

Audit and Risk Committee

21 July 2020

Agenda item number 13

Updated Procurement Strategy

Report by Chief Financial Officer

Summary

This report presents the Broads Authority's updated Procurement Strategy.

Recommendation

To adopt the amendments to the Procurement Strategy in response to the comments in the audit.

1. Introduction

- 1.1. Following the Procurement Audit, a recommendation was made to update the Strategy.
- 1.2. Recommendation 4 stated: "A procurement project/contract risk assessment is produced, and referred to in the Procurement Strategy, to score each project prior to the commencement of the procurement process. This is issued to assess the type of procurement activity undertaken, i.e. framework, partnership arrangements. This can also be used to assess the level of contract management involved. The contract risk assessment should consider proposed length of contract; Proposed procurement arrangement; Estimated whole-life cost; Impact of Contract (e.g. from Critical to external mandatory service delivery to minimal impact); Impact on organisation; Political / Reputational Risk; Health and Safety Risk; and Opportunity to misuse/ fraud/ exploit".

2. Procurement Strategy amendments

- 2.1. The Management Team reviewed the audit recommendation on 18 December 2019, and agreed to update the strategy to provide a definition that complex contracts such as construction/development of sites contracts are considered high risk, and high value is considered above £250k. These contracts would require a risk assessment and a post implementation review of what had worked well and what lessons could be learned for future contracts.
- 2.2. The amended strategy is at Appendix 1. It has been updated in the new accessibility format used by the Authority. Changes between the old and new versions are highlighted in yellow.

3. Conclusion

- 3.1. If the Committee supports the proposed changes, staff will be notified of the amended strategy. It is intended to include this as part of the procurement training due to be delivered over the summer. All strategy, policy and regulation documents are available to staff on the Authority's intranet.

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Appendix 1 – Procurement Strategy

Procurement strategy

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1. Introduction

- 1.1. "Procurement" can be defined as the process of acquiring goods, materials, works or services. Procurement encompasses acquisitions from both third parties and "in-house" providers. The process of procurement includes the whole cycle of purchasing, from the initial identification of needs and options appraisal (including the "make or buy" decision), through to the ultimate end of a services contract or the end of the useful life of an asset.
- 1.2. The Broads Authority is committed to procuring cost effective and quality goods and services, which will in turn support the achievement of the Authority's overall strategic and operational aims and objectives. The Authority subscribes to the key principles of the Local Government Procurement Pledge as set out within this Strategy.
- 1.3. The Authority's procurement activities take place in the context of a complex framework of European Union directives and UK procurement regulations, alongside a range of other statutory and regulatory guidance. The Public Contracts Regulations 2015 implement into UK law the European Union Consolidated Directive on public procurement (2014/24/EU).

2. Purpose

- 2.1. The purpose of this Procurement Strategy is:
 - to set out how the Authority's procurement activities comply with legislative and regulatory requirements;
 - to promote the acquisition and delivery of supplies and services by the most appropriate procurement route, thereby ensuring that value for money¹ and quality are obtained at all times;
 - to define a clear corporate framework for procurement, which complements and aligns with the Authority's Financial Regulations and Standing Orders Relating to Contracts; and
 - to ensure that all procurement by the Authority is carried out in a sustainable and responsible manner in order to maximise the economic, social and environmental benefits.

¹ Value for money is defined as "the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought."

3. Responsibilities

- 3.1. Overall responsibility for the implementation of this Strategy lies with the Management Team, who will ensure that all procurement decisions are taken in accordance with the principles and best practice guidelines set out in this Strategy. All Broads Authority officers must have regard to this Strategy when undertaking any procurement activity.
- 3.2. The Authority does not have a Procurement Officer; advice about procurement procedural issues should in the first instance be sought from the Finance Team. Legal advice may be required in the case of a more complex procurement. The Chief Financial Officer must be consulted about the procedure to be applied in the event of any procurement which is over the European OJEU threshold (details of current thresholds are set out in the Standing Orders Relating to Contracts).
- 3.3. The Authority's Sustainability Exchange group can provide advice on environmental impact issues when determining criteria for tendering procedures.

