

OFFICER DECISION RECORD

For staff restructures, please also complete an RA1 form to update the HR Portal. This is attached at Annex 2.

Decision Ref. No:
AHWB/073/2017 Housing
Adaptations Services –
Procurement

Box 1

DIRECTORATE: Adults, Health &
Wellbeing

DATE: 30/05/2017

Contact Name: Holly Wilson, Senior
Category Manager SPT

Tel. No.: 01302737664

**Keith Sinclair, Housing Adaptations
Manager**

Subject Matter: Housing Adaptations Services – Procurement

Box 2

DECISION TAKEN:

To procure the Councils Housing Adaptations Contract via a Dynamic Purchasing System (DPS).

Box 3

REASON FOR THE DECISION:

The Housing Adaptations Team's current procurement process is that each project/adaptation is initially sent to the internal Public Building Maintenance (PBM) team to fulfil. As per the Contract Procedure Rules (CPR's,) internal resource should be used if possible to fulfil contracts. There is a Service Level Agreement (SLA) that has been set up with the PBM department to fulfil the Housing Adaptations Team's requirements.

If the PBM team cannot satisfy the requirement, the Housing Adaptations Team use a quotes/tender exercise externally via an approved list of contractors. This 'approved list' has been set up through their experience of working with contractors. Even though most of the quote/tender complies, at that point in time, with the CPR's the aggregated spend of these contracts means that the way it is currently procured is non-compliant both legally and with internal governance. The approved list has been set up due to experience, and this could be seen as limiting access to these contracts and unlawful. Under the PCR2015, all contracts over £25k should be advertised to the market via Contracts Finder, unless it is being procured under a framework agreement or other agreement.

We currently have an approved budget for Disabled Facilities Grant (DFG) and Housing of £2.558m per annum. It is calculated that approximately £1 million of this goes to external contractors to fulfil the works that the PBM team cannot achieve. The proposal is to set up a Dynamic Purchasing System (DPS) for this contract, with a proposed period of 5 years, with break clauses (3 years plus 1yr and then 1year) compliant with the Public Contract Regulations 2015 (PCR2015).

In short, the process for this contract is that the opportunity is advertised via the Official Journal of the European Union (OJEU). Contractors need to pass an initial 'test' to be placed onto the 'approved list'. This initial stage would be via a PAS91 pre-qualification questionnaire (PQQ) stage. The PAS91 PQQ is a nationally recognised standard form that should be used for construction related activity. The standardised approach enhances the attraction of these contracts to Small and Medium Sized Enterprises (SME's). One of the benefits of using a DPS methodology for the procurement is that contractors can apply to be on this 'approved list' throughout the contract period. The Housing Adaptations Team would then use the live 'approved list' to run mini competitions for projects/adaptations as and when needs arise that the PBM team cannot satisfy. This would ensure compliance with the PCR2015, be open, fair and transparent and allow new entrants into the market to bid for works. This in turn should drive value for money throughout these contracts. It is also proposed that a NEC3 form of contract is used as opposed to the out dated contract which is currently in situ. This would smooth out issues around defect liabilities and contract variations, and is a standard contract currently used by Doncaster Council. It is also widely used throughout the UK for works of a similar nature which simplifies the form of contracts for the contractors and Council employees.

The procurement exercise will enable a smoother process of using the contract and will also give an opportunity for cleansing the contract terms and specification. The Legal Department have been engaged and will support the process.

Disabled Facilities Grant (DFG)

Under the Housing Grants Construction and Regeneration Act 1996, Authorities have a mandatory duty to consider the funding of any such adaptations that are recommended by the welfare authority subject to conditions imposed by statute.

These are the only grants authorities have a mandatory duty to provide and are available to owner occupiers, Housing Association and private sector tenants.

Authorities have a mandatory obligation under the terms of the Chronically Sick and Disabled Persons Act 1970 to undertake an assessment of the needs of people within their community who are unable or find it difficult to undertake normal everyday tasks because of physical disability, mental or sensory disorders.

