

Finance and Resources Committee

10.00am, Thursday 17 March 2016

Contracts Awarded Under Delegated Authority (Waiver Reports) and Procurement Activity

Item number	7.13
Report number	
Executive/routine	
Wards	All

Executive summary

This report updates the Finance and Resources Committee on the contracts awarded between 1 October and 31 December 2015. It sets out those contracts awarded following a waiver of the Council's Contract Standing Orders (CSOs) and the contracts awarded with a value below the threshold requiring Committee approval. The table below provides a summary.

Value of contracts awarded between 1 October and 31 December 2015		£97.5m
Value of contracts let following a waiver of the CSOs	Under delegated authority	£0.7m
	With Committee approval	£30.9m
	Total	£31.6m
Value of contracts let below the threshold requiring Committee approval		£2.14m

Of the £30.9m, £28.4m relates to three care contracts as explained in this report and as procurements are underway the full value of these waivers is unlikely to be required.

Links

Coalition pledges	P30
Council outcomes	CO25
Single Outcome Agreement	

Contracts Awarded Under Delegated Authority (Waiver Reports) and Procurement Activity

Recommendations

- 1.1 It is recommended that the Committee notes the contents of this report and the authorisations made under delegated authority.

Background

- 2.1 The Contract Standing Orders (CSOs) are the Council's legal and operational rules for how we buy goods and services (ranging from purchases of small value to many millions of pounds).
- 2.2 The City of Edinburgh Council has awarded a total of £97.5m of contracts to a variety of supplier organisations in the period from 1 October to 31 December 2015.
- 2.3 During the specified period a number of contracts have been awarded under the delegated authority permitted by waiving the CSOs, allowable under Section 9 of the CSOs. The report for this period includes an overview of the contracts awarded by committee approval of a waiver of the CSOs during the period, to give a comprehensive overview of all waiver activity. This will be included in future reports.
- 2.4 The current report includes information on a three month period, October to December. The quarterly reports are now therefore aligned with the financial reporting periods.

Main report

- 3.1 The CSOs may be waived in certain specified circumstances as set out below.

Waiver of Standing Order Process

- 3.2 The CSOs can be waived by the relevant officer providing a written waiver report which outlines the justification of the waiver under the delegated authority limits set out in the CSOs. Copies of all waivers are held by the relevant Service and also with Commercial and Procurement Services.

- 3.3 The CSOs are reviewed annually and updated as necessary. They will be altered as appropriate to incorporate changes in the Directorates throughout the Transformation Programme and to address the changes introduced as a result of the Procurement Reform (Scotland) Act 2014. A report recommending changes to the current Contract Standing Orders in light of legislative requirements and continuous improvement will be put before full Council in June. When fully implemented, the 2014 Act will introduce a new tendering regime for contracts over the value of £50,000.
- 3.4 The waiver of CSOs to allow a contract to be awarded or extended without some form of competitive tendering may be required in certain circumstances e.g. continuity of care or a sole provider due to intellectual property rights. Each waiver is looked at on its own merits and is only approved if fully justifiable. However, these circumstances need to be tightly controlled and scrutinised. As such, justification for the waiver of CSOs is permitted but only in the two instances categorised as follows:
- 3.4.1 **Legislative exemptions**, including technical or artistic reasons, extreme unforeseen urgency, social care contracts (where there is no cross border interest) and genuinely exceptional circumstances, where the departure from CSOs is wholly justified in accordance with EU law and principles i.e. where the value of the contract does not exceed the current EU thresholds (£173,000 for services and £4.3m for works) and there is no interest from providers from member states outwith the UK.
- 3.4.2 **In the Council's best interests** where, on an individually risk-assessed basis, the departure from standing orders can be justified (e.g. to extend an existing arrangement to allow it to be combined as part of a larger procurement exercise).
- 3.5 Appendix 1 includes a breakdown by value in the relevant categorisation. Please note that while some may be categorised as 'in the Council's best interests' there may also still be a legislative exemption because of their relatively low value.
- 3.6 There will be a continuing need to use this process to allow for those exemptions that European procurement law recognises, and also to provide the flexibility required during this period of transition and improvement in compliance in relation to commercial and procurement activity. The overall objective is to provide an audit trail for when the Council legitimately departs from a requirement to tender, and to significantly reduce the need for those waivers where they are required due to poor planning, arranging for competitive procurement as required.
- 3.7 A summary of all contracts awarded under waiver arrangements for the period (both under delegated authority and through committee approval) from

1 October to 31 December 2015 is provided in Table 1 below, set alongside the total annual value of live contracts in operation over the same period. Further information on these waivers is detailed in Appendices 1 and 2.

