

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 15 June 2016	<b>Meeting Name:</b> Cabinet Member for Environment and the Public Realm
<b>Report title:</b>		Gateway 1 Procurement Strategy Approval Lease Cars	
<b>Ward(s) or groups affected:</b>		N/a	
<b>From:</b>		Strategic Director of Environment and Leisure	

### RECOMMENDATION (S)

1. That the cabinet member for environment and the public realm approves the procurement strategy outlined in this report for the provision of lease cars for eligible staff through the use of a third party framework agreement for a period of three years from 28 July 2016 up to a value of £3.4m.

### BACKGROUND INFORMATION

2. The existing contract for the provision of lease cars commenced on 1 April 2012 and expired on 31 March 2016. This is a framework agreement where call-off contracts are awarded to three different suppliers that provide quotes for each vehicle required.
3. There are currently around 345 cars leased to council staff. The actual number of lease cars varies depending on the take up of leases by eligible staff. Table 1 below provides details of the number of lease cars broken down by Directorate on 1<sup>st</sup> January 2016.

**Table 1 – Number of cars leased to staff broken down by Directorate**

<b>Directorate</b>	<b>Number of lease cars</b>
Chief Executive's Department	11
Children's and Adults'	183
Environment & Leisure	95
Finance & Governance	8
Housing and Modernisation	48
<b>Total</b>	<b>345</b>

4. Eligibility to lease cars is currently based on the criteria set out below:
  - Employees who qualify for an essential car user allowance
  - Employees who were in a JNC post before 1st April 2007 and since that date have been continuously employed at JNC level by the Council. JNC posts are those graded 14 and above.
  - Employees who meet specific criteria to receive essential user car status based on a "Hard to fill" role (set at essential user rate)
  - Employees who are "disabled" under the definitions of the Equality Act and meet specific criteria to receive essential user car status (set at essential user rate).

5. Table 2 below sets out the take up of lease cars by staff according to their grade.

**Table 2 – Number of cars leased to staff broken down by grade**

<b>Grade</b>	<b>Number of employees</b>
1 to 8	27
9 to 12	275
JNC level	43
<b>Total</b>	<b>345</b>

6. This report is concerned with setting up arrangements for provision of lease cars to staff who are eligible. A separate piece of work is currently under way to review staff lease car eligibility criteria. It is anticipated that this review will result in a more closely defined set of eligibility criteria, which in turn will lead to a reduced number of staff lease cars.

### **Summary of the business case/justification for the procurement**

7. The council currently operates terms of employment that make lease cars available to staff according to the eligibility criteria set out in paragraph 4 above. Whilst it is anticipated that these eligibility criteria will change, this procurement is required to facilitate the provision of lease cars to staff who are both currently eligible and those that will still be eligible following the review.

### **Market considerations**

8. The UK fleet supply chain is very large, well developed and highly competitive. There are around ten major companies able to provide a wide range of different makes/models through lease arrangements.
9. It is unlikely that any local small and medium sized enterprises (SMEs) would have the capacity to compete. However, suppliers to the council may engage local fleet dealerships to supply the vehicles and to undertake servicing and maintenance due to their proximity.

### **KEY ISSUES FOR CONSIDERATION**

#### **Options for procurement route including procurement approach**

10. The option to do nothing is not viable as the council needs to be able to procure leased cars for staff based on the current eligibility criteria set out in paragraph 4 above or any amended eligibility criteria that may be approved in due course.
11. The council could undergo an OJEU procurement exercise and set up its own bespoke framework agreement similar to the last. Alternatively, there are a number of third party framework agreements and the council could use one of these for the supply of cars through lease arrangements. Tables 3a and 3b below set out the characteristics and relative merits of bespoke and third party framework agreements.

