

South Lakeland District Council
Cabinet
Wednesday 1st September 2021
Annual Procurement Update 2021/22

Portfolio: Cllr Andrew Jarvis - Finance and Resources Portfolio Holder
Report from: Section 151 Officer
Report Author: Gill Flowers – Procurement Specialist
Wards: (All Wards);
Forward Plan: Not applicable

1.0 Expected Outcome

- 1.1 This report provides an update on progress across the procurement function and a review of activity in financial year 2020-2021. This is a historic review for noting by Members.
- 1.2 This report also reviews the 2021-2022 procurement schedule and updates the schedule in line with the Contract Procedure Rules within the Council's Constitution: this enables officers to ensure contracts are awarded promptly but transparently.

2.0 Recommendation

2.1 It is recommended that Cabinet:-

- (1) note the progress across the procurement function over the past 12 months;**
- (2) note the future focus;**
- (3) approve the items listed as Cabinet decisions and recommend the updated Procurement Schedule at Appendix 1 to Council for approval; and**
- (4) notes the spend 2020/21 for the top 25 suppliers by value in Appendix 2 and the exemptions and waivers for 2020/21 in Appendix 3**

3.0 Background and Proposals

- 3.1 This has been a challenging year for all due to the Covid-19 Pandemic and there have been a number of procurement projects that were delayed due to this. There had been access issues to sites which resulted in heightened risks of delay until access could be made, or changes in costs due to quotes based on "site unseen". In addition to this there has been uncertainty regarding Local Government Reorganisation where procurers have considered delaying procurements until a clearer timeline is in place and a more meaningful specification can be put in place.
- 3.2 Personnel that would have been involved in the procurement process were called to other areas of work. Although there were efforts to reduce the amount of Exemptions and Waivers to the Procurement Regulations in the previous year, procurers utilised

Public Procurement Regulations rule 32 that allowed the extension of contracts due to unforeseen circumstances.

- 3.3 The effect on the workload of support services such as Legal and ICT were taken into account after the Council approved the last Procurement Schedule. The Council had to prioritise activity and with Customer Connect as the focus, which again meant procurement activity was reduced and timescales on many of the procurements changed. These changes have been reflected in the revised Schedule being presented at Appendix 1 and commentary regarding this at paragraph 3.8. With the additional capacity challenges arising from Local Government Reorganisation there may be further amendments to this draft schedule before final approval at Council on 5th October 2021.
- 3.4 The Procurement Specialist has recently taken the revised Procurement Strategy 2021-2026 to Overview and Scrutiny, Cabinet and Council. This is a sister strategy to the Commissioning Strategy and links the Procurement process to the Council Plan. The theme coming through from the Plan is one of Social Value and Carbon neutrality. Procurement has a role to play in enabling the Council's money to be spent and therefore invested in local business and the local economy. This will be by encouraging local businesses to bid for tender and request for quote opportunities. Procurement is working with the Economy and Culture Specialist and Cumbria Chamber of Commerce to host a Small Business Workshop on working for the Council to be staged virtually in September.
- 3.5 With regards to Social Value, the Council has signed up to the Social Value Portal, which is encouraged by the Local Government Association. This is a procurement tool which assists with the evaluation of Social Value and environmental benefits and contract manages this through the life of the contract. This is not only in line with the Governments ambitions for procurement and Social Value but overcomes the lack of expertise and resource within the Council to follow up the Social Value method statements put in an invitation to tender.
- 3.6 The Procurement schedule for 2020/21 as amended at October 2020 listed One hundred and thirty Five (135) of these the significant points to note are:-
 - 44 "complete"
 - 10 "work-in-progress"
 - 5 "scope change" which includes 1 service brought back in house
 - 76 "carry forward" to the Procurement Schedule 2021-22
- 3.7 Of strategic importance, the team have lead the successful procurements of a number of projects, some detail below:
 - 3.7.1 Playground's – Despite Covid-19 meaning that site visits were restricted, we were in a position to go ahead with procurements for Queen's Park, Windermere, and the adjoining Skate Park.
 - 3.7.2 Kendal Markets –It was decided to contract with Praxis Management to provide soft facilities management to the indoor market, and the market itself managed by an SLDC member of staff. This will be reviewed in 2 years.
 - 3.7.3 Consultancy– The amount of work purchased through Bloom has reduced. Although it is felt that it could be used for smaller pieces of work with competition, we have seen that where procurement results from grant monies, Bloom's processes seem to be disadvantaging local providers if not already registered with them. We are also still direct awarding to Lambert Smith Hampton (LSH) for work outside the scope of the current property services contract with them.

