

Report to	Policy & Resources Committee
Date	30 September 2021
By	Head of Business Services
Title of Report (Decision)	SDNPA Procurement – Strategy and Risk Management

Recommendation: The Committee is recommended to

- 1) Approve the SDNPA Procurement Strategy 2021-2026**
- 2) Note that, through the Procurement Strategy, the SDNPA will take a proportionate view of risk in procurement, to strike a balance between mitigation and accessibility for small and medium sized enterprises, and in doing this, Officers will normally adopt the approach detailed in paragraphs 4.5 and 4.7 to relevant contracts.**

1. Introduction

- 1.1 SDNPA procure a wide range of goods, works and services from suppliers and contractors. The non-pay expenditure is normally between £5m and £6m per annum and over 80% of this is provided through formal contracts.
- 1.2 The Procurement Strategy describes what SDNPA aims to achieve when procuring works, goods and services (the vision) and the mechanisms and processes used to achieve those.
- 1.3 The Strategy details our aims for the next five years, but is also, significantly, a statement of what we do and how we conduct the function.

2. Policy Context.

- 2.1 Effective procurement is important to the delivery of the Partnership Management Plan. Achieving value for money across all of the SDNPA activities allows for the maximum proportion of the funds available to be channelled directly towards PMP and local plan(?) delivery, but also ensures that work and services in that, are effectively completed.

3. Issues for consideration

- 3.1 Procurement is about much more than just what an organisation buys, or what it pays for it. It represents an opportunity to influence how suppliers and contractors behave, and how they influence their own suppliers and sub-contractors throughout the supply chain.
- 3.2 The influence of procurement is particularly effective in terms of ethics and preventing modern slavery, but can have social and environmental impacts too, although those are often more difficult to measure.

4. Accessibility and Risk Management

- 4.1 Public sector organisations have the reputation for being risk averse and there are often good reasons for this, when the public purse and public interest are at stake. This is particularly the case in procurement, where the processes are more convoluted, and expensive for suppliers. The qualifying requirements placed on suppliers and contractors are

much more onerous than is the case in much of the private sector.

- 4.2 Not only does this create costs, but it carries its own risk, of excluding otherwise capable suppliers from the process because they don't have the resources to meet the requirements demanded.
- 4.3 The processes embedded in public procurement are generally enshrined in law. However, within the rules it is important, particularly for a smaller public sector entity like SDNPA, to be as approachable, accessible and easy to trade with as we can possibly be.
- 4.4 To achieve this, we need to be able to accept that there are some risks in contracting with suppliers and contractors, and that trying to manage them all away through high entry requirements will deter many otherwise good and capable suppliers. These risks would come into the category of Economic / Financial and are consistent with SDNPA's 'Cautious' appetite for such risks. (Reference 1).
- 4.5 Minimum Turnover Requirements The Public Contract Regulations 2015 introduced measures to prevent public sector organisations setting high turnover thresholds for organisations bidding for contracts, limiting this to double the contract value. Companies with high turnover were seen as having more resilience and being less at risk from financial collapse during a contract. Unless there is a specific reason why a supplier or contractor might need to be of a particular size financially, for example, large construction contracts, Officers will not specify a minimum turnover for any contractor.
- 4.6 Contractors' Insurance There are three types of insurance policy that contractors' are asked to hold.
- Employers' liability Insurance is a legal requirement for any organisation employing staff and certification of this is sought as a matter of course.
 - Professional Indemnity Insurance is required for professional services and protects the client against design or other professional failures. This is applied proportionately to the value of the contract and the estimated consequence of a potential failure.
 - The third type is Public Liability insurance and this is where there is a tendency in Public Sector organisations to require significant cover; with £10million in any one claim being the standard. This is the level SDNPA currently asks from contractors and suppliers where there is a site presence, and the premiums can be prohibitive for small suppliers.
- 4.7 Rather than require a standard £10million of cover for any contract with a potential public liability exposure, Officers will normally apply a scale, depending on the likely exposure from activities the contractor would be contracted to carry out, as per the table below;