**Tables 3a and 3b: Characteristics and relative merits of using bespoke and third party framework agreements for lease car procurement**

**Table 3a – Bespoke Framework Agreements**

<b>Pros</b>	<b>Cons</b>
<p>Can be written to reflect the council’s preferred terms and conditions, day to day maintenance arrangements and key performance indicators.</p>	<p>Requires EU-compliant procurement process which is lengthy and resource intensive.</p> <p>Purchasing power and competition within a bespoke contract could be limited, which may lead to less competitive prices.</p> <p>Due to the anticipated changes to eligibility criteria, the number of staff lease cars is likely to reduce in future. A full OJEU process would be less justified.</p>

**Table 3b – Third Party Framework agreements**

<b>Pros</b>	<b>Cons</b>
<p>Have already been through EU compliant procurement process, so no contract procurement process required of the council. This will minimise the resource dedicated to the procurement process and allow new vehicles to be procured more quickly.</p> <p>Purchasing power within third party framework agreements is greater which should ensure quotes for vehicles are competitive.</p>	<p>Third party frameworks have standard terms and conditions and key performance indicators. In inviting quotes through the third party framework agreements the council can set out any specific terms and conditions required to meet contract standing orders, although there is a risk that some suppliers may not accept these which could reduce the number of competitive quotes received.</p>

12. Based on the analysis of the two main procurement options, the use of a third party framework agreement offers the most benefits around value for money due to the level of competition and the efficiency of the procurement process. Therefore, it is recommended that the procurement strategy for lease cars for staff is through the use of a single third party framework agreement.

## Existing Public Sector Third Party Framework Agreements

13. The following existing third party frameworks for lease and contract hire of cars have been identified:

Name	Period	Types of vehicles	Other details
Crown Commercial Service RM3710	Three years to May 2018	Cars (also covers light and heavy commercial vehicles)	By lease 12 suppliers of cars
Halton Housing Trust (in partnership with Capita Asset Services)	Four years to November 2016	Cars (also covers light commercial vehicles under 7.5 tonnes)	By contract hire 6 suppliers of cars
Yorkshire Purchasing Organisation (367)	Four years to December 2017	Cars (also covers light commercial vehicles under 7.5 tonne)	By contract hire 7 suppliers of cars

14. The Crown Commercial Services and Yorkshire Purchasing Organisation frameworks are managed in-house by those organisations. The Halton Housing Trust framework is managed on their behalf by Capita Asset Services as part of The Procurement Partnership Ltd. Table 4 below provides an overview of third party frameworks for lease cars.

**Table 4 – Overview of third party frameworks for procurement of cars**

	CCS	HHT	YPO 367
OJEU compliant procurement procedure	✓	✓	✓
Ability to adjust standard framework T&Cs	✓	✓	✓
Lease contract	Single framework master lease	Individual supplier leases	Individual supplier leases
Ability to use council's standard evaluation methodology for mini-tenders	✓	✓	✓
Early termination cost	Fixed	Fixed	Variable
Return condition charges	Variable, waiver on first £150	Variable, waiver on first £250	Variable

15. All of the frameworks were procured using procedures compliant with OJEU requirements. The tender processes used, the evaluation methodologies and outcomes have been reviewed. This review has determined that a robust tender and evaluation process was followed. OJEU details for each framework are shown in Appendix A.

