



Dinas a Sir Abertawe

Hysbysiad o Gyfarfod

Fe'ch gwahoddir i gyfarfod

Panel Ymchwillad Craffu - Caffael

Lleoliad: O bell drwy Teams

Dyddiad: Dydd Iau, 24 Mehefin 2021

Amser: 10.00 am

Cynullydd: Y Cynghorydd Chris Holley OBE

Aelodaeth:

Cynghorwyr: P Downing, V M Evans, E W Fitzgerald, P K Jones, L R Jones, J W Jones, I E Mann, B J Rowlands, M Sherwood a/ac T M White

Agenda

Rhif y Dudalen.

- 1 Ymddiheuriadau am absenoldeb**
- 2 Datgeliadau o Fuddiannau Personol a Rhagfarnol**
www.abertawe.gov.uk/DatgeliadauBuddiannau
- 3 Gwahardd Pleidleisiau Chwip a Datgan Chwipiau'r Pleidiau**
- 4 Cofnodion y Cyfarfod Blaenorol** **1 - 2**
- 5 Cwestiynau gan y Cyhoedd**
Rhaid cyflwyno cwestiynau'n ysgrifenedig, cyn hanner dydd ar y diwrnod gwaith cyn y cyfarfod fan bellaf. Rhaid i gwestiynau ymwneud ag eitemau ar yr agenda.
- 6 Wedi'i ddiweddarau - rosolwg o Gaffael** **3 - 23**
Gwahoddir i ddod i gyflwyno'r adroddiad ac ateb cwestiynau mae'r Cynghorydd David Hopkins, Aelod Cabinet dros Gyflenwi a Gweithrediadau a Chris Williams, Pennaeth Gwasanaethau
- 7 Cynllun yr ymholiad Caffael** **24 - 26**
Gofynnir i'r Panel Ymholi adolygu a chytuno ar eu Cylch Gorchwyl eto, o ystyried treigl amser ers iddynt gyfarfod ddiwethaf.

Huw Evans

Huw Evans
Pennaeth Gwasanaethau Democrataidd
Date 17 06 2021

Cyswllt: Michelle Roberts, Craffu

Agenda Item 4



City and County of Swansea

Minutes of the **Scrutiny Inquiry Panel - Procurement**

Committee Room 5, Guildhall, Swansea

Thursday, 24 October 2019 at 10.30 am

Present: Councillor C A Holley (Chair) Presided

Councillor(s)

P Downing
M Sherwood

Councillor(s)

L R Jones
T M White

Councillor(s)

J W Jones

Officer(s)

Chris Williams

Head of Commercial Services

Apologies for Absence

Councillor(s): E W Fitzgerald, I E Mann and B J Rowlands

1 Disclosures of Personal and Prejudicial Interest

None

2 Prohibition of Whipped Votes and Declaration of Party Whips

None

3 Strategic Overview of Procurement

A report giving a detailed overview of Procurement was presented to the Panel by Chris Williams, the Head of Commercial Services. The report covered the following points:

- Procurement Rules and Regulations
- Contract Procedure Rules
- Procurement Functions
- Procurement Methods and Processes
- Efficiencies and Savings
- Beyond Bricks and Mortar
- Future Challenges and Opportunities; and
- Risks

Points noted from the discussion:

- Important to understand difference between purchasing and procurement
- Ethos of having level playing field for procurement. Must reinforce transparency and openness while enabling competition. Must have high standards.
- Council publishes its own Standing Orders and Contract Procurement Rules for the use of public money in Swansea. This helps stop fraud and ensure best

value. These procedure rules are currently in the process of changing and will soon be discussed at Constitution Working Group. The panel would like an update on these changes once they are agreed.

- Procurement do seek supplier feedback and the panel would like to see this as part of the inquiry.
- There are clear rules of engagement, respond to all so all bidders have the same information. All must be in writing with no verbal communication for robustness.
- Local procurement, rules are changes and will have more flexibility that have not been available before so will be able to work more with local providers. Cllr Hopkins wants to set up better ways of communication with local suppliers. Getting local suppliers to tender important. Must ensure it is easy for local suppliers to get on the list. Heard that different events with suppliers had regularly, panel members would like to attend one of these as part of the inquiry.
- Operate a category management structure, so transparent and stops silo mentality, can get best economies of scale this way. Try to do without a lot of bureaucracy. Online short form completed by suppliers, so registration not a barrier to entry.
- Have regular cycle of procurement to improve efficiencies and drive down costs. Also look at coming up with new ways of working to achieve reduced spend. We review spend with for example the People Commissioning Group which help to plan contracts and agree appropriate timelines. Commissioning process good to help get best outcomes. Panel will look at a Social Services case study as part of the inquiry.
- Must have good knowledge of system by all across the council, schools were raised as an example in relation to procedure rules and the complexity given they are all individually responsible bodies. Internal Audit do keep audit of schools. Panel would like to speak to Internal Audit to see how procurement is audited across the council as part of the inquiry.
- Officers attend a WLGA Procurement Working Group. This is made up of officers from across Wales with a view to sharing information, ideas and good practice.
- Social Value Act and those Local Authorities that are using it as a driver for improving investment in local communities, Cardiff Council and their Socially Responsible Procurement Policy was highlighted. The panel will have a session dedicated specifically to Social Procurement as part of the inquiry.
- Aim in Swansea to regenerate local economy and procurement is important to this. Need to look at gaps in local provision and to work with economic development to get business to fill these gaps.
- The length of contracts was discussed and panel were told as a rule it is 3-5 years but will depend on the service being procured.

The report today and discussion points will form part of the panels evidence pack and findings report at the end of the inquiry.

4 Planning the Inquiry into Procurement

The Panel discussed and agreed their Terms of Reference and a project plan for the inquiry will be put together and circulated to the Panel.

