

Report of the Chief Officer PPPU

Report to Scrutiny Board (Strategy and Resources)

Date: 21 December 2015

Subject: Effective Procurement

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

This report seeks to provide an update to Scrutiny (Strategy and Resources) on the ongoing work within the Projects, Programmes and Procurement Unit (PPPU). The report covers:

1. An update on general procurement savings achieved to 31st October 2015
2. An update on PPPU's access to council feeder systems following the intervention of the Scrutiny Board
3. Improvements to the councils financial management system (FMS) to reduce off contract spend
4. An analysis of the use of Waivers of the Contracts Procedure Rules (CPRs) April to September 2015.
5. Ongoing work to reduce non-contract spend.

By working together with directorates, PPPU can assist them in achieving compliance with CPRs to ensure that the council's money is spent wisely.

Recommendations

Members of Scrutiny Board are asked to note the contents of this report and to comment on any areas where they would like further information with the possibility of a further update including the results of the improvements to FMS and the training detailed in paragraphs 3.3.2-3.2.4

1 Purpose of this report

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

2 Background information

- 2.1 The council's Contracts Procedure Rules (CPRs) for procurement contracts 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. PPPU is accountable for providing a central source of expertise, advice and support, providing check and challenge as appropriate. By working together with directorates, PPPU can assist them in achieving compliance with CPRs to ensure council's money is spent wisely.
- 2.2 In PPPU's report to Scrutiny on 20 July 2015, there was a commitment to provide an analysis of waivers of CPRs. This report provides an update on the use of Waivers of CPRs in this financial year.
- 2.3 The Portfolio Management Office (PMO) within PPPU had identified that access to feeder systems was necessary in order to identify off and non-contract spend. The council's Financial Management System (FMS) is used to place orders, but in addition there are other bespoke systems within the council which can also be used to place orders. These are called feeder systems as they "feed" into FMS so that FMS captures the financial cost of the orders raised to create an invoice to pay the supplier. Although FMS captures the data from the feeder systems, it does not have the detail required to assign the expenditure to the appropriate contract. The PMO therefore asked for Scrutiny Board's assistance to gain direct access to the council's feeder systems in order to follow the audit trail of payments made via FMS and match these against the appropriate contract for the goods or services provided. Scrutiny Board were advised that access to the feeder systems would greatly assist in the identification of off and non- contract spend across the council. Greater visibility of spend within the feeder systems would allow PPPU to ensure council colleagues comply with CPRs and are spending money wisely. Scrutiny Board supported this request and emailed business partners who manage the feeder systems asking them to grant access to the PMO.
- 2.4 Forthcoming improvements to the council's financial management system (FMS) such as an improved search facility for finding contracts, and the identification of internal service providers (ISPs), were also promoted in the previous report to Scrutiny Board. The PMO and Category teams within PPPU have worked with directorates to update the list of internal suppliers. Increased use of ISPs will retain expenditure within the council and further protect jobs and services. The report advised that the improved search facility within FMS will assist order commissioners or "buyers" in being able to select the correct contract and therefore avoid off-contract spend.
- 2.5 The PMO within PPPU has also collaborated with colleagues in the wider council including the Business Support Centre, Corporate Finance, and the directorates in order to identify and influence as great a reduction in off or non-contract spend as possible.

3 Main issues

3.1 General procurement savings

- 3.1.1 The procurements undertaken by the Category teams within PPPU have identified savings of £4.6m on contracts awarded from 01April to 31October 2015. This includes £528k of savings where contracts were put in place to remedy non- contract spend. There are likely to be further savings identified on contracts yet to be awarded up to the end of the financial year. It is recommended that Members invite another report back in six months to report on the full year procurement savings achieved.

3.2 Feeder systems

- 3.2.1 Where invoices/payments are processed via the council's financial management system (FMS Leeds), contract and other procurement information is captured at the point when the order is raised and contract/¹off-contract spend can be monitored via FMS Leeds reporting.
- 3.2.2 Where invoice/payments originate from other departmental finance systems and are passed to FMS Leeds for payment via feeder files, contract and other procurement information may not necessarily be recorded on these departmental feeder systems and there is currently no mechanism for transferring and recording this contract and other procurement information into FMS Leeds. As such, it is not possible to report contract/off-contract spend from these feeder systems from FMS Leeds, but there may be opportunities for reporting off-contract spend separately directly from these feeder systems, where the contract information is currently captured and recorded on these systems.
- 3.2.3 Where invoices are raised without an associated order and input into FMS for payment by Central Payments there is no way of matching the spend through FMS Leeds to establish whether it is against a contract without manual intervention.
- 3.2.4 The PMO are currently in discussion with owners of these departmental feeder systems following the assistance of Scrutiny Board in order to gain access to and understand how contract information is captured and recorded in these systems and how contract/off-contract spend can be reported directly from these systems. As an example, colleagues in Environment and Housing are providing access and training for both the Orchard and PS Team feeder systems for colleagues in PPPU. The functionality to add Yortender contract references will also be included for the Statement of Requirements for procurement of the replacement for the Orchard system.

