

Report of the Chief Officer PPU and Procurement

Report to Scrutiny Board (Resources and Council Services)

Date: 24 November 2014

Subject: Effective Procurement and Contract Procedure Rules

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

Executive Board approved a refreshed procurement policy for the council at its meeting on 24 April 2013. The policy was developed as the Transforming Procurement Programme, and the approved documentation and approach is now called Effective Procurement.

A report was brought to the September meeting of this Board updating members of Scrutiny Board (Resources and Council Services) on progress in implementing the new Contracts Procedure Rules and the other Effective Procurement documentation, and on anticipated changes to legislation and guidance.

Members requested a report back to this Board on the following matters

- (i) Further detail from the spend analysis of spend not on-contract
- (ii) A report on information available in relation to effectiveness of use of the contracts register and procurement calendar for procurement planning to ensure sufficient time for decision-making and call-in and to prevent unplanned extensions of contracts and waivers.

Recommendations

Members of Scrutiny Board (Resources and Council Services) are asked to note the contents of this report, and advise what further recommendations (if any) they have as a result.

1 Purpose of this report

1.1 To provide a further report to the Board as requested.

2 Background information

2.1 The council currently spends £800 million externally each year, across both revenue and capital. A large proportion of this is spent with external suppliers, and we use a variety of contracts, from simple purchase orders to long-term partnership agreements. Some contracts are with a single provider, others are frameworks with multiple providers.

2.2 Members approved a 2 year implementation and embedding period for the new Procurement Strategy and documentation, ending in March 2015.

2.3 Details of spend, savings and performance against on/off and non-contract spend, and targets are reported on a quarterly basis to Executive Board, together with a summary of spend with local suppliers, third sector organisations and Small and Medium Enterprises.

2.4 The proportion of on-contract spend is increasing, however there is still a proportion of contract activity (including through finance feeder systems) which is not clear and/or not registered on YORtender (the regional electronic tendering system) in accordance with Contracts Procedure Rules, and is currently difficult to report accurately on. This report confirms the steps being taken to remedy this.

3 Main issues

3.1 Procurement planning

3.1.1 The Council's Contracts Procedure Rules confirm that each Directorate is accountable for the procurements that they need in order to deliver the services and secure the outcomes that they are responsible for. The central procurement function is accountable for providing a central source of expertise, advice and support, providing check and challenge as appropriate.

3.1.2 Category planning enables spend in an identified area to be planned so that the volume of procurements undertaken is reduced by 1) using in-house providers, 2) using existing contracts, 3) pooling contract needs across time, 4) pooling contract needs across service areas, and 5) pooling contract needs with other public sector bodies

3.1.3 Contracts Procedure Rules require registration of procurements undertaken where the value exceeds £10k. They also require the Chief Officer (PPPU and Procurement) to be informed and consulted where procurements in excess of £100k are planned. The Chief Officer only has visibility of procurements undertaken and extensions to contracts where advised by the relevant Directorate. The Chief Officer PPPU and Procurement should also be advised when waivers are granted under

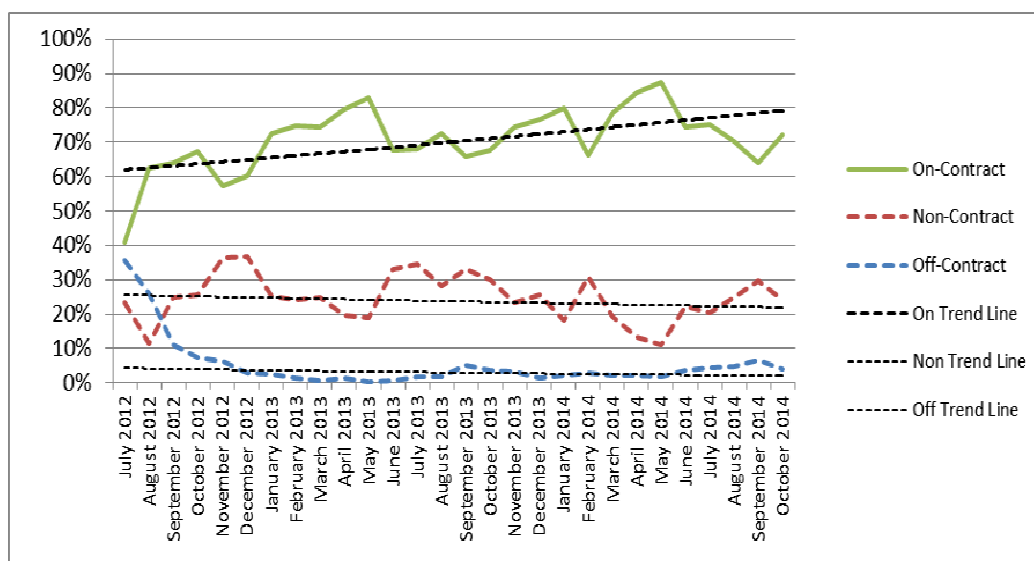
Contracts Procedure Rules. A more formal system to monitor compliance with this requirement is currently being implemented and a new toolkit has been developed as evidence suggests there is a level of non-compliance.