The meeting ended at 11.45 am

Agenda Item 6

Report of the Cabinet Member for Delivery and Operations

Procurement Inquiry – 24 June 2021

Overview of Procurement

Purpose	This report gives a high level overview of procurement processes and activity at Swansea Council to help inform the Panel Inquiry
Content	The report gives an overview of procurement in Swansea Council
Councillors are being asked to	Consider the information given as part of the inquiry into procurement
Lead scrutiny Councillor	Councillor Holley
Lead Cabinet Member / Officer for subject	<ul style="list-style-type: none">• Cllr David Hopkins• Chris Williams, Head of Commercial Services
Report Author	Chris Williams

1. Introduction

- 1.1 Procurement is often defined as the activity of acquiring goods and services. The procurement process spans a life cycle - from identification of need, through to the selection of suppliers, and then their contract management.
- 1.2 The Council spends approximately £250 million a year on a diverse range of goods, works and services from our external partner organisations. Examples of spending include on home care, homelessness support projects, energy and utilities, vehicles, catering products, building works, road repairs and IT software and technology.

2. Procurement Rules and Regulations

- 2.1 Public sector procurement is a highly regulated activity, i.e. governed by legislation, particularly the UK Public Contract Regulations (PCR) 2015. If the Council were to breach these regulations then suppliers could seek recourse against the Council in the courts (an internet search will yield numerous examples of this in the public sector) which would then affect public perception of the manner in which Council business is conducted as well as – in the event of a successful challenge – the need to pay financial penalties. In brief, the Council is obliged to conduct open and transparent and proportionate procurement process for our Council needs acting with integrity and seeking to ensure a level playing field for all potential suppliers.

2.2 On the 1st January 2021, the United Kingdom exited the ambit of the European Union’s rules, but it is important to note that UK procurement regulations (which derived from our membership of the EU) still exist in UK law today - and will continue to do so until amended. There is currently a UK-level review of the laws relating public procurement, but this time it is not clear what changes will occur and the implementation date of any new law is unlikely to happen until 2024. The Welsh Government is considering this matter also as it has the legal; power to act on a Wales only basis, and it is noted as one of the key priorities of the new Welsh Government administration. Whilst the UK has left the EU it has now joined the WTO as a member in its own right, and that membership also brings with it the requirement to openly publish our tender opportunities, so it is likely that the general ethos of public procurement principles as we know them today will remain.

2.3 In addition to adhering to the statutory UK Public Contract Regulations the Council is also obliged to publish its own standing orders relating to our control of spending and the document is known as the Contract Procedure Rules which is a core part of the Council’s Constitution. This document was revised in 2020 having been reviewed and agreed by the Council’s Constitutional Working Group and then full Council, and for full information please see:

<https://democracy.swansea.gov.uk/ieListDocuments.aspx?CId=546&MIId=7394&Ver=4&Info=1&LLL=0>

2.3 The Public Contract Regulations apply to any contract with a value of more than the current set threshold – see the table below - and the Council is for example required to advertise contract opportunities in the Find a Tender Service (formally OJEU) and also follow a set procurement process:

Type of Contract	Threshold
Service & Supply (includes supply, lease, rental or hire purchase of goods, provision of relief staff)	£189,330
Works (building & engineering, including capital works)	£4,733,352
Social and other specific services	£663,540

2.4 Even when a procurement process is not subject to the regulations (for example where the estimated value of a contract falls below the relevant threshold) the principles of non-discrimination of bidders /equal treatment, transparency, and proportionality apply.

Contract Procedure Rules

- 2.6 As referred to in 2.3 above the Council's Contract Procedure Rules (CPR) set out the key responsibilities and actions that Council staff must follow when undertaking procurement activity. CPR support staff to meet legislative requirements, and to meet the Council's ambitions for its procurement activity.
- 2.7 Fundamentally, the CPR support staff to deliver effective procurement. The CPR rules are also designed to ensure that the Council's procurement processes are fair, transparent and non-discriminatory. Following the CPR protects the Council, Members and Officers against allegations that procurement has been made incorrectly or fraudulently and compliance with these rules is compulsory. As noted the Council's current version of its contract procedure rules was agreed by Full Council in early 2020.

3. Procurement Functions

- 3.1. In terms of the staffing allocated to this area the Council employs a professional team of four Category Managers and four supporting Procurement Officers who assist the Head of Commercial Services in delivering the Council's procurement support to all Council staff, to facilitate their spending plans. The responsibilities of the Council's Corporate Commercial Procurement team include:
 - 3.2 Providing professional and strategic advice on all procurement matters, including (but not limited to) product/service specifications, supplier sourcing and procedures.
 - 3.3. Ensuring compliance with the Councils Contract Procedure Rules on all procurement activity undertaken, and ensuring the principles of openness, transparency, equal treatment and proportionality are followed.
 - 3.4 Ensuring the legal requirements of relevant legislation including the UK Public Contract Regulations 2015, and the Well-Being of Future Generations Act (Wales), and GDPR matters are adhered to at all times.
 - 3.5 Ensuring that value for money is achieved and purchasing power is optimised between quality and cost.
 - 3.6 Assessing the procurement requirement and providing commercial advice on the most cost effective, compliant and appropriate route to market.
 - 3.7 Development of a category forward work plan for all planned and forthcoming procurement activity in their area.

- 3.8 Attendance at required meetings, forums and working groups where procurement is required to attend.
- 3.9 Undertaking spend analysis, utilising the spend tool, to ensure maximum buying power is achieved.
- 3.10 Getting 'best value' for money in procurement is not restricted to getting the lowest price. 'Best value' is defined in the Welsh National Procurement Strategy as "the optimum combination of whole life costs and benefits to meet the customer's requirement.
- 3.11 Advertising and publishing of the contract requirement within the Find a Tender Service (FTS) and or Sell2Wales.
- 3.12 Administration of the tender once published via eTenderWales which includes the management of supplier clarifications received and liaising with the relevant Officers to ensure clarifications are responded too effectively.
- 3.13 Negotiate with tenderers as appropriate, award the contract for the end use and issue the required contract documents in consultation with Legal Services.
- 3.14 Provide training on specific elements of procurement or for when legislative or policy changes need to be communicated to end users.
- 3.15 Attendance and input in to Supplier development and awareness days in conjunction with Business Wales or other partners.
- 3.16 Analysing the market, research options and consult with users to clearly define the requirements. Conducting any necessary market engagement where necessary in conjunction with Business Wales or other partners.
- 3.17 Support local economies by the inclusion of economic, environmental and social and cultural clauses in all contracts (where appropriate) and improving access for SME and the voluntary sector to do business with the public sector.
- 3.18 Maintaining the Council's corporate contracts register so we can assess and review spend and supplier relationships, which also acts as a base document to ensure compliance and for audit purposes.
- 3.19 Supporting the Corporate Safeguarding Group and having a lead Officer on the group to advise on contracting and safeguarding. Work has been completed on drafting a Contractors Safeguarding Policy which is included within all procurement documents.
- 3.20 Supporting and leading on the implementation of Welsh Government's Ethical Employment in the Supply Chain Code of Practice.

