
PROCUREMENT PLAN UPDATE

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

Responsible Officer – Paul Wildsmith, Managing Director

SUMMARY REPORT

Purpose of the Report

1. To present the Annual Procurement Plan update 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 procurement matters.

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
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

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 and 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 are five contracts designated strategic in the update to the Annual Plan;

(a) **Tender for the supply, installation and maintenance of stair lifts and through floor lifts to local authorities