
PROCUREMENT BOARD UPDATE

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

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

SUMMARY REPORT

Purpose of the Report

1. To update Cabinet about the decisions taken by the Procurement Board to waive the Contract Procedure Rules

Summary

2. 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.
3. The Contract Procedure Rules make provision for 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.
4. This report deals with the decisions taken by the Procurement Board for period 23.5.15 to 29.5.15 at **Appendix A**.

Recommendation

5. It is recommended that Members note the contents of this report

Reasons

6. The recommendation is supported by the following reasons :-
 - (a) In order to comply with the Contract Procedure Rules

- (b) To provide Cabinet with information about the decisions that have been 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

Luke Swinhoe : Extension 5490
TAB

S17 Crime and Disorder	No direct impact on Crime and Disorder
Health and Well Being	No direct impact on Health and Wellbeing
Carbon Impact	No direct impact on the Council's carbon footprint.
Diversity	No direct impact on Diversity
Wards Affected	None
Groups Affected	None.
Budget and Policy Framework	This report does not recommend changes to the Budget and Policy Framework
Key Decision	No
Urgent Decision	No
One Darlington: Perfectly Placed	No direct impact on the objectives of the Sustainable Community Strategy
Efficiency	No direct impact.

MAIN REPORT

Information and Analysis

7. 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.
8. 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.
9. 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. This report details the circumstances and the reasons why the contract procedure rules have been waived by Procurement Board at Appendix A.

Financial Implications

10. The purpose of the Procurement Board is to oversee procurement activity and to ensure that the Council achieves value for money in its contracted spend. This is an important consideration when considering requests that are made to the Board.

Legal Implications

11. There are no specific legal implications other than as set out in the report

Outcome of Consultation

12. There has been no consultation in the preparation of this report

APPENDIX A

**PROCUREMENT BOARD DECISIONS TO WAIVE CONTRACT PROCEDURE RULES
PERIOD 23.3.15 – 29.5.15, SPEND OVER £100K**

Description and Reason for Request	Length of contract	Estimated value of the Contract	Procurement Process	Service area	Procurement Board decision and reasons
XX was missing from foster placement. Further foster placements not viable. XX placed in a children's home, with placement reviewed monthly	not known	£2925 per week	Direct Award	People	The need to urgently safeguard this child in safe accommodation (23/03/2015)
Package of domiciliary care of 2 carers to assist on all calls, except for domestic, shopping and social time. No capacity on the Framework to pick up package. Award off framework	not known	£22,941 pa	Direct Award	People	Lack of capacity on framework and need to urgently put care support in place. Price compatible with framework rates (08/04/2015)
Residential placement for individual placed in home by neighbouring authority. No longer able to use other authorities agreements, but have our own DBC agreement. Fee levels are comparable with DBC rates. Unreasonable to expect this individual to move.	not known	£94,519 pa	Direct Award	People	Need to maintain current provision as move considered unreasonable (08/04/2015)
Package of domiciliary care, 2 carers to assist on all calls, except for domestic, shopping and social time. Currently no capacity on the Framework. Award off framework	not known	£22,941 pa	Direct Award	People	Lack of capacity on framework and need to urgently put care support in place. Price compatible with framework rates (08/04/2015)
Domiciliary Care for tenants (12) of extra care scheme with an extra care model and Housing Association staff providing 24 hour care per day. Support is delivered in accordance with the assessed needs of each individual. In addition the authority also commissions 2 sleepover staff who provide support to those tenants with assessed overnight support needs.	2 years	£401,312	Direct Award	People	Housing Association own accommodation and have staff on site. Rates charged by Housing Association are below extra care tender rates and represent value for money (08/04/2015)
XX has lived in a residential care home for a number of years which was to closed in April 2015. There are no homes on the existing framework that are able to meet XXs needs. A suitable home has been identified. The costs are similar	Unable to say	Unable to say - £489 Per week	Direct Award	People	Lack of available framework providers and need to urgently put care support in place. Price compatible with framework rates (08/04/2015)

Description and Reason for Request	Length of contract	Estimated value of the Contract	Procurement Process	Service area	Procurement Board decision and reasons
Residential placement for individual with behavioural issues. Number of previous providers unable to meet needs.	not known	£23,318 pa	Direct Award	People	Lack of suitable alternatives and urgent need to provide for this individuals needs. (06/04/2015)
Purchase of children's home placement for XX. A pen picture was distributed via NEPO portal which resulted in 3 bids, none of which were appropriate for complex needs. Direct award made to a regional provider with solo homes. Placement will be reviewed every 3 months at External Placements meeting to ensure placement continues to meet her needs and review of price.	not known	£4,950 per week for care and education.	Direct Award	People	Lack of available providers despite seeking bids (05/05/2015)
LA's have a statutory duty to provide induction for Newly Qualified Teachers on an ongoing basis. The Darlington Leadership College have delivered this service for all Darlington schools. This category was previously exempt under EU law until changes in EU regulations in April 2015. The existing specification for services has worked effectively. The proposal is to extend the contract for the 2015/16 Academic Year. Thereafter a procurement of the service will be required for the future Academic Years.	1 year	£150,000	Direct Award	People	Short term extension to be followed by procurement of service (29/05/2015)
LA's have a statutory duty to provide educational support to children and young people with visual, hearing and sensory impairment. The 'Low Incidence Needs Service' based at Hurworth Primary School, delivers this service for all Darlington schools. This category was previously exempt under EU law until changes in EU regulations in April 2015. The proposal is to directly award to current provider giving continuity for	1 year	£221,000	Direct Award	People	Short term direct award to be followed by procurement of service (29/05/2015)

Description and Reason for Request	Length of contract	Estimated value of the Contract	Procurement Process	Service area	Procurement Board decision and reasons
2015/16 Academic Year. Thereafter a procurement of the service will be required for the future Academic Years.					