- 3.1.4 In line with Data Transparency requirements the contracts register is published every month publicly on Leeds Data Mill and within the council on SharePoint. The contracts register contains the review dates for contracts and YORTender automatically issues email reminders with pre-determined lead times to the designated owner and PPPU/PU category teams ensuring that re-procurements can be undertaken within appropriate timescales. This alert system has been in place for over a year for all new contracts registered on Yortender.
- 3.1.5 In addition to the automatic Yortender alerts PPPU/Procurement Unit category teams also use the contracts register to work together with Directorates to identify and review contracts on a monthly basis and plan procurement activity. In some instances Directorates also have their own calendars for this purpose. Other than utilising Yortender the Chief Officer PPPU and Procurement has no means to centrally monitor the whole of the contract activity (i.e. if the contract is not registered on Yortender then it is not captured on the central contracts register).
- 3.1.6 Many contracts entered into by the council permit extensions in accordance with the contract terms. Good practice in procurement includes applying such extensions in appropriate circumstances where the relevant Chief Officer is satisfied that it is good value for money and in some cases where an extension will enable better procurement planning (for example where a category plan has identified spend across directorates and a single aligned procurement is needed). In addition there are a number of emergency care placement and similar procurements which cannot be planned in advance (an exemption from Contracts Procedure Rules applies to such urgent cases).
- 3.1.7 However, in some cases unplanned extensions or waivers of Contracts Procedure Rules are required because a new procurement has not been undertaken in time. This may be due to lack of planning or resources or factors within the procurement process which could not have been foreseen.
- 3.1.8 Internal audit have undertaken a sample of contract extensions and a summary of their findings are attached at appendix 1. The report suggests that some extensions result from lack of planning, and emphasises the need to ensure robust processes are in place both at contract commencement (when the potential for extensions is incorporated into contracts) and through contract planning. The recommendations made by Internal audit are being considered by the Chief Officer PPPU and Procurement.

3.2 Procurement spend analysis

3.2.1 The analysis of spend within an organisation the size of the council is complex in light of the substantial number of diverse transactions and arrangements which are in place for service delivery. The original target was to increase spend identified as on-contract from the 40% level in 2012 to 95% in 2015, and substantial progress has been made towards that target. The target for 2014/15 is 82.5% on-contract.

3.2.2 PPPU/ PU continue to monitor on/off contract and non-contract spend and report this quarterly to Executive Board. The report includes details of spend, savings and performance against on/off and non-contract spend, a together with a summary of spend with local suppliers, third sector organisations and SMEs. The most recent Executive Board update (Quarter 1) shows that recorded on-contract spend has increased from 40% (2012) to 80% (2014); savings achieved/forecast for 12/13 = £6.3m; 13/14 = £6.4m; 14/15 (est.) £8.3m. Most of these savings are built into Directorate budget plans. Preliminary figures for Quarter 2 do however show a small reduction in on-contract spend, although the overall total for the year remains above 80%. The graph below shows the overall trend.



3.2.3 The figures above are based on the best available data, however the following should be noted.

- analysis to date has been taken from the Council's financial management system (FMS), which does not include all spend as feeder systems are not included
- the Unit has been able to identify and re-categorise a significant amount of spend and refine the information. Items removed include contracts which were procured in accordance with the old Contracts Procedure Rules but not registered on the system, (SCMS (Supplier and Contractor Management

System) and/or Yortender); spend with statutory undertakers which have exclusive rights to carry out works; some grant aid; and spend with other public authorities for cross-boundary functions

- there is evidence of mis-coding spend in FMS which has the effect of increasing the overall total of off contract spend. This has been highlighted at Corporate Commissioning Group as an issue and is being highlighted through the work undertaken by category teams
- A large amount of off-contract spend showing until recently relates to placements of individuals by Adult Social Services and Children's Services with care and support providers, on an urgent/emergency basis. This is now being resolved, with both services working to ensure that such providers are placed within arrangements which can be treated as on-contract moving forward (primarily through frameworks)
- some spend is showing as payments to suppliers after contracts have expired, however it should be noted (pending further detailed analysis) that a proportion of this spend may have been made within the terms of the contract for goods/services provided prior to expiry.

