

Policy and Sustainability Committee

10.00am, Thursday 9 July 2020

COVID-19 Impact on Council Procurement Activity

Executive/routine	Routine
Wards	All
Council Commitments	2,3 and 7

1. Recommendations

- 1.1 It is recommended that the Policy and Sustainability Committee notes the impact the COVID-19 pandemic has had on the Council's procurement activity, and the actions and control measures which have been taken to support existing and new contracting requirements, and in turn mitigate the associated risk to Council services and other project initiatives.

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Policy and Sustainability Committee

Covid-19 Impact on Council Procurement

2. Executive Summary

- 2.1 This report seeks to provide awareness of the impact the COVID-19 pandemic has had on the Council's procurement activity and the actions and control measures which have been taken to support existing and new contracting requirements, and in turn mitigate the associated risk to Council services and other project initiatives.
- 2.2 The pandemic is presenting a number of new challenges to the Council and its suppliers. The Council's Commercial and Procurement Service is working closely with service areas to support them through this next period. It is, however, likely to result in an increase in Committee or delegated officer approvals being sought to waive the Contract Standing Orders. As ever, such approvals will be constructively challenged and subject to robust scrutiny, to ensure such actions are in the Council's best interests and secure Best Value.

3. Background

- 3.1 The Council's Commercial and Procurement Service (CPS) supports all procurement and contract management activity across the Council, to ensure the Council's purchasing requirements are met, and the associated internal and external regulatory controls complied with, including the Council's [Contract Standing Orders](#) (CSOs).
- 3.2 The Council has a clear strategic vision for its procurement activity. On [5 March 2020](#), the Council adopted its new five year Sustainable Procurement Strategy (the Strategy). The Strategy places sustainability at the heart of the Council's procurement programme for the next five years, to ensure that the Council's considerable spending power is used to promote those economic, environmental and social outcomes that support growth, and simultaneously assist the Council in addressing the challenges that the city is facing.
- 3.2 In recognising the unprecedented impact of the COVID-19 outbreak on all service areas a request for temporary amendments to the CSOs was approved by the Leadership Advisory Panel on [31 March 2020](#).
- 3.3 That report noted the huge global impact that COVID-19 was, and still is, having. This impact is felt not only in public health terms, but also financially, affecting all economies and their financial markets. The report addressed some of the risks associated with existing suppliers potentially being unable to fulfil contractual

commitments and the ongoing procurements that required review and would likely result in a need for the Council to consider further extending or varying existing contracts which were otherwise shortly due to expire.

- 3.4 The Scottish Government has issued four [Scottish Procurement Policy Notes](#) (SPPNs) that relate to the impact of the COVID outbreak, and six [Construction Policy Notes](#) (CPNs). In particular, the SPPNs address alternative procurement procedures that contracting authorities might adopt to meet urgent purchasing demands, guidance for contracting authorities on considering contractual relief that might be granted to suppliers during the outbreak and how to make best use of procurement resources during the outbreak.

4. Main report

- 4.1 The COVID-19 pandemic has, as anticipated, had a significant impact on the Council's procurement activity, with few projects having been unaffected by delay.
- 4.2 An immediate status review of all 217 then active procurement projects was implemented at the end of March. CPS prioritised those where tenders were about to be published, were out to market or had been returned but not yet evaluated/awarded. CPS itself has largely been able to continue working as before, with all staff working from home.
- 4.3 The actions included:
- 4.3.1 Working with service areas to identify essential procurements that support key worker delivery and ensuring those were prioritised for completion;
 - 4.3.2 Contacting suppliers, to ensure they were aware of business supports available from the Scottish and UK Governments, and asking them to get in touch with their normal Council contacts to discuss any particular areas of concern in more detail and encouraging contract managers to likewise remain in close contact with their suppliers.
 - 4.3.3 Suspending all tender publishing and then revisiting whether, in light of COVID-19 restrictions, the requirement was still required, and the supply market was able to respond;
 - 4.3.4 Reviewing all published tenders and deciding whether to continue as planned, extending the tender period and addressing additional COVID-19 related business resilience requirements or cancelling the tender;
 - 4.3.5 Reviewing all tenders that were in the evaluation stage, to identify tender validity dates and the time available to decide on potential contract awards, and agreeing with the service area whether to award having taken account of COVID-19 related considerations or to extend the time for an award; and
 - 4.3.6 Issuing guidance to CPS staff on the application of revised procurement procedures to take account of COVID-19, and recently issued Government guidance.

