

Report of the Chief Officer PPPU and Chief Officer Parks and Countryside

Report to Scrutiny Board (Strategy and Resources)

Date: 20 July 2015

Subject: Effective Procurement and Contract Management

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.

Reports of the Chief Officer PPPU to the April meeting of the then Resources and Council Services Scrutiny Board resulted in a request for further consideration of waivers, extensions and contract management. In line with efforts to further ensure council resources are spent wisely, the PPPU has been invited to report on the work of the Chief Officer to reduce off and non-contract spend.

This report seeks to respond to both requests, summarises the processes, tools and guidance available for Directorates, and has sought to illustrate the work with Parks and Countryside to better inform Members of how the results are being implemented.

Recommendations

Members of Scrutiny Board (Strategy and Resources) are asked to note the contents of this report, and to invite both Chief Officers to report back in 3 months time on the results of their collaborative working to reduce non-contract spending, and to invite a further update as soon as the findings of the forthcoming audit are available.

1 Purpose of this report

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

2 Background information

2.1 The council spent c. £720 million externally last year, across both revenue and capital. A large proportion of this is spent with external suppliers, and the council uses 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 with some contracts operating on a regional basis and procured in partnership with other YORtender authorities (YORtender is the council's electronic tendering system). The below table shows the actual contract spend and number of contracts in the financial year 2014/15 across Directorates.

Contract Spend 2014/15

	Total	PFI	Non-PFI	Contracts (Over £25k)
Adult Social Care and Public Health	139,946,912	6,660,686	133,286,226	367
Central & Corporate	94,033,922	1,552,728	92,481,194	168
Children's Services	152,651,293	77,480,816	75,170,478	164
City Development	86,808,393	12,392,378	74,416,015	125
Environment & Housing	123,590,236	9,999,889	113,590,347	134
Strategic Landlord	41,161,666	16,441,938	24,719,727	13
	638,192,422	124,528,435	513,663,987	971

The council has introduced a suite of tools and template documentation in support of its refreshed procurement strategy, and updated Contracts Procedure Rules to reflect the strategy. All are published and available on InSite. Contracts Procedure Rules have recently been further updated to reflect new Regulations which have been implemented under a new EU Procurement Directive.

3 Main issues

3.1 Roles and Responsibilities

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 Contracts Procedure Rules require registration of procurements undertaken on YORtender where the value exceeds £10k. They also require the Chief Officer (PPPU) to be informed and consulted where procurements in excess of £100k are planned.

3.2 Contract extensions

- 3.2.1 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.
- 3.2.2 In some cases, however, 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.
- 3.2.3 Internal Audit undertook a sample of contract extensions and their findings were reported to the November meeting of a previous Board. Their report concluded that a medium level of compliance had been provided and their recommendations were as follows:
- PPPU and PU (now PPPU) should remind the Contract Manager of the need to populate the contract award memo with a review date, thus providing the information to the Systems and Resourcing team with a date to input in YORtender.
 - Analysis should be undertaken to establish that extending a contract offers the Best Value prior to extension. Evidence of this should be retained.
 - When extensions are processed the length of extension should adhere to the specification detailed in the contract, and only in exceptional circumstances should a contract be extended for a different period and where this is the case a variation to the contract should be processed.
 - It should be ensured that realistic extension periods are invoked to minimise the use of resources.
- 3.2.4 A report was submitted to the council's Corporate Commissioning Group in January confirming the audit report findings and requesting compliance by Directorates with the recommendations. Furthermore, the Chief Officer PPPU sent a communication to the Best Council Leadership Team in March 2015 advising of the outcome of the audit and recommendations, along with detail of a new process for waivers and a reminder of the support available and information provided on InSite in relation to procurement planning and contract management.

PPPU have continued to action the first audit recommendation during procurement activity, and Internal Audit intend to follow up the audit during the quarter July-September 2015. It is proposed that the findings from this follow up audit will be reported to this board.