16. Each framework agreement has a set of terms & conditions that is primarily used to manage the relationship between the framework host and the selected suppliers. The terms and conditions of the HHT framework also include reference to some specific aspects of the day to day operation of vehicles, whereas the CCS framework terms and conditions do not include these aspects – rather they are embedded in the master lease contract instead.
17. Public bodies using framework agreements to procure fleet must enter into lease contracts directly with suppliers. For the HHT and YPO 367 frameworks lease contracts are provided by the suppliers. For the CCS framework there is a single master lease contract for all suppliers which are an advantage as it would make lease contract management simpler. In all cases the lease contract contains the main aspects of the relationship between the hirer and the supplier including charges and vehicle supply and maintenance arrangements.
18. The framework agreement terms & conditions and lease contracts have been examined and some of the clauses do not align completely with the council's standard contract terms and conditions. Therefore, it may be necessary to make amendments or additions to framework terms & conditions and/or supplier lease contracts so that they do meet the council's requirements. All framework hosts have advised that, within reason, amendments or additions can be made to framework terms and conditions, and also that amendments to lease contracts would need to be agreed directly between the council and the supplier.
19. As part of the OJEU tender processes framework hosts evaluated the bids received using cost and quality criteria. The weighting attached to these criteria varied between the frameworks. Mini-tenders under the frameworks are required to use the same evaluation criteria as the original OJEU tender process, but the weightings can be adjusted. This means that the council would be able to apply the standard contract evaluation criteria and weighting taking into account cost and quality based on a ratio of 70:30 for any of the three frameworks.
20. From time to time the council may need to terminate a lease contract prior to the original lease contract end date and in such cases there is a potential cost for doing so. The CCS and HHT frameworks both include fixed early termination matrices based on the principle that the earlier a vehicle is returned the higher the return cost – the CCS matrix is slightly better than the HHT matrix. The YPO 367 framework does not contain fixed early termination costs. Instead a cost calculation would be made by the supplier at the point of early termination and this would be passed to the framework user, so this is a potential risk area for the ESPO and YPO 367 frameworks. Over the last three years a total of 180 lease cars have been returned early. Early termination costs were paid for as follows:
- Driver - 166
  - Business unit - 66
  - Shared between driver and business unit - 3
  - Early termination with nil cost - 6
21. Vehicle return condition charges are an area of risk for lease contracts. It is impossible to know at the start of a lease contract what the condition of the vehicle will be when the contract expires and it is returned – and therefore what the vehicle return condition charge will be. The CCS and YPO 367 frameworks

make reference to the charge being calculated based on either the cost of repair and replacement or the cost of rectification of defects, although the CCS framework does offer a waiver on the first £150 of cost. The vehicle return condition charges could be costly if there are several repair and replacements or defects. The HHT framework provides a level of protection against this risk by linking the vehicle return condition to its overall value and providing an in-built £250 return condition waiver. This means that vehicle return condition charges would be lower under the HHT framework.

22. Other framework details that have been reviewed and specific features have been identified as follows:

- Tyre policy – all frameworks provide fair wear and tear tyre replacement. The HHT framework also provides tyre replacement without charge if it is due to irreparable damage caused by the driver.
- Vehicle excise duty – increases in vehicle excise duty during the term of a lease contract are passed on to framework users. For the HHT framework the first 7.5% of increases is absorbed by the supplier.

#### Identified risks for the procurement and how they will be managed

23. The identified risks for the procurement and how they will be managed are set out in the Table 4 below.

**Table 4: Risks for fleet procurement**

	Risk	Risk level	Mitigation
1	Risk that vehicles will have to be returned before full lease term has expired due to unforeseen circumstances.	Low to medium	Where the reason for early return is due to a request or fault of the member of staff using the vehicle, the early return cost is borne by them.  Where the reason for early return is not through the fault of the member of staff using the vehicle, the early return cost is borne by the council.  Cost of early return can be part of the evaluation of frameworks.
2	Third party framework agreements currently available will expire over time.	High	The fleet framework agreement market is well-established. Where framework agreements have expired recently, the relevant framework hosts have procured new framework agreements that are similar in nature. Based on information provided by framework hosts this will continue to be the case. This will ensure there is continuity of supply.

#### Key/Non Key decisions

24. This report deals with a non-key decision.

## Policy implications

25. Arrangements for the procurement of lease cars are required to facilitate the provision of vehicles to staff who meet the eligibility criteria. Leased cars are provided primarily to staff who are essential users so that they can carry out their duties as efficiently as possible, to allow equipment to be carried and in case of the need for site attendance at short notice or at unsocial times of day. They are also provided as an optional recruitment and retention initiative for hard to fill roles and to senior managers (JNC) who were in receipt of a lease car in 2007. The Council makes a fixed financial contribution to the cost of the car based on the grade of the member of staff and the employee pays for all remaining costs, except the cost of insurance repairs. The criteria for eligibility to lease cars as set out above are subject to a separate piece of work but the council will still need the ability to procure lease cars in the future.
26. The council is able to encourage the use of greener cars by setting a maximum level for CO2 emissions from lease cars. Regular servicing of new lease cars ensures that pollution is minimised. These measures take account of the Mayor of London's Air Quality Strategy and the council's own air quality plan. The council has a strong track record of promoting green fleet which aims to minimise the environmental impact of all vehicles used for council business.
27. Procurement of lease cars must take into account the new Ultra Low Emission Zone (ULEZ) covering the congestion charge zone which is due to be introduced in September 2020.