3.8 From the Waivers with Committee approval totalling £30.9m in value in this quarterly report, £28.4m of this relates to three contracts. Details are as follows:

3.8.1 Care at Home (£21.6m): The Committee approved an extension to the current Care at Home contracts for a period of one year (up to 30 October 2016) pending completion of a procurement process.

3.8.2 Homeless Prevention (£5.1m): Approval was given to extend contractual arrangements to enable progress of the Homelessness Prevention Commissioning Plan (the Plan) through collaborative working with the voluntary sector and other stakeholders.

3.8.3 Mental Health & Wellbeing (£1.7m): Approval was given to extend the mental health and wellbeing service contracts from 1 April 2016 for a period of up to one year. This will enable further collaborative work to be carried out between the Council and NHS Lothian, service users, carers, localities and other interested partners. The strategy is being developed by the Integrated Joint Board for future provision of these services and procurement is scheduled for April and October 2016.

3.9 One aim of the ongoing Purchase to Pay (P2P) project is to ensure that spend with non-contracted suppliers is minimised. A decrease in non-contracted spend has largely been as a result of closer financial management in this area and where appropriate, the approval of waivers has been necessary to continue service provision until a compliant procurement plan has been agreed for these contracts.

Table 1 Contracts awarded under the Waiver of Standing Orders (1 October to 31 December 2015)

Directorate	Total Waiver Value under Delegated Authority 1 October – 31 December 2015 (£m)	Total Waiver Value by Committee Approval 1 October – 31 December 2015 (£m)
Children & Families	£0.11m	£0.6m
Corporate Operations	£0.31m	n/a
Economic Development	£0.06m	n/a
Health & Social Care	n/a	£23.3m
Services for Communities	£0.24m	£7.0m
Cross-Directorate	n/a	n/a
	£0.72m	£30.9m

Given their de minimis value, for the 'Total Waiver Value under Delegated Authority' in the table above (£0.72m), waivers under £5,000 have not been included. There are a total of 5 waivers awarded with a value of less than £5,000 which account for an additional £17,064 in total.

- 3.10 The figures shown in Table 1 and Appendix 1 reflect the total financial value requested to be waived for the contracts in question. In a number of cases the actual spend will be less than this value.
- 3.11 Commercial and Procurement Services will continue to monitor and challenge submitted waivers to ensure continuing compliance with the CSOs. The Waivers and Contract Register provide a required visibility of spend enabling Commercial and Procurement Services to highlight to Directorates where plans for procurement require to be put in place without delay.

CSO Approval Thresholds

- 3.12 The CSOs state that contracts in excess of £1m for supplies and services and £1.5m for works require approval from the Committee before award.
- 3.13 Contracts under the Committee thresholds to the value of £2.14m have been awarded in the period 1 October to 31 December 2015, and are detailed under Appendix 3. Given their de minimis value, contracts under the value of £25,000 have not been listed in the Appendix. There are a total of 8 contracts awarded with a value of less than £25,000 which account for an additional £46,205 in total.

Measures of success

- 4.1 By continuing to scrutinise and document all instances where it has been requested that the Council's CSOs be waived, this evidences strong authorisation and internal control processes within the City of Edinburgh Council.

Financial impact

- 5.1 There are no financial impacts directly arising as a result of this report. Contracts awarded or extended under delegated authority create a legally binding contract for and on behalf of the City of Edinburgh Council which is bound and liable for any conditions under such contracts.

Risk, policy, compliance and governance impact

- 6.1 A waiver denotes a departure from the Council's CSOs (which in part reflect the Council's legal obligations). There may be an increased risk if the Council has

departed from EU requirements. However, each delegated waiver is scrutinised on its own merits in this context, and is only approved if justifiable given the circumstances or permitted in accordance with EU obligations. This report outlines all waivers approved from 1 October to 31 December 2015, and all contracts awarded with a value over £25,000 and under the required committee approval thresholds in the same period, enhancing the Council's measures of transparency.