Contracted Activity	PL cover (any one claim)
Supply of Goods	None
Services carried out in provider's own premises	None
Services (consultancy, etc) carried out in SDNPA premises	None
Services in public places	Up to £5m
Construction works (general) and property maintenance	£10m
Countryside Works (as follows)	
• Coppicing	£5m
• Tree Work	£10m
• Fencing	£10m
• Gates, stiles, field gates	£5m - £10m
• Scrub clearance	£5m
• Involving heavy plant	£10m
• On or near the highway	£10m
Grazing (as follows)	
• Cattle	£10m
• Sheep	£5m
• Ponies	£10m

4.8 Applying limits under £10million for public liability cover will require a change to Contract Standing Orders. The responsibility for maintaining Contract Standing Orders is delegated to the Chief Executive under the Financial Regulations.

5. Next steps

5.1 The procurement team will commence the necessary work contained in the Strategy Action plan for year 1.

5.2 With agreed insurance levels for countryside working in particular, it is our intention to establish an Approved Contractor List for companies and individuals who are able to carry out this work within the National Park. This will enable them to pre-qualify by providing their certification, health and safety documentation, evidence of insurance etc, on an annual basis rather than for each contract. This will speed up the process for Rangers to engage contractors.

6. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No
Does the proposal raise any Resource implications?	No
How does the proposal represent Value for Money?	The Procurement Strategy is focused on delivering value for money to SDNPA
Are there any Social Value implications arising from the proposal?	Yes, the procurement strategy aims to deliver social value
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	Yes, The proposed approach outlined in the strategy will make it easier for smaller companies and sole traders to engage with the SDNPA through the procurement process and open up SDNPA procurement opportunities to a wider and more diverse market place.
Are there any Human Rights implications arising from the proposal?	Yes, in terms of preventing modern slavery in our supply chains
Are there any Crime & Disorder implications arising from the proposal?	No
Are there any Health & Safety implications arising from the proposal?	No
Are there any Data Protection implications?	No
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy:	Yes, part of the strategy is to pursue sustainability in our own procurement and through the supply chain

7. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
Contractors' insurance doesn't cover full liability costs – theoretically injured party could claim against client organisation	1	4	Insurance cover requested follows assessment of risks on any particular contract as well as using the broad categories (4.7)

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Appendices I. SDNPA Procurement Strategy 2001-2006

Reference I. SDNPA Risk Management Policy and Guidance 2019-2023

SDNPA Consultees Chief Executive; Director of Countryside Policy and Management; Director of Planning; Chief Finance Officer; Monitoring Officer; Legal Services

External Consultees None

South Downs National Park Authority

Procurement Strategy 2021-2026

Version 0.01

Review date	September 2026
Responsibility	Head of Business Services
Created	September 2021
Approved by	SDNPA

DOCUMENT AMENDMENT HISTORY

Version No.	Originator of change	Date of change	Change Description
1.0			
0.04			
0.03			
0.02			
0.01	Alan Brough	16/08/21	First draft of Strategy template sent to SMT for review

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I. Introduction and background

- I.1 SDNPA procures goods, services and works from outside bodies to the value of between £5m and £6m each year. The Procurement Strategy provides a vision for what procurement can achieve, and the methods that will be used to deliver the vision.
- I.2 SDNPA is established as a 'lean' organisation; one that is comfortable with outsourcing and working with partners and this is reflected in both what we procure and how we run procurement.
- I.3 Our Procurement Strategy is important to help demonstrate how we and our partners are delivering the PMP and how the SDNPA is delivering our purposes and duty which are:

Purpose 1: *To conserve and enhance the natural beauty, wildlife and cultural heritage of the area*

Purpose 2: *To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public*

Duty: *To seek to foster the social and economic well being of the local communities within the National Park in pursuit of our purposes.*

- I.4 This is through achieving best value for SDNPA in everything we purchase, which is core to everything we do. It is also ensuring that we buy from organisations, who by their actions, add capital to the environment, equality, social and cultural value.