3.3 Waivers

- 3.3.1 Contracts Procedure Rules allow certain rules to be waived in circumstances where Chief Officers consider that course of action to be justified, and provide that decisions to waive Contracts Procedure Rules is always at least a Significant Operational Decision for the purposes of the Constitution (therefore requiring publication). The Chief Procurement Officer should be informed when waivers are approved by Chief Officers.
- 3.3.2 PPPU developed new InSite toolkit guidance to support council officers in recording waivers. The new process and toolkit is designed to support and monitor compliance with the requirement to record waivers and notify PPPU in accordance with the rules. The communication sent to best council leadership team on 11th March provided detail of the new process.
- 3.3.3 Since the development of this, PPPU are now maintaining a log of all waivers. PPPU have recently been through a restructure and have also been focusing on non and off-contract spend. During the next quarter, a review and analysis of the waivers of the Contracts Procedure Rules will take place and the findings will be reported to this board.

3.4 Non and Off-Contract Spend

- 3.4.1 The Portfolio Management Office (PMO) within PPPU is actively collaborating with colleagues in the wider council including the Business Support Centre, Corporate Finance and the Directorates to reduce non and off-contract spend.
- 3.4.2 For financial year 2014/15, £19.2m of non and off contract spend identified by the PPPU in that year now has contracts or procurements in place. These contracts and procurements are predicted to save the council £650,447 this financial year 2015/16 and £649,620 in 2016/17 - a total of £1.3m over the two financial years.
- 3.4.3 A further £5.2 million of non and off-contract spend for 2014/15 is currently being looked at to identify other items of expenditure for which it will be possible to put contracts in place.
- 3.4.4 The PMO team produce monthly and quarterly reports detailing non and off-contract spend. These reports are used to inform monthly meetings with Steve Clough (Head of Revenue Savings Programme – Strategy and Resources), Heads of Finance and PPPU. The reports enable the Directorates, PPPU category teams and Heads of Finance to work together and review non and off- contract spend collaboratively.
- 3.4.5 The PMO has also been working with Alan Simmons (Principal Financial Manager - Strategy and Resources) in order to improve the search facility

within FMS for identifying existing contracts when placing orders. This will help to ensure that contracted suppliers or internal service providers (ISPs) are used. Further improvements to FMS have also been requested so that in those instances where an existing contract is not selected (potentially resulting in off-contract spend), one of the following options must be selected to ensure adherence with Contracts Procedure Rules:

- 3 quotes/Best Value - provide details of the 3 quotes or why best value below.
 - Contracted supplier unable to fulfil order. Provide details below
 - Known contract not found. Provide details below
 - Unable to select correct supplier on contract. Provide details below
 - Leeds City Council have no option but to use this supplier. Provide details below
 - Required item does not appear on catalogue. Provide details below
 - Order needed to be raised on different Vote code. Provide details below
 - The order is subject to a waiver of CPRs. Provide details of DDN/waiver number and Senior Officer who approved the DDN/waiver.
- 3.4.6 The PMO is seeking access to the council's feeder systems in order to identify areas where additional support can be given to ensure council colleagues comply with Contract Procedure Rules (CPRs) and use ISPs or contracted suppliers where these exist. Another area of focus will be where three quotes have been repeatedly obtained for spending in excess of £10k; this is in breach of CPRs as a contract should be put in place.
- 3.4.7 There are also opportunities for collaboration with Scrutiny in order to achieve a reduction in non and off contract spend to ensure the council achieves its goal of spending money wisely and to retain money within the council through use of ISPs.
- 3.4.8 The Scrutiny Board is requested to note the ongoing work within PPPU relating to: achieving procurement savings and reducing non and off-contract spend.

3.5 **Parks and Countryside: Illustration of Collaborative Working**

- 3.5.1 Parks and Countryside spent £10.1m on goods and services in 2014/15 and expect to spend £10.9m in 2015/16. In 2014/15 £2.3m of this expenditure was recorded as being committed either without a formal contract ('non-contract spend') or without using existing council contractual arrangements ('off contract spend'). In some instances, this is legitimate, for example, where the choice of supplier is stipulated by a grant provider. Analysis of the financial information for the Service has been used to identify area of spends where action needs to be taken to move expenditure onto appropriate contracts and also to identify spend where a competitive procurement exercise either isn't possible or wouldn't be of benefit to the council.
- 3.5.2 A programme of work for the current financial year is underway addressing priorities such as the arrangements for procuring playground equipment, plant hire, goods for re-sale at shops and food outlets, rails and fencing and surfacing. This is supported by a programme of training, delivered by PPPU officers, to update and improve procurement skills and knowledge in the Parks and Countryside service. Levels of non and off contract spend will continue to be reviewed.
- 3.5.3 It is proposed that the on-going work between the PPPU and Parks and Countryside Officers be utilised by Scrutiny to provide an informative example of how the Regulations can be utilised to best effect, and Services can illustrate how they can ensure money is spent wisely without adverse impact on delivery. It is proposed that the results of this work be reported to the meeting of the Board in 3 month's time.