- 3.21 Supporting a wide variety of Corporate Working Groups including Climate Change, City Centre Regeneration, More Homes and the Council's People Commissioning Group, plus many more.

4.0 Procurement Methods and Processes

- 4.1 There are number of methods that the staff of the Council utilise to purchase goods and services; this section highlights the major routes to market that are used (see also Table 1 at the end of this document):
- 4.2 **Procurement/purchase card** (also known as a P-card) which utilises either the Visa or MasterCard system. Staff are provided with a Council card for small value purchases. This method reduces bureaucracy and provides a clear audit trail of who has spent what, as only one card number is issued per person.
- 4.3 **Requests for Quotation (£25,001 - £140,000)** - this method of procurement is used for low value procurement activity. The procurement team have developed standard documentation and this is designed to speed up the procurement process, and is typically used for purchases up to £140,000.
- 4.4 **Request for Quotations (below £25,000)** – a new process has been developed for Officers to enable them to self-manage procurement processes for below £25,000, this process allows for Officers to select suppliers that would be able to deliver their requirement and promotes the selection of local suppliers (where possible).
- 4.5 **Tenders** – are used for larger value and more complex purchases over £140,000 there are a number of differing tender methodologies. The Council might for example seek a defined quantity on a defined date (a typical tender) or instead it might use what is known as a framework agreement where there is no guaranteed business but suppliers are assessed on their ability to deliver goods and services over a defined period (e.g. the Council might reach agreement on delivering a certain type of sand, but will only order from the supplier as and when the need arises). Where there is the potential to breakdown contracts into lots to enable SMEs and local suppliers to bid this will be encouraged.
- 4.6 There are further variations on these tender methodologies with the most recently introduced being known as a '**Dynamic Purchasing System**' - recently the used by the Council for part of its home-to-school transport provisions. The Dynamic Purchasing System enables new entrants (subject to satisfying qualification criteria) which also can offset any instability of losing suppliers and thus increases competition. Suppliers can apply at any time once the DPS is 'live', plus if they don't match the selection criteria at first they can re-apply if unsuccessful.

- 4.7 **Prior Information Notices (PIN)** – these are notices which are published to market to inform suppliers of a forthcoming tender opportunity and to prepare the market for the Council’s requirement. The use of a PIN also allows for any collaborative bids between organisations to be considered.
- 4.8 **Evaluation Criteria** - Tenders/Quotations can be evaluated on either:
- Price/cost; or
 - Quality; or
 - Price/cost and quality (**MEAT**)
- Price and quality are split into two sections to be evaluated separately.
 - Each will be given a maximum percentage score, which is weighted according to the relative importance placed upon it.
 - If quality is likely to be the most important factor a 70/30 Quality/Price ratio may be appropriate,
 - If price is more important 70/30 Price/Quality may be more appropriate.
 - There is no fixed balance between the two, it varies between each procurement exercise.
 - The Council can also add social benefit clauses and or sustainability outcomes in its tenders. There are two ways that this might be achieved including at the specification stage (for example for an electric vehicle) or at a scoring stage, so by adding quality marks which reward employment opportunities offered to apprentices for example. Please see Section 6 below which expands on this approach when applied to Community Benefits.
- 4.9 **Sell2Wales** - it is important to note also that the Welsh Government - the Council’s major funder - also has a key influence on the way in which spend with our suppliers is undertaken. Welsh Government policy notes that we must advertise our needs on its pan-Wales system called Sell2Wales (<https://www.sell2wales.gov.wales>) for all opportunities valued at £25,000 and above, so that there is one clear mechanism used by all the public sector with which suppliers can engage.
- 4.10 **Local Suppliers / SMEs** – the Council is committed to developing the local economy and supporting local suppliers. Wherever possible, local suppliers are invited to quote for low value contracts and are encouraged to bid for tenders. All Suppliers are encouraged to register on Sell2Wales and eTenderWales to ensure that they receive notifications of upcoming procurements. We encourage local organisations to bid for contracts and work with the Welsh Government’s Business Wales to assist with this, an example of this joint working is organising supplier days about future requirements.
- 4.11 The Welsh Government’s Business Wales service supports new and established businesses in Wales by providing Tendering Support services and free practical assistance to small and medium-sized

businesses in Wales to help understand the procurement process, and provide support in preparing pre-qualifying questionnaires and tenders.

- 4.12 **Procurement Notification Forms** – as a form of Procurement governance any new procurement activity valued at over £10,000 will require a procurement notification form / formal approval to proceed, with the form detailing the value and description of the contract and the approach to be taken. Approval of this form is required from the Head of Commercial Services before the commencement of the procurement activity.
- 4.13 **Contract Award Reports** – these reports form part of the evaluation phase of the procurement cycle, once the procurement process has been completed. These reports will also include financial, legal and procurement implications of awarding the contract. Depending on the value of the contract the report will be signed off by the following: the Service lead (known as the Responsible Officer), the Head of Commercial Services, and also the Deputy Chief Legal Officer and Chief Finance Officer, and for contracts valued at £1m+ or contracts for consultancy valued at £100K+ the relevant Cabinet member's approval is required.

