

SCRUTINY REVIEW – OVERVIEW OF PROCUREMENT

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Portfolio Holder: Finance

Ward(s) Affected: All

Purpose of the Report: To review the Council's approach to procurement.

Recommendation

- 1 That Scrutiny Committee reviews this report and suggests areas for improvement or further review.

1 REASON FOR REVIEW

- 1.1 A topic form has been received requesting that the Scrutiny Committee carries out a review of procurement. This topic form has been reviewed by the Chairman and agreed.
- 1.2 This report has therefore been produced and provides information on:
 2. The legislative background.
 3. The Council's rules.
 4. The Council's general procurement approach.
 5. Encouraging local suppliers.
 6. The procurement consortium.
 7. What do we buy.
 8. Areas for consideration.

2 THE LEGISLATIVE BACKGROUND

Current Rules

- 2.1 Local Authority procurement is currently governed by The Public Contract Regulations 2015. This is a statutory instrument which sets out the rules for UK public procurement.
- 2.2 Public Contract Regulations are triggered at specific financial thresholds. Procurement activity on or above these thresholds is known as **Regulated** Procurement and below these thresholds, as **Unregulated** Procurement.
- 2.3 From 1st January 2024, the Procurement thresholds are as follows:

Works	Supplies and Services	Light Touch (LTR)	Concession
£5,372,606	£214,904	£663,540	£5,372,609

- 2.4 The Public Contracts Regulations 2015 also sets out the following overarching principles.

Principles of procurement

18.—(1) Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.

(2) The design of the procurement shall not be made with the intention of excluding it from the scope of this Part or of artificially narrowing competition.

(3) For that purpose, competition shall be considered to be artificially narrowed where the design of the procurement is made with the intention of unduly favouring or disadvantaging certain economic operators.

- 2.5 These are normally summarised as the following four key procurement principles:

- Equal Treatment
- Non-Discrimination
- Transparency
- Proportionality.

These principles apply at every financial level of procurement activity.

Key Point 1:

SNC must abide by The Public Contract Regulations 2015, and therefore cannot adopt some practices that are used in the private sector.

Procurement Act 2023

- 2.6 The New Procurement Act 2023 received Royal Assent on 26 October 2023, and is expected to come into force in Autumn 2024.
- 2.7 This aims to provide:
- A new simplified system
 - Improved clarity
 - Increased transparency
 - Heightened flexibility
 - More accessibility to SMEs
 - A platform to embed Government's national priorities into public spending.
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- 2.8 The Council is therefore currently preparing for this.

3 THE COUNCIL'S RULES

- 3.1 SNC sets its own Contract Procedure Rules (in line with the Public Contract Regulations). These are shaped and approved by Members.
- 3.2 These Rules were last reviewed by FRAG on 22 September 2023. Link to Paper. [Agenda for South Norfolk Finance, Resource, Audit and Governance Committee on Friday, 22nd September, 2023, 9.30 am - South Norfolk and Broadland.](#)

Before going to full Council on 16 October 2023 to approve. Link to Paper. [Agenda for South Norfolk Council on Monday, 16th October, 2023, 8.00 pm - South Norfolk and Broadland](#)

Key Point 2:

Scrutiny could review the current Contract Procedure Rules and make suggestions for change to FRAG.

4 THE COUNCIL'S GENERAL PROCUREMENT APPROACH

- 4.1 The general approach we try to use for procurement is a flexible one, with the Contract Managers being able to adopt the right approach for the right purchase.
- 4.2 We expect low value procurements to be led by Contract Managers, within service areas. However, for complex / high value procurements support is provided by the Procurement Consortium. Although we are clear in the Contract Procedure Rules that ultimate responsibility for conducting a procurement rests with the officer leading the procurement.

Lower Value Procurements

- 4.3 For low value goods / services a simple quote mechanism is used, and the Contract Procedure Rules set out the minimum number of quotes.

Estimated Total Value (Inc all partners)	Selection procedure	Selection recommendations
Less than £20,000	Single quotation in writing including demonstration of value for money.	Assistant Director or delegated to Officer
£20,001 to £75,000	At least three quotations in writing	Officer or Procurement Team

- 4.4 However, these are minimum requirements, if appropriate a more extensive procurement process can be followed in order to demonstrate openness and potentially achieve better value for money.

Higher Value Procurements

- 4.5 For higher value procurements there is a wide range of procurement options as detailed in the table below.

