
PROCUREMENT PLAN 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 present the update to the Annual Procurement Plan to Cabinet for approval.
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.

Summary

4. 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. An update on procurement exercises previously designated as strategic is set out in the main report.
5. 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.
6. The Contract Procedure Rules permit the Procurement Board to waive this rule 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.
7. This report deals with the waiver decisions taken by the Procurement Board at **Appendix 3.**

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) further updates 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) that Members note the other contents of this report

Reasons

9. The recommendations are supported by the following reasons:-

- (a) In respect of the strategic/non-strategic contracts the Contract Procedure Rules require Cabinet to approve the designation of contracts as strategic and non-strategic. The Contracts designated strategic are of high value and high significance in respect of the impact on residents, Health & Safety and public safety and the contracts designated non-strategic are of a lower value and lower significance in respect of the impact on residents and public safety.
- (b) In respect of Procurement Board waiver decisions, to comply with the Contract Procedure Rules and to provide Cabinet with information about the decisions made by the Procurement Board.

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

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.
Impact on Looked After Children and Care Leavers	This report has no impact on Looked After Children or Care Leavers.

MAIN REPORT

Information and Analysis

Assessment of contracts

10. 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, as 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.
11. Based on the criteria there are three contracts that are designated strategic in the Update to the Annual Plan;

(a) Design and Build of new office block on Feethams

This is the contract for the design and build of an office block at Feethams Plot One – as further described in the Cabinet Report dated July 2017. It is intended that the award of the design and build contract be made through the OJEU Compliant framework. A preferred option is to use the Scape framework which has strong evidence of delivery and also has been used successfully in European funded projects. A report to Procurement Board will be required to confirm the preferred approach in accordance with the Contract Procedure Rules.

(b) NEPO602 Childrens Residential Care - Short Breaks - Residential Educational Provision (NE12 Framework)

This is a regional collaborative procurement for young person's residential and educational provision led by The Association of North East Councils Limited trading as the North East Procurement Organisation ("NEPO") of which the

Council is a participating member authority. Darlington Borough Council is participating to ensure it has the option to participate but will continue to use the Tees Valley Residential Care framework where possible. Participation in the NE12 framework offers more tested and procured options to meet service requirements with robust price and contract terms.

(c) NEPO508 Temporary Agency Staff

This is a regional collaborative re-procurement of the Councils agency staff to be conducted by NEPO. Collaborative frameworks offer benefits of collaborative pricing and reduce costs of procurement process and assure better public sector terms (i.e. no introduction penalties which are a common feature in agency contracts). The value is expected to be in accordance with present spend levels. The procurement process is under review and planned to commence early in 2018.

Update on contracts previously designated as strategic

12. The following contracts were designated strategic at the last Procurement Plan report (April 2017) and a short update is supplied.

- (a) **Contractor's Framework** – dynamic purchasing framework to be set up in accordance with the Contract Procedure Rules and established as an OJEU compliant framework. Work is ongoing on this procurement exercise.
- (b) **Joint Venture Housing Framework** – this was a procurement exercise to seek a joint venture development partner to secure on-going residential building. The procurement exercise has been concluded and the award of the framework was made to Esh Homes Limited. This framework establishes the basis for future co-operation between the Council and its appointed partner developer in delivering development schemes on an equal profit share basis. The further details of schemes to be brought forward and the financial requirements will be brought to Cabinet for further approval on a scheme by scheme basis.
- (c) **Residential Care Older Persons** – Provision of Residential Care for Older People and Older People with Mental Health, this is the procurement of care home services for Darlington Borough Council. It is proposed to extend the present contract on its present terms for a one year period as further described in Appendix 3. The pricing formula will be in line with the existing formula. The present formula and pricing has been benchmarked against appropriate and comparable authorities and demonstrates value for money and that Darlington's pricing is competitive. It is proposed to vary only the EMI element by £10 uplift which will bring it up to the lowest values paid by neighbouring authorities. During the extension period a more detailed exercise will then be conducted to review quality standards and price for a contract to commence April 2019. This contract is subject to the Public Contracts Regulations 2015 and the details of the award and information on how to access the contract opportunity will be published to ensure transparency and equal treatment of bidders in line with the overriding objectives of the Public Contracts Regulations 2015.

- (d) **IFA framework** - Framework Agreement for the Provision of Voluntary/ Independent Foster Care for Children and Young People (IFA) Redcar and Cleveland Council as the Lead Local Authority- currently out to tender.

Procurement Board waiver decisions

- 22. Procurement Board has the delegated authority to waive the Contract Procedure Rules in specific exceptional circumstances and is required to report waiver decisions that have been made to Cabinet. 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.
- 23. 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.
- 24. 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 April – September 2017.