5. Developments

- 5.1 There have been numerous developments within the procurement team the past twenty four months from updating our documentation in line with new legislation, streamlining and modernising our processes to improve accessibility and flexibility, and this has enabled us to also meet the very large demands caused by the covid pandemic. This sections highlights -
- 5.2 **New CPRs** - Contract Procedure Rules have been fully reviewed, updated and published following consultation with various departments to improve clarity to ensure consistent application in line with legislation and enable efficient procurement processes
- 5.3 **Update to Supplier T&Cs** – All our Terms and Conditions have been reviewed and updated in conjunction with the legal team to ensure compliance with new Welsh/UK legislation and provide suitable contractual protection.
- 5.4 **Introduction of Docusign software** – We have improved our contract issuing procedures to enable compliant electronic contracts to be issued and signed by suppliers. This has delivered significant savings (estimated at 24,000 less pages printed in just the Commercial Service alone!) and importantly enabled continuity of service during the covid-19 pandemic
- 5.5 **New low value Self-Service Process** – A new self-service procurement process, pack and guide has been developed to enable procurements in Band B, >£10k to <£25k to be run by departments themselves.

- 5.6. **New External Website** – The page has been updated to enable improved supplier engagement and access and as part of this work a new Supplier Guide has been developed which will for example assist local suppliers understand how to do business with the Council, for further information please see:

<https://www.swansea.gov.uk/dobusinesswithcouncil>

- 5.7 **PPE Covid response** – The procurement team were heavily involved in the PPE response to Covid-19 pandemic from the end March 2020 onwards. This has involved sourcing PPE, verification of suppliers and PPE, receipt/delivery logistics and liaising with Welsh Government, but also support for Social Services and Housing when delivering new care home support and homelessness support.
- 5.8 **Covid Relief** – The procurement team has assisted departments in accessing grant relief as a result of the pandemic
- 5.9 **Contract Variations** – As a result of the pandemic a very large number of events have been cancelled/delayed and/or has caused significant disruption to service delivery. This has resulted in numerous urgent and significant variation to contracts which the procurement team have facilitated in conjunction with Council contract managers and Legal.

6. **Beyond Bricks & Mortar / Social Value**

- 6.1 Beyond Bricks & Mortar initiative was developed in 2009 with a view to securing added benefits to regeneration projects let by the Council in the form of community benefits derived from the Council's suppliers and which are formally articulated in our contracts. The Council's Community Benefit policy was updated in 2016 and the Council's Beyond Bricks and Mortar team is responsible for its implementation in collaboration with procurement.
- 6.2 The scope of this policy is to include community benefit clauses in the procurement of all suitable works, goods and services including construction, education, catering and social care activities where applicable; all developments where the Council has leverage with the developers including end user opportunities with businesses who occupy the development. The BB&M team work closely with procurement and procuring departments across the authority in particular corporate building services, education, housing and social services.
- 6.3 Aims of the project specifically:
- 6.3.1 Identify training opportunities / apprenticeships within the project and work with Contractors or Suppliers and relevant agencies to increase numbers of unemployed, economically inactive and NEET's able to access these training & work placements;

6.3.2 Request participation in supply chain initiatives including using sell2wales to source suppliers and participate in Meet the Buyer events to encourage the development of more local supply chains;

6.3.3 Encourage wider community benefits such as engagement with schools, colleges and universities, participation in community events and activities such as sponsorship or fetes, and offering in kind labour and materials to help with specific projects for the community;

6.3.4 The policy delivers an impact on deprivation and added benefits for the community by requiring suppliers, contractors and developers working with the Council to actively participate in the economic and social regeneration of the locality and it is a requirement that suppliers, contractors and developers will deliver, where appropriate taking into account the particular project or development, some or all of the following community benefits as requested by the Council:

- Targeted recruitment and training outcomes - person week targets are set to be achieved through the employment of “new entrants” sourced from NEETs, the unemployed and disadvantaged and the economically inactive. This could be achieved through apprenticeships, trainees, work experience and jobs.
- Supply chain initiatives and development such as use of sell2wales and meet the buyer events.
- Other community benefits such as educational contributions and community projects.

6.4 As well as drafting clauses and specifying targets for training and employment, the BB&M team helps contractors and suppliers source candidates from local worklessness agencies and programmes working with the target groups, such as:

- Workways+
- Communities for Work
- JCP
- The Wallich
- Shaw Trust
- Remploy
- Gower College
- Neath Port Talbot College

6.5 In 2019-20 2,603 number of weeks of jobs and training were achieved, 27 new projects commenced and 63 job opportunities were advertised.

- 6.6 The Procurement Service supports multiple cross Council groups to deliver social benefits; the Service it is also part for example of the new Climate Change Working Group with a strategic focus of reducing Swansea's carbon emissions.

7. Future Challenges & Opportunities

- 7.1 The Council operates a robust process to ensure best value, with regular checks of external spend. As well as looking at how we buy the next stage of the cost saving agenda is also about what we buy – often the referred to as the commissioning cycle – so seeking new innovative specifications are thus increasingly important, with energy to be de this type of analysis and to related contract management support and supplier management.
- 7.2 In September 2018, it was announced by the Welsh Finance Secretary that the national collaborative body for Wales named the National Procurement Service (NPS) would cease to exist. The NPS withdraw from the provision of collaborative contracts (to focus on a smaller number), and examples of contracts that would no longer be delivered by the NPS include food, consultancy services and Welsh translation services. The result of this is local authorities will now work to undertake such work within their existing structures. Swansea is chair of the Mid and Central procurement delivery group (of the WLGA) and recently for example became lead authority for the collaborative Asbestos remediation arrangement.
- 7.3 The Commercial Procurement team of 8.5 FTEs has an increased workload with many new areas of work now coming through to the team including the City Centre Regeneration, More Homes programme and requirements from Social Care.
- 7.4 We also hope to support organising a Swansea 'Meet the Buyer' event with the participation of major employers in the area, when circumstances allow. It is envisaged that the Council would facilitate large-scale event that would encourage discussions with suppliers to listen and learn and to help them understand how the Council does business. As mentioned above the Council has developed a new supplier guide for potential suppliers to assist with understanding the Council's procurement processes.

