
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 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 and agreed direct contract awards.
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 as further detailed in Appendix 2.
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 and 2**).

Update on Strategic Procurement

8. An update on procurement exercises previously designated as strategic is set out in the main 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 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.
11. This report deals with the waiver decisions taken by the Procurement Board at **Appendix 3**.

General Update

12. A general update and recommendations are made for procurement processes.

Recommendation

13. 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/ 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 contents of this report in respect of the update of strategic procurements, Procurement Board waiver decisions and the general update.

Reasons

14. 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 and 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.
15. 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.

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

Strategic Contracts

16. 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.

17. 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.

18. 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.

19. 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

20. 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. Members and Officers may decide to recommend other than what the score suggests which will then be reported back in the next Procurement Plan report. Anything else would be considered non-strategic.
21. Based on the criteria there is one contract that is designated strategic in the update to the Annual Plan;
 - (a) **Private Sector Litter Enforcement** – this is a procurement exercise to seek a private sector operator to delegate its statutory powers of litter enforcement to a private sector provider and is detailed more fully in the April 2018 Cabinet report on this service. The services will be engaged through an OJEU procurement process complying with the Public Contracts Regulations 2015 and the operator is expected to retain a proportion of statutory penalties to fund the delivery of the services.

Update on contracts previously designated as strategic

22. The following contracts were designated Strategic at the last Procurement Plan report October 2017 and a short update is supplied.

(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. This project has been separately reported in the Cabinet report dated 6 March 2018.

(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 and will be able to call services from this framework but will continue to use the Tees Valley Residential Care framework for its remaining term also. There is a shortage of good suppliers and a historic lack of competition in this market which this framework (among others) aims to address. 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 the North East Purchasing Organisation of which the Council is a member authority. (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 costs is expected to be in accordance with present spend levels. The procurement process is proceeding and it is expected that the new contract will commence in good time for a managed transition as required.

Procurement Board waiver decisions

22. 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.
23. 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.
24. 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.
25. 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 12 September 2017 – 28 February 2018.

General Update

26. Procurement Activity during the last completed financial year of 2017/18 generated measured contract savings against budget/expected costs of c £1,417,642 which reflecting a high degree of compliance with Council procurement processes by officers throughout the Council.

Fig 1 at the end of this report sets out procured savings (against historic/budget) for the period 2014 to date.

Outcome of Consultation

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

Fig 1 – referred in para 26

Financial Year Achieved	Total 2016/2017	Total 2017/2018	Total 2018/2019	Total 2019/2020	Total 2020/2021	Total 2021/22	Total 2022/23	Total Saving over all years
2014/2015	£ 550,000.00	£ 123,000.00	£ 123,000.00	£ 9,000.00	£ 9,000.00	£ -	£ -	£ 1,482,330.37
2015/2016	£ 397,726.86	£ 338,324.61	£ 222,884.00	£ 129,943.00	£ -	£ -	£ -	£ 1,524,726.90
2016/2017	£ 454,213.06	£ 77,876.27	£ 68,267.00	£ 57,980.00	£ 8,980.00	£ -	£ -	£ 667,316.33
2017/2018		£ 537,987.86	£ 260,544.68	£ 260,550.68	£ 160,561.68	£ 142,156.08	£ 55,841.28	£ 1,417,642.26
2018/2019			£ -	£ -	£ -	£ -	£ -	£ -
2019/2020								£ -
2020/2021								£ -
2021/2022								£ -
Total	£ 1,401,939.92	£ 1,077,188.74	£ 674,695.68	£ 457,473.68	£ 178,541.68	£ 142,156.08	£ 55,841.28	£ 4,894,018.50