

REPORT TO:	FINANCE AND MANAGEMENT COMMITTEE	AGENDA ITEM: 12
DATE OF MEETING:	24 AUGUST 2023	CATEGORY: DELEGATED
REPORT FROM:	CHIEF EXECUTIVE	CATEGORY: OPEN
MEMBERS' CONTACT POINT:	DR JUSTIN IVES (01283 595700) justin.ives@southderbyshire.gov.uk	DOC:
SUBJECT:	SHARED PROSPERITY FUND	
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: FM08

1.0 Recommendations

- 1.1 That Members approve the following amendments to the Shared Prosperity Fund grant schemes, applicable until the conclusion of the programme on 31 March 2025:
- 1.1.1 That the threshold above which a tender procedure is required for grant recipients is raised from £24,999 (inclusive of VAT) to £149,999 (inclusive of VAT) for the procuring of goods/supplies and works (not services).
- 1.1.2 That the waiver of quotations procedure is applied by the Council where a grant recipient is unable to get three competitive quotations.
- 1.2 Authority is delegated to the Chief Executive, in consultation with the Leader of the Council, to make amendments to the Shared Prosperity Fund programme and grant schemes during implementation and to approve procurements up to a threshold of £179,999 (inclusive of VAT) on a case by case basis.

Purpose of the Report

- 2.1 This report seeks Member's approval to amend the procurement rules for the grant schemes operating under the Shared Prosperity Fund programme, in the light of challenges being experienced by applicant organisations (community organisations and small businesses). The report proposes that the tender threshold is raised and that the waiver of quotations procedure is applied. These changes would apply to the Shared Prosperity Fund (including Rural England Prosperity Fund) grant programmes, operating until 31 March 2025.

3.0 Detail

Background

- 3.1 A report to Environmental and Development Services Committee on 10 November 2022 and Finance and Management Committee on 24 November 2022 outlined the Government's UK Shared Prosperity Fund (UKSPF) programme and investment priorities. It set out the District Council's role as Lead Local Authority (LLA),

accountable for the delivery of the Fund in South Derbyshire, including preparation of an Investment Plan and facilitation of a local partnership group. A report to Council on 19 January 2023 approved the Shared Prosperity Fund Investment Plan for South Derbyshire, the Rural England Prosperity Fund Addendum, the grant award arrangements and the Memorandum of Understanding with Government. A subsequent report to Council on 22 June 2023 approved the Government's request to revise the Memorandum of Understanding.

Shared Prosperity Fund Procurement Guidance

- 3.2 The District Council plans to directly deliver two grant schemes - for small businesses and for community organisations - with a combined value of some £918,392 as part of the South Derbyshire UKSPF Investment Plan. It is also a partner in a number of grant schemes operating more widely in the county.
- 3.3 Government guidance issued for UKSPF places similar requirements on community organisations and small business grant applicants – classed as ‘non-contracting authorities’ – as contracting authorities ie public sector organisations. Minimum procedures require a formal tender process for goods, supplies, services and works with a contract value above £24,999 inclusive of VAT unless unrecoverable (Three written quotations are permissible below this limit) “... **unless different thresholds have been approved internally via the LLA’s appropriate internal governance process.**” A copy of the guidance can be found at Appendix A. This report seeks to obtain approval for different thresholds.
- 3.4 The threshold limit set for quotations is well below that operated by previous Government grant schemes. Unfortunately, despite representations to Government, the guidance remains unchanged.
- 3.5 The requirement for small businesses and community organisations to seek formal tenders for relatively low value procurements, and for LLA’s to be “responsible for ensuring that these policies and procedures are applied by non-contracting authorities as appropriate, reported on and monitored” is considered unrealistic, both for the organisations themselves to undertake and for the District Council to oversee.
- 3.6 In effect, this has resulted in a maximum spend with a single supplier of £24,999 (inclusive of VAT). Typically items of equipment that businesses wish to buy and works that community organisations wish to undertake are above this amount. The Council has, for example, received two enquiries for roof repairs to community buildings that it is not currently able to consider. This has discouraged applications or led to attempts to break up works into separate contracts which adds to the project management challenges and risks for such organisations.

District Council Procurement Guidance

- 3.7 The District Council's Procurement Rules require a tender procedure to be undertaken for a contract with a value of £25,000 or more. Exemptions from this rule are as follows:
 - The Strategic Director (Corporate Resources) may seek an exemption from any of the Rules from:
 - i. A Committee acting under delegated powers; or
 - ii. The Chief Executive acting under delegated powers along with the Leader of the Council.

- In order to request an exemption the Strategic Director (Corporate Resources) must prepare a report setting out:
 - i. the reasons why the exemption is being requested and which Rule(s) an exemption is being requested from;
 - ii. the process which is intended to be followed instead;
 - iii. a legal appraisal and financial appraisal from the Strategic Director (Corporate Resources).

An exemption will only be granted where the Committee or the Chief Executive and Leader of the Council is satisfied that the exemption is justified on its own special circumstances.