4. Procurement objectives

- 4.1. The Authority's overriding procurement objectives are:
 - to purchase goods and services from suppliers who will provide value for money;
 - to secure the purchase of goods and services as quickly and efficiently as possible;
 - to procure goods and services which will enable the ultimate provision of quality services to the public;
 - to encourage the purchase of goods and services from suppliers whose policies, practices and products are economically, socially and environmentally sound;
 - to purchase goods and services from suppliers who comply with the Authority's health and safety standards and requirements;
 - to use local, small and medium size enterprises and / or voluntary, community and social enterprises where possible, and to encourage such enterprises to bid for the Authority's contracts; and
 - to continue working towards e-procurement².

² E-procurement refers to the use of electronic procurement approaches including online procurement systems, and the electronic receipt of tenders. Where an e-procurement approach is used, the requirement remains to comply with Standing Orders, including obtaining competitive quotations where necessary. Guidance from the Finance Team should be sought before undertaking an e-procurement process.

5. Local Government Pledge

5.1. In line with these objectives, the Broads Authority subscribes to the Local Government Association's Procurement Pledge for Local Authorities, which recognises the opportunities provided by procurement to deliver value for money and to support local economies. The Authority will therefore seek to use procurement to help:

- deliver value for public money;
- drive local social and economic growth and regeneration; and
- provide inclusive services through a diverse supplier base.

5.2. In order to deliver these outcomes, to the fullest extent possible within the Authority's available resources, and where it is proportionate and appropriate, the Broads Authority will make efforts to:

- promote and implement procurement processes that are less bureaucratic and burdensome;
- build skills, capacity and expertise in procurement;
- engage effectively with stakeholders to ensure that the goods and / or services being procured meet their needs and (where appropriate) involve them in the procurement process;
- engage effectively with suppliers through market days, pre-procurement dialogue, and provide transparent feedback, making them aware of trading opportunities and securing their input and expertise;
- use procurement in a socially and environmentally responsible way, promoting fair employment practices (including the Modern Slavery Act 2015), ethical sourcing practices, and environmental sustainability wherever possible;
- seek feedback from suppliers and use this learning to further improve procurement processes; and
- promote collaborative working where appropriate to make best use of existing expertise, resources, and to share best practice.

6. Procurement principles

6.1. The Authority's guiding principles for procurement are that:

- all procurement should contribute to the strategic and / or operational aims and objectives of the Authority, as set out in the Broads Plan;

- the Authority will apply a consistent, corporate and collaborative approach to procurement across Directorates;
- the Authority will comply with all (UK and EU) legal requirements and relevant government guidelines in the procurement of goods and services, including regulations set down by Her Majesty's Revenue and Customs (HMRC);
- procurement is a long-term process, and should include arrangements for effective contract management and review;
- the Authority will encourage collaboration and joint procurement initiatives with other bodies including (where appropriate) local authorities and national park authorities, to deliver best value services and secure value for money and economies of scale;
- the Authority will seek to further adaptation and mitigation to climate change through its purchases, and will encourage the procurement of environmentally sound services and products. The Authority will seek to:
 - use recycled paper (with a target that over 80% of paper is made from recycled materials);
 - achieve the lowest practicable power usage of all IT and electrical equipment; and
 - use only FSC/PEFC (Pan European Forest Certification) accredited timber where possible.
- the Authority will seek to use procurement to deliver community benefits, for example by promoting equalities and fair employment practices (including the Modern Slavery Act 2015), by including social value criteria within tender evaluations where appropriate; and
- the Authority will seek to establish evaluation criteria for tenders which give an appropriate weighting to quality, cost and social and environmental impacts. It is good practice to apply similar criteria to quotations sought for procurements below the tender threshold, where this is practical and appropriate to the goods or services being procured.

6.2. Within the framework of these overarching procurement principles, the Authority will have regard to the principles of Best Value and its own Core Values³. The

³ Core Values are important and enduring beliefs or ideals shared by the staff and members of the Broads Authority about what is good or desirable and what is not. They exert a major influence on our behaviour and serve as broad guidelines in all situations. They include: commitment, caring, open and honest, sustainable and exemplary.