3.6 **Contract management**

- 3.6.1 The refreshed procurement strategy and Contracts Procedure Rules require consideration of good contract management. The Effective Procurement documentation contains tools to support this. In particular the Rules require a Contract Management Plan to be developed for each procurement, scalable to the nature of the procurement (and one plan can cover a number of contracts). A template is provided which is appended at **Appendix 1**.
- 3.6.2 PPPU provides support to develop plans before contracts are awarded. Generally contract management is undertaken by the Service in question. The unit has provided support to the contract management function for some of the PFI contracts in place, particularly during the works phase, and also from April to support best practice to seek to achieve savings across the PFI portfolio over coming years. The unit has also hosted a periodic contract management forum which focussed on infrastructure contract management, but also sought sharing of best practice with other attendees.

- 3.6.3 **Appendix 2** sets out the approach taken with contract management by the Strategy and Commissioning team in Public Health, which commissions on behalf of four directorates. This describes how the team uses contract management as a framework for managing service quality, ensuring positive outcomes for service users and productive working relationships with our commissioned providers.

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 good contract management practice

Legal Implications, Access to Information and Call In

- 4.5 None

Risk Management

- 4.6 Monthly on/off contract spend is shared with category teams, directorates and internal audit. Tools are in place which are intended to support the activities covered in this report.

5 Conclusions

- 5.1 Directorates are accountable for their own procurement activity with support provided by PPPU.

- 5.2 This report sets out the processes in place to support contract activity and collaborative working to reduce non-contract spending.
- 5.3 While there is recognition that there is a diversity of services and no single approach will work in all cases, there is a need to offer a consistent level of quality of contract management. Plans to develop an Integrated People's Commissioning Service will consider the role of contract management and seek opportunities to insure greater levels of consistency.

6 Recommendations

- 6.1 Members of Scrutiny Board (Strategy and Resources) are asked to note the contents of this report, and to invite both Chief Officers to report back in 3 month's time on the results of their collaborative working to reduce non-contract spending, and to invite a further update as soon as the findings of the forthcoming audit are available.

7 Background documents¹

- 7.1 Previous reports to the then Resources and Council Services Scrutiny Board in July 2013 September 2014 November 2014 and January 2015.

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.

Contract Management Plan

Contract name:	
Contract reference number:	<i>From YORtender</i>
Timemaster reference:	
Contract start date:	
Mobilisation period:	
Contract end date:	
Other key dates:	
Value of contract:	
Classification of contract:	<i>Major, Medium, Minor and Category</i>

Service directorate and service directorate contact:	
PPPU/PU lead contact:	
Provider name:	
Provider address, phone number, email:	
Location of contractual documents:	<i>LINK to where contract documents are stored. Are these: LCC standard <input type="checkbox"/> amended <input type="checkbox"/> or (specify) <input type="checkbox"/></i>
Document date / version:	<i>Draft / Final (delete as appropriate)</i>

Purpose:

The contract management plan summarises key information about how the contract will be managed. It confirms systems and processes to ensure that the provider complies with the terms and conditions of the contract, that performance is effectively managed, that communications are managed, and that issues are appropriately escalated. This may include specific actions and obligations for the service directorate team.

The content of the contract management plan should be proportionate to the value, risk and complexity of the contract. All headings in **bold** should be addressed. The text below each heading is to provide prompts for issues that you may wish to address.

1. Contract Overview

Briefly outline:

- *what goods / works / services will be provided and what high level outputs will be delivered through the contract*
- *contract length*
- *any specific contract milestones*
- *contract parties including key sub-contractors and suppliers*
- *how the service will be delivered, for example, number of staff, supervisors etc. and organisational structure(s)*
- *responsibility for contract management, including where there are joint commissioning arrangements*

2. Objectives

List objectives and desired outcomes here. Consider:

- *value for money*
- *savings*
- *quality*
- *continuous improvement*
- *customer satisfaction*
- *council plan and city priorities*

3. Transitional arrangements and mobilisation

Briefly outline:

- *when and how the existing service will exit and any handover or interfaces*
- *any Transfer of Undertakings (Protection of Employment) (TUPE) arrangements and how they will be managed*
- *any staff training that needs to be undertaken prior to the commencement of the contract*

- *whether there are any outstanding licences to be obtained and if this is the responsibility of Leeds City Council (LCC) or the provider*
- *any arrangements for sharing information, access to records, access to ICT systems, Disclosure and Barring Service (DBS) checks etc.*
- *is any testing required prior to the commencement of the contract?*
- *is there anything that needs to be carried beyond the transition period, for example, refresher training*

For medium or major contracts, or where transition and mobilisation may be complex or time consuming, you may prefer to develop a separate mobilisation plan in addition to the contract management plan.