8 Case study information

To provide further information on the procurement activity of the Council please also see two case studies showing the procurement process applied to

- 1) Domiciliary care tender (Appendix 1), and
- 2) the Highways maintenance tender (Appendix 2)

TABLE 1

	Under £10,000	Goods & Services			Works			Above EU Threshold
	< £10,000	£10,001 - £25,000	£25,000 - £140,000	£140,001 - EU Threshold	£10,000 - £140,000	£140,001 - £500,000	£500,001 - EU Threshold	
Quotation or Tender	Quotations	Quotations	Quotations	Tender	Quotations	Tender	Tender	Tender
Process	Best value considerations	Invite a minimum of 4 quotations	Invite a minimum of 4 quotations	Tendering procedures apply	Invite a minimum of 4 quotations	Tendering procedures apply	Tendering procedures apply	UK Public Contract Regulations apply
Advertising	Not normally advertised, Buyer discretion as to whether the opportunity is advertised	Buyer discretion as to where the opportunity is advertised	Openly advertised on Sell2Wales, with exceptions allowed by agreement of Procurement	Openly advertised on Sell2Wales	Four quotations shall be sought from appropriate suppliers using Sell2wales or suppliers registered on Constructionline	Openly advertised on Sell2Wales or alternatively six quotations shall be sought from Suppliers registered on Constructionline	Openly advertised on Sell2Wales	Adverts must be published in FTS

Scrutiny Panel: Procurement

Framework Agreement for the Provision of Domiciliary Care and Respite at Home Services for Older People and Younger Adults with Physical Disabilities and/or Sensory Impairment

1. Introduction

- 1.1 A procurement process was undertaken to establish a Framework Agreement for the Provision of Domiciliary Care and Respite at Home Services for Older People and Younger Adults with Physical Disabilities and/or Sensory Impairment.
- 1.2 In line with the *Sustainable Swansea* approach, Adult Services undertook a Commissioning Review into Adult Services Domiciliary Care for Older People. This analysis commenced in 2014 with the Adult Services Domiciliary Care for Older People Commissioning Review being completed in 2016.
- 1.3 A report was submitted to Corporate Management Team on 15th March 2017 confirming the outcome of Adult Services Commissioning Review consultation. This report proposed implementation of final recommendations that had emerged from the Domiciliary Care Commissioning Review, which was to commence the re-procurement of this service from the external market.
- 1.4 The new Framework Agreement aimed to develop a more stable market and reduce overall risks. The new arrangements introduced geographically based services and allow for a more even distribution of market share across the sector. Updated contract specifications and service standards was completed with the aim to deliver more person centred and outcomes focussed services.

2. Co-production within the Procurement Process

- 2.1. In developing the service specification for domiciliary care and respite care at home services and assessing the suitability of potential providers the project was keen to adopt the good practice outcomes taken from local and national co-productive approaches.
- 2.2. A definition of co-production is 'Local authorities, older people and older people's organisations working together to design and deliver opportunities, support and services that improve wellbeing and quality of life'.
- 2.3 This involved analysing a range of previous consultation and engagement documentation including -

- Commissioning review consultations
 - Independent Sector workshops
 - Stakeholder workshops
 - Service users' questionnaires 2016
 - Carers' questionnaires 2016
 - Previous complements and complaints
 - Reviews and Support Plans
- 2.4 By gathering and analysing information this gave an insight into people's experiences and expectations, including:
- What matters to people, through their views and experiences
 - What outcomes people want to achieve
 - What needs to change in the future commissioning
- 2.5 Key themes from consultation and engagement were used to help develop revised contract specifications and also the questions and model answers used to evaluate tender submissions.

3. Procurement Process

- 3.1. The potential estimated value of the new Framework Agreement over the term of the Framework Agreement is certain to exceed the European Union threshold for social and other specified services under Schedule 3 of the Public Contract Regulations 2015. The threshold at the time these services were procured was £615,278.
- 3.2. The Council's intention was to enter into a Framework Agreement with up to five (5) Providers per zone for Lots 1 – 5 (Domiciliary Care) and one (1) Provider for Lot 6 (Respite at Home).
- 3.3. The Lots are detailed as follows (please refer to Appendix 1 for further detail):
- Lot 1: Zone 1
 - Lot 2: Zone 2
 - Lot 3: Zone 3
 - Lot 4: Zone 4
 - Lot 5: Zone 5
 - Lot 6: Respite at Home Services
- 3.4. Under the Public Contract Regulations 2015, the light-touch regime (LTR) is a specific set of rules for certain service contracts. Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes. The services under this Framework Agreement was defined by these CPV codes therefore allowing more flexibility in the procurement process.
- 3.5. The Council may on or before each year of the anniversary of the commencement of the Framework Agreement undertake a refresh of the Framework (the "Refresh").

- 3.6. The refresh will provide for, inter alia, (i) providers of services similar to the Services to apply for appointment onto the Framework and (ii) current Framework Service Providers to apply for appointment onto the Framework in relation to different Framework Lots to those onto which they are currently appointed.
- 3.7. The opportunity was advertised in the Official Journal of the European Union (OJEU) via Sell2Wales.
- 3.8. The award criteria used for this process was 55% Quality and 45% Price and this criteria was stated in the OJEU notice. The 'open' procurement procedure was selected.
- 3.9. The Invitation to Tender (ITT) was issued on 1st March 2019 via the eTenderWales Portal. Prior to the issue of the ITT the Council held a 'Meet the Buyer' event in July 2018 to discuss the process and to engage with the market to see view on the approach and to prepare the market for the tender.
- 3.10. The Council also engaged with Business Wales to support this tendering opportunity, Business Wales kindly supported the Meet the Buyer event and also ran a how to tender workshop after the tender was published to further help bidders.
- 3.11. 18 Tenderers submitted tenders by the return date of 18th April 2019, one Tenderer after the opening of Tenders, withdrew themselves from the process as a result of changes in the organisation's financial standing which resulted in the Council being unable to consider their submission any further.

