

CABINET 14th DECEMBER 2020 (To Note)

Contract Award Report

Date of meeting	29/10/2020
By	Matthew Devan –Strategic Procurement Manager
Title	PPE Procurement for COVID-19
Project Sponsor	<i>Sarah Warman</i>
Executive Director	Jaqueline Harris-Baker
Lead Member	<i>Cllr Young</i>
Key Decision	<i>Not applicable</i>

1. Recommendations

The Leader of the Council has delegated to the Cabinet Member for Resources and Financial Governance the power to make the decisions set out in the recommendations below.

The Cabinet Member Resources & Financial Governance in consultation with the Leader are recommended by the Contracts and Commissioning board to note:

- 1.1 The contractual commitments for the urgent supply of PPE made pursuant to Regulation 19 of the Councils Tenders and Contracts Regulations as described in this report, to an overall contractual spend of £919,814 of which the cost to Croydon is £801,088. From this total spend an additional £537,482 has been spent since the previous report to July's Cabinet meeting;
- 1.2 An amended future procurement strategy for future PPE requirements until March 2021 as described in section 3 of the report.

A Regulation 19 Notification Report - reference CCB1580/20-21 was taken to CCB in May 2020. This report provided an update on emergency spend on PPE as a response to the outbreak of COVID-19. CCB agreed that a report would be taken back to CCB in October 2020 to provide a further update on spend to date on emergency PPE.

The background of this emergency requirement is that the Council has been required to procure large amounts of PPE to protect front line Council workers, and assist social care providers such as residential and nursing care homes who have struggled to maintain their own supply chains. The required PPE includes gloves, aprons, gowns, face masks, eye protection, hand sanitiser and hand wash. The Council has been required to act at pace to procure this PPE in what has become a very volatile market.

The sourcing of PPE has been undertaken centrally via the Commissioning and Procurement Division to enable the Council to benefit from bulk purchasing and ensure a coordinated approach is taken. The emerging PPE requirement required immediate action to procure PPE from a variety of sources and suppliers, compounded by the challenge in obtaining PPE due to the huge surge in global demand for PPE as COVID-19 has spread around the globe. The Council has been competing with both other public bodies and private sector organisations for a limited supply.

Due to the emergency nature of this requirement and limited amount of PPE available, there was no opportunity to go out via a formal procurement route and instead informal arrangements were made from a variety of suppliers that were able to source PPE at short notice. The lack of supply led to a number of difficulties in procuring PPE including existing suppliers having no stock, inflated prices, long lead times, requirements for up-front payment, risks of new suppliers and substandard products.

Nonetheless, to ensure the Council obtained the correct PPE in a timely manner at the best possible prices the following principles were adhered to:

- Use of existing suppliers where possible;
- Benchmarking of market prices to ensure we are paying the appropriate amount;

- Buy in bulk where this offers economies of scale;
- Where forced to buy from new suppliers/ pay up front check company history and product certification before ordering;

As the market has changed some prices have increased further (notably disposable gloves). Where this has happened sign off has been sought from the Director of Commissioning and Procurement, prior to making the purchase.

In addition this report sets out the proposed procurement strategy going forwards for purchasing additional PPE up until end of March 2021.

Reason for Urgency

PPE has and continues to be urgently required to reduce the risk of damage to persons for front line Council staff (and social care providers' staff). These staff are exposed to risk of catching COVID-19 which could result in illness and even death. A practical way of mitigating this risk is by supplying PPE to reduce the risk of infection. The sudden onset and unprecedented scale of the COVID 19 pandemic means the Council could not have reasonably been expected to foresee this requirement and has been unable to procure in the normal way.

As such the urgent requirement for PPE meets the requirements of Regulation 19.3 Tenders and Contracts Regulations (TCR).

In terms of the Public Procurement Regulations 2015 (PCR), The Covid-19 outbreak is deemed to be an emergency as confirmed by the Cabinet Office Procurement Policy Note - Responding to COVID-19 March 2020 Information Note PPN 01/20 which sets out information and associated guidance on the public procurement regulations and responding to the current coronavirus, COVID-19, outbreak. The procurement of supplies without undertaking a competitive process is considered justified pursuant to Regulation 32 (2)(c) of the PCR which permits contracting authorities to procure goods, services and works under extreme urgency.

2. Financial implications

Details	Internal Capital	Revenue	Period of funding	External		Period of funding
				Capital	Revenue	
Council cost incurred up until October 2020		£801,088 – indications are that this may be refunded by the government.	2020-2021			
Anticipated cost up until 31 March 2021		£0 although potentially up to £39,480	2020-2021			
Social Care Providers cost through WLA		Net £0 - £118,726 cost in the process of being reclaimed by the Council.	2020-2021			

3. Supporting information

PPE Emergency Spend October Update

	Spend incurred up until May 2020 (as per July Cabinet)	Spend incurred between May 2020 and October 2020	Total Spend incurred up until October 2020
Council Spend	£382,332	£418,756	£801,088

Recharged to Social Care Providers	£0	£118,726	£118,726
Total Spend	£382,332	£537,482	£919,814

Since it was reported at July's Cabinet in the Investing in our Borough report, there has been an additional £537,482 spend on PPE. The majority of this spend was via an order placed through the West London Alliance (WLA) which is a pan London procurement route as a central source of PPE for London Councils. WLA, through the London borough of Ealing, have been to their Cabinet setting out that they are relying on Regulation 32 of the Public Contract Regulations allowing procurement for reasons of extreme urgency.