4. Performance management

Briefly outline:

- *key milestones and key performance indicators (KPIs) or identify where in the contract they are*
- *other quality criteria or other standards and expectations set out in the council's specification, provider method statements, and contract terms and conditions - or provide appropriate links or cross-references*
- *how KPIs and any other relevant standards and requirements will be monitored and what information will be received from the provider. For instance, monthly reporting regarding payment, performance, customer satisfaction etc.*
- *how will service users, elected members and other stakeholders be involved in performance monitoring / reporting?*
- *whether benchmarking and market testing are to be undertaken with respect to the contract*
- *how performance will be monitored and managed with respect to issues such as data security, safeguarding, environmental protection, health and safety*
- *how poor performance and disputes will be managed*

5. Finance

Briefly outline:

- *how invoices will be scrutinised and validated*
- *how the invoice is calculated, for example price per unit x number of units, or flat rate monthly fee*
- *the process for approval of invoices*
- *how the total spend on the contract will be monitored*
- *how income relating to the contract will be monitored*
- *what the expenditure should be coded to*
- *how indexation is applied*
- *whether there are any price reviews included for in the contract*

6. Governance arrangements

Briefly outline:

- *the contract management team, decision making levels and escalation*
- *provide a Responsible, Accountable, Consulted, Informed, Supporting (RACIS) detailing the responsibilities of LCC, the provider, and others at appendix 1.*
- *are there any specialist areas where the contract management team will rely on the expertise of others in the council to support management of specific contract requirements eg information governance, safeguarding, health & safety...*
- *determine document management and contract administration arrangements*

7. Communication with provider

Briefly outline:

- *[monthly] review meetings, annual review meetings, and other communication mechanisms between the council and the provider*
- *escalation routes and procedures*
- *compliments and complaints procedures*
- *how information will be managed*

8. Communication with stakeholders

- *Identify stakeholders and summarise how stakeholders will be engaged, including elected members, consider any particular community or neighbourhood activities*
- *Briefly outline how stakeholder feedback will be captured. For example, satisfaction surveys, suggestion box, focus groups, compliments and complaints*
- *For contracts resulting from medium or major procurements consider also attaching a communications and engagement plan at appendix 2*

9. Risk management

Briefly outline:

- *very high risks related to the contract and how they are to be managed*
- *how you will ensure a regular review of the risks related to the contract*
- *for contracts resulting from medium or major procurements consider also attaching a risk register at appendix 3*
- *what contingency planning will the provider undertake, and what contingency planning are you putting in place?*
- *remember to consider 'positive risks' also known as 'opportunities'*

10. Benefits

Briefly outline

- *the benefits to be realised through contract delivery*
- *how benefits will be captured, managed and monitored*

11. Change

Briefly outline:

- *how changes to the contract will be managed between LCC and the provider and who at LCC will authorise change*
- *how continuous improvement and innovation will be explored and managed*

12. Lessons

Briefly outline:

- *how the provider will capture and feedback lessons*
- *how lessons will be captured by the contract manager and used to inform wider best practice*

13. Expiry arrangements

Briefly outline thoughts given to arrangements for when the contract expires. For example, inventories, equipment, TUPE, data, licences

14. Procurement background

Briefly outline:

- *the service directorate lead with respect to the procurement*
- *the PPPU/PU lead with respect to the procurement*
- *the procurement route used*