- 4.4 The impact of the delays which have been experienced, however, is variable depending on the stage of the tender process, and the goods/services being sought.
- 4.5 Often the Council will have a contractual right to extend an existing contract. However, that is not always the case, and there are occasions when such a proposed extension would instead need to be dealt with through the waiver provisions within the CSOs. Depending of the value of the extension it might need to be submitted to Committee for review and, if appropriate, approval.
- 4.6 The Finance and Resource Committee currently receives a 6-monthly report on all waivers approved in the previous 6 months through Committee and delegated authority, as well as other contracts which have been awarded under delegated authority. The last report was considered at the Committee on [5 March 2020](#). The next such report will be brought forward following the Summer recess
- 4.7 As noted in the report to the Leadership Advisory Panel, it is expected that the Council will likely need to make increased use of this waiver process in the coming months. Such waivers are each evaluated on their own merits and approval given only if fully justifiable after there has been an assessment of all relevant considerations, including the need to secure Best Value. Such circumstances continue to be tightly controlled and robustly scrutinised and will continued to be reported to Committee through the regular 6 monthly Committee reporting.
- 4.8 There were 464 CSOs waivers approved in 2019/20, having a total value of approximately £32m. This may appear high, but the vast majority (78%) have a value of less than £50,000, and the use of waivers must also be seen in the context of the Council's spend with third party suppliers, which in 2018/19 was approximately £634.8m. In addition, there are a number of reasons why a waiver of CSOs and the decision to award a contract without competition or extend a contract beyond the original term is justified and secures Best Value for the Council, once that overall assessment is made, including the contract value, the nature of the service in question and any associated risks.
- 4.9 CPS regularly provide Directorates with a list of ongoing procurement exercises, expiring contracts and waivers for their review and to highlight any particular risks and issues. This enables Executive Directors and Heads of Service to fulfil their responsibilities for all contracts tendered and subsequently awarded by their Directorates/Divisions. Commercial Partners within CPS also work alongside divisional management and procurement delivery teams, as business partners, to support relationship management and to assist the contract planning process.
- 4.10 Over the next quarter it is anticipated that the Council will have a number of new issues to consider in its procurement activity, including the following:
- 4.10.1 Supply chain pressures, including longer lead times for supplies due to reduced global manufacturing during respective 'lock-down' measures, and insolvencies resulting from the economic slowdown;
 - 4.10.2 A need for the Council to respond to the pandemic by making urgent purchases not previously envisaged, given the rapidly changing operational environment;

- 4.10.3 The practical impact of suppliers delivering contracts with 'social distancing' and other restrictions, for example where they have staff on furlough or otherwise unable to work due to illness or having to shield, also considering that there might be further future periods of 'lockdown';
 - 4.10.4 Contract specifications no longer being capable of delivery, necessitating review and a reconsideration of associated tender evaluation criteria, which may itself require additional co-production with stakeholders or additional external technical support;
 - 4.10.5 The capacity and financial stability of suppliers to deliver contracts once awarded, and how best to mitigate the risks associated with that;
 - 4.10.6 The capacity of potential suppliers to undertake a tender exercise, including with staff having been furloughed and the risk of business insolvency given the impact the pandemic is having on the economy;
 - 4.10.7 Linked to the above, limited market capacity to respond to the Council's contract opportunities amongst all other tenders that may be issued, not only by the Council but right across the public and private sectors;
 - 4.10.8 The capacity of Council staff to commit the time to a tender process, given the impact of the pandemic, including staff absences and the need to focus on other more urgent COVID-19 related activities; and
 - 4.10.9 Supporting market engagement will also require new approaches e.g. video-conferencing, skype and the like, with established procurement procedures having to be adjusted in a proportionate manner, to reduce the burden on suppliers and Council staff, but at the same time ensuring compliance with the relevant regulations.
- 4.11 The impact of COVID-19 on the Council's procurement activities has been significant and will continue to be so. As outlined above, CPS is continuing to support all Directorates in their purchasing activity. In doing so it will also be important that there is a suitable prioritisation of projects, right across all service areas, so that the Council can ensure the best use of officer time and resources, as well as that of the market. There will also be a need for suitable market engagement to seek to mitigate the issues summarised above.

5. Next Steps

- 5.1 As the Council takes forward the Adaption and Renewal Programme, CPS will continue to work closely with service areas to support the Programme and the Council's new and changing supplier requirements, as well as more normal business as usual purchasing.
- 5.2 CPS will also take forward its own action plan to deliver the Strategy, and the strategic outcomes contained within it. Delivery against the Strategy will continue to be reported annually to Committee.

6. Financial impact

- 6.1 There is no direct financial impact from the approval of this report. However, implementation of the Strategy should deliver financial and non-financial benefits to the Council, as well as the city and its businesses. In particular, the Strategy includes a target of £10m of new procurement and contract management savings being secured each financial year.
- 6.2 It is to be noted that in 2018/19 procurement savings of £38.5m were tracked and delivered in year, with the Council expected to have delivered a similar amount in 2019/20 once the figures are finalised. These are in addition to the £150m of savings secured from 2013/14 through to 2018/19.

7. Stakeholder/Community Impact

- 7.1 In developing the Strategy consultation was undertaken internally and externally by CPS, this included input from key stakeholders including the Federation of Small Businesses, Edinburgh Social Enterprise, Edinburgh Poverty Commission, Edinburgh Voluntary Organisations Council, Council suppliers, Council service areas and through a public consultation via the Council website.
- 7.2 As noted above, the Strategy identifies seven key strategic procurement objectives that will be promoted through the Council's procurement activity. These objectives are aligned to the Council's priorities, and if delivered will have a positive impact upon the city, its citizens and its businesses. In particular, the Strategy aims to make the Council's external spend more accessible to local small businesses and third sector, to improve Fair Work practices adopted by Council suppliers and to increase the community benefits delivered by Council suppliers. The Strategy also aims to contribute to the Council's 2030 carbon-neutral city target.

8. Background reading/external references

- 8.1 [2019 Annual Procurement Report](#)

9. Appendices

- 9.1 Not applicable.