The Council though a Memorandum of Agreement (MOA) placed a large order with the WLA for a large supply of stock for both the Council and social care providers. This was to provide a route to market for social care providers over and above the free of charge emergency supply. The social care providers' PPE was initially paid for by the Council and then recharged to the social care providers. Work is still ongoing to recover outstanding costs from providers and the figure above represents current anticipated recovery amount; to date £60,913.60 has been recovered. Where money cannot be recovered from providers and there is no reimbursement route from central government, a proportion of the infection control fund will be used to cover any losses.

The total spend on PPE since start of Covid-19 is set out in the table below by supplier:

Supplier	Total Order Value
WLA	£516,500.87
Drive Devilbiss Healthcare Lim	£228,000.00
Wealden Rehab	£39,600.00
Fortuna Group (London) Ltd	£32,160.00
G4U Ltd	£18,000.00
Stockdale Martin Ltd	£17,572.00
MDS Healthcare Ltd	£10,020.00
Greenham Ltd	£10,015.50
GMC Corsehill Ltd	£8,173.25
Arco East Anglia	£7,000.00
Ethical Stationery	£5,508.00
John Preston & Co	£3,360.00
The Glove Club	£3,231.00
Ethstat Ethical Stationary Cic	£2,760.00
MDSI Healthcare Limited	£2,537.50
M.I. Supplies Ltd	£2,225.00
Amazon	£1,840.29
Janitorial Express	£1,689.90
Pioneer Products Ltd	£1,532.08
Right Ideas	£1,494.00
Rowland Bros T/A Fibrous	£1,125.00
The Glove Club	£983.00
Healthco Ltd	£979.40
Felgains	£900.00
Robinson Healthcare	£510.90
Corecare Global Ltd	£473.29
Delivernet	£394.50
MI Supplies	£383.88
Intacare Hygiene Ltd	£271.00
Amazon Payments Uk Ltd	£251.70
Smtxtra Ltd	£250.00

Supply Chain Coordination Ltd	£72.08
Total	£919,814.14

The money spent on PPE to date may be reimbursed by government. This is currently uncertain with a recent letter from the DHSC to LAs on the 18 September stating that;

"We are continuing the dialogue with MCHLG on the appropriate mechanism to deal with any unfunded cost pressures that may have arisen due to procurement of PPE to date in response to the COVID-19 crisis"

The Commissioning Alliance notified Croydon on Friday 16th October that details around this reimbursement for PPE were yet to be confirmed by central government.

In parallel to the DHSC option for reimbursement the MCHLG also have reimbursed to the Council some of the costs it incurred due to COVID-19; with additional conversations around further reimbursement. PPE is one strand of costs that the Council has incurred and potentially able to get reimbursed. Therefore, there is also a possibility that the Council may have its PPE costs reimbursed through this route.

Variance from anticipated emergency spend set out in May CCB/ July Cabinet report

In the May CCB/ July Cabinet the report anticipated additional emergency spend on PPE between May and October. The estimates of the total spend up until October including social care providers was £1,091,848 and excluding social care providers was £722,282. The table bellows compares total forecasts at May CCB meeting to actual spend to date. The data shows that spending on PPE has been £78,806 higher for the Council than anticipated and spending for Providers that the Council reclaims has been £250,840 lower than anticipated. Overall spend is £172,034 lower than forecast.

The reason for these variances are largely due to changes in Provider requirements of PPE both before and after the WLA order was placed. Also the Council ordered 50% additional PPE for Providers that has largely not been required and instead has been transferred to Council stock. Therefore, although the Council spend is higher this has resulted in higher level of PPE stock meaning less money will need to be spent on PPE over the next 6 months.

	Spend incurred up until May 2020 (as per May CCB)	Forecast Spend incurred up until October 2020 (as per May CCB)	Actual Spend incurred up until October 2020	Variance between Forecast and Actual
Council Spend	£382,332	£722,282	£801,088	£-78,806
Recharged to Social Care Providers	£0	£369,566	£118,726	£250,840
Total Spend	£382,332	£1,091,848	£919,814	£172,034

Procurement Strategy going forwards

With the uncertain nature of COVID-19 it is unclear at present how long the requirement for PPE will continue. A procurement strategy is being put forward until the end of March 2021. The rationale for this is that it ties in with the announced period that DHSC will be providing PPE to the Council and it covers the remainder of the financial year and the end of the winter period. There may be a requirement for purchasing beyond this period; however, there remains uncertainty over whether this will be required; and if required if it will be supported by DHSC.

