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**PROCUREMENT PLAN AND PROCUREMENT BOARD UPDATE**

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**Responsible Cabinet Member – Councillor Stephen Harker  
Efficiency and Resources Portfolio**

**Responsible Officer – Paul Wildsmith  
Director of Neighbourhood Services and Resources**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To present the Annual Procurement Plan to Cabinet for approval. Cabinet are asked to consider and approve the assessment of contracts that are considered to be strategic or non strategic.
2. To update Cabinet on the outcomes of procurement(s) previously designated as Strategic.
3. To update Cabinet about the decisions taken by the Procurement Board to waive the Contract Procedure Rules.
4. To provide a general update to members on the function and activity of the Corporate Procurement Unit.

**Summary**

**Strategic Contracts**

5. Under the Contract Procedure Rules one of the responsibilities of Cabinet is to agree the Procurement Plan. This involves consideration of whether contracts are classified as strategic. For those contracts that are strategic details of the proposed route that contracts will take will be set out and Cabinet will receive further reports on progress.
6. A set of criteria has been developed to assist in determining whether a contract should be deemed strategic or non-strategic. The criteria are based on value and significance with each category being scored between 1 (low significance) and 5 (high significance). Any contract with a value in excess of £5,000,000 is automatically deemed strategic. If the value of the contract falls below £5,000,000 but scores 15 or more on significance then that is also considered strategic. However Members and Officers may decide to recommend other than what the score suggests.

7. This report covers new contracts and the contracts that officers are aware will terminate in the next 12 months. They have been assessed against an agreed set of criteria to determine whether they are strategic or non-strategic (see **Appendix 1 & 2**).

### **Update on Strategic Procurement**

8. Public Health Children's Services 0-19 years – a fully integrated Public Health Service for children and young people aged from birth to 19 years was designated as Strategic in the Cabinet report dated 5 October 2015 and an update on that procurement exercise is set out in this report.

### **Waiver Decisions**

9. Under the Contract Procedure Rules, if the contracted level of spend over the term of the contract is over £100,000, ordinarily a tender exercise must be used (or a pre tendered framework), however, there will be occasions when there are particular reasons why this is not possible.
10. The Contract Procedure Rules permit the Procurement Board to waive the rules in appropriate cases. This can only be done when the circumstances justify a decision to waive the normal requirements of the Contract Procedure Rules. In addition no waiver can be granted if the level of aggregated planned contracted spend is above the European Union threshold for the particular procurement category.
11. This report deals with the decisions taken by the Procurement Board for period 9 September 2015 to 7 March 2016 at **Appendix 3**.

### **General Update**

12. Processes have been put in place to have Contracts signed up during the tendering phase to ensure robust contractual arrangements are in place and to speed the contracting process and make best use of a reduced resource.
13. Procurement Activity during the last completed financial year of 2014/15 generated savings against budget of not less than £1.43m and is on target to achieve similar economies during the financial year 2015/16.

### **Recommendation**

14. It is recommended that :-
  - (a) Members approve the assessment of strategic and non-strategic contracts as presented in Appendix 1 and that:
    - (i) further reports on the procurement process for those contracts designated as strategic (including decisions made by the Procurement Board) be brought to Cabinet.

- (ii) the contract award decisions for the contracts designated as non-strategic be delegated to the appropriate Director as listed in the plan at **Appendix 1**.
  - (iii) the contract award decisions for the contracts designated as strategic, as listed in the plan at **Appendix 1**, be delegated to the Procurement Board to approve and will be reported back to Cabinet.
- (b) In respect of Procurement Board Waiver Decisions and General Update, that Members note the contents of this report.

## **Reasons**

15. In respect of strategic/non-strategic contracts, the recommendations are supported by the following reasons: -
- (a) The Contract Procedure Rules require Cabinet to approve the designation of contracts as strategic and non-strategic and:
  - (b) Contracts designated strategic are of high value and high significance in respect of the impact on residents, Health & Safety and public safety.
  - (c) The contracts designated non-strategic are of a lower value and lower significance in respect of the impact on residents and public safety.
16. In respect of Procurement Board waiver decisions, the recommendations are supported by the following reasons: -
- (a) In order to comply with the Contract Procedure Rules.
  - (b) To provide Cabinet with information about the decisions made by the Procurement Board.
  - (c) To supplement the reports that are taken to Cabinet about proposed spend over £100,000, that are set out in the Annual Procurement Plan and the in year update to that report.

**Paul Wildsmith**  
**Director of Neighbourhood Services and Resources**

## **Background Papers**

No Background papers were used in the preparation of this report.

Sarah Hutchinson: Extension 5489

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|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| S17 Crime and Disorder           | This decision will not have an impact on Crime and Disorder                                                                                                        |
| Health and Well Being            | This decision will not have an impact on Health and Wellbeing                                                                                                      |
| Carbon Impact                    | This decision will not have a direct impact on the Council's carbon footprint.                                                                                     |
| Diversity                        | This decision will not have an impact on Diversity                                                                                                                 |
| Wards Affected                   | This decision will not affect any wards                                                                                                                            |
| Groups Affected                  | This decision will not have an impact on any groups.                                                                                                               |
| Budget and Policy Framework      | This report does not recommend changes to the Budget and Policy Framework                                                                                          |
| Key Decision                     | Yes                                                                                                                                                                |
| Urgent Decision                  | No                                                                                                                                                                 |
| One Darlington: Perfectly Placed | This decision will not have an impact on the objectives of the Sustainable Community Strategy                                                                      |
| Efficiency                       | The production of the update to the Procurement Plan is designed to save Member and Officer time for requesting delegated powers to make contract award decisions. |

