
PROCUREMENT PLAN UPDATE

Responsible Cabinet Member – Councillor McEwan, Resources Portfolio

Responsible Director – Paul Wildsmith, Director Corporate Services

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to present to Cabinet: -
 - (a) an update of the Procurement Plan to Cabinet for consideration;
 - (b) the Procurement Strategy for the procurement of the Framework Agreement for the Provision of Works for Contractors for approval.

Summary

2. Under the Contract Procedure Rules one of the responsibilities for Cabinet is to agree the Procurement Annual Plan that will identify the route that contracts will take i.e. Cabinet decisions for all strategic procurement activity and officer decisions for routine procurement.
3. A set of criteria has been developed to assist in determining whether a contract would 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.
4. The Annual Procurement Plan was presented to Cabinet on 28 April and updated on the 2 November 2009; this covered the contracts that officers were aware of at the time of writing the report. Due to funding decisions a number of contracts will need to be tendered in advance of the planned date for the next Annual Procurement Plan. Cabinet will need to determine if the procurement should be deemed strategic or non-strategic.
5. These contracts have been assessed against an agreed set of criteria to determine whether they are strategic or non-strategic (see **Appendix 1**).
6. On a previous report to Cabinet the Framework Agreement for the Provision of Works for Contractors was deemed to be non-strategic because at the time the value was estimated to be below £5 million. Due to the success of recent funding bids it is now estimated that the

level of spend against the framework could be in excess on this figure therefore the procurement is now deemed strategic.

7. The complex nature and anticipated value of the framework means that it has to be advertised in the Official Journal of the European Union (OJEU), and we will be following the Open Procurement route.

Recommendation

8. It is recommended that :-

- (a) Members approve the assessment of strategic and non-strategic contracts as presented in **Appendix 1** and that:
 - (i) the procurement strategies for those contracts designated as strategic be brought to Cabinet for approval in advance of the tenders being issued and that the contract award decision be made by Cabinet.
 - (ii) the decision for the award of contract for the construction of 34 dwellings at Springfield be delegated to the Director of Community Services.
 - (iii) the contract award decisions for the remainder of the contracts in **Appendix 1** be delegated to the relevant officers as set out in the Contract Procedure Rules;
- (b) Members approve the Procurement Strategy for the procurement of the Framework Agreement for the Provision of Works for Contractors as detailed in the report.

Reasons

9. 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:
 - (i) The contracts designated strategic are of high value and high significance in respect of the impact on residents, Health & Safety and public safety.
 - (ii) The reporting deadlines for a strategic procurement would impact significantly on the tight deadlines imposed by the funding body.
 - (iii) The contracts designated non-strategic are of a lower value and lower significance in respect of the impact on residents and public safety.
 - (b) This procurement meets the requirements of the Public Contracts Regulations 2006 and will allow Community Services to access suitably qualified contractors at times of high workload.

**Paul Wildsmith,
Director of Corporate Services**

Background Papers

None

Susan White: Extension 2019

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
Sustainability	This decision will not have an impact on Sustainability.
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 updated Annual Procurement Plan is designed to save member and officer time for requesting delegated powers to make contract award decisions.

MAIN REPORT

Information and Analysis

10. Any contract award decision with a value below £75,000 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 above £75,000 and which require a tender process.
11. 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.
12. The Annual Procurement Plan was presented to Cabinet on 28 April and updated on the 2 November 2009; this covered the contracts that officers were aware of at the time of writing the report. Due to funding decisions a number of contracts will need to be tendered in advance of the planned date for the next Annual Procurement Plan. Cabinet will need to determine if the procurement should be deemed strategic or non-strategic.
13. For those contracts designated strategic, a procurement strategy must be produced, the implementation of which would be monitored by Resources Scrutiny. The final contract award decision will be a Cabinet decision. As set out in the Contract Procedure Rules the contract award decision for those contracts not considered strategic will be through delegation to officers.

Assessment of contracts

14. The contracts have been assessed against the criteria agreed by Cabinet, the criteria are provided at **Appendix 2** for information. Details of which contracts are designated strategic and which are designated non-strategic are detailed in **Appendix 1**. However Members and Officers may decide to recommend other than what the score suggests. Anything else would be considered non-strategic.
15. Based on the criteria there are seven contracts that are designated strategic: -
 - (a) The first is a contract for the construction of a new sports facility for Longfield Comprehensive School; although the value is below £5 million the significance of the project is considered sufficiently high to be deemed a strategic procurement.
 - (b) The second is for the appointment of an organisation to act as the operator/manager of the Incubator Unit. This is a development of new business start-up units that are to be built on the Central Park site. The development is subject to feasibility studies and the funding being made available. Further reports will be brought to Cabinet if the bid is successful.
 - (c) The third is for the appointment of a contractor for the construction of 34 dwellings at Springfield. Based on the agreed criteria the significance of the project is considered sufficiently high to be deemed a strategic procurement however due to the tight timescales imposed by the funding body it is requested that the contract award decision for this procurement be delegated to Director of Community Services.

- (d) Three of the contracts relate to the appointment of contractors to deliver road improvements that have been identified as part of the Tees Valley Bus Network Initiative project. These contracts are dependent on the funding being received; a decision is anticipated in January 2010. Further reports will be brought to Cabinet if the bid is successful;

Procurement Strategy for Contractors Framework

- 16. On a previous report to Cabinet the Framework Agreement for the Provision of Works for Contractors was deemed to be non-strategic because at the time the value was estimated to be below £5 million. Due to the success of recent funding bids it is now estimated that the level of spend against the framework could be in excess on this figure therefore in accordance with the criteria the procurement should be considered strategic.
- 17. Community Services have previously used an approved list of contractors to fulfil work commitments when there have a skills gap or to meet peaks in workload. The spend attributed to this list exceeds the OJEU threshold for works (currently £3,927,260), which requires the Council to carry out a procurement exercise that meets the requirements of the Public Procurement Regulations 2006.
- 18. In order to allow Community Services as much flexibility when awarding work a Framework Contract was deemed the most appropriate. The framework will be broken down into the following specialisms: -
 - (a) Asbestos Removal
 - (b) Plastering
 - (c) Decoration
 - (d) Flat Roofing
 - (e) Demolition
 - (f) Pitched Roofing
 - (g) Drainage / Groundwork's
 - (h) Domestic Plumbing & Heating
 - (i) Domestic Electrical
 - (j) Commercial Plumbing & Heating
 - (k) Commercial Electrical
 - (l) Scaffolding
 - (m) Flooring
 - (n) Brickwork
- 19. The Open procedure will be used to appoint suitable organisations to the Framework. Organisations will have to complete a Business Questionnaire to make sure they are reputable organisations, this will cover Grounds for Exclusion: Insurance, Financial Information, Health & Safety and Equality & Diversity.
- 20. Technical questions are to be answered for each Lot; organisations are required to return the information for the Lots they are interested in along with a general labour rate for the area of work.
- 21. All lots are to be evaluated on the basis of Quality 70% and Price 30%. The intention is to appoint a maximum of 10 organisations to each lot providing they have scored 50% or over

as an aggregate of the score of quality and price.

22. The anticipated date for the intention to award is 3 March 2010, a report will be brought to Cabinet to recommend award of contractors to the framework on 2 March 2010
23. The framework will allow the Council choice and an element of competition from pre-qualified providers without the need to carry out a full tender exercise every time the authority needs to appoint a contractor. There is no commitment under a framework which means the Council is not obliged to award any work under the arrangement.

Outcome of Consultation

24. Consultation was undertaken with Departments on the contracts to be included on the Procurement Annual Plan.