DHSC and the Commissioning Alliance have indicated that future PPE procurement for settings that are ineligible for the national PPE portal (including local authorities¹) up until 31 March 2021 is expected to be supplied free of charge through the Commissioning Alliance. This new PPE approach for London goes live on 1 November, we have placed a small initial order but are yet to see how reliable this route will be. In this instance there will no need to carry out additional procurement of PPE during this period and no procurement strategy will be required.

As there is still uncertainty if the new Commissioning Alliance route will provide all the Council's PPE requirements a fall back option has been formulated. This may be required to procure some or all of the PPE requirements until 31 March 2021 in the event that the Commissioning Alliance does not provide PPE as expected. Due to the level of stock that the Council holds there is only a relatively limited stock expected to be required until March 2021. In the

event that no PPE is provided by the Commissioning Alliance the estimated volume and costs of stock required is as follows:

Item	No of Units	Estimated cost
Hand Sanitiser	161	£805
Gloves	314,750	£31,475.00
Gowns	1,200	£7,200
Totals	316,111	£39,480

Back Up Options Considered

The following back up options are set out below; with option 1 the recommended back up option:

Option	Pros	Cons
Option 1 - Award of Contracts via low value spend competitive processes through the Central Buying Team.	<ul style="list-style-type: none"> Ensures competition between providers is maintained. Allows flexible procurement route that takes into account volatility of market. Suitable for low value of purchases estimated until 31 March 2021. Flexible enough to be implemented if Commissioning Alliance does not provide expected PPE. 	<ul style="list-style-type: none"> Short term solution to end of March 2021 only.
Option 2 - Award of PPE contracts through ad-hoc approach where stock is available.	<ul style="list-style-type: none"> Achieves quickest route for PPE to be obtained ensuring Council staff access PPE in time. Ensures the Council can react quickly to a changing landscape to secure PPE stock as when it becomes available. Flexible enough to be implemented if Commissioning Alliance does not provide expected PPE. 	<ul style="list-style-type: none"> Could be deemed not to comply with national and Council regulations leading to possible procurement challenge. May not obtain best value for money compared to competitive tender. Rationale for urgency less convincing due to length of time requirement has been known (since end of March 2020 when Covid-19 first hit).
Option 3 - Procure PPE through OJEU compliant tender/framework process	<ul style="list-style-type: none"> Ensure compliance with OJEU and Council procurement policy. 	<ul style="list-style-type: none"> Length of time of getting to market risks PPE supplies. High resource required for a low level of spend. Lack of flexibility to obtain stock in a rapidly changing marketplace. Volatility of pricing will prevent competitive fixed prices being available.

Due to the low value of spend until the end of March 2020; and the high levels of PPE stock held there is only an estimated £39,480 of PPE purchases required. The recommended back-up option is option 1 to procure through low value spend via the Central Buying Team this is a more competitive and compliant route than option 2. Option 3 is not considered practical given that these are only back-up options and this option would take too long to implement.

4. Conclusion and reasons for recommendations

This report is serving two purposes the first is to notify CCB of existing contractual commitments for the urgent supply of PPE made pursuant to Regulation 19.3/19.5 of the Tenders and Contracts Regulations by the Council required to obtain PPE urgently to respond to the COVID-19 crises.

In accordance with regulation 19, spend incurred since May as reported at July Cabinet is £537,482 of which £118,726 is recoverable from social care providers. The total spend on PPE is £919,814 to date of which £118,726 is recoverable from social care providers. This cost may be reimbursed by central government, but the details of this have not been confirmed.

The second part of the report highlights that future PPE is expected to be provided by DHSC via the Commissioning Alliance free of charge up until March 2021, however, details of this have not yet been confirmed. In the event that this does not occur the back-up strategy is for further PPE orders to be carried out via the Central Buying Team; with an estimated value of up to £39,480.

5. Outcome and approvals

Outcome	Date agreed	
<i>CCB Approved</i>	Service Director <i>(to confirm Executive Director has been briefed)</i>	<i>03.11.20</i>
	Cabinet Member for Resources & Financial Governance	
	Legal Services	<i>2.11.20</i>
	Head of Finance	<i>24.11.20</i>
	Human Resources (if applicable)	<i>NA</i>
	C&P Head of Service	<i>22.10.20</i>
	Lead Member <i>Resources & Financial Governance</i>	
	CCB	<i>CCB1634/20-21 01/12/2020</i>

6. Comments of the Council Solicitor

There are no additional legal consideration arising directly from this report

Approved by Sonia Likhari on behalf of the Director of Law and Governance

7. Chief Finance Officer comments on the financial implications

Approved by Matthew Davis, Head of Finance – MTFs, on behalf of Lisa Taylor, Director of Finance, Investment and Risk and Section 151 Officer.

ⁱ Local authorities (including children and adult social care workers), Mental health community care, Personal assistants, Domestic violence refuges, Rough sleeping services, All education (and childcare) services