Equalities impact

7.1 There are no equalities impacts directly arising as a result of this report.

Sustainability impact

8.1 There are no sustainability impacts directly arising as a result of this report.

Consultation and engagement

- 9.1 The Council's CSOs outline the appropriate measures of consultation and approval that must be sought from officers or committee for each waiver, dependent on the expected value.
- 9.2 Following extensive consultation with service areas, revised CSOs were approved by the Council on 5 February 2015.
- 9.3 The revised waiver process and supporting documentation were launched in February 2015 to accompany the revised CSOs, and feedback received from services will be incorporated as appropriate through an annual review.

Background reading/external references

[Finance and Resources - Thursday 29 October 2015](#)

[Finance and Resources - Thursday 26 November 2015 \(item7.11\)](#)

[Finance and Resources - Thursday 26 November 2015](#)

[Finance and Resources - Thursday 26 November 2015 \(item 7.11\)](#)

[Finance and Resources - Thursday 26 November 2015 \(item 7.14\)](#)

[Finance and resources - Thursday 14 January 2016 \(item 7.19\) - Council Contracts Planning update - Review of Waivers Over £100,000](#)

[Review of Contract Standing Orders and Guidance on Consultants February 2015](#)

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Links

Coalition pledges	P30: Continue to maintain a sound financial position including long term financial planning
Council outcomes	CO25: The Council has efficient and effective services that deliver objectives
Single Outcome Agreement	
Appendices	Appendix 1 – Contracts Awards under waiver of CSOs by Delegated Authority Appendix 2 – Contracts Awards under waiver of CSOs by Committee approval Appendix 3 - Contract Awards below Committee Thresholds

Appendix 1 – Contracts awarded under the Waiver of CSOs by Delegated Authority

The following relate to the period 1 October to 31 December 2015.

Justification

Paragraph	Description of Justification	Amount
9.1.1	Legislative exemption	10
9.1.2	In the Council's best interests	20
		30

Delegated Authority Waivers by Directorate

Directorate	Children & Families	
Supplier/product or service	Justification for waiver	Value
Outdoor Play and Learning	In the Council's best interests. To ensure continuity of outdoor play and learning programme services for supporting school improvement through play.	£7,000
Sikh Sanjog	In the Council's best interests. To ensure continuity of services to young people and adults primarily from the Sikh community to March 2016.	£23,823
National Youth Choir of Scotland	In the Council's best interests. To ensure continued service from specially trained musicians to deliver Kodaly music training for all P3 children. The external funding from Creative Scotland recognises the unique expertise.	£48,790
The Action Group	In the Council's best interests. To ensure five children's current packages of support are maintained in a consistent and stable manner until assessments for self-directed support can be completed.	£15,000
The Drama Studio	Legislative exemption. Unique services to continue to deliver weekly drama sessions in the Expressive Arts to pupils from Nursery to Primary 7 and provide continuous professional development for individual teachers. HMIE has identified the supplier's service as an example of 'excellent practice'. Costs are met through the school's devolved budget.	£10,400
		£105,013

Directorate	Corporate Operations	
Supplier/product or service	Justification for waiver	Value
Wider Plan Ltd	In the Council's best interests. To continue with existing arrangements to offer a childcare scheme to staff until the UK scheme is launched at the start of 2017.	£23,733
Dramatic Resources Limited	In the Council's best interests. To allow the Leadership & Development team to maintain consistent high quality training for the Talent Plan participants.	£10,600
JMB Technology Limited	In the Council's best interests. To refresh 'Edinburgh Outdoors', a fully responsive website, usable on any device, in line with the Council's digital direction of travel.	£7,040
Experian Mosaic	Legislative exemption. Limited market available to refresh 'Edinburgh Outdoors', a fully responsive website, usable on any device, in line with the Council's digital direction of travel. The annual provision of the dataset has been built up by Experian, therefore it would not be cost-effective for another organisation to develop this from scratch.	£9,861
The Union Advertising Agency Ltd	In the Council's best interests. To continue to develop the Council's marketing strategy 'save time, do it online' which is still in its infancy	£90,000
Hays Specialist Recruitment Ltd	In the Council's best interests. To enable continued effective management of the financial workstream of the Property Conservation Closure Programme.	£77,000
Airwave Solutions Ltd	Legislative exemption. Specialist provider of secure communication handsets for use in emergency incident management between CEC and partner Category 1 responders. Airwave terminals provided by the supplier have been proven to provide secure communications across the UK when other networks are likely to fail.	£8,406
Michael Page International Recruitment Ltd	In the Council's best interests. To enable the appointment of a temporary member of staff with specialist procurement knowledge and skills.	£40,875
Michael Page International Recruitment Ltd	In the Council's best interests. To enable the appointment of a temporary member of staff with specialist procurement knowledge and skills.	£35,000
Yakara Plc	In the Council's best interests. To enable a pilot exercise to assess effectiveness of text reminders and smart phone payments to improve Council Tax collection rates.	£9,500
		£312,015

