools and using materials that will not have a detrimental impact on the environment.
- 6.3 Prior to going out to tender for the DPS, it is proposed to hold a supplier event by working with the Council's local business enterprise (HFBrill4Biz).
- 6.4 In undertaking further competition exercises for larger Planned works packages, bidders will be also be asked to evidence how that will support the Council's other priorities by offering volunteering time to help rough-sleepers, supporting green projects and by being a responsible buyer.
- 6.5 It is proposed that the award criteria for contracts over £25,000 will include a weighting of 5% for bidders' Social Value commitment as part of their Technical/Quality responses. This weighting will increase by 5% each year, to 15%, over the following 2 years.

6.6 As part of their tender submission, bidder's will be asked to state their commitment to the Council's Social Value Priorities in areas such as:

<b>Building Shared Prosperity</b>	Number of meaningful <b>work placements</b> (minimum of 2 weeks) provided to residents: <ul style="list-style-type: none"> <li>- <i>With supported / additional needs or barriers</i></li> <li>- <i>Out of work for 2+ years</i></li> <li>- <i>Young people/graduates/school leavers /care leavers</i></li> </ul> (no. weeks per year)
<b>Building Shared Prosperity</b>	<b>Professional/Skilled support</b> to help <b>support the community</b> and voluntary organisations (e.g. Business Planning, Marketing, Finance, Legal) (no. hrs)
<b>Taking Pride in Hammersmith</b>	No hours <b>volunteering time</b> provided to local Borough Community (e.g. clean up initiatives, painting projects) (no. hrs)
<b>Taking Pride in Hammersmith</b>	<b>Sponsorship of local green community projects</b> in the Borough (no. projects supported)
<b>Creating a Compassionate Council</b>	<b>Staff to volunteer with approved rough sleeping service</b> (no. hours)
<b>Doing Things with Residents, not to them</b>	Number of <b>volunteers hosted</b> in your organisation or project (total per annum)
<b>Being Ruthlessly Financially Efficient</b>	Adopting a <b>responsible buying policy</b> for goods and services
<b>Being Ruthlessly Financially Efficient</b>	Support the local economy by spending <b>£ value of total contract expenditure in the Borough</b> (£)

6.7 Social value commitments will not be requested as part of **price only** RFQs for Urgent/Responsive repairs.

## **7 STAKEHOLDER CONSULTATION**

7.1 Internal stakeholders of the Council (Legal, Finance, Risk Management, Corporate Procurement and Delivery Managers (Housing, FM, Parks, etc....)) will have an input with regards to the proposal for the new tendered contract(s).

7.2 Children's Services will consult with stakeholders in Housing Services and Facilities Management with regards having a cohesive repairs and maintenance services provision for all Council owned properties.

7.3 It is also proposed to hold a supplier event with a view to promoting the benefits of DPS to local enterprises and the contract opportunities that will become available.

7.4 Furthermore, Children’s Services Quantity Surveyor will work with Headteachers and their staff to ensure the delivery of repair works without detrimental impact to the school’s programme and the children

**8 LEASEHOLDER CONSULTATION**

8.1 Leaseholder consultation is not applicable to schools.

8.2 Should Housing Services wish to utilise the DPS framework, they will adhere to protocol related to S20 consultation.

**9 PROCUREMENT PROCEDURE**

9.1 The process for setting up the DPS and undertaking competition are set out below:

9.2 In the first instance, the DPS framework is established by following OJEU procedure, using the Council’s electronic procurement tool - [www.CapitalEsourcing.com](http://www.CapitalEsourcing.com) - in terms of:

Supplier Event	<p>To gauge the level of local interest in the DPS framework, a supplier event is to be held.</p> <p>This will be co-ordinated with <b>HFBrill4Biz Supply Chain</b>, which is a Business Support Programme dedicated to helping local companies and SME’s in Hammersmith and Fulham.</p> <p><a href="http://www.hfbrill4bizsupplychain.co.uk/home.html">http://www.hfbrill4bizsupplychain.co.uk/home.html</a></p> <p>The supplier event will be advertised via a PIN notice (OJEU) and Contracts Finder and appropriate local marketing.</p>
Invitation to Express Interest	<p>Following the supplier event the DPS will be advertised via OJEU and Contracts Finder. This will invite expressions of interest by the submission of a questionnaire which will set out the Council’s selection</p>



in Appointment	<p>criteria (minimum requirements) for appointment to the DPS. The UK standard selection questionnaire will be used to assess this, which asks bidders to “self-certify” their compliance with Health &amp; Safety, Employment regulations, Race and Equality, Grounds for Exclusions (financial convictions, etc), industry accreditations and their financial standing. The SSQ will also include some technical/project specific or case studies examples to support their capabilities.</p> <p>This document will also set out how the bidders will be assessed and the process for undertaking tender and quotation exercises once the DPS’ are implemented.</p>
DPS Agreement	<p>Information or draft copy of the agreement will be published with the documents above.</p> <p>Contractors will be required to sign a DPS agreement, which governs the overall principle of the DPS and allows for “call-off” contracts following future tender exercises, including describing the procedure for this.</p> <p>This will be drafted in conjunction with Legal Services (Sharpe Pritchard).</p>
SSQ deadline	<p>Contractors will have a period of time (30 days min) in which to submit their completed SSQ.</p>
Evaluation of SSQs	<p>SSQs received at the deadline will be evaluated by Procurement, the School Assets Quantity Surveyor and other Council Officers.</p> <p>Under the EU procurement rules for a DPS - no bidder who meets the minimum requirements can be rejected. If any bidder does not fully complete the SSQ, they will be asked to resubmit.</p> <p>Organisations can apply at any time subsequently to its establishment to join the DPS, and the Council can also do a further call through advertisement for this purpose.</p>
Lots / Workstreams	<p>In applying to be part of the DPS framework, bidders will indicate to which Lot/Workstream they want to be allocated to, such as:</p> <ul style="list-style-type: none"> <li>• Multi-Works</li> <li>• Roofs</li> <li>• Windows</li> </ul>