3.8 A number of options have been considered:

1. Retain existing arrangements with the drawbacks outlined above (Do nothing option).
2. Retain existing arrangements but provide support to organisations undertaking tender processes. In practice this may be managing the process on their behalf or supporting the organisation through the process and auditing their procurement activity to ensure compliance. This would place a significant additional burden on the District Council in terms of workload and responsibility for activities that are outside its control.
3. Raise the threshold for tenders for goods/supplies and works (not services) to contracts with a value of up to £149,999 (inclusive of VAT). The new threshold is based upon the grant enquiries that have been received to date, for projects such as the replacement of a village hall roof.

3.9 It is proposed to amend the procurement rules for the grant schemes as set out in Option 3 above. This would apply to goods/supplies and works procured by businesses or community organisations seeking grant funding provided by the District Council acting in its role as Lead Local Authority for the UK Shared Prosperity Fund and would raise the upper threshold for purchasing using three quotations to £149,999 (inclusive of VAT).

3.10 It is expected that this threshold will be sufficient to enable the processing of the anticipated applications, however given the timescales within which the grants need to be processed, it is proposed to delegate authority to the Chief Executive in consultation with the Leader of the Council, to raise the threshold further. In exceptional circumstances this would enable the threshold to be raised a further 20% (£30,000) and would accommodate instances, for example, where an organisation is not able to reclaim VAT.

3.11 A copy of the written specification and quotations obtained would be required to be submitted with grant funding applications before they could be considered for approval. In such cases, a specific waiver report or record would not normally be required, but the purchase would instead be recorded in the grant/monitoring information retained as part of the Government claims process.

Quotations

3.12 For items under £25,000 the requirement under both the District Council and Shared Prosperity Fund procedures is for applicants to seek three written quotes or prices. In

practice, organisations are struggling to get three quotes for their proposed expenditure, for example, finding contractors who will quote for construction works or where there is only one supplier of a piece of specialist equipment.

- 3.13 It is proposed to enable applicants to adopt the Council's Waiver of Quotations procedure in exceptional circumstances. This would require them to provide a written explanation which would be authorised by a Director or the Chief Executive of the Council in consultation with the Council's procurement advisers (NHS Chesterfield).
- 3.14 It is proposed that where an organisation has secured quotes but does not intend to choose the lowest quote, for example they have a preferred contractor, this should also be explained on the Waiver of Quotations form. The Council would normally calculate the level of grant awarded on the basis of the lowest quote but would have the discretion to calculate the grant based on a higher quote in the light of the reasoning provided. Similarly, this would be authorised by a Director or the Chief Executive of the Council in consultation with the Council's procurement advisers (NHS Chesterfield). It should be noted that where the organisation is applying for the maximum level of grant, selecting a higher quote would not increase the grant amount.

4.0 Financial Implications

- 4.1 There are no financial implications arising directly from this report.

5.0 Corporate Implications

Legal Implications

- 5.1 Legal support will be required to procure and contract with service providers and grant recipients, and to advise on matters such as Subsidy Control.

Corporate Plan Implications

- 5.2 The Shared Prosperity Fund has the potential to contribute to:
- 'Our Environment' which aims to keep a clean, green District for future generations – work with residents, businesses and partners to reduce their carbon footprint; and, enhance the appeal of Swadlincote town centre as a place to visit.
 - 'Our People' which aims to work with communities and meet the future needs of the District – support and celebrate volunteering, community groups and the voluntary sector; help tackle anti-social behavior and crime through strong and proportionate action; and, support social mobility to ensure people have the opportunity to access skilled jobs, higher and further education.
 - 'Our Future' which aims to grow our District and our skills base – support unemployed residents back into work; and, encourage and support business development and new investment in the District.

Risk Impact

- 5.3 There is a risk that if the Shared Prosperity Fund projects and programmes are not delivered in accordance with the funding profile, the underspend will have to be returned to Government.

- 5.4 There is a potential reputational risk for the Council in appearing to show a lack of understanding of the challenges faced by small businesses and community organisations.
- 5.5 The current tender threshold and minimum quote requirements exist to reduce the risk of contracts being awarded to connected persons and to avoid contracts being awarded that are not value for money. The proposed changes would increase the risk that these issues could occur.

6.0 Community Impact

Consultation

- 6.1 Consultations have been undertaken with local partner organisations. Many of these organisations are members of the Sustainable Development Group of the South Derbyshire Partnership which has become the 'local partnership group' for the Shared Prosperity Fund. Preparation of the Investment Plan also drew on recently completed surveys of local companies and town centre businesses.

Equality and Diversity Impact

- 6.2 Activities supported by the Shared Prosperity Fund are expected to have a range of positive equality and diversity impacts, particularly relating to enhancing employability. These will be determined through the award of grants and contracts to support activities.

Social Value Impact

- 6.3 Activities supported by the Shared Prosperity Fund are expected to have a range of positive social value impacts, particularly linked to enhancing employment. These will be determined through the award of grants and contracts to support activities.

