

Audit & Risk Committee Report

PROCUREMENT PLAN 2019/20

Date: 6 March 2019

Lead director: Kamal Adatia



City Mayor

Useful information

- Ward(s) affected: **All**
- Report author: **Neil Bayliss**
- Author contact details: **Tel: 37 4021 Email: neil.bayliss@leicester.gov.uk**
- Report version number: **004**
- Date of report: **6 March 2019**

1. Summary

- 1.1 The Council's Contract Procedure Rules require Executive approval of a Procurement Plan – a list of forthcoming procurement activity above EU thresholds anticipated to be advertised in the coming year. This requirement aligns with the government's requirements of local authorities under the Transparency agenda.
- 1.2 Inclusion of a contract in the Plan does not necessarily mean that the procurement will go ahead. As with all expenditure, anticipated contracts will be subject to ongoing challenge as to whether they are required, and whether/how they should be procured. This review process may impact on the anticipated value and/or duration of contract.
- 1.3 The purpose of this report is to obtain approval to the 2019/20 Procurement Plan and to inform the Executive of the potential up and coming major procurement activity across the Council, which includes renewal of existing contracts for ongoing requirements (e.g. maintenance and service provision contracts) and one-off major capital projects.

2. Recommendations

- 2.1 The Committee is recommended to:
 - i) Note the attached Procurement Plan and delegate the letting of contracts to Divisional Directors in consultation with the Head of Procurement and City Barrister;
 - ii) Note the summary of waiver and extension activity in the current financial year to date as required by Rule 19.2 of the Contract Procedure Rules.

3. Supporting information

Procurement Plan

3.1 The Procurement Plan serves two principal purposes:

- a) To inform potential suppliers of major future market activity, including meeting the statutory requirement to publish planned procurement over the EU thresholds; and
- b) To provide the Executive and other readers with an overview of significant procurement activity and to enable links and efficiencies to be achieved.

3.2 The Plan is based on information from Directors/Heads of Service and from reviewing the database of existing contracts approaching expiry. Entry on the Plan does not guarantee that procurement will happen, and the actual costs may vary from the estimates.

3.3 Timely processing and approval of the Plan ensures better procurement planning and allows the market to consider upcoming opportunities, in line with the transparency agenda.

3.4 The scope of the Plan can be affected by major reviews across the Council, leading to the extension of existing contracts and uncertainty for including future procurements, with less procurement activity than might usually be expected. It will also be noted that the procurement approach and timing, contract term and values are still to be determined for some procurements, whilst review work takes place.

3.5 As required by the Contract Procedure Rules, the Plan (attached at Appendix A) includes details of expected procurement processes for contracts valued at over the relevant EU threshold. These thresholds were updated in December 2017 to come into force on 1 January 2018 for the next two years:

- Social & Other Specific Services £615,278
- All Other Goods & Services £181,302
- Works £4,551,413

3.6 Entries on 2018/19 Procurement Plan have not been included again on the 2019/20 Plan if they have already been advertised/commenced in 2018/19.

3.7 The Contract Procedure Rules also require a "Procurement Pipeline" to be produced which includes details of expected procurement processes for Intermediate and Large Contracts (Goods/Services contracts over £10,000 and Works contracts over £25,000 but below the relevant EU threshold). However, this information is subject to change, with new requirements often identified at short notice. This will be published on the Council's website for potential suppliers to gain advance notice of the Council's intentions and to comply with transparency requirements.

- 3.8 The Contract Procedure Rules provide delegated authority to Divisional Directors to award contracts over the EU threshold so long as those contracts are included in the Procurement Plan – Appendix A (even if these contracts are not awarded until after the end of the current financial year). Any other proposed contract award over the EU threshold must be added to the Procurement Plan as set out in Rule 16 of the Contract Procedure Rules (as approved by Full Council in June 2015).

Procurement Strategy

- 3.9 The Council recently adopted a new Social Value Charter following work by the Economic Development, Tourism, and Transport Scrutiny Commission and implementation by the Assistant Mayor (Policy Development) and the Head of Procurement. This constitutes the Council's Procurement Strategy and will be the foundation for the development of clearer performance indicators and targets and which will form the basis for future reporting.

Achieving Social Value and the Living Wage

- 3.10 To accompany the Social Value Charter a new guide has been produced for suppliers and contractors which will be issued as part of procurement processes to direct suppliers as to the type of social value Leicester wants and needs and to make it easy for them to offer this.
- 3.11 The guide introduces the concept of delivery partners – organisations we will be working with to assist our suppliers in creating social value for Leicester and, in particular, targeting it at those most in need. The Delivery Partners, such as the Employment Hub and Leicestershire Cares, will account as a broker between suppliers and the recipients of social value, e.g., local people, voluntary groups, schools etc. In carrying out this role they will be able to record and report back to the Council on the social value that our suppliers actually deliver.
- 3.12 Since the introduction of the Public Services (Social Value) Act in 2013, social value has been incorporated into procurement processes following consideration from procurement and commissioning officers but without any clear strategy or mandate to ensure consistency of approach. Nevertheless, a significant amount of social value has been created, including a number of the case studies included in the guide.
- 3.13 Until now, there has been no collation of social value indicators across the council's contract and procurement activity and the responsibility for ensuring delivery of this has been the responsibility of individual contract managers.
- 3.14 The Council signed up to the Living Wage Foundation's Licence Agreement to become a Living Wage Employer. This means that the Council is implementing the Living Wage into all of its new procurement contracts which meet the criteria agreed with the LWF and will ensure all contracts meeting these criteria become compliant with this commitment by 2020. This commitment is a key element of the Social Value Charter.