	<ul style="list-style-type: none"> <li>• Fencing</li> <li>• Electrical</li> <li>• Heating Systems/Boilers</li> <li>• Drains and drainage systems</li> <li>• CCTV (cameras, DVD and monitoring system)</li> <li>• Downpipes/Guttering</li> <li>• Groundworks</li> <li>• Lighting</li> <li>• Intercom/Security</li> <li>• Horticultural / Landscaping</li> </ul> <p>Each Lot will cover both the Planned Maintenance and the Urgent Works elements.</p>
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**At the above stage of the procurement process, bidders are not asked to submit any prices.**

### 9.3 Further Competitions

Following the implementation of the DPS, as detailed above, Council officers can undertake further competitive exercises against the DPS as follows:

<p><b>Planned Repair and Replacement Programme</b></p>	<p>For all works below the EU threshold, a specification defining the works required will be issued to all contractors on the relevant Lot of the framework (e.g. Roofs, Windows, etc.). Bidders will have a minimum 30 days in which to submit their proposals (Technical Questions and Price).</p> <p>An ITT will also be issued, which will set out the evaluation methodology (Price / Quality ratio). Contracts will be awarded to the bidder that proposed the Most Economically Advantageous Tender (MEAT).</p> <p>However where the individual requirement exceeds the application EU threshold for works/ services, then a restrictive procedure has to be carried out. A PIN</p>
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notice is placed for the individual requirement, and a period of 30 days has to elapse to allow new entrants to the DPS to express interest both in joining the DPS and in the actual opportunity. Those already on the DPS do not need to respond again. Once the ITT is issued (both to new entrants and to those already on the DPS for the relevant lot) then no further applications can be made from new entrants to the DPS to join. A return period of 10 days from the issue of the ITT is the minimum required.

In both cases, detailed specifications and pricing schedules will be developed for each package of works and all contractors applicable per Lot/Workstream will be invited to tender and submit their method statements for delivering our requirements and propose prices for the works. Tenders will be evaluated and awarded on the Most Economically Advantageous Tender (MEAT) based on Quality/Price award criteria; defined as:

- Quality (Technical) – 40%
- Price (Commercial) – 60%

**\*\*Bidder's Quality/Technical will include 5% to 15% commitment to Social Value\*\***

Under the EU public procurement rules, the award criteria for the Quality (Technical) element of the tenders can be specified in the procurement documents for the individual requirements. As this will vary according to the works required, it is not proposed to obtain prior consent for these through the approval of this Strategy. However these are likely to require bidders to submit method statements on, for example:

- Programme Delivery

	<ul style="list-style-type: none"> <li>• Staffing Resources</li> <li>• Customer or Stakeholder Engagement</li> <li>• Defects and Liability</li> <li>• Key Performance Indicators</li> <li>• Quality Assurance</li> <li>• Social Value</li> <li>• Environment</li> </ul>
<b>Emergency / Urgent (Responsive) Repairs</b>	<p>If works are required immediately and assuming that the works are less than the applicable EU threshold, as there is a high risk to the well-being of the children or school, Requests for Quotes (RFQs) will be issued to the contractors on applicable Lot of the DPS. They will have a minimum time to respond – hours or days – with <b>prices only</b>. The lowest price will be awarded the contract.</p> <p>A template for RFQs will be created to provide bidders with information required to enable them to respond quickly and in the same format.</p>

9.4 Throughout the term of the DPS framework, new contractors will be able to apply to join the frameworks by completing an SSQ, which will be assessed.

9.5 All contracts awarded will be approved in accordance with the scheme of delegation (CSO 17).

## **10 PROJECT MANAGEMENT**

10.1 Children Services' Assistant Director of Assets, Operations and Programme is the strategic lead for the schools' repairs and maintenance programme. The Project Manager/ Quantity Surveyor (Assets), with procurement support, will lead on the packages of works to be tendered and overseeing the appointed suppliers.

10.2 The Council's CapitalSourcing portal will be used to conduct all tenders and RFQs and record any contracts awarded.

- 10.3 Regular project monitoring meetings will be diarised to report on progress to senior management.
- 10.4 Prior to the contractor commencing the works, they will be asked to produce a Risk Assessment Method Statement (RAMS) to ensure compliance with Health & Safety standards.

## **11 CONTRACT MANAGEMENT**

- 11.1 Children's Services, with procurement support, will manage the tenders and applications received from contractors to join the DPS.
- 11.2 The Project Manager / Quantity Surveyor (QS) will undertake quality assurance review of works whilst contractors are on site and at the point of completion of the works or at milestone stages before any invoice is paid.