

CABINET
9 JULY 2019

ANNUAL PROCUREMENT PLAN

**Responsible Cabinet Member – Councillor Charles Johnson,
Efficiency and Resources Portfolio**

**Responsible Director – Paul Wildsmith,
Managing Director**

SUMMARY REPORT

Purpose of the Report

1. To present the Annual Procurement Plan to Cabinet for approval.
2. To present an update on contracts previously designated as Strategic.
3. To update Cabinet about the decisions taken by the Procurement Board to waive the Contract Procedure Rules and agree direct contract awards.

Summary

Strategic Contracts

4. 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

5. An update on procurement exercises previously designated as strategic is set out in the main report.

Waiver Decisions

6. 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.
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) 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.
 - (ii) 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) Members note the update on contract waiver decisions made by Procurement Board.

Reasons

- 9. 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.
- 10. 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
Managing Director

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

11. 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.
12. 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. For those contracts designated strategic the final contract award decision will be approved by the Procurement Board will be reported to Cabinet. The decisions made by Procurement Board will subsequently be reported back to Cabinet in the next Annual Procurement report.

Assessment of contracts

13. 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.

14. Based on the criteria there are eight contracts that are designated strategic in the Annual Plan;

(a) Children's Residential Care Homes framework.

The Tees Valley framework lead by DBC for Childrens Residential Services is due to end in March 2020. Commissioners are finalising the decision on re-procurement – either by moving procurement to the Regional NE12 framework or re-procuring the existing arrangements.

(b) Darlington Substance Misuse Treatment and Recovery Service

Public Health service to be procured from March 2020. An OJEU Open Tender Process will be required for the value over the full contract term.

(c) Flexible Free Entitlement (FFE) and early education

These are statutory payments to various organisations are provided with the Flexible Free Entitlement across the Borough of Darlington. The Council contracts with all providers on set arrangements subject to required accreditation / checks.

(d) Implementation of a Dynamic Purchasing System for Contracting Works

The original Framework was added to the annual plan for 4 years but it has been extended it to 10 years. The framework is dynamic and so new contractors will be able to access the framework.

(e) Transport Home to School DPS

OJEU compliant tendering as needed to renew the framework for Home to School transport. It is proposed that routes will be re-tendered at an appropriate break in the academic year.

(f) East Haven New Build Housing

Housing project works, subject to further Cabinet approvals. Procurement will be by the appropriate tender route including the Contractors DPS where suitable.

(g) Harris Street New Build Housing

Housing project works, subject to further Cabinet approvals. Procurement will be by the appropriate tender route including the Contractors DPS where suitable.

(h) Neasham Road New Build Housing

Housing project works, subject to further Cabinet approvals. Procurement will be by the appropriate tender route including the Contractors DPS where suitable.

Update on contracts previously designated as strategic

15. A short update is provided on outcomes for contracts previously designated strategic.

(a) Older Persons Residential and Nursing Care Homes

This service is the Councils contract for Residential Care for Older Persons and Older Persons with a Mental Health need. The Council contracts with 21 providers in Darlington who wish to participate (all but one care home is contracted). Costs are set by tariff which calculates the cost of care in accordance with legal requirements. Benchmarking across the Tees Valley rates demonstrate the tariff rates meet the cost of care and provide value for money.

The existing contract arrangements have been renewed for a three year period (1 + 1 + 1 years). Legal / Procurement requirements will be met by appropriate publication of the contract opportunity, terms and conditions and the way to access the opportunity along with appropriate engagement and best value requirements to be established by benchmarking.

(b) Implementation of a Dynamic Purchasing System for Contracting Works (Contractors Framework)

This is a procurement exercise to set up an open framework of preferred providers for construction services, in the construction disciplines most frequently required by the Council for small to medium packages of works, with a total value over the term of up to £6,000,000 updated in the current Plan to £15,000,000 on the basis of the proposed extended term of ten years. New suppliers can join the framework during the term. The framework will make contracting works more efficient and there has been significant local engagement to reach providers including local and SME providers. The contract opportunity has been published.

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 since the last report.

Outcome of Consultation

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