2. Our vision for Procurement

- 2.1 Procurement is firstly about delivering best value for SDNPA in every purchase we make.
- 2.2 SDNPA will be as accessible to contractors and suppliers as any public sector organisation can be.
- 2.3 Wherever we can, SDNPA will use procurement to meet wider environmental, social and economic goals in the community.
- 2.4 SDNPA will only deal with suppliers who trade ethically, abide by the laws of their country and have regard to equalities.
- 2.5 SDNPA will treat suppliers and contractors fairly and with respect. We will always seek to learn from the knowledge and expertise of our suppliers and contractors.
- 2.6 SDNPA will manage the risks associated with procurement. We will understand the risks involved and seek appropriate ways of sharing risk with suppliers and contractors.

3. Value For Money in Procurement

- 3.1 Value for money in procurement terms, is not the lowest price. It is procuring the right product, on the right terms, at the right price, using a total cost approach to evaluate all the costs associated with the good or service being procured over the lifetime of the contract.
- 3.2 To procure the right product, SDNPA will produce specifications for procurement, which will include details of the product, location and timescale for each contract.
- 3.3 SDNPA will engage specialists to design and manage major contracts, where we do not have the expertise in-house to do so.
- 3.4 SDNPA acknowledges that the supplier community is a major source of expertise on the supplies, services and works procured by SDNPA, and that using suppliers' expertise can increase value for money. We acknowledge this by;
- Consulting with suppliers before finalising specifications,
 - Making specifications outcome based, and allowing suppliers to tell us the best way to deliver the outcomes.
- 3.5 SDNPA will seek competitive bids for all significant purchases and will assess those using quality / price ratios. The ratio of price to quality will be determined on an individual contract basis, by assessing the potential value of each.
- 3.6 SDNPA will seek to maximise value during the term of the contract, by active contract management, continuous improvement and building business relationships with long-term contractors.
- 3.7 In each succeeding contract, SDNPA will learn the lessons from the previous contract, building on what went well and remedying identified weaknesses.

4. SDNPA as an accessible customer

- 4.1 SDNPA will provide clear, unambiguous specifications for the purchase we are intending to make. The specification will, where possible, be outcome based and will allow the supplier to use their skills and knowledge to provide the optimum solution.
- 4.2 Market testing or sounding will be undertaken by SDNPA on any novel aspects of a specification before it is released for tender. This will help to ensure that it is deliverable and doesn't contain any unnecessary requirements.
- 4.3 Suppliers will be given as much advance notice of potential tendering opportunities as SDNPA can realistically provide. Advance opportunities will be advertised on the SDNPA website, and through national portals for high value contracts.
- 4.4 Contract opportunities will normally be advertised through the SDNPA website. Suppliers who register with the SDNPA Procurement portal can receive notifications when relevant tenders are advertised. When contract opportunities with a value of over £25,000 are advertised, the notice will also appear on Contract Finder, the public procurement portal for England. In practice, many opportunities with a lower value are also placed on Contract Finder.
- 4.5 SDNPA procurement systems are fully electronic and are accessible free of charge to suppliers. Suppliers have the opportunity to ask questions during the tender process, and will upload their tender response electronically.
- 4.6 Other than for general due diligence, SDNPA will not ask suppliers to provide information that is not relevant or proportional to a specific contract.

5. Environmental and Social Goals

- 5.1 As part of the preparation of specifications for tenders, we will consider the environmental and social implications of the purchase we are proposing, and make improvements where we can.
- 5.2 The approach we take to checking the environmental and social credentials of suppliers will be proportionate to the value of the contract, to ensure that this does not impact on the accessibility of SDNPA contracts. We understand that providing this information, particularly when it is tailored to individual contracts, is expensive, particularly for smaller organisations.
- 5.3 SDNPA will make wide use of social value clauses within significant contracts and will include social value within the criteria for evaluation of tenders.
- 5.4 SDNPA will build links with local suppliers who share our environmental and social goals, informing and equipping them to bid for SDNPA and other public sector contracts.
- 5.5 We will develop a more detailed sustainable procurement policy over the next twenty-four months and this will be incorporated into the SDNPA Procurement Strategy from 2023 onwards.