15. Other considerations

- *other than paying the invoice, are there any specific tasks that the service directorate team is responsible for undertaking, and how will these be monitored? For example, providing quarterly timetables, placing orders 24-hours in advance of use*
- *briefly outline any issues (not covered above) relating to:*
- *consultation and engagement*
- *equality, diversity, cohesion and integration*
- *legal implications, statutory duties, and regulations*
- *data security and also data publishing - if the Contractor is a data processor or a data controller under the Data Protection Act 1998, the plan should cover i) how compliance generally with the Act will be monitored, ii) how, if the Contractor is a data processor on behalf of the Council, the organisational and technical measures implemented by the Contractor to comply with the Act will be monitored, iii) how any specific*

measures listed in the specification/contract will be monitored

- *safeguarding – remember children and adults who may be at risk, remember all service areas where direct contact may be involved*
- *health and safety – staff, users, general public*
- *environmental performance*
- *social responsibility, for example, community benefits, environment, employment and skills etc.*
- *workforce planning and development*
- *tracking the on-going financial health of provider / sub-contractors through CreditSafe or other route*
- *other service specific matters – hard to reach groups, fraud prevention etc.*

16. Appendices

- *1 RACIS matrix*
- *2 Communications and engagement plan*
- *3 Risk register*

Operational contract manual (OCM) (delete where not applicable)

For contracts that have complex interfaces and processes you may want to prepare an operational contract manual which sets out these in detail. This document is most likely to be prepared by the provider, with inputs from yourself.

If an OCM is prepared, please include a link or details of the filepath here.

If an OCM is prepared, this contract management plan might be very light touch and simply cross-refer to the OCM rather than repeating the information.

Key contacts (delete where not applicable)

<i>Service 1 internal</i>	
<i>Service 2 internal</i>	

<i>Legal</i>	
<i>Finance</i>	
<i>Technical</i>	
<i>Health and safety</i>	
<i>Safeguarding</i>	
<i>Data protection</i>	

Provider bank details

Appendix 2

A Case Study in Contract Management of Commissioned Services

- The Strategy and Commissioning team in Public Health commissions and manages a range of contracts that provide services for vulnerable people, primarily to support them to live independently or to provide support around drug and alcohol misuse. Commissioning on behalf of Public Health, Environments and Housing, Adult Social Care and Children's Services, the team manage numerous contracts with multiple providers across the city with a value of circa £20m per annum
- In order to ensure that good services are provided that meet the needs of vulnerable people the team adopt a robust and comprehensive contract management process which is centred on relationship building with commissioned providers. Building good relationships is vital to understand the service, the context and pressures, ensuring the correct links with other providers are in place and it enables the early discussion of any potential problems.
- Contract management however is not a stand-alone activity. Contract managers are involved in the whole life cycle of commissioning: using knowledge from contract management to review services and inform future decision making; writing specifications for new services with a clear understanding of need; working with providers during a mobilisation period before a new service is up and running; managing the contract to ensure performance and outcomes during the contract period; assessing quality and the changing needs to inform future reviews.
- In terms of the day to day contract management, contract managers use the specification as the framework for discussions as this contains the service targets, outcomes and expected ways of working. Providers report against this every quarter as a minimum and a face to face meeting takes place to discuss progress any problems or barriers for example.
- Depending on the nature of the service there will be much more regular reporting, for example accommodation void levels might be reported weekly; details of those people rough sleeping 3 or 4 times a week; outcomes for those accessing drug and alcohol treatment are reported quarterly.
- Contract managers use the knowledge that they have of the service and its performance to carry out on-going risk management which provides managers with an at a glance risk rating across all of our commissioned services. The risk rating looks at quality, performance and governance and rates any potential impact of a concern in these areas for service users, the Council's priorities and reputation and the organisation delivering the service.
- A key component of the approach around contract management is the evaluation of service quality. A Quality Assessment Framework is used for which providers self-assess and then a validation of this assessment is carried out by contract managers. Part of this ongoing process ensures that providers are aware of current standards and initiatives for example around Child Sexual Exploitation and Safeguarding or linkages

to new initiatives like the Domestic Violence and Abuse Breakthrough Project or the recently successful Innovations Fund bid.

- Contract managers are aligned around particular themes, eg Young People, Domestic Violence, Mental Health etc. and will manage all of the projects in their theme area. This enables them to develop a good strategic overview, helps ensure the right links are in place, enables participation in relevant forums and steering groups and provides the opportunity to bring providers together to discuss issues around a common theme.
- Good contract management is beneficial to our commissioned providers as well. The approach used by the Strategy and Commissioning team ensures that providers have a clear understanding of how service performance will be measured and how the delivery of the service will be monitored. This enables them to plan how the service should be delivered and respond to changes in service demand.