Environmental Sustainability

- 6.4 Environmental sustainability considerations are a key feature of the programme, with consideration to be given to the extent to which activities contribute to the Government's net zero and nature recovery objectives, and their impact on natural assets and nature and support for green growth.

7.0 Conclusions

- 7.1 The Council has been designated as the Lead Local Authority for the co-ordination of the Shared Prosperity Fund in South Derbyshire. The Fund aims to address local priorities, building pride in place, supporting high quality skills training, supporting pay, employment and productivity growth and increasing life chances.

8.0 Background Papers

UK Shared Prosperity Fund Prospectus
Rural England Prosperity Fund Prospectus

Appendices

- A. UK Shared Prosperity Fund: Procurement Guidance

Appendix A

Guidance

UK Shared Prosperity Fund: procurement (8)

From:

[Department for Levelling Up, Housing and Communities](#)

Published

19 July 2022

Last updated

10 August 2022

Contents

1. [Fraud Risk Assessment \(FRA\)](#)
2. [Due Diligence](#)

8.1 The overarching public procurement guidance within section 7.6.2 of the Prospectus launched on 13 April 2022 remains applicable to the UK Shared Prosperity Fund (UKSPF).

8.2 Lead local authorities (LLAs) are best placed to decide the most beneficial approaches to maximise the impact of the UKSPF interventions within their local area. We know LLAs have the necessary experience and knowledge of delivering such projects in a legally compliant way. With the opportunity to undertake competitions for grant funding, commissioning and procurement activities, or use in-house teams to achieve objectives, senior representatives need to be assured that the following minimum standards and legal obligations will be compliantly followed by their authority in delivery of this fund:

- Constitution of the Authority including any local Grant / Contract rules, processes or procedures;
- Public Contracts Regulations (PCR) 2015 or Public Contracts (Scotland) Regulations 2015 including any amendments or any subsequent legislation that replaces the Act;
- All other applicable legislation to activity undertaken, such as Modern Slavery Act 2015, IR35 (Intermediaries Legislation), Equality Act 2010, Subsidy Control Act 2022, etc; and
- [The Government Grants Functional Standard](#) with specific focus to compliance on following areas:
 - [Fraud Risk Assessment \(FRA\)](#) – pages 15-19
 - [Due Diligence](#) - pages 20-24

8.3 LLAs should also consider and implement wherever possible:

- sustainability and green measures in procurement plans, aligned with the government's [net zero strategy](#);
- innovative procurement, including the factoring in of social value into procurement; and
- government initiatives, guidance and policy such as the Sourcing and Consultancy Playbooks, Construction Playbook, the Outsourcing Playbook and government guidance on Resolution Planning.

8.4 It will be the responsibility of every LLA to ensure that minimum standards stated in 8.2 are applied, monitored and maintained throughout the 3-year period of the UKSPF grant.

8.5 Where non-contracting authorities are involved in UKSPF project delivery, they should adopt such policies and procedures that are required in order to ensure that value for money has been obtained in the procurement of goods or services funded by the Grant. This should include adopting the following minimum procedures unless different thresholds have been approved internally via the LLAs appropriate internal governance process, such as Cabinet:

Value of contract	Minimum procedure
£0 - £2,499	Direct award
£2,500 - £24,999	3 written quotes or prices sought from relevant suppliers of goods, works and / or services
Over £25,000	Formal tender process

8.6 LLAs shall be responsible for ensuring that these policies and procedures are applied by non-contracting authorities as appropriate, reported upon and monitored.

Fraud Risk Assessment (FRA)

8.7 LLAs shall be responsible for ensuring that Fraud is a key consideration in all spend activity and that the following minimum standards are met:

- follow [Grants Functional Standards on Fraud Risk Assessment](#) (PDF, 695 KB) (FRA) – pages 15-19.
- undertake FRAs at an appropriate level to each individual project dependent on risk.
- ensure that UKSPF spend is undertaken in accordance with effective authority fraud prevention policy and procedure, and via engagement with colleagues specialising in this area.

- ensure that relevant evidence and data to prevent fraud is gathered as part of due diligence undertaken ahead of releasing funds.
- implement reporting and monitoring requirements that will identify irregularities or issues in use of funds which can be investigated further.
- store and file all work undertaken on FRA in the event of any issues or audit requirements.

Due Diligence

8.8 LLAs shall be responsible for ensuring that proportional due diligence is applied to all UKSPF spend and that the following minimum standards are met:

- follow [Grants Functional Standards on Due Diligence](#) (PDF, 695 KB) – pages 20-24.
- undertake due diligence at an appropriate level to each individual project dependent on risk.
- ensure that UKSPF due diligence is undertaken in accordance with effective authority rules and procedures through Teams specialising in this area.
- ensure that key areas of due diligence identified for projects in which you invest are reported on and monitored throughout the term of delivery.
- store and file all work undertaken on due diligence in the event of any issues or audit requirements.