Directorate	Economic Development	
Supplier/product or service	Justification for waiver	Value
Chase Publishing Ltd	Legislative exemption. A bespoke and specifically tailored advertising package in 'The European' magazine to target and promote 'Invest Edinburgh' key sector messaging to international campaign markets across multi-platforms. Significant discounts have been negotiated with the supplier due to existing relationship.	£7,000
Rewards Training Recruitment	In the Council's best interests. To provide Modern	£50,000

Consultancy	Apprenticeship Training fees.	
		£57,000

Directorate	Services for Communities	
Supplier/product or service	Justification for waiver	Value
Bolinda Digital Ltd	Legislative exemption. To meet the annual licence cost from a single source supplier to provide a range of proprietary online audio downloadable library services to meet the changing needs of customers. Libraries are the sole provider of this material free to users.	£13,050
W F Howes Ltd	Legislative exemption. To meet the annual licence cost from a single source supplier to provide a range of proprietary online Zinio emagazines via libraries to meet the changing needs of customers.	£14,936
Dataserve UK	In the Council's best interests. For the provision of half hourly electricity metering services including meter operator charges and associated communication charges.	£16,000
Rhinowash Ltd	In the Council's best interests. To provide steam clean equipment for vehicle preparation, maintenance and legislative compliance.	£13,615
W F Howes Ltd	Legislative exemption. To meet the annual licence cost from a single source supplier to provide One Click Digital eaudio services via libraries. Libraries are the sole provider of this material free to users.	£11,880
Allocate Software	In the Council's best interests. For configuration costs to share use of the NHS Lothian Staff Bank System for Interpretation and translation services.	£8,000
Forest Research	In the Council's best interests. To provide research into trees and forests with the Forestry Commission.	£7,657
United Kingdom Accreditation Service	In the Council's best interests. For re-assessment visits to maintain UKAS accreditation for Scientific Services.	£17,750
ADT Fire and Security PLC	In the Council's best interests. To enable a review how the Council delivers Security Services.	£16,000
LexisNexis UK	Legislative exemption. A single source supplier to provide a specialist online reference service to The Trading Standards Service. An earlier tendering exercise produced no alternative suppliers.	£17,654
Cliff Technologies Ltd	In the Council's best interests. Ongoing licence support & maintenance costs for the Transport & Planning and	£69,647

	Neighbourhood Area Road Teams.	
ESRI (UK) Ltd	Legislative exemption. Single source supplier to maintain a contract for provision of uniquely configured and bespoke software for web-based tools for web services.	£13,315
ESRI (UK) Ltd	Legislative exemption. Single source supplier to maintain software for analysts to provide desktop application services. This service is likely to transfer to CGI in April 2016.	£23,915
		£243,419

Appendix 2 – Contracts awarded under the Waiver of CSOs by Committee approval

The following relate to the period 1 October to 31 December 2015.

Directorate		Children and Families	
Date	Supplier(s)	Contract Description	Value
29/10/2015	The Big Project, The Citadel Youth Centre, Edinburgh City Youth Café, Wester Hailes Youth Agency, Whale Arts Agency, SCORE Scotland, Pilton Youth & Children's Project, Canongate Youth	In the Council's best interests. Six month extension of contracts to enable redesign of youth work services using co-production contractual arrangements.	£350,098
26/11/2015	Capability Scotland	In the Council's best interests. To continue delivery of Edinburgh Childcare 4 All for a one year period to 31 March 2017 to allow a co-production approach for redesign of the current service.	£200,169
TOTAL			£550,267