We tendered for our own framework agreement for consultants to work on the local plan. This was a complex tender with 16 lots and 26 suppliers, which should make the contract process quicker and simpler down the line.

- 3.7.4 ICT – Although we still need to do a commissioning review of the whole print and postage system within the Authority, we have procured the Multi-functional Device contract through the YPO framework, which ties in nicely with the South Lakeland House refurbishment. This does include the Print Room devices. Significant savings were made, as technology changes mean that machines are now more efficient and need less engineer time.
 - 3.7.5 Grange Lido – This was another project that has been affected by Covid-19. The tenders came in significantly above budget. Cabinet have subsequently considered revisions to the funding package and an award has been made.
 - 3.7.6 Vehicles – As we are looking to increase our fleet of electric vehicles, SLDC have recognised that the continuous development of electric vehicles means that it is not good value for money to buy these outright at the moment, so we are increasing the amount of lease vehicles to achieve our carbon goals. We have temporarily agreed that the price/quality evaluation ratio is set at 60% quality v 40% price unless true total life costs are used in pricing rather than ticket price.
 - 3.7.7 The Procurement team continues to work closely with the Corporate Asset Manager and the Property Services Provider (Lambert Smith Hampton) to deliver property-related procurement projects covering servicing and works contracts. This contract is currently being reviewed.
 - 3.7.8 Choice Based Lettings - This Council has been leading on behalf of the Cumbria Choice Based Letting Board the procurement of a replacement Choice Based Letting Portal. This has been a lengthy process due in part to the number of interested parties (13). The Cumbria Choice Based Letting Policy and Partnering Agreements were also reviewed as part of the process as they had a direct effect on the build and outcomes of the Contract. The Portal has been split into the Build of the new system and the Run of the system, which did make some of the contract drafting more complicated. The aim was to maximise the contract length of the run contract as it takes so long to procure, contract and implement a new system. As of end July 2021, the build is almost completed and the contract for the run is due to be signed.
- 3.8 The Council's Constitution has permitted officers to conduct and conclude the contracting processes without further approval providing it is in line with the Procurement Schedule, to be approved by Council at least annually. Where a procurement process is over budget then approval will still be required in accordance with the Financial Procedure Rules. Where an officer seeks approval for a waiver or exemption under the Contract Procedure Rules this is also included in the Procurement Schedule. Appendix 3 lists the exemptions and waives approved during 2020/21. An updated Procurement Schedule for 2021/22 is attached at Appendix 1 which includes some additional procurement exercises not approved in February 2021.
- 3.9 The Monitoring Officer is reviewing the Councils decision making thresholds relating to contracts and procurement, including those matters requiring Cabinet approval, Director Approval with consideration of Portfolio Holder and Director delegated decision making. Any changes to executive decision making would require the Leaders approval. The decision making relating to waivers and exemptions is also part of this review. The Councils Contract Procedure Rules are also being reviewed.

3.10 A Commissioning Strategy has been prepared and approved by Council in July 2020 which is a sister document to the Procurement Strategy. The Procurement Specialist presented the Procurement Strategy to Council in July 2021 and has been accepted by Council. The main themes are how procurement will work in line with the Commissioning Strategy to provide a golden thread from the Council Plan. The main themes are promoting local business, social value, procuring for a carbon zero outcome and total life costs.

3.11 Exemptions and Waivers

3.11.1 In Financial year 2020/21 there were 16 exemptions and waivers reported to the Procurement Specialist, as listed in Appendix 3 There were a range of reasons given for those exemptions but the most common request was for direct award, though in mitigation this was where we had previously tendered for a service. The Procurement Specialist is keen to advise that where follow on action could be a possibility then it is factored into the original brief even though it might not be taken up further down the line

3.11.2 One of procurement's aims is to reduce those exemptions that are due to poor resource management, where procurement re-provision has not been factored into business as usual. These are down by four on the previous year, but remain a concern.

3.12 Training

3.12.1 Two levels of module based Contract Management training through Central Government have been sourced that are free to access and are relevant to Public Procurement. This is available to all interested staff.

3.12.2 The Procurement Specialist will be presenting Bitesize training in November looking at the Constitution and how that links to Public Contracting Regulations

3.13 Spend Analysis

A task from the Action Plan accompanying the Procurement Strategy involves spend analysis. A list of the top 25 suppliers by spend in 2020/21 is attached at Appendix 2. This has highlighted some areas of spend that are not formally contracted that need addressing as there is a large risk that we are not achieving value for money.