3.15 Internal audit has been asked to conduct a review of compliance with this policy to confirm that all qualifying contracts have the appropriate clauses inserted in them when being re-procured.

Contract Procedure Rules

3.16 The current Contract Procedure Rules were approved at Full Council on 18th June 2015. No changes have been made to them since and none are currently proposed. The Head of Procurement has commenced a review of how the new Rules have worked and whether any changes could be beneficial. It is anticipated this will lead to a report in 2019. This will include changes to help the Rules align with the Concession Contracts Regulations 2016 as well as any changes that may support the development of the Council's new finance system. It will also allow them to be updated to reflect any legislative changes following the UK's departure from the EU.

Waivers

3.17 The Contract Procedure Rules require the Head of Procurement to report a summary of waivers of the Rules and some contract extensions to Executive. The tables below show an analysis of the waivers approved during the current and last financial years. This is shown by both department and a broad categorisation of the reason for the waiver.

Reason for Waiver	2017/18		2018/19 (to 31 January 2019)	
	Qty	Value	Qty	Value
Continuity of Provision	16	£1,008,973	35	£2,199,709
Limited Supply Market	18	£388,559	12	£737,281
Urgency	11	£767,972	34	£1,877,124
Other	13	£416,101	10	£6,674,000
	58	£2,581,605	91	£11,488,114

Department	2017/18		2018/19 (to 31 January 2019)	
	Qty	Value	Qty	Value
Adult Social Care (ASC)	5	£100,240	7	£513,040
City Development & Neighbourhoods (CDN)	32	£1,122,384	55	£7,232,969
Corporate Resources & Support (CRS)	17	£1,172,731	18	£371,424
Education & Children's Services (ECS)	2	£177,500	5	£167,700
Public Health (PH)	2	£8,750	6	£3,202,981
	58	£2,581,605	91	£11,488,114

Contract Extensions

3.18 The Contract Procedure Rules also require reporting of contract extensions of Large and EU Contracts made where there wasn't provision for this in the original contract. The table below sets out such extensions approved during the current and last financial years. (Note: Contract values given below include the full contract value from the original start date to the end of the extension period.)

	2017/18				2018/19 (to 31 January 2019)			
	Large		EU		Large		EU	
Department	Qty	Value	Qty	Value	Qty	Value	Qty	Value
ASC	1	£184,800	3	£100,392,652	0	£0	0	£0
CDN	8	£10,159,883	7	£16,225,589	8	£6,711,942	2	£683,555
CRS	1	£160,743	2	£469,511	2	£389,363	2	£11,000,200
ECS	1	£135,000	2	£1,157,586	0	£0	0	£0
PH	1	£750,000	0	£0	0	£0	0	£0
	12	£11,390,426	14	£118,245,337	10	£7,101,305	4	£11,683,755

4. Details of Scrutiny

- 4.1 As required by the Contract Procedure Rules, the Procurement Plan will be reported to the Audit & Risk Committee on 6 March 2019. Scrutiny Committees are invited to use the Procurement Plan to identify any entries they wish to review at Scrutiny.

5. Financial, legal and other implications

Financial implications

- 5.1 Inclusion of contracting activity on the attached Plan is a statement of intent and is subject to the necessary funding being available. The Plan provides a basis for challenge and a more strategic approach to achieving value for money through major procurement activity.

Colin Sharpe
Head of Finance
Ext 37 4081

Legal implications

- 5.2 The Contract Procedure Rules form part of the Constitution of the Council therefore this report satisfies the Constitution requirements in relation to reporting and procurement procedures.
- 5.3 Each procurement process will need to follow due process in accordance with internal and legislative requirements, with advice from Procurement Services and Legal Services.

Emma Jackman
Head of Law (Commercial, Property & Planning)
Ext 37 1426

Climate Change and Carbon Reduction implications

- 5.4 The provisions of the council's Social Value Charter and sustainable procurement guidelines should be applied to procurement activities to ensure that procurement decisions support the achievement of the council's climate change related targets.

Aidan Davis
Sustainability Officer
Ext 37 2284

Equality Impact Assessment

- 5.5 Under the Equality Act 2010, public authorities have a continuing Public Sector Equality Duty (PSED) which means that, in carrying out their activities (including decision making and procurement), they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.
- 5.6 Protected characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 5.7 There are no equalities implications arising directly from the recommendations of the report. The plan is a high-level statement of intent and, at this stage, it is not possible to undertake meaningful assessment of the equalities implications, however the implications of individual procurements will need to be considered in more detail at an early stage of each process where appropriate. The introduction of a Social Value Charter and Guide is likely to contribute to positive equalities outcomes for people across a range of protected characteristics.

Hannah Watkins
Equalities Manager
Ext. 37 5811

Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

- 5.6 Procurement is used to drive wider social value, i.e. to bring about improvements in economic, social and environmental well-being.

6. Background information and other papers:

- 6.1 None.

7. Summary of appendices:

- 7.1 Appendix A – Procurement Plan 2019/20.

8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

8.1 No.

9. Is this a “key decision”?

9.1 No.