In Doncaster this responsibility falls to Adult Social Care. Once an assessment has identified a need, the Authority has a mandatory duty to identify the means by which the provision of aids and/or adaptations can be delivered.

Assessments that require the provision of aids or physical adaptation of someone's home will result in a recommendation prepared by an Occupational Therapist (OT). (community or PCT based).

Works can vary from ramps through to bedroom/bathroom extensions, but the main

area of work is in relation to showering facilities by way of over bath showers and level access shower installations.

DFG's are subject to means testing regulations and have a maximum grant value of £30,000.

Allocation of funding for DFG's is via the Better Care Fund. This is provided by central government (the Department for Communities and Local Government).

The processing and provision of major adaptations is extremely complex and can range from the specification of a ramp to the specification of an extension to a property. The specification is made by the OT, who passes this to the technical officer. The technical officer then draws up a schedule, which is put out to tender to approved contractors.

The Adaptations department is an established and effective way to deliver home improvement services to older, disabled or vulnerable homeowners and private sector tenants with the minimum of fuss; thus, alleviating what can be a very difficult and stressful experience for the homeowner.

Box 4

OPTIONS CONSIDERED & REASONS FOR RECOMMENDED OPTION:

If other options were considered, please specify and give reasons for recommended option

Carry on doing what we are doing and risk legal challenge from the market and no assurance around value for money.

Box 5

LEGAL IMPLICATIONS:

The Housing Grants Construction and Regeneration Act 1996 and the Chronically Sick and Disabled Person Act 1970 place an obligation on the Council to assess the need for an adaptation and to fund the adaptations subject to means testing.

Section 1 of the Localism Act 2011 provides the Council with a general power of competence, allowing the Council to do anything that individuals generally may do. Section 111 of the Local Government Act 1972 gives the Council the power to purchase goods and services.

The services must be procured in accordance with the Council's contract procedure rules and the Public Contracts Regulations 2015 (PCR). PCR provides for Dynamic Purchasing Systems (DPS) to be set up. The procurement and the operation of the DPS must be in strict compliance with the PCR's. . .

Legal Services will advise on and provide the contractual documentation associated with the DPS.

Name: _Nicky Dobson_ Signature: _by email_ Date: _14th August 2017_

Signature of Assistant Director of Legal and Democratic Services (or representative)

Box 6

FINANCIAL IMPLICATIONS:

The Disabled Facilities Grant (DFG) allocation for 2017/18 is £2.1m, which relates to providing adaptations to privately owned properties. This is currently included in the AHWB 2017/18 capital programme.

The Housing Adaptations initially send work to the internal Public Building Maintenance (PBM) team, however if the PBM team cannot fulfil the order then it is procured externally via an approved list of contractors. It is estimated that approximately £1 million of spend goes to external contractors per year.

The changes in procurement by setting up a Dynamic Purchasing System (DPS) should not increase costs to DMBC. There will be no increase in volume of work being procured externally as PBM will still be the initial preference, and increased competition should drive value for money throughout these contracts.

Name: Ella Postill Signature: E Postill/FM-AHWB Date: 11/08/17

Signature of Assistant Director of Finance & Performance (or representative)

Box 7

HUMAN RESOURCE IMPLICATIONS:

There are no apparent HR Implications associated with this particular ODR

Name: Bill Thompson Senior HR & OD Officer _____ Signature: Bill Thompson _

Date: __11/08/2017_____

Signature on behalf of Assistant Director Human Resources, Communications & Executive Office (or representative)

Box 8**PROCUREMENT IMPLICATIONS:**

The current procurement methodology for the aggregated value of these works contracts is non-compliant with internal governance processes, namely the CPR's and EU legislative requirements.

The DPS is a recognised methodology for awarding these types of works, and appropriate for this contract due to the value exceeding the OJEU works threshold. The flexibility to join the framework throughout the contract period keeps the market buoyant and encourages new entrants whilst driving value.