3.13.1 Recruitment – Out of the 7 suppliers out of contract on the top 25 list, 6 of these were recruitment agencies. Unless staff are recruited onto payroll, they should be treated as if they were a procurement exercise. By not regulating this area of spend we are not looking at the fees these 6 suppliers are charging and any other overhead costs. Any potential added value they could bring to SLDC in recruitment fairs and other benefits is not evaluated. This spend totalled £743,240 in 2020/21. There is the opportunity to look at this in two ways: those ad-hoc emergency arrangements to cover sickness, and a more considered professional recruitment route.

3.13.2 Ad hoc spend associated with large spend – Although we have contracted with Caddicks for the South Lakeland House and Kendal Town Hall refurbishment, there were some associated items that were not procured through this contract, but were made through direct awards, This has been picked up by the auditors and the message is that the usual procurements and exemption processes should be followed for the whole project, not just the main contractor.

3.14 Challenges in the Future

- 3.14.1 The UK has left the EU and although we are no longer bound by EU Procurement Regulations, we are still subject to The Public Contracting Regulations 2015, which very much mirrored them, until such time as further reform is implemented. In conjunction with EPIC (Enabling Procurement in Cumbria) SLDC has responded to the green paper on Transforming Public Procurement. We welcome the proposed changes which it is hoped will simplify the processes and make it easier for small suppliers to bid. With regards to localism, there will need to be a change to the Local Government Act to feel the full benefits of being able to specify local suppliers where it is appropriate.
- 3.14.2 Covid-19 continues to be a big influencer on the markets this year and will continue to be so for the foreseeable future. We have already seen contractors go into administration and the uptake for new business is down as suppliers fight to maintain their existing business. The building sector is experiencing issues with recruitment and retaining staff that have been requested to self-isolate. Coupled with a building supplies problem, we are experiencing increases in costs and delays to starting work.
- 3.14.3 Local Government Reorganisation has determined the future arrangements for unitary local Government in Cumbria. There has been a significant number of major procurements put on hold awaiting Review outcome. A large piece of work will involve aligning our contract end dates. Where contracts are coming to an end, looking to see whether we can join onto our neighbours contract, or start looking at a collaborative solution from the start. The Contracts Management Board is compiling all information relating to the Council's contracts and their expiries and will advise on the principles we need to adopt in approaching the continuity of service delivery as responsibilities transfer to the new unitary Council.
- 3.14.4 Under the Accounts and Audit Regulations it is a requirement that Councils should report on any separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. These separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place. The Council has no such bodies but it is good practice to encourage significant suppliers to respect the principles.

Nolan Principles are:

1. Selflessness. Holders of public office should act solely in terms of the public interest.
2. Integrity. Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work.
3. Objectivity.
4. Accountability.
5. Openness.
6. Honesty.
7. Leadership.

These principles will also be upheld within the procurement process.

4.0 Consultation

- 4.1 The Procurement Team maintains an open dialogue about the performance of the procurement function with operational managers directly.
- 4.2 Discussions have taken place with Purchasing Consortia and various members of the council's supplier base which have proven helpful in tailoring the procurement process in a way which is supplier friendly but also results in arrangements that offer value for money.
- 4.3. The procurement team maintains links with colleagues in other District Councils in Cumbria. A recent exercise was to sense check the process for the procurement of the Cumbria Choice Based Letting portal. Another joint project is looking at training needs and in particular contract management training.
- 4.4 After consideration by Overview and Scrutiny Committee the procurement schedule will be reported to Cabinet on 1st September 2021 with Council to be asked to approve the updated schedule on 5th October 2021.

5.0 Alternative Options

- 5.1 An annual update to Cabinet does not take place. However, falling under the portfolio for Finance it is vital that the procurement function continues to be driven and supported by members and senior managers. This will result in a more accountable and focussed procurement function delivering positive outcomes financially and in the quality of council services.
- 5.2 The Procurement Schedule is not updated – this reduces the efficiency of the Council by requiring individual reports and decisions for tender exercises. This also increases the time taken to let contracts. Also we fail in our statutory duty to report to the public procurement activity.

6.0 Links to Council Priorities

- 6.1 The new edition of the Procurement Strategy has just been published and the themes and actions are very much tied to the Council's Priorities within the council Plan. Procurement keep an interest in the Climate Action Network. Tools are being introduced to look at how we can evaluate Social Value and Carbon reduction in tender exercises, exploring the issues of total life costs, quality over price and added value to the local community.
- 6.2 The Procurement Team is keen to explore ways to encourage local small medium enterprises to take part in procurement exercises. We are also keen that local stakeholders also have the opportunity to influence the specification and evaluation and are looking at ways of achieving that without compromising fairness and due diligence. In September SLDC are aiming to have a session organised by Cumbria Chamber of Commerce on opportunities for Local Businesses to get involved in our tendering opportunities.