4. Tender Evaluation

- 4.1. Tenders were evaluated by Officers from Adult Services, Swansea Bay University Health board, HR and Beyond Bricks & Mortar with support from Officers of the Procurement Team.
- 4.2. Tender evaluation was undertaken in accordance with the criteria set out in the Invitation to Tender documents as a two stage process.
- 4.3. At stage one of the process; the Council undertook a suitability assessment. All Tenderers met the minimum standard and proceeded to stage two of the process.
- 4.4. Stage two of the process was the tender assessment stage, which comprised of two parts and had the following award criteria Quality 55% and Price 45%.
- 4.5. The Quality evaluation ensured tenderers were able to demonstrate a minimum understanding of key requirements. The Quality evaluation was based on the assessment of eight method statement questions on the following:
 - Communication
 - Service Principles and Objectives

- Operational Procedures
- Scenario - Business Planning and Contingency Measures
- Implementation
- Fair Working Practices
- Community Benefits
- Price

4.6. Tenderers were required to attain a minimum score of three for each of the Method Statement questions. Failure to attain a score of three for any question resulted in tenders being rejected without further evaluation as per the Instructions to Tender. Four (4) tenderers were rejected for failing to attain the required quality threshold.

4.7. Tenderers who achieved the required score in the Quality evaluation proceeded to the Price evaluation.

4.8. The price evaluation for Lots 1 - 5 was based on Tenderers submitting hourly rates and evaluated based on weekly hours of domiciliary care for each Lot; the data below was used for evaluation purposes only and does not reflect the number of hours which will be commissioned from each Lot under this Framework Agreement.

Lot	Standard Hours	Rural Hours
1	2000	120
2	2500	
3	2700	
4	3200	100
5	3000	60

4.9. The price evaluation for Lot 6 was evaluated based on the submitted hourly rate breakdown.

4.10. The hourly rates submitted by Tenderers in their initial tenders remained fixed for a minimum period of twelve months from the commencement of the Framework Agreement. Any requests for changes to the hourly rates would need to be in accordance with the variations provision contained within the Framework terms and conditions.

4.11. The scores of bidders recommended for appointment onto the Framework Agreement for Lots 1- 5 are detailed in Appendix 1, overall the Council appointed the following number of providers per Lot:

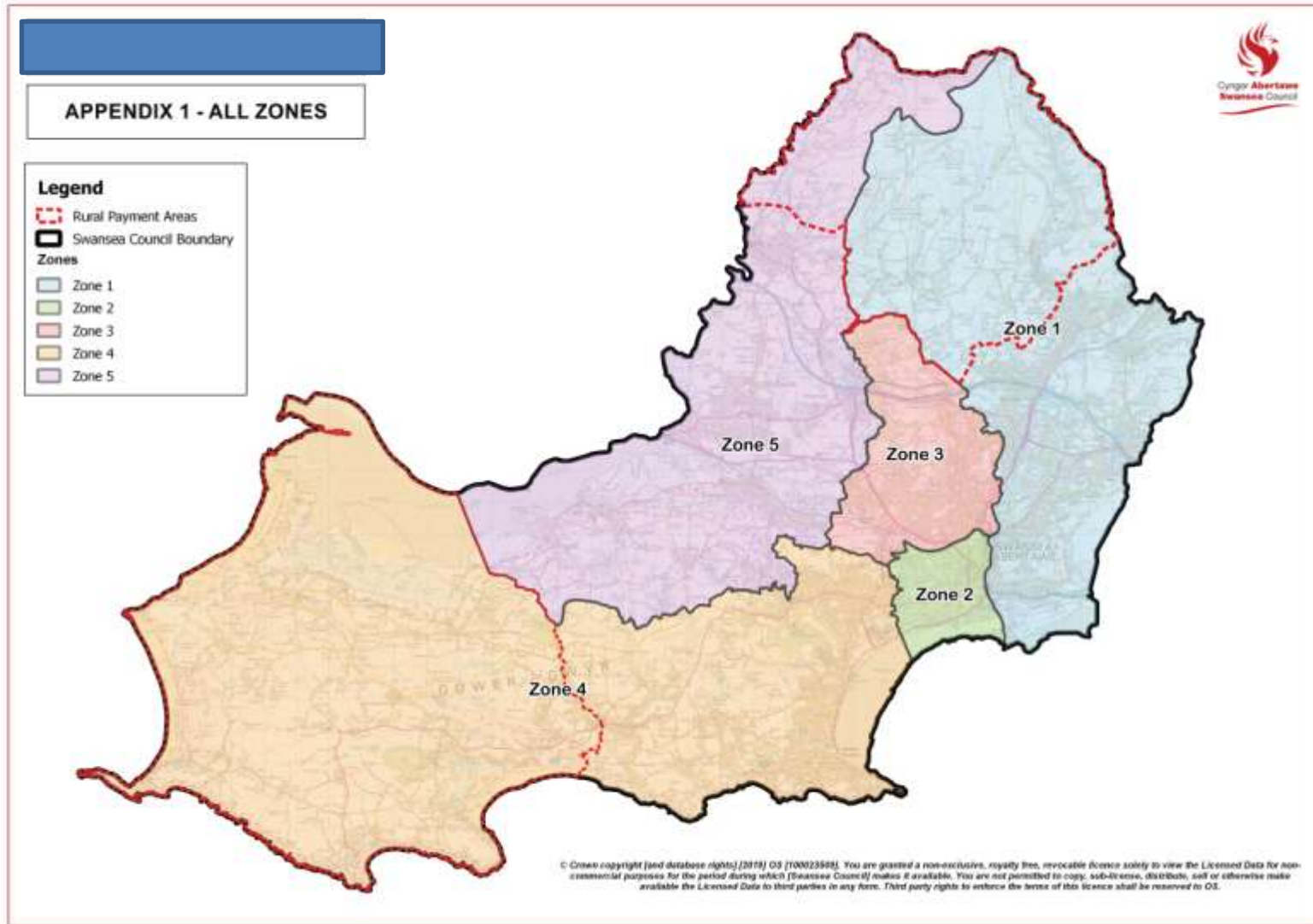
Lot	Number of Providers
1	3
2	4
3	5
4	5
5	5