## Procurement project plan

Activity	Date completed
Forward Plan (if Strategic Procurement)	03/03/16
Determine that framework agreements are and will continue to be available to procure lease cars for staff for the proposed three year period.	01/04/16
Review the OJEU details and tender processes used to procure framework agreements to ensure they were compliant and fit for purpose.	01/04/16
Examination of framework terms and conditions and lease contract details.	01/04/16
DCRB/CCRB Review Gateway 1: Procurement Strategy Approval DCRB CCRB	20/04/16 28/04/16
<b>Gateway 1:</b> Procurement strategy for approval report (this report)	17/06/16
Council evaluation and comparison of third party framework agreements	20/06/16

Activity	Date completed
Selection of a single preferred third party framework agreement	20/06/16
DCRB/CCRB Review Gateway 2: Procurement Strategy Approval - Framework selection DCRB CCRB	29/06/16 07/07/16
Notification of forthcoming decision	29/04/16
<b>Gateway 2:</b> Third party framework selection and recommendations for purchasing option	19/07/16
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	27/07/16
Start date of council buy-in to the selected framework agreement.	28/07/16
Contract completion	Individual leases will be completed during the period 28/07/16 to 27/07/19 following provision of quotes within framework agreement

### **TUPE/Pension Implications**

28. There are no TUPE/Pension implications.

### **Development of the tender documentation**

29. As the proposal is to use framework agreements that have already been through an OJEU procurement process, the council does not need to develop new tender documentation. The tender processes used to establish the framework agreements referred to in paragraph 14 above have been reviewed and were found to be fit for purpose and in keeping with OJEU requirements. (See also Legal Implications section of this report below.)

### **Advertising the contract**

30. As the proposal is to use framework agreements, no advertising is needed.



## **Evaluation**

31. Evaluation of the overall suitability of suppliers to provide fleet to public organisations has already been undertaken by the hosts of the third party framework agreements referred to in paragraph 14 above as part of the OJEU procurement process. The evaluation processes that were undertaken to establish the third party framework agreements have been reviewed to ensure they were in close alignment with the council's own evaluation process and criteria in determining the selection of suppliers.
32. As part of the Gateway 2 process the standard framework terms and conditions, master lease details, additional charge schedules and any other appropriate framework agreement details will be reviewed to ensure they are fit for purpose, meet the council's requirements and do not place undue burdens on users of the staff lease cars supplied. Based on this evaluation the third party framework that offers the most advantages to the council will be selected to be used by the council.

## **Community impact statement**

33. The proposals in this report relate to the provision of lease cars for staff and do not impact on service design, outcomes or access. Therefore, there is no community impact arising from this report.

## **Sustainability considerations**

34. The use of third party framework agreements will provide the opportunity for the full range of fuel efficient, alternative fuel and hybrid lease cars to be procured. The number of these types of vehicles that are procured is dependent upon the preferences of staff who will use them. The main tool for encouraging the use of these types of lease cars is the CO2 emissions limit.
35. The current maximum level for CO2 emissions for staff lease cars is 130 grams per kilometre. The potential for introducing a lower maximum level for CO2 emissions will be investigated and included within the Gateway 2 report to follow. This investigation will include consideration of whether staff cars should also meet the requirements of the ULEZ from September 2020, whether or not they are used in the congestion charge zone.