7.0 Implications

Financial, Resources and Procurement

- 7.1 Excluding staffing, there is an annual procurement budget of £18,400 which supports procurement IT tools, activities and training.
- 7.2 There are no direct financial implications of the Procurement Schedule although cashable and non-cashable efficiency savings are anticipated through the procurement of the projects included on the Schedule. The Procurement Strategy and the Contract Procedure Rules within the Constitution are a key element of corporate governance and contribute directly to delivery of value for money.

Human Resources

- 7.3 During the past 12 months the Procurement Team has been maintained a function of one permanent Procurement Officer/Case manager and a Procurement Specialist. The approval of the Procurement Schedule has no direct human resource implications but the delivery of the projects included on the schedule may have staffing implications. These are considered individually for each project at the start of the procurement process.

Legal

- 7.4 There is still uncertainty in the long term of the legal obligations that will arise out of Brexit, but it is clear that in policy notes from the Cabinet Office that it is “business as usual” until advised. Although we are seeing more in terms of Social Value and localism, in the short term there appears that there will be no direct impact on the operations of the Procurement Team.
- 7.5 Regular officer meetings are taking place via the Contract Management Board, work is taking into account Local Government Reorganisations and all services are meeting with the Legal, procurement and finance to ascertain a clear position on existing contracts, contracts to be terminated, those expiring and any new procurements required.
- 7.6 Waivers and Exemptions are required to be reported to the next available meeting of Cabinet following the taking of decisions. We recommend that this forms part of a separate heading to all reports to Overview and Scrutiny and Cabinet for transparency purposes.

Health, Social, Economic and Environmental

- 7.5 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No
- 7.6 If you have not completed an Impact Assessment, please explain your reasons:
Objectives are set at the start of each individual procurement exercise including any relating to social value.
The Procurement Team encourages Officers to consider how to obtain social value in all tenders and to consider sustainability at the ‘identify need’ stage of the procurement cycle
Access for Small and Medium Enterprises and Voluntary, Charity and Social Enterprises is considered through pre-market engagement, ensuring that strategies for organising procurements into lots does not create unwanted barriers for smaller businesses, and through advertising tender opportunities via The Chest, “Contracts Finder”, and the Council websites.
Work continues on the establishment of a Social Value Policy to support the Procurement Strategy.

Equality and Diversity

- 7.7 Have you completed an Equality Impact Analysis? No
- 7.8 Summary of equality and diversity impacts: There are no significant equality and diversity impacts with regards to this report. However, each Procurement Exercise should consider equality issues as part of the process.

Risk

Risk	Consequence	Controls required
Procurement activity does not comply with the legal framework	The council is subject to legal challenge which carries both risk in terms of cost and reputation	All procurement activity is run through the Procurement Team with input from Legal as necessary
Results of procurement activity do not offer value for money to the communities of South Lakeland	The council's reputation is brought into question for its handling of council budgets and ratepayer's money	Continue to consider cost, quality and added value in all procurement activity with support from the Procurement Team.
The Procurement Strategy is not delivered in full	The council delivers a procurement function which does not fully support the council in delivering its priorities to being the best place to live, work and explore	Continued liaison with internal officers and external agencies to support the Procurement Team in delivering the Strategy
Local Government Reorganisation requires transfer of all responsibilities to the new Unitary Council by April 2023	Procurement decisions need to address the continuation of business and the opportunity for future efficiencies as operations are aggregated into one council	Review of all Council contracts and direction for procurement agreed Liaison with other councils and the LGR transition programme to ensure optimum use of procurements and contracts

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Procurement Schedule 2021/22 (Updated)
2	Top 25 spend 2020/21
3	Exemptions and Waivers 2020/21

Background Documents Available

Name of Background document	Where it is available
Council February 2021: Procurement Schedule 2020/21	Agenda for Council on Tuesday, 23 February 2021, 6.30 p.m. (southlakeland.gov.uk)

Tracking Information

Signed off by	Date sent	Date Signed off
Legal Services	19/08/2021	20/08/2021
Section 151 Officer	Report from S151 Officer	16/08/2021
Monitoring Officer	19/08/2021	20/08/2021
CMT	13/08/2021	16/08/2021

Circulated to	Date sent
Lead Specialist	N/A
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	19/08/2021
Ward Councillor(s)	N/A
Committee	27/08/2021
Executive (Cabinet)	01/09/2021
Council	05/10/2021