- 4.12. The Framework Agreement commenced on 1st October 2019 to 30th September 2023 with the option to extend for up to 48 months.
- 4.13. The Council will select the Service Provider to which a Call-Off Contract will be awarded, in accordance with Schedule 6 of the Framework Agreement.
- 4.14. A refresh of the Framework Agreement was undertaken in 2020, this resulted in an additional six (6) Service Providers being appointed to the Framework Agreement. The refresh was run on the same criteria as detailed above. ,

5. Community Benefits

- 5.1. The Council's Community Benefits policy update in July 2016 required that consideration be given to putting community benefits clauses in all Council contracts. As a result community benefit clauses were included in this Agreement.
- 5.2. Working closely together, the Procurement and the Beyond Bricks and Mortar (BB&M) teams were able to ensure that the new Framework Agreement will have a focus on adding value and ensuring wider social and economic issues are taken into account when delivering services.
- 5.3. Each tenderer was required to produce a Community Benefits plan, outlining how they would achieve a range of community benefits, such as targeting unemployed people for jobs and training opportunities, taking on apprentices, working with schools and participating in community projects. Each service provider will be monitored by BB&M to ensure they are providing the required community benefits.

Appendix 1



Appendix 2 – Swansea Highways

1. Background and requirements

1.1. The County is responsible for the maintenance of more than 1100km of carriageway, 1500km of footway and in excess of 200 bridges and structures. It is our aim that the actions of the partnership will ensure that these assets are:

- Maintain the County's infrastructure to an acceptable standard where identified
- Improve the appearance of the highway network
- Bring real improvements to the quality of life in local communities

1.2. Therefore the City and County of Swansea requires a third party deliver its Core Highways Planned Maintenance Programme. This Contract is required to deliver our strategic objectives and the Contractor/s will be expected to demonstrate year on year improvements to satisfying the following objectives:

- Ensuring the network is safe for users, as far as is reasonably practicable – so that we are able to comply with our statutory duties and successfully defend against potential claims
- Maintain the value of the highway assets – to ensure sound financial management of the highway assets
- Maintain the visual appearance of the network – to help enhance the environment of the County
- Maintain availability of the highway network ensuring that highway users are free to travel with minimal disruption
- Minimise disruption to residents and businesses – so that those living and working in the County suffer minimal disruption from Tasks being undertaken on the highway

1.3. To facilitate this, works may include but not be limited to the following:

- New Highway Construction
- Highway Improvements
- Traffic Calming
- Carriageway reconstruction
- Footway reconstruction
- Surfacing of carriageways
- Surfacing of footpaths
- Specialist surface treatments
- Drainage and ducting
- Painting including structural painting
- Maintenance and renewal of safety fencing
- Concrete placing and repair
- Waterproofing of structures
- Brickwork and Blockwork
- General Civil Engineering

2. Procurement Process

- 2.1. The potential estimated value of the new Framework Agreement over the term of the Framework is certain to exceed the European Union threshold for works.
- 2.2. The Council's intention was to enter into a Framework Agreement with up to one (1) Contractor for Lot 1 – General Civil Engineering and one (1) Contractor for Lot 2- Re -surfing and Associated works.
The Lots are detailed as follows

Lot 1: General Civil Engineering
Lot 2: Re -surfing and Associated works
- 2.3. The opportunity was advertised in the Official Journal of the European Union (OJEU) via Sell2Wales.
- 2.4. The award criteria used for this process was 30% Quality and 70% Price and this criteria was stated in the OJEU notice. The 'restricted' procurement procedure was selected.
- 2.5. The Pre- Qualification Questionnaire (PQQ) was issued on 22nd March 2016 via the eTenderWales Portal.
- 2.6. 6 Tenderers submitted PQQ's by the return date of 21st April 2016
- 2.7. All 6 tenderer's were invited to tender.
- 2.8. The Invitation to Tender (ITT) was issued on 30th January 2017 via the eTenderWales Portal.
- 2.9. 3 Tenderers submitted tenders by the return date of 1st March 2017

3. Tender Evaluation

- 3.1. Tenders were evaluated by Officers from Highways and The Beyond Bricks & Mortar Team.
- 3.2. Tender evaluation was undertaken in accordance with the criteria set out in the Invitation to Tender documents.
- 3.3. The Quality evaluation ensured tenderers were able to demonstrate a minimum understanding of key requirements. The Quality evaluation was based on the assessment of the following method statement questions for both Lots.

LOT 1 – Civil Engineering

Award Criteria	Maximum Weighted Score
Quality Evaluation: 30%, broken down as—	
Quality Approach	6%
Quality Approach	4%
Quality Approach	4%
Quality Approach	4%
Experience/Improvement	2%
Quality Plan	2%
Health & Safety	2%
TR & Training	6%
Price Evaluation 70%, broken down as—	
Highway Maintenance to include work on carriageways but not limited to surfacing	20%
Highway Maintenance to include work on footways but not limited to surfacing	20%
Improvement to both highway and highway land	15%
Civil Construction work to include but not limited to Drainage and coastal improvements	15%

LOT 2 – Resurfacing

Award Criteria	Maximum Weighted Score
Quality Evaluation: 30%, broken down as—	
Quality Approach	6%
Quality Approach	4%
Quality Approach	4%
Quality Approach	4%
Experience/Improvement	2%
Quality Plan	2%
Health & Safety	2%
TR & Training	6%
Price Evaluation 70%, broken down as—	
Highway Maintenance to include work on carriageways but not limited to surfacing	20%
Highway Maintenance to include work on footways but not limited to surfacing	20%
Improvement to both highway and highway land	15%

Civil Construction work to include but not limited to Drainage and coastal improvements	15%
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- 3.4. Tenderers were required to attain a minimum score of three for each of the Method Statement questions. Failure to attain a score of three or less for 3 or more questions resulted in tenders being rejected without further evaluation as per the Instructions to Tender.
- 3.5. The pricing evaluation was based on model schemes relating to these categories of works for both Lot 1 and Lot 2:
- Highway Maintenance to include work on carriageways but not limited to surfacing
 - Highway Maintenance to include work on footways but not limited to surfacing
 - Improvement to both highway and highway land
 - Civil Construction work to include but not limited to Drainage and coastal improvements
- 3.6. The Most Economically Advantageous Tenderer for both lots was Swansea Highways Partnership , which is a consortia bid between Alun Griffiths and Hanson.
- 3.7. The Framework Agreement commenced in April 2017 with an option to extend for 24 months .
- 3.8. The framework was due to expire March 2021 but has recently been extended for one year due to difficulties faced during Covid-19. A modification notice was published on Sell2wales in line with the Public Contract Regulations 2015. The new framework will be scoped in the next 6/9 months.