	Direct Award (not via framework)	Quotes	Invitation to tender	Framework with direct award	Framework with mini competition	Open Tender
Restrictions	Can only be used if contract value less than Public Contract Regulations.	Can only be used if contract value less than £75k.	Can only be used if contract value less than Public Contract Regulations Threshold (Normally minimum of three suppliers).	Not many frameworks allow direct award. And if they do, we still need to operate in the spirit of ensuring fair, transparent, and proportionate procurement practices are followed, as required by the PCR 2015.	Have to follow framework competition approach.	None.
Likely minimum procurement timeframe (Implementation time is on top of this)	1 month	1 month	3 months	3 months	6 months	9 months
Pros	Quick.	Quick Provides for some cost comparison.	Quicker than full procurement. Provides for cost comparison.	Quicker & less resource intensive than an open tender and the framework will have undertaken the due diligence around the supplier. Can be a quick delivery route if market testing has identified a preferred solution and there are time pressures.	Quicker & less resource intensive than an open tender and the framework will have undertaken the due diligence around the supplier.	Gives us the ability to fully control our requirements / contracting arrangements.
Cons	More difficult to demonstrate that the solution delivers value for money. Waivers will only be given in exceptional circumstances.	Does not fully test the market.	Does not fully test the market.	We have to work with the framework T&Cs (which may limit our ability to contract jointly).	We have to work with the framework T&Cs (which may limit our ability to contract jointly).	Most lengthy and administrative burdensome process.
What do Officers need to do?	If necessary, complete PROCURMENT EXEMPTION (WAIVER) FORM and get this approved by Director and s151 officer.	Clearly specify what the service requires and get requisite quotes.	Carry out invitation to tender process.	i) Discuss available frameworks with procurement. ii) Consider whether the framework T&Cs can be amended to meet our joint working requirements) iii) Get this approach signed off by the relevant Assistant Director, and the Assistant Director of Finance.	i) Discuss available frameworks with procurement. ii) Consider whether the framework T&Cs can be amended to meet our joint working requirements).	Set up full project governance.
Level of resources required to run procurement	Low	Low	Medium	Medium	Medium	High

Key Point 3:

There are a variety of procurement approaches and, we need to ensure we retain flexibility to ensure we can adopt the most appropriate process for the given circumstances.

5 ENCOURAGING LOCAL SUPPLIERS

5.1 The current Contract Procedure Rules state:

There will be a focus on, wherever appropriate: encouraging participation by local businesses to support the local economy.

5.2 This is done by requesting that local suppliers quote for work and / or making sure local suppliers are aware that we are going out to tender.

5.3 However, it is fair to say that small firms can be put off bidding for local authority work due to the perceived bureaucracy. For instance, a supplier will know they only have a 1 in 3 chance of winning the work (as we need to seek a minimum of 3 quotes).

5.4 There is also a balance to be struck between encouraging new entrants to the market and risk e.g., new supplier vs tried & tested supplier.

6 THE PROCUREMENT CONSORTIUM

6.1 BDC, SNC and Breckland have formed a Procurement Consortium to support the three authorities.

This was established on 1 January 2022, and Breckland is the host authority. See Exempt Cabinet paper 19 July 21.

6.2 The Assistant Director Finance is the BDC/SNC 'client' officer for the Procurement Consortium.

6.3 The key benefit from sharing procurement services is being able to build and retain a knowledgeable and resilient procurement team, in a challenging marketplace for experience procurement officers.

6.4 The Procurement Consortium team currently consists of a Procurement Manager, four Procurement and Contracts Officers, and one admin support officer.

6.5 At any one time the Procurement Consortium team will be supporting up to 50 live procurement projects across the partners.

7 WHAT DO WE BUY

- 7.1 SNC provides a vast array of services, and thus the scope of what we buy is equally vast. From stationery to IT systems, to refuse trucks, to new buildings etc.
- 7.2 All our significant current key contracts have to be listed on a publicly available Contracts Register. We publish a joint Contracts with BDC on our website, and this lists nearly 300 contracts.
See
[Contracts Register SNBD website February 2024.xlsx \(live.com\)](#)

8 AREAS FOR CONSIDERATION

- 8.1 Objectively assessing Value for Money from procurements is challenging. There can be the perception that if we had pushed harder, or used a different approach we could have got a better deal.
- 8.2 However, some areas that the Committee may wish to consider are detailed in the table below.

Area	Considerations
Use of Quotes	Are the thresholds for quotes at the right amount, and are we requesting the right number of quotes? le Over £20k currently requires 3 quotes. On one hand just going to a tried and tested supplier can deliver value for money. However, in other circumstances a selection of quotations gives options.
Use of Frameworks	Should we encourage greater / less use of national procurement frameworks. On one hand national frameworks can deliver value for money, as these offer economies of scale (i.e., for items such as refuse bins) and we can access suppliers quickly for instance if there are timing constraints (i.e., Gov funding needs to be spent by X). However, in other circumstances the framework may be too rigid for our needs.
Use of Procurement Professionals	At present at SNC procurement is led by officers in service areas, supported by a small procurement team. Some other authorities direct more procurements via a central (bigger) team.
Statement of Intent	The current Contract Procedure Rules have the following Statement of Intent. <i>'Subject to the overriding principles in section 2 below, there will be a focus on, wherever appropriate:</i> <ul style="list-style-type: none"><i>• enabling social value,</i><i>• encouraging participation by local businesses to support the local economy, and</i><i>• using criteria in contracts that protect the environment and reduce carbon emissions.'</i> Should this be reviewed to focus more / less on social value / local participation / the environment. (Also links with new regulation flexibilities)

Area	Considerations
Length of Contract	There is a balance to be struck between length of contract and the cost of frequently changing contractors.

8.3 If members wished to look at further information relating to procurement, then further information could be provided for instance:

- Provision of more examples.
- How we weight value / cost differently for each procurement depending on what is being procured.
- How much we spend on various items.

9 RECOMMENDATION

That Scrutiny Committee reviews this report and suggests areas for improvement or further review.