Authority will apply a sound competition policy, which will be designed to provide value for money and to deliver goods and services of the required quality.

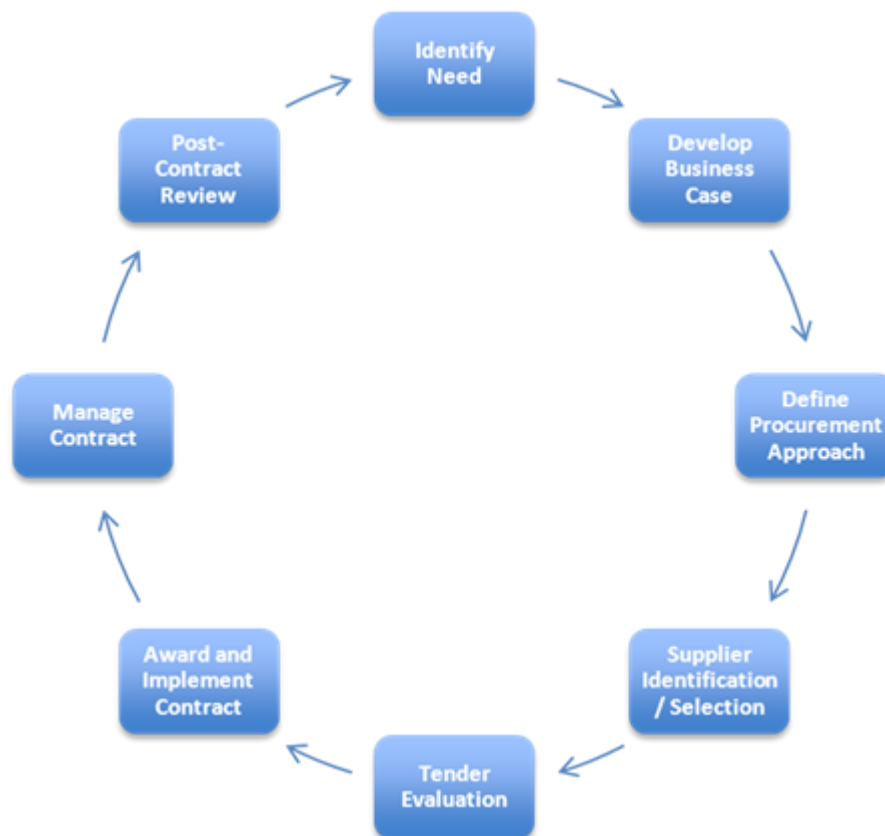
7. Best value

7.1. The principles of Best Value are based on the achievement of value for money through a combination of economy, efficiency and effectiveness, which are defined in the following terms:

- **Economy:** acquiring human and material resources of the appropriate quality and quantity at the lowest cost.
- **Efficiency:** producing the maximum output for any given set of resource inputs or using the minimum outputs for the required quantity and quality of service provided.
- **Effectiveness:** having the organisation meet the citizens' requirements and having a programme or activity achieve its established goals or intended aims.

8. The procurement process

8.1. The diagram below sets out the generic steps in the process for a larger procurement.



8.2. The procurement process should be seen as a cycle and the importance of the latter stages, including the ongoing management of contracts and post-contract review activities, should not be underestimated.

9. Good practice

9.1. The Authority seeks to conduct its affairs openly and transparently. All decisions about procurement should therefore be open and justifiable, and based on clear and relevant criteria (whilst having regard to the need to protect the confidentiality of information provided by bodies and individuals completing tenders). All procurement decisions must comply with the Authority's Financial Regulations and Standing Orders Relating to Contracts. The latter provide guidelines in respect of the procedures for preparing evaluation criteria, opening tenders and letting contracts.

9.2. The procurement process is subject to scrutiny by a range of stakeholders, including the Authority's Internal and External Audit functions. It is essential that all stages of the tendering process are properly recorded, in accordance with Standing Orders Relating to Contracts.