¹ Off contract is where a contract for the goods or service being ordered exists but has not been used.

- 3.2.5 Although FMS Leeds could be developed to extend the recording of contract and procurement information from invoice/payments originating from other departmental finance systems, this would involve significant development and major changes to business process around the input and processing of invoices. This would require a cross-council project to assess the implications for all stakeholders involved in processing invoices/payments across the council and to identify the statement of requirements. The feasibility of this development would also have to be considered in the context of the current review that is being undertaken of the council's core business systems, which will include a review of FMS Leeds and departmental feeder systems, plus other possible alternative financial systems.

3.3 **Improvements to FMS**

- 3.3.1 The PMO have been working with the Principal Systems Manager, Alan Simmons to implement improvements within FMS to assist in reducing off contract spend.
- 3.3.2 Development work has now been completed on the improvements to the FMS Leeds ordering process, including revised categories of spend, improved contract search functionality and improved contract descriptions. These enhancements will make it easier for orders on FMS Leeds to be raised against contracts, will therefore reduce off-contract spend and help deliver procurement efficiencies.
- 3.3.3 A significant factor in the success of this project is the accuracy and completeness of the refreshed and enhanced procurement information. Colleagues in Information Management and technology have been working with colleagues in PMO collaboratively to ensure that this critical aspect of the project is delivered.
- 3.3.4 This work has now been completed successfully and the data has been loaded into the FMS Leeds test system. Extensive testing is ongoing during November/December with training materials currently being developed ready for the changes to be rolled out to users in January 2016.

3.4 **Waivers**

- 3.4.1 Contracts Procedure Rules allow certain rules to be waived in circumstances where Chief Officers consider that course of action to be justified, provided that a decision to waive Contracts Procedure Rules (CPRs) 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.
- 3.4.2 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 11 March 2015 provided detail of the new process.

- 3.4.3 PPPU maintain a log of waivers of CPRs. The attached appendix shows the analysis of 52 waivers of **CPRs 8.1 and 8.2 and 9.1 and 9.2** in the period April to September 2015.
- 3.4.4 **CPR 8.1** states “Where no appropriate internal service provider, exclusive supplier, existing provider, LCC Approved Framework Agreement or Approved Framework Agreement exists competition is required for procurements valued at over £10k but at or below £100k”.
- 3.4.5 **CPR 8.2** states “At least three written tenders will be invited. These tenders may be invited by publishing either an open or a restricted tendering opportunity (restricted meaning that only selected suppliers are invited to tender) on the YORtender portal or inviting tenders from suppliers using Construction line (if applicable, please see the construction and housing category team for advice)”.
- 3.4.6 **CPR 9.1** states “Where no appropriate internal provider, exclusive supplier, existing provider, LCC Approved Framework Agreement or Approved Framework Agreement exists, competition is required for procurements valued over £100k.
- 3.4.7 **CPR 9.2** states “Where there are sufficient numbers of providers at least **four** written tenders will be invited. Tenders must be invited by publishing and open opportunity on the YORtender portal or inviting tenders from suppliers using Constructionline (if applicable, please see the construction and housing category team for advice). Authorised Officers should consider CPR 1.1.3 when deciding which approach to take.
- 3.4.8 **CPR 1.1.3** states “Every procurement undertaken by or on behalf of the council and every contract entered into by the council will comply with the council’s strategic objectives and policies including the Procurement Strategy and the council’s Employee and Member Codes of Conduct”.
- 3.4.9 **CPRs 8.1 and 8.2** were waived 39 times by directorates and of these, 16 (41%) were for Children’s Services.
- 3.4.10 **CPRs 9.1 and 9.2** were waived 11 times by directorates and 5 (45%) were for Children’s Services.
- 3.4.11 Of the total 52 waivers, 33 (63%) were to remain with an existing contractor. Reasons given as to why it is necessary to remain with an existing contractor include:
- Grant funded schemes usually have conditions in connection with who will carry out the work.
 - If a provider is providing specialist software and another piece of software is required, it may not be possible to procure from someone other than the existing provider.