## **MAIN REPORT**

### **Information and Analysis**

#### **Strategic Contracts**

17. Any contract award decision with a value below £100,000 is delegated to officers. Under the Contract Procedure Rules an annual Procurement Plan is produced listing details of all existing and new contracts that are £100,000 or above and which require a tender process.
18. This then allows Cabinet to be advised of the contracts of £100,000 and over and to decide which of those contracts are strategic. Contracts that are considered strategic will be delegated to the Procurement Board for approval. The decisions made by Procurement Board will subsequently be reported back to Cabinet in the next Annual Procurement paper (which is brought bi-annually). The balance of contracts of £100,000 and above which are not determined to be strategic will be dealt with by officers under delegation.
19. The Contract Procedure Rules state that if a contract has not been included on the Annual Procurement Plan a separate report must be taken to Cabinet to determine if it is deemed strategic or non-strategic.
20. For those contracts designated strategic the final contract award decision will be approved by the Procurement Board will be reported to Cabinet.

## Assessment of contracts

21. Details of which contracts are designated strategic and which are designated non-strategic are detailed in Appendix 1. The contracts have been assessed against the criteria agreed by Cabinet, the criteria are provided at **Appendix 2** for information. However Members and Officers may decide to recommend other than what the score suggests. Anything else would be considered non-strategic.
22. Based on the criteria there are three contracts that are designated strategic;
  - (a) Procurement of a developer for the vacant Feethams site. A full OJEU open tender process will be undertaken commencing in Spring 2016 to identify options for development of the site which will be evaluated on the basis of quality and the purchase price. It is expected that a developer will be appointed in Autumn 2017.
  - (b) Procurement of a new contract for home care and support/ domiciliary care services. A full OJEU open tender process will be undertaken, with the contract start date being 1<sup>st</sup> October 2017.
  - (c) Procurement (through a regional collaboration led by Newcastle City Council) of a framework for children's residential care and schools. A full OJEU open tender process will be undertaken, with the contract start date being 3<sup>rd</sup> February 2017.

## Update on Procurements previously designated as Strategic

23. Public Health Children's Services 0-19 years – a fully integrated Public Health Service for children and young people aged from birth to 19 years was designated as a strategic procurement by Cabinet in October 2015.
24. This service was being commissioned to incorporate the current 5-19 years services and the 0-5 services which the Local Authority became responsible for from 1st October 2015. The service will include the following teams Health Visitors, a Family Nurse Partnership Team and School Nurses. These teams will be supported by Community staff Nurses, Community Nursery Nurses, Health Care Assistant and Administrators.
25. A full OJEU open tender process was undertaken, with the contract start date of 1st April 2016.
26. The tender process was issued on the basis of evaluation criteria of 60% quality and 40% price. Following the OJEU process the successful Tenderer submitted its bid at £457,451 below the total budget rate stated in the tender over the four year contract term. The contract was signed by the Provider through the tender phase, reducing problems or delays in formalising the contract for this important service.
27. Following approval by Procurement Board the contract has been awarded to Harrogate and District NHS Foundation Trust to begin on 1 April 2016 for an initial term of 2 years with two annual extensions. Harrogate and District NHS Foundation

Trust has also been appointed as the provider of the 0-19 service for Durham County Council from 1 April 2016.

### **Procurement Board waiver decisions**

28. Under the Contract Procedure Rules, the Procurement Board is the main officer forum for strategic procurement decisions. Procurement Board has the power to waive the Contract Procedure Rules in specific circumstances and is required to report waiver decisions that have been made to Cabinet.
29. The Contract Procedure Rules can only be waived as an exception. The Contract Procedure Rules require the Procurement Board when considering requests for waivers to take into account the following:
  - (a) The contract value and the length of the proposed contract.
  - (b) What steps have been taken to satisfy that the best value duty has been complied with (for instance quotations, market testing).
  - (c) The extent to which there are good reasons why it is not possible to undergo a competitive process (for instance, pressing need or urgency, where further work is required before going to market, where only a short contract extension is needed, or the lack of an available market).
  - (d) Whether the new contract is intended to be a stop gap prior to undergoing a competitive process.
  - (e) The availability of compliant alternatives to direct awards, such as frameworks.
  - (f) Any other reason that is being given by the commissioning area.
30. Under the Contract Procedure Rules where the level of spend over the term of the contract is £100,000 or over, a tender process will ordinarily be followed. There will however, be occasions when there are particular reasons why this is not possible and a direct award needs to be made.
31. This report details the circumstances and the reasons why the contract procedure rules have been waived by Procurement Board at **Appendix 3**, during the period 9 September 2015 to 7 March 2016.

### **General Update**

32. The Corporate Procurement Unit keep a simple log of the outcomes of formal procurement activity in tenders over £100K to learn from previous activity and monitor outcomes. Tender processes concluded with the support and oversight of the Procurement Unit during the last completed financial year of 2014/15 generated economies against budgeted/expected spend of £1.43m and are on target to achieve similar economies during the financial year 2015/16. Savings of 10% or more have been achieved on a number of high value tender exercises whilst

maintaining a focus on the need for quality in services and enforceable contract terms.

33. Corporate Procurement/Legal Services have introduced a process of having Contracts prepared before issue of tender and to be signed by bidders during the tendering phase and produced in PDF conditional upon the evaluation process. This ensures robust contractual arrangements are in place, reduces protracted post tender negotiations and streamlines the contracting process. This process additionally makes better use of resource and supports the new service contract between Darlington Borough Council and Richmondshire District Council also to enable legal services (contracting) to be provided bringing in additional income to the Council within existing resource.

### **Outcome of Consultation**

34. No consultation was carried out in preparation of this report.