9.3. The Authority has established the following principles of good procurement:

- procurement processes should be designed to give the Authority sufficient information to form a view of the competence of potential service providers and suppliers, but without placing an undue burden on them;
- potential suppliers and service providers should understand clearly from the outset of any procurement what service standards are expected. They should be provided with adequate, accurate and timely information at all the relevant stages of the procurement process;
- all potential suppliers and service providers will be subject to the same requirements to ensure fair competition and will be treated equally throughout the procurement process;
- to promote innovation in service delivery, care should be exercised to avoid taking too narrow a view of how the service might be delivered as this may limit the options and deter potential providers; and
- in order to be able to demonstrate that procurement has been undertaken in an open and transparent manner, the Authority will ensure that tenderers for larger contracts (with a value of over £25,000) are fully aware of the basis for bid evaluation and that all stages of the procurement process can be audited satisfactorily with reference to the Authority's Procurement Strategy and Financial Regulations, which will be made available to all tenderers.

- 9.4. The evaluation of tenders should be systematic, objective and well documented to provide a clear and logical audit trail. Unsuccessful tenderers should be told the outcome of the tender, and on what grounds their tender was unsuccessful. In the case of a tender conducted under the OJEU process, a standstill period must be incorporated into the timetable following the notification of the contract award.
- 9.5. The Authority will seek innovation in the delivery of services, while having due regard to the needs of economy, efficiency and effectiveness. The Authority therefore will not discount without careful consideration arrangements which might enable it to be more innovative in its approach to procurement, which might include working in partnership with other bodies or making greater use of electronic processes.
- 9.6. Contracts that involve construction / development of sites exceeding £250,000 are considered high risk / high value. These type of contracts will require a risk assessment prior to the procurement process to ensure that appropriate consideration is given to the contract length, type of procurement, contract management required, whole of life cost and impact on the Authority. The Risk Management Policy provides guidance on risk identification. These contracts will also be subject to a post implementation review (PIR) to ensure that lessons learned are incorporated into future procurements.
- 9.7. For high risk / high value contracts, serious consideration should be given to a partnership arrangement.
- 9.8. All tenders should be prepared with due regard to identifying an appropriate approach to risk sharing, which takes into account both cost implications and the party which is best placed to bear the individual risks.

10. Competition

- 10.1. The Authority encourages fair competition in accordance with the principles and objectives set out in this Strategy.
- 10.2. The Authority makes no assumptions on the best method for supply / service provision. Its policy is to procure contracts through open competition based on the Authority's procurement objectives and to determine contracts based on best value, quality and the most effective delivery of the service.
- 10.3. Existing (long-term and other) partnerships and / or contracts are not exempt from the competition requirement and will be reviewed regularly to assess whether they are continuing to deliver value for money, or whether changes should be made. Where it is considered that a contract is not delivering value for money, and / or is

failing to meet the standards set out in the contract, further action may be considered.

- 10.4. Where it is established that there are no realistic competitors for the provision of a specialist service, this must be agreed and formally documented by the Chief Executive as a Waiver of Standing Orders.

11. Social value and “green” procurement

- 11.1. The Public Services (Social Value) Act 2012 places a duty on the Authority to consider, when undertaking certain types of procurement, how what is proposed to be procured might improve the economic, social and environmental well-being of the local area, and how, in conducting the process of procurement, it might act with a view to securing that improvement. These issues should be considered at the pre-procurement stage and may include “social” specifications and contract performance conditions. It is essential that where social value is to be considered as part of a tender response, the Authority’s requirements are clearly set out within contract specifications, and appropriate criteria are established for tender evaluation.
- 11.2. Social considerations may include exploring how procurement activity can be used to:
- encourage apprenticeships;
 - promote equalities;
 - encourage development of the “living wage”; and
 - promote opportunities for small, local firms.
- 11.3. The Authority expects main contractors to act fairly with those in their supply chains and, where feasible, will mandate timely payment to subcontractors through contract clauses.
- 11.4. The Authority will strive to ensure that all decisions in relation to the procurement of goods, materials and services are taken in line with its sustainability commitments, and that where opportunities arise, commercial relationships are formed and nurtured with partnering and contracting organisations who share the Authority’s values on sustainability.
- 11.5. In particular the Authority will aim to minimise the environmental impact of its purchases/procurement through rigorous use of the “four R’s”. These are:

- **Reduce:** by only purchasing new goods that are absolutely necessary (i.e. when it is not possible or viable to re-use or repair goods already purchased);
- **Re-use:** by purchasing products, where possible, that can be used many times rather than disposable items;
- **Repair:** by purchasing, where possible, products that have been designed and manufactured to allow for the repair and replacement of individual parts; and
- **Recycle:** by purchasing, where possible, products made from recycled materials, and / or that may be recycled themselves.

