

Finance and Resources Committee

2.00pm, Wednesday, 13 May 2015

Council Contracts - Planning Update

Item number	7.12
Report number	
Executive/routine	
Wards	All

Executive summary

This report updates the Finance and Resources Committee on current activities with regard to renewal of contracts, both involving Commercial and Procurement Services and more widely across the Council.

The report also outlines the processes by which contracts are controlled and supporting engagement activities that are underway to ensure continuous improvement, proactive planning and compliance with the Council's Contract Standing Orders and wider legal obligations.

The Committee is asked to note the contents of this report and that a further report will be brought to the Committee in six months to update on progress.

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Council Contracts - Planning Update

Recommendations

- 1.1 The Finance and Resources Committee is asked to note the contents of this report and that a further report will be brought to the Committee in six months to update on progress.

Background

- 2.1 The Finance and Resources Committee on 15 January 2015 took a decision:
“To request a report detailing management information for contracts and the process by which they were controlled was brought to the Finance and Resources Committee in May 2015.”
- 2.2 The Council currently has 615 live contracts on the Contract Register for a diverse array of goods, works and services, from stationery to complex personal care requirements. This report sets out how contract activities are organised across the Council, outlining current controls in place to promote compliance with the Contract Standing Orders (CSOs) and wider legal obligations.
- 2.3 In the past two years there has been significant improvement in how commercial and procurement activities are carried out across the Council, as outlined in the recent update reports regarding the Commercial Excellence Programme and evidenced by the annual external Procurement Capability Assessment carried out by Scotland Excel. In particular, management information about existing contracts has much improved through liaison with services to update the Council’s Contract Register, as also reported to February’s Finance and Resources Committee.
- 2.4 However, there are areas where management information and the planning of the procurement and renewal of contracts could still be improved. Ongoing and proposed activities to support services in embedding a proactive approach to contract planning are outlined in this report.

Main report

Council contract activities

- 3.1 Commercial and Procurement Services (CPS), provide advice and support to customers to enable them to meet the Council’s purchasing and other commercial requirements. CPS carries out tendering procedures and also

monitors and challenges planned purchasing activity to ensure it is both effective and compliant, whilst also playing a crucial role in helping the Council to achieve its budgeted savings targets.

- 3.2 As well as the CPS unit, there are also currently dedicated commissioning teams within Children and Families, Health and Social Care and Services for Communities. These teams undertake varying procurement and contract management activities alongside their commissioning duties. CPS is engaging with these commissioning teams to help ensure consistency and closer alignment across the breadth of the Council's commercial and procurement activities.
- 3.3 A significant number of Council posts across all service areas include a requirement to undertake procurement and supplier management activities, particularly with regard to lower value contracts, in line with the financial thresholds outlined in the CSOs. CPS offers advice and training to support these activities.
- 3.4 A project has been initiated to improve and regulate the Council's approach to contract and supplier management across the whole life span of a contract (see 3.26 below).