4. Community Benefits

- 4.1. The Council's Community Benefits policy update in July 2016 required that consideration be given to putting community benefits clauses in all Council contracts. As a result community benefit clauses were included in this Agreement.
- 4.2. Working closely together, Officers from Highways and the Beyond Bricks and Mortar (BB&M) teams were able to ensure that the new Framework Agreement will have a focus on adding value and ensuring wider social and economic issues are taken into account when delivering services.
- 4.3. Each tenderer was required to produce a Community Benefits plan, outlining how they would achieve a range of community benefits, such as targeting unemployed people for jobs and training opportunities, taking on apprentices, working with schools and participating in community projects

Agenda Item 7

Procurement Scrutiny Inquiry Panel

Terms of Reference

Inquiry Key Question

The primary focus for the inquiry is to look at procurement in Swansea. The key question, therefore, is:

- *What is Swansea Council doing to ensure it procures locally, ethically and greenly while being cost effective and transparent in its practices?*

Reasons for carrying out this piece of work

Councillors chose to carry out this piece of work because they want to

- Ensure that the Council is meeting its duties under any legal frameworks
- Ensure Swansea Council procures locally, ethically and greenly while being cost effective and transparent in its practices

Lines of Inquiry

The inquiry will look at procurement in relation to the provision of council services. It will also consider what the Council does well and what can be improved in this area. This will include the following key lines of inquiry:

- Legislation/policy including national, local and European influences on our procurement practice:** What legislative and policy framework is used in the Councils procurement processes? How do we ensure transparency, sustainability and good probity in all we do? How will Brexit effect/influence procurement for Swansea?
- Positive social/local procurement:** What is our strategy, vision, aims and objectives in this area? How are we doing against those? For example our Social and Community Benefits Policy including Beyond Bricks and Mortar an clauses in contracts. How do we ensure maximum spend in the local economy.
- Environmentally and ethical procurement practices:** What is our strategy, vision, aims and objectives in this area? How are we doing against those? For example, how are we considering future generations and our impact on climate change in our procurement practice?
- Equalities Duty:** Do we ensure we and those we procure from/with are meeting the general Equalities Duty as specified in the Equality Act 2010 (Public Sector Equality Duty for Wales 2011)
- Systems/processes and consistency of approach:** Are there effective and efficient systems/practices/processes in place across the Council to enable effective procurement practice? Are Council Officers consistently applying these practices?
- Joint procurement activities and working with others:** Procuring with others, for example, to improve our economies of scale, for example NHS and All Wales Purchasers Forum or similar.
- Measuring success:** How does the council measure how it is meeting its aims of, for example: local, environment and ethical practice? How does the council monitor

and enforce those requirements when working with others via for example their Service Level Agreements or Contracts?

Intended Impact and Contribution

This inquiry intends to support the work of the Council by:

- Providing a councillor perspective on the issue
- Providing evidenced proposals to Cabinet that will lead to more effective services
- Gaining the views of the public, stakeholders, community groups and staff
- Considering and concluding on recommendations from national reports, legislation /directives and there implications for Swansea
- Identification of good practice/research elsewhere and whether there is any learning for Swansea's approach
- Increased councillor understanding about equalities
- Greater public awareness of work in relation to equalities

Membership of the Scrutiny Panel

Cllr Chris Holley (Convener)
Cllr Brigitte Rowlands
Cllr Phillip Downing
Cllr Lyndon Jones
Cllr Mike White
Cllr Mary Sherwood
Cllr Mandy Evans
Cllr Irene Mann
Cllr Wendy Fitzgerald
Cllr Jeff Jones
Cllr Peter Jones

Lead Cabinet Member for Procurement

Cllr David Hopkins

Key Officer Contact for the Inquiry

Chris Williams, Head of Commercial Services
Sarah Lackenby, Chief Transformation Officer

Scrutiny Officer supporting the Inquiry

Michelle Roberts
01792 637256
michelle.roberts@swansea.gov.uk

Project Plan - Inquiry into Procurement

Date/Venue	Evidence Gathering Activity	
Procurement Pre-Inquiry Scrutiny Working Group 24 Oct 19 and Revisited 24 Jun 21	Overview of subject area with key officers and Lead Cabinet Member for Procurement. <ul style="list-style-type: none"> • Provide an overview of the structure and make-up of the service, the legal frameworks we work under and the key influencers. • Provide the Procurement Strategy for Swansea • Outline Procurement Framework and probity, legislative and policy influences (national, local and Europe) 	
Evidence gathering - Internal		
Session 1 Jul/Aug 21	1. Internal Audit	
Session 2 Aug/Sep 21	Place	Departmental perspectives/procurement activities: <ul style="list-style-type: none"> • Positive social/local procurement activities • Environmental, ethical and sustainable procurement • Case studies • Consistency in following practice/procedures • Monitoring and enforcing SLAs/contract terms • Joint Procurement activities • Specific legislative/policy influences
Session 3 Aug/Sep 21	Social Services (including commissioning aspects)	
Session 4 Sep/Oct 21	Education Corporate centre	
Consultation activities - External		
Session 5 Oct 21	Talk to others - local businesses and stakeholders – roundtable meeting remotely	
Session 6 Oct/Nov 21	<ul style="list-style-type: none"> • Submissions received from call for evidence • Social and local procurement ...look at practice elsewhere including Cardiff socially responsible procurement info. • Any useful survey or comparison data readily available 	
TBC	<ul style="list-style-type: none"> • Attend procurement/buyer meeting/event - tbc 	
Concluding Inquiry		
Meeting 7	Findings report and discussion	
Meeting 8	Final report	