- 11.6. The Authority will seek to ensure that in all procurements the environmental aspect is taken into account as an essential and integral part of the contract. This will entail specification writing, tender evaluation criteria and contract conditions which give adequate weight to the environmental dimension. It is recognised that there can be some subjectivity in determining where to draw the line in balancing sustainability and cost. In a tendering exercise this should be reflected in the weighting criteria. In other procurements, the successful bidder will generally be determined on the basis of the “most economically advantageous quotation” and the award criteria should therefore also be defined in advance to provide a suitable weighting for sustainability considerations. It is recognised that almost all procurements are different and each case should be treated on its merits. If in doubt, staff should take advice from their appropriate Head of Service or Director. In particular advice should be sought from the Chief Financial Officer if guidance is required on the drafting of tender evaluation criteria, in order to comply with Standing Orders Relating to Contracts.
- 11.7. Care must be taken to ensure that where social or environmental criteria are used as part of tender evaluations, the requirements for transparency and fair competition are safeguarded. It is particularly important that the evaluation takes into account the social or environmental elements of the goods or services to be supplied, but should not seek to make an assessment of the overall business activities of a prospective supplier.
- 11.8. The Authority will ensure that all vehicles acquired have low emissions of local air pollutants and climate change gases, having regard also to essential operational requirements, and will take account of the need to minimise emissions and exposure to air pollution when purchasing all goods and services.
- 11.9. The Sustainability Exchange is responsible for advising the Authority’s overall performance on sustainability.

12. In-house and outsourced services

- 12.1. The Authority operates a predominantly “in-house” approach to service delivery. Where the Authority decides to investigate the outsourcing of any complete services, this would be undertaken on the basis of a robust and comprehensive business case which would include a full options appraisal and cost comparison.

13. Contract management

- 13.1. Effective contract management is a key ongoing element of the procurement process, and relates to the proactive monitoring, review and management of contractual terms secured through a procurement activity. Contract management should be used to ensure that what is agreed in procurement is ultimately delivered by the supplier and should therefore include monitoring of compliance with the agreed contractual terms and conditions. Following the completion of any significant contract, a review should be completed in order for any lessons to be fed back into the procurement process to help to deliver continuous improvement.

14. National Procurement Strategy for Local Government in England

- 14.1. The National Procurement Strategy for Local Government in England sets out a vision for local government procurement and identifies four key areas for development. The Authority will seek to deliver in these areas as follows:
- **Making Savings:** Procurement is recognised as a key activity which can deliver savings and efficiencies. The Authority engages with partner organisations where appropriate to undertake joint procurement and establish shared service arrangements. Knowledge, posts and services are shared with appropriate partners. Processes for reviewing existing procurement arrangements are in place and this Strategy is aligned to best practice.
 - **Supporting Local Economies:** The Authority will seek to maximise the economic, social and environmental benefits to communities of its procurement by including assessment criteria relating to these areas within tenders, where appropriate.
 - **Leadership:** The Authority recognises the strategic importance of procurement, and this Strategy therefore emphasises the importance of contract management and confirms the role of procurement as a long-term, cyclical process.
 - **Modernising Procurement:** The Authority will employ e-procurement approaches where appropriate to streamline and simplify the tender process, and recognises the potential benefits offered by the new EU directives.

15. Review

- 15.1. This Strategy will be reviewed every three years, or more frequently where there are significant changes in the environment within which the Authority operates. Responsibility for ensuring that regular reviews are carried out lies with the Chief Financial Officer.