## **Economic considerations**

36. It is not likely that local small and medium sized enterprises have the capacity to bid successfully for inclusion in fleet framework agreements. However, the suppliers used by the council under the framework arrangements are likely to use local dealerships to supply vehicles and use local motor trade networks for servicing and maintenance.

## **Social considerations**

37. There are no specific social considerations. The London living wage is not applicable due to the supply nature of this contract.

38. The use of frameworks will be in due regard to section 149 of the Equality Act 2010 under which the council has a duty to have due regard in its decision making processes to the need to;
- Eliminate discrimination, harassment, victimisation or other prohibited conduct;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
  - Foster good relations between those who share a relevant characteristic and those that do not share it.
39. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Public Sector Equalities Duty also applies to marriage and civil partnership. There are no equality implications associated with this procurement.
40. The council will ensure that any arrangement it enters into is flexible enough to enable it to meet requirements relating to wider road safety issues, for example those of the London Cycling Campaign's "Safer Lorries, Safer Cycling" pledge.
41. All vehicles procured under these arrangements will meet the requirements of the Fleet Operators Recognition Scheme, Gold Accreditation standard.

#### **Environmental considerations**

42. The council has a strong track record of introducing green fleet policies and outcomes based on both economic and environmental business cases. These are focussed on minimising the environmental impact of all its fleet vehicles through setting objectives which reduce local emissions and take into account the global effects of its transport fleet. Any contractual arrangements will need to enable to council to continue to meet these objectives.

#### **Plans for the monitoring and management of the contract**

43. The provision of vehicles through the framework agreement will be monitored and managed by the Fleet Services Team. Performance of providers will be closely monitored through agreed KPIs and reviewed regularly. Resolution of any routine issues with vehicles will be via telephone and e-mail contact. Where any significant issues arise with the supply, delivery or operation of vehicles, the council would seek to resolve these in the same way or if necessary by meeting directly with suppliers. For any issues that cannot be resolved through these arrangements remedies would be sought through the provisions set out within the lease contract and if necessary by liaising with the framework host. Regular feedback will also be sought from the end users to maintain a level of understanding of customer satisfaction.

#### **Staffing/procurement implications**

44. There is potential for the use of framework contracts to reduce the level of administration required for obtaining quotes for individual vehicles. This is because some frameworks operate on-line quotation portals that are quick and simple to use. Therefore, it is expected that procurement through the use of a framework can be managed within existing staffing levels.

## Financial implications

45. Based on the nature and size of the current leased car fleet, the anticipated level of expenditure against framework agreements under the proposed procurement arrangements will be around £3.4m over three years. Note that there is no obligation for the council to procure any particular number and type of vehicles under these arrangements.
46. The current funding is spread across the various departments as follows:
- Chief Executive's - £41k
  - Children's & Adults - £639k
  - Environment & Leisure - £305k
  - Finance & Governance - £28k
  - Housing & Modernisation - £198k
47. Assuming the level of requirements remains stable no additional funding will be required to meet the cost of the new contract. The primary budget will be managed by the in-house Fleet Services Team with costs recharged to individual drivers and business unit cost codes.
48. In order to ensure that the charges for staff lease cars procured through the use of a framework agreement are appropriately accounted for, it will be necessary to make a determination as to whether leases are classified as finance leases or operating leases. The information required to make this determination will be requested from suppliers and the necessary accounting adjustments will be made in the annual statement of accounts.
49. In addition to the cost of lease car contracts, the council provides insurance arrangements for lease cars. In 2014/15 the cost of insurance arrangements was £459k. The breakdown of these costs is shown in Table 5 below.

**Table 5: Lease car Insurance Costs**

<b>Item</b>	<b>Cost (£,000)</b>
Policy	31
Claims handling	18
Own repair costs	273
Third party costs	137
<b>Total</b>	<b>459</b>

50. There is currently an excess of £100 on insurance claims for lease cars where the driver is at fault. There is potential for savings to be made on insurance repair costs by placing limits on the insurance groups allowed for lease cars. Lower insurance groups are typically cheaper to repair so future insurance costs can be reduced. This will be investigated and included in the Gateway 2 report to follow.