Directorate		Health and Social Care	
Date	Supplier(s)	Contract Description	Value
29/10/2015	20 suppliers listed in Appendix 1 of item 7.11 F&R Committee Papers (29/10/15)	In the Council's best interests. Further extension of Care at Home contracts to October 2016 pending completion of procurement process designed to lead the award of new contracts. (See 3.7.1)	£21,600,000
26/11/2015	13 suppliers listed in Appendix 1 of item 7.11 F&R Committee Papers (26/11/15)	In the Council's best interests. Extension of mental health and wellbeing contracts for a period of up to one year to enable further collaborative work to be carried out. (See 3.7.3)	£1,671,274
TOTAL			£23,271,274

Directorate		Services for Communities	
Date	Supplier(s)	Contract Description	Value
29/10/2015	Assist Managed Services Limited, Premier One (Land Services) Limited, Lightways	In the Council's best interests. Extension to the contingency Framework Agreement for the clearance of snow and ice from Edinburgh's pavements and public open spaces to 30 April 2016.	£900,000

	(Contractors) Limited and M&M Road Surfacing Limited		
26/11/2015	Changeworks Resources for Life	In the Council's best interests. To continue the Service Level Agreement (SLA) to provide energy related services for a further three years.	£140,000
26/11/2015	Lothian Community Transport Service, South Edinburgh Amenities Group, HcL Dial a Ride, HcL Dial a Bus, Pilton Equalities Partnership, Dove Transport and Lothian Shopmobility	In the Council's best interests. Extension to current arrangements for a further year to March 2017 to ensure provision of service is maintained while the Community Transport Public Social Partnership Business case is developed.	£835,235
26/11/2015	22 suppliers suppliers listed in Appendix 1 of item 7.14 (F&R Committee Papers 26/11/2015)	In the Council's best interests. Further extension to Homeless Prevention contracts until 31 March 2017 to prevent homelessness and allow sufficient time to complete implementation of the Homelessness Prevention Commissioning Plan. (See3.7.2)	£5,134,767
TOTAL			£7,010,002

Appendix 3 – Goods and service Contracts awarded with a value over £25,000 and below the committee approval thresholds of the CSOs

The following relate to the period 1 October to 31 December 2015.

Directorate		Corporate Operations	
Date	Supplier	Contract Description	Value
29/10/2015	Framework - Multiple Suppliers	Specialist Print Consumables and Supplies	£44,500
TOTAL			£44,500

Directorate		Health & Social Care	
Date	Supplier	Contract Description	Value
26/10/2015	Calm Training Ltd	Managing violence and aggression training	£33,350
TOTAL			£33,350

Directorate		Services for Communities	
Date	Supplier	Contract Description	Value
08/10/2015	Framework - Multiple Suppliers	Rope Access Repairs	£76,485
09/10/2015	Experian Footfall Ltd	Supply, Installation and Maintenance of Automatic Pedestrian Counters	£76,265
16/10/2015	Firm of James Lawrie	Emergency Provision for Snow Clearance	£44,290
02/11/2015	Framework - Multiple Suppliers	11 x Welfare/Accessible Buses	£844,000
10/11/2015	Framework - Multiple Suppliers	Homeless Prevention – Crisis and Complex Services	£525,647
12/11/2015	Framework - Multiple Suppliers	Supply of Defibrillators & Associated Consumables	£85,000
07/12/2015	IIC Technologies Ltd	Dropped Kerb & Guardrail Survey	£202,512
TOTAL			£1,854,199

Works contracts awarded with a value over £25,000 and below the Committee approval thresholds of the CSOs

Directorate		Services for Communities	
Date	Supplier	Contract Description	Value
02/10/2015	Limerich	Statutory Notice Works at 7-11 Comely Bank Place	£42,000
07/10/2015	Crummock (Scotland) Ltd	A71 Hatton Mains Culvert Replacement	£84,949
TOTAL			£126,949

Consultancy contracts awarded with a value over £3,000 and below the Committee approval thresholds of the CSOs

Directorate		Services for Communities	
Date	Supplier	Contract Description	Value
09/12/2015	Progressive Partnership	20mph Monitoring Speeds and Volumes	£57,140
14/12/2015	Sky High Technology Limited	20mph Monitoring Speeds and Volumes	£28,125
TOTAL			£85,265