- Sometimes, due to service reviews, existing providers are given the work until the review has taken place to ensure continuity of service until such a time as the review has taken place and it is clear what is to be delivered.
- Organisations can have a historic arrangement with the council and there is a need to formalise it initially then tender at a later date.
- Some services have used organisations which have worked collaboratively with the council and built effective working relationships and gained knowledge with a service, for example schools, to tender would outweigh the potential benefits of changing provider in a competitive tender process for a low value initial contract scenario.
- Best value has been obtained due to the fact that the existing provider has been subjected to a competitive tendering process under an existing framework contract
- Benchmarking exercises have taken place and have proved that existing providers could not be beaten on price
- Using an existing contractor as they carried out the main works and the scheme is currently in the defects period and any other contractor coming in could invalidate the work
- If the council does not award the contract to an existing training provider there could be a significant cost in monetary terms and this could also create a resource pressure. If the existing provider is retained there would not be a requirement for additional training and there would not be migration charges relating to time and costs.

3.4.12 A waiver of CPRs 8.1 and 8.2 and 9.1 and 9.2 should be accompanied by a contract entry on YORtender. Of the 52 waivers of these rules, only 38 (73%) could be identified on YORtender. All contracts should be logged on YORtender.

3.4.13 Six waivers (11.5%) did not have a value stated. Two waivers (3.8%) did not have a contractor stated. It is important to have a value stated to ensure that there if the contract exceeds the current EU threshold of £172,514 that Public Contracts Regulations are adhered to. (From 01 January 2016 the EU threshold will change to £164,176).

3.4.14 The PMO team will continue to monitor the use of waivers and will provide Scrutiny Board with an analysis for the whole of financial year 2015/2016. There will then be the opportunity to advise Scrutiny Board if there are persistent breaches of CPRs with respect to the use of waivers.

3.5 **Non and off-contract Spend**

3.5.1 The PMO is actively collaborating with colleagues in the wider council including the Business Support Centre, Corporate Finance and

directorates (via their feeder systems) in order to have visibility of ²non and off-contract spend.

- 3.5.2 The PMO produce monthly and quarterly reports detailing non and off-contract spend. These reports are used to inform monthly meetings with PPPU category managers so that they can give appropriate advice and support to directorate colleagues.

3.6 Parks and Countryside Collaborative Working

- 3.6.1 PPPU continues to work with Parks and Countryside to minimise off and non- contract spend and an update is provide below.
- 3.6.2 Progress in reducing off and non-contract spend has been made and is continuing as non contract spend is moved to on contract spend, however this will not always result in savings being made . Existing contracts have also been identified and used where suitable for delivering specific requirements e.g. food for retail sale, fruits, vegetables and meat. These contracts have also been considered when procuring animal feed. Waivers or quotations are sought when appropriate to cover periods to allow contract review and/or formal procurement to take place e.g. for litter bins, plants or seeds for the nursery.
- 3.6.3 The procurements of horticultural supplies and equipment hire have been directed to fencing (timber and metal) and plant hire framework contracts. Some of the fencing contracts were found to be unsuitable for use as they were intended for building environments whereas Parks and Countryside require more ornamental products. New contracts are being or will be set up to ensure that the requirements for Parks and Countryside can be met.
- 3.6.4 Tenders have been received for playground equipment and are under evaluation. The contract will be in place for January 2016 for new playground schemes.
- 3.6.5 There has been joint commissioning and tendering with the Events team for concerts and events in parks covering provision of stewarding, fencing, electrical and medical services.

4 Corporate Considerations

4.1 Consultation and Engagement

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

4.2 Equality and Diversity/Cohesion and Integration

The Transforming Procurement Programme included equality issues as one of its workstreams and has undertaken a formal screening, which was published

² Non-contract spend is where there is not a contract in place for the type of goods or service being ordered. If the spend is over £10k, CPRs state there should be a contract.

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 procurement and the key template documents that Contracts Procedure Rules refer to provide specific prompts in this respect.

4.3 Council policies and City Priorities

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.

4.4 Resources and value for money

This report outlines ongoing work within PPPU to ensure the council is spending money wisely. The procurements undertaken by the Category teams within PPPU have identified savings of £4.6m on contracts awarded from 01April to 31October 2015. This includes £528k of savings where contracts were put in place to remedy non- contract spend. There are likely to be further savings identified on contracts yet to be awarded up to the end of the financial year.

4.5 Legal Implications, Access to Information and Call In

None.

4.6 Risk Management

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 The first analysis of the use of waivers for CPRS 8.1 and 8.2 and 9.1 and 9.2 shows that for the first half of the year 2015/2016 there was not excessive use of waivers with only 52 being identified. Ongoing analysis will provide trend data which will be used to measure compliance with CPRs.

5.3 By working together with directorates, PPPU can assist them in achieving compliance with CPRs to ensure that the council's money is spent wisely.

5.4 Members of Scrutiny Board (Strategy and Resources) are asked to note the contents of this report, and to comment on any areas where they would wish the PMO to focus on with the possibility of a further update including the results of the improvements to FMS and the training detailed in paragraphs 3.3.2-3.3.4

6 Background documents³

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

³ 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.