6. Ethical Trading

- 6.1 SDNPA intends only to trade with suppliers and contractors who respect the environment, comply with the laws of their own countries, respect human rights and reject modern slavery, and trade fairly themselves. This means respecting their own sub-contractors and suppliers and not engaging in fraud, bribery or corruption.
- 6.2 All procurement staff in SDNPA will hold the CIPS Ethical Procurement and Supply Certificate and this will be updated on a yearly basis. This will help us identify any issues with non-ethical behaviour in our supply chains.
- 6.3 SDNPA will expect suppliers not only to behave ethically in their own operations but to take active steps to ensure that ethical practice is maintained through their supply chain.

7. How SDNPA Treats our Suppliers

- 7.1 SDNPA will provide suppliers with a clear specification of work at the outset of the contract and will make sure that suppliers understand what is expected of them.
- 7.2 SDNPA will nominate a 'contract owner' for each contract awarded. This person will provide a single point of contact within the organisations for contractors seeking assistance or further information.
- 7.3 SDNPA will endeavour to answer any requests for further information from a contractor promptly,
- 7.4 SDNPA will agree a schedule of payments with suppliers at the beginning of the contract. SDNPA will make stage payments in all but the shortest term contracts, and will link those to clear and measurable deliverables within the contract.
- 7.5 When a payment is triggered within the contract, SDNPA will aim to place the funds in the contractor's bank account within 10 days.
- 7.6 At the end of each contract, SDNPA will ask suppliers for their views on their experience of SDNPA as a client and ask suppliers to score our performance. Those scores will form part of SDNPA's overall performance reporting.
- 7.7 Where suppliers have submitted a bid for an SDNPA contract and not been successful, SDNPA will inform them of the award decision promptly and will include information on how we reached the decision. Unsuccessful bidders will be able to access additional feedback on their bid, on request.

8. Managing Risks in Procurement

- 8.1 SDNPA will carry out due diligence on suppliers as part of the procurement process. In carrying out this process we will not discriminate against smaller sized suppliers as long as they have the resources to complete the contract they are bidding for.
- 8.2 SDNPA will not discriminate against newer suppliers and will take alternative evidence of financial viability to previous year's accounts where necessary. SDNPA will always try to be open to giving new suppliers the opportunity to trade with us.
- 8.3 In construction contracts, SDNPA will seek to use SOR / Bill of Quantities and one of the recognised contract forms (JCT / NEC) to establish a basis for risk sharing, rather than transferring all risk to the contractor by way of fixed price contracts.
- 8.4 SDNPA will not expect suppliers / contractors to carry unrealistic levels of insurance cover and will seek to tailor our requirements to the insurance risk of a particular activity.

9. Development of annual Action Plan

- 9.1 We will develop an annual action plan detailing the initiatives and actions that we will undertake in each financial year to strengthen our achievement of the procurement vision for the SDNPA. This will also be reviewed every September to plan for the following year.
- 9.2 We will review this Procurement Strategy at least every five years, or at such times as it becomes necessary to update it.

10. References

Public Contracts Regulations 2015

<https://www.legislation.gov.uk/uksi/2015/102/contents/made>

Public Services (Social Value) Act 2012

<https://www.legislation.gov.uk/ukpga/2012/3>

SDNPA Contract Standing Orders

<https://intranet.southdowns.gov.uk/wp-content/uploads/2015/05/Contract-Standing-Orders-2021.pdf>

II. Appendix I: Outline Action Plan

- The **South Downs National Park Authority Procurement Action Plan** will be reviewed annually by the Head of Business Services and released on 30 September each year. Performance against the strategy and action plans will be reported to Policy and Resources Committee on an annual basis, using a set of key indicators.
- In **Years 1-2**, our focus will be on:
 - Improving information to suppliers on forthcoming tenders
 - Investigating and trialling various approaches to improving sustainability in our supply chain
- In **Years 3-5**, we will aim to:
 - Develop a sustainable procurement strategy
 - Plan adaptations to processes to tie in with ‘Transforming Public Procurement’ agenda as legislation is published and enacted.

Our proposed Action Plan from October 2021 to September 2022 is detailed below.

Task	By when
Embed programmed procurement in budget process	April 2022
Embed programmed procurement in project process	April 2022
Publish programmed future opportunities on portals and website as the information becomes available	April 2022
Involve procurement in development of South Downs Enterprise Partnership	April 2022