## Legal implications

51. Please see concurrent from Director of Law and Democracy,

## **Consultation**

52. The following groups will be consulted as part of the evaluation of the frameworks:
- other authorities using the frameworks
  - providers of frameworks

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

53. This report is seeking IDM approval of the procurement strategy for provision of lease cars through the use of a third party framework.
54. The report identifies that alternative procurement routes have been considered. The pros and cons of both a bespoke agreement for Southwark Council and an established third party framework have been set out. The conclusion from this evaluation is that the use of a third party framework is the preferable option.
55. Three frameworks have been identified as being available to the council for use and an overview of each of these has been provided. Each of the frameworks has been set up in line with EU Regulation requirements. The report notes an evaluation of each framework will be undertaken to review the essential details of each and identify which offers the most advantages to the council.

### **Director of Law and Democracy**

56. This report seeks approval of the procurement strategy for the provision of lease cars for eligible council staff.
57. The nature of the contract and the estimated value of the expenditure are such that the procurement process will be subject to the application of the Public Contracts Regulations 2015 ("the EU Regs"). Paragraphs 10 to 23 of this report detail an analysis of the various procurement options available to the council, including the preferred option to use existing frameworks which are managed by third party organisations and which have been established following an EU compliant procurement process.
58. Paragraphs 19 and 20 advise that there will be some scope for the council to adjust the terms and conditions of those third party framework agreements in order to accommodate some local requirements and also to amend the weightings attached to the cost and quality evaluation criteria when carrying out mini-competitions under the frameworks. Officers should seek advice from the director of law and democracy (corporate team) in relation to any changes which may be required.
59. The use of a third party framework is also consistent with the requirements of the council's Contract Standing Orders ("CSOs"). For a contract of the nature and estimated value described in this report CSOs provide that the decision to approve the report recommendation is one which is reserved to the cabinet member.

## Strategic Director of Finance and Governance (EL16/004)

60. This report is seeking approval from the Cabinet Member for Environment and the Public Realm to agree the procurement strategy outlined in this report for the provision of lease cars for eligible staff through the use of a third party framework agreement for a period of three years from 28th July 2016 up to an estimated value of £3.4m.
61. It is noted that that there is no obligation on the council to procure any particular and type of vehicles and there is no minimum contract value.
62. It is also noted that that costs of the lease cars will be recharged to individual drivers and existing budgets within business units.
63. The Strategic Director of Finance and Governance notes that the options to reduce the insurance costs borne by the council will be explored as part of the Gateway 2 process.
64. Staffing and any other costs connected with this recommendation to be contained within existing departmental revenue budgets.

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
<p>Headline information about the framework agreements referred to in this report can be found on the relevant web-sites using the following links:</p> <p><a href="http://ccs-agreements.cabinetoffice.gov.uk/contracts/rm3710">http://ccs-agreements.cabinetoffice.gov.uk/contracts/rm3710</a></p> <p><a href="http://www.tppl.co.uk/">http://www.tppl.co.uk/</a></p> <p><a href="http://www.ypo.co.uk/contract/detail/900155">http://www.ypo.co.uk/contract/detail/900155</a></p> <p>For more detailed information about individual framework agreements contracts please contact the named officer.</p>	<p>Environment and Leisure, Waste and Transport Service, Integrated Waste Management Facility, Devon Street SE15 1AL</p>	<p>Michael McNicholas 020 75253449</p>

## APPENDICES

No	Title
Appendix A	Fleet Framework Agreements OJEU Details

## AUDIT TRAIL

<b>Lead Officer</b>	Deborah Collins – Strategic Director of Environment and Leisure	
<b>Report Author</b>	Michael McNicholas – Head of Waste and Cleaning	
<b>Version</b>	Final	
<b>Dated</b>	13 June 2016	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Head of Specialist Housing Services	No	No
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>		
<b>Date final report sent to Constitutional/Community Council/Scrutiny Team</b>	14 June 2016	