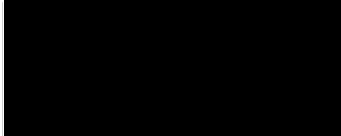
It is essential that the 2 stage process is adhered to as this protects the Council from risk as essential due diligence is completed at stage 1.

The NEC3 is a nationally recognised construction relation activity standard contract form that will fulfil the needs of the contract requirements and protect all stakeholders. The Procurement Team is working closely with the Housing Adaptations team to deliver this project.

Name: **Holly Wilson** Signature:  Date: **_07/08/2017_**
Signature of Assistant Director of Finance & Performance
(or representative)

Box 9**ICT IMPLICATIONS:**

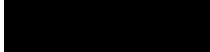
There are no ICT implications associated with this decision. If any technical or software requirements arise from implementation of this decision then a Business Case must be submitted to the ICT Governance Board for approval in respect of data and network security.

Name: **Dan Parry** Signature:  Date: **10.08.2017**
Signature of Assistant Director of Customer Services and ICT
(or representative)

Box 10**ASSET IMPLICATIONS:**

There are no implications arising from the recommendations of this report that impact on the use of DMBC assets beyond the adaptation of some Council owned properties to maximise their use.

Name: **David Stimpson, Property Manager**

Signature:  Date: **10.08.2017**
Property Manager – on behalf of Assistant Director of Trading Services and Assets

Box 11**RISK IMPLICATIONS:****To be completed by the report author**

A recent audit report identified a risk that procurement arrangements may not achieve value for money. Therefore a recommendation was for a review of the approved contractor list.

If no procurement exercise is undertaken there is a risk of challenge from the market.

(Explain the impact of not taking this decision and in the case of capital schemes, any risks associated with the delivery of the project)

Box 12**EQUALITY IMPLICATIONS:****To be completed by the report author**

Equality is considered at Stage 1 of the DPS and assessed. Any contractor that does not meet and/or adhere to this standard will be given access onto the DPS and not work for the Council.

**Name: _Holly Wilson_ Signature: _by email___ Date: _07/08/2017_
(Report author)**

Box 13**CONSULTATION****Officers**

(In addition to Finance, Legal and Human Resource implications and Procurement implications where necessary, please list below any other teams consulted on this decision, together with their comments)

Members

Under the Scheme of delegation, officers are responsible for day to day operational matters as well as implementing decisions that have been taken by Council, Cabinet, Committee or individual Cabinet members. Further consultation with Members is not ordinarily required. However, where an ODR relates to a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate Cabinet Member before exercising the delegated powers. In appropriate cases, officers will also need to consult with the Chair of Council, Committee Chairs or the Chair of an Overview and Scrutiny Panel as required. Officers shall also ensure that local Members are kept informed of matters affecting their Wards.

Please list any comments from Members below:

Box 14

INFORMATION NOT FOR PUBLICATION:

In accordance with the Freedom of Information Act 2000, it is in the Public's interests for this decision to be published in full, redacting only the signatures.

**Name: Gillian Parker_ Signature: _by email__ Date: _15/08/2017_
Signature of FOI Lead Officer for service area where ODR originates**

Box 15

Signed: _____  _____ Date: 31.8.17
Director of People, Damian Allen

Signed: _____ Date: _____
Additional Signature of Chief Financial Officer or nominated representative for Capital decisions.

Signed: _____ Date: _____
Signature of Mayor or relevant Cabinet Member consulted on the above decision (if required).

- This decision can be implemented immediately unless it relates to a Capital Scheme that requires the approval of Cabinet. All Cabinet decisions are subject to call in.
- A record of this decision should be kept by the relevant Director's PA for accountability and published on the Council's website.
- A copy of this decision should be sent to the originating Directorate's FOI Lead Officer to consider 'information not for publication' prior to being published on the Council's website.
- A PDF copy of the signed decision record should be e-mailed to the LA Democratic Services mailbox