3.2.4 Spend data is also shared with directorate commissioning colleagues and discussed in most cases on a monthly basis.

3.2.5 An analysis by Directorate of spend for 2014/15 to date shows the following information (note that our codes do not exactly match the Directorates) This is as stated above based on FMS orders only, and so does not include all spend from feeder systems.

- Directorates/services where on-contract spend is already around/above the current years target – Adult Social care, Children's Services, Civic Enterprise Leeds, Environment and Housing, Learning Disability service and Leeds Community Equipment Store, Public health, Strategy and Resources.
- Directorates/services where work is continuing to reach the target – Citizens and Communities, City Development, Legal and Democratic Services, and Strategic landlord.

3.2.6 The above information reflects the fact that PPPU/PU has to date prioritised the areas listed as above target and supported those Directorates to increase on-contract spend. The other areas are subject of ongoing work to achieve the current year target. The following should be noted:

- The Citizens and Communities off/non-contract spend appears to contain grant aid and other locality spending which needs investigation and may be wrongly categorised
- The City Development off/non-contract spend appears to include some corporate rents which need further investigation and if that is the case these should not form part of the procurement spend analysed
- The legal services spend appears to include fees for QCs/barristers engaged on an urgent basis and will be investigated further

3.2.7 As part of a regional collaboration, the council has invested in a spend analysis tool called Prospend. Once this is fully configured improved analysis of spend from FMS and eventually feeder systems will be available. This is anticipated to be fully in place at the beginning of the new financial year and has already been populated with 13/14 spend information and its functionality is currently being tested using this data. It should be noted that this new approach will affect the figures for on and off-contract spend, as new types of spend will be added to the existing.

3.2.8 The units adults and health category team is also piloting a new process to automatically bring forward notes from the internal version of the previous month's contract register which will promote accuracy and efficiency. It is anticipated that this process will be rolled out to the other category teams in the new calendar year

3.2.9 The Unit will continue to provide monthly updates in respect of the spend analysis to Directorates and will continue to work with them to reduce non contract and off-contract spend.

4 Corporate Considerations

Consultation and Engagement

4.1 The previous reports to this Scrutiny Board detailed the extensive consultation and engagement undertaken under the Transforming Procurement Programme.

Equality and Diversity / Cohesion and Integration

4.2 The Transforming Procurement Programme included equality issues as one of its workstreams and has undertaken a formal screening, which was published alongside the 24 April 2013 Executive Board report. The screening highlighted the importance of screening categories and procurements for their equality impacts and responding accordingly in line with the council's equality and diversity policies. There have been no major changes at a policy level. Contracts Procedure Rules require consideration of equality matters when undertaking a procurement and the key template documents that Contracts Procedure Rules refer to provide specific prompts in this respect.

Council policies and City Priorities

- 4.3 Contracts Procedure Rules and the Effective Procurement documentation support the council value of 'spending money wisely', and seek to ensure that the council's other values are embedded in all of the council's procurement activities.

Resources and value for money

- 4.4 This report considers analysis of procurement spend and good procurement planning

Legal Implications, Access to Information and Call In

- 4.5 None

Risk Management

- 4.6 Monthly on/off contract report produced which is shared with category teams directorates and internal audit.

5 Conclusions

- 5.1 Directorates are accountable for their own procurement activity with support provided by PPPU/PU.
- 5.2 Spend and savings are monitored and reported to Executive Board, but work is still required to achieve full transparency, especially where spend is processed through feeder systems.
- 5.3 This report sets out the process in place to enable procurement planning, and also provides details of next steps in the work being undertaken to achieve greater transparency of spend on procurement within the Council.

6 Recommendations

- 6.1 Members of Scrutiny Board (Resources and Council Services) are asked to note the contents of this report and advise what further recommendations (if any) they have as a result.

7 Background documents¹

- 7.1 Previous reports to this Board in July 2013 and September 2014

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Appendix 1 - – Internal Audit report summary