Current controls

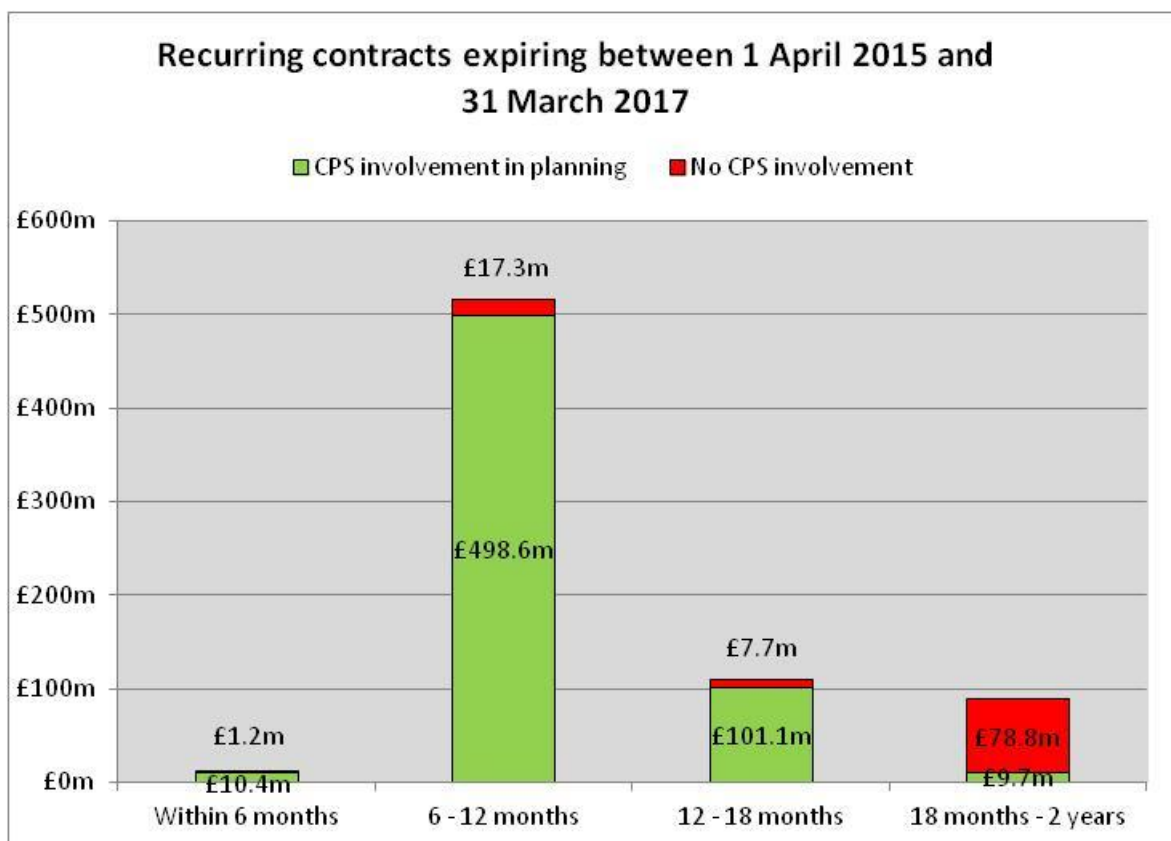
- 3.5 Council contracts are regulated by European and national legislation which is implemented through the Council's Contract Standing Orders (CSOs). The CSOs are supported by controls and tools that include the Contract Register, a waiver process, Procure to Pay (P2P) process and the Procurement Handbook.
- 3.6 The Council's Contract Register is available on the Orb intranet for all staff, and is updated every two weeks. Services are responsible for ensuring information regarding their contracts is up to date and are responsible for reviewing the Register for planning purposes, supported by CPS staff.
- 3.7 For spend over £3,000, the CSOs mandate that services must undertake a competitive process (usually by obtaining at least three quotes) before placing an order. The Council's P2P process is aligned to this requirement and evidence must be submitted that this has been carried out before an order may be approved with a non-contracted supplier.
- 3.8 The relevant contract and procurement procedures and controls are further outlined in the Council's Procurement Handbook, also available to all staff on the Orb. This guide sets out the processes from the initial planning stages involving market intelligence and stakeholder engagement, to the setting up of the successful supplier on Oracle or feeder system and the development of a contract management framework.
- 3.9 The CSO requirements can be waived in certain specified circumstances. The decision to do so is supported by a written waiver or Committee report that sets out the justification. There will always be circumstances when waivers are

appropriate, for example, where there is only one possible supplier of the service or goods. There is a robust approval process in place for approval of waivers by Head of Service, Director or Committee depending on the relevant value.

- 3.10 As detailed in previous reports to this Committee, the trend towards full compliance with the CSOs has required an increase in temporary waivers in the short term to allow compliant contractual arrangements to be put in place. However, there are instances that waivers may be attributable to poor planning, and CPS is working with services to mitigate these instances.

Expiring Contracts

- 3.11 As noted above in 3.6, the Contract Register acts as a key tool for services to plan their future procurement activities. CPS aims for all contracts above £25,000, where the service requirement continues beyond the contract expiry date, to be built into CPS' contract delivery plans with sufficient time allowed for the required activities to be completed before the current contract expires.
- 3.12 Under new legislation which will be brought in later this year, the Council will require to publish its future procurement requirements so this work will enable the Council to be well prepared for compliance with this obligation.
- 3.13 The chart below summarises the planning position for recurring contracts with an expiry date between 1 April 2015 and 31 March 2017.



- 3.14 In overall terms, contracts with a value of £725m expire in the next two years. Planning is progressing well for contracts expiring in the next eighteen months (to 30 September 2016), with plans in place to cover 96% of the contract value.

Planning for contracts expiring after 30 September 2016 is limited and CPS is reviewing the position with services, prioritising those contracts with the highest value and / or criticality to service delivery.

- 3.15 In addition, a number of recurring contracts on the Contract Register expired late in 2014/15. Services and CPS are reviewing these requirements urgently. This has resulted in both an increase in the number of waivers requested and the removal of a number of contracts from the Contract Register, where managers have identified no current need for the service.
- 3.16 A significant proportion of the overall value of expiring contracts relate to contracts for care and support services. Historically these have not been subject to full competitive tender and have been arranged by service commissioning teams with little CPS involvement. CPS are working with the relevant Services to address this and ensure full compliance with the CSOs and wider legislative requirements, including upcoming changes which will require advertising over a specified threshold for such services.
- 3.17 The CSOs require the Commercial and Procurement Manager to advise on the tendering arrangements for all contracts over £25,000. Compliance with this requirement is an important tool to drive both the value for money and quality of services that the Council achieves through its contracts.
- 3.18 It is a key priority for services to work with CPS to review the status of all recently expired contracts to ensure that the contract register is up to date and that any outstanding tendering activities are agreed with CPS and captured appropriately within contract delivery plans. This will ensure that they can be expedited and also that capacity within CPS can be appropriately planned.
- 3.19 The position described above is based on contracts that have been marked as recurring in the Contract Register. A significant number of contracts are also classified as 'one-off' and through the next phase of engagement with services, CPS will work with services to identify whether or not there is in fact a recurring requirement for any of these contracts.

CPS Engagement

- 3.20 CPS has appointed Commercial Partners to support the strategic engagement and commercial, procurement and contract management across services. They act as a point of contact to support Directors and senior managers to undertake their procurement activities.
- 3.21 Engagement with services throughout 2014 focussed on improving compliance with CSOs and ensuring the Contract Register was updated to more accurately reflect current Council spend with contracted suppliers. This, together with the P2P improvements, has provided significantly more management information than was previously available.
- 3.22 To support the Contract Register, CPS is also now issuing tailored dashboards on contracts expiring in the next 18 months in a simple format, to assist each

directorates in planning requirements. Feedback received from services regarding these dashboards will be updated onto the Contract Register.

- 3.23 As outlined above, focus is currently being given to contracts that have either already expired or been coded as 'one-off' in the Contract Register.

Grants and Co-production

- 3.24 There are instances where an assessment is required on whether or not services from a supplier are best secured through a competitive grant arrangement or through competitive procurement process. CPS is currently working with the Corporate Policy and Strategy team to develop guidance for services and elected members to enable a decision on the appropriate route to market, using an outcome-based approach.
- 3.25 Further guidance on co-production is also under development. Co-production is encouraged to develop specifications with service users, current suppliers and the wider potential market, whether or not a grant or formal contractual arrangement is preferred.

Contract and Supplier Management

- 3.26 A further requirement in driving up the value for money and service quality achieved through contracts is effective contract and supplier management. Nationally the Procurement Capability Assessment (PCA) demonstrates a general weakness in contract and supplier management in local authorities across Scotland and indeed the UK. The Council's performance is good relative to most other authorities, but there is significant room for improvement and the benefits which can be achieved are considerable.
- 3.27 The development of the Council's approach to contract and supplier management is being taken forward by CPS as part of the wider BOLD Business and Support Services work stream.

Next Steps

- 3.28 Activities in the coming months will focus on continued close working with directorates to ensure that the contract register is current and up to date, in particular reviewing recently expired contracts and 'one-offs'.
- 3.29 Procurement plans will be developed with services where requirements for contract renewals are identified.
- 3.30 Guidance will be developed on grants / co-production.
- 3.31 Contract and supplier management proposals will be developed and implemented.

Measures of success

- 4.1 The success of the contract planning activities can be measured by:

- Reduced number of waiver reports
- More effective resource allocation
- Better management information being available, including the Council's Contract Register being fully up to date and correct

Financial impact

- 5.1 Effective planning of contract renewals is essential for the Council to drive value for money and achieve both high quality and savings from its contracts.

Risk, policy, compliance and governance impact

- 6.1 Poor planning of contract activities may result in reduced compliance with legislation and CSOs, increased instances of waivers and increased risk of legal challenge.

Equalities impact

- 7.1 There are no direct equalities impacts arising from this report.

Sustainability impact

- 8.1 There are no impacts on carbon, adaption to climate change and sustainable development arising directly from this report.

Consultation and engagement

- 9.1 This work will be taken forward with service areas as set out in the report.

Background reading/external references

[Contract Register report](#)

[Commercial Excellence update](#)

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Links

Coalition pledges	P30 – Continue to maintain a sound financial position including long-term financial planning
Council outcomes	C025 – The Council has efficient and effective services that deliver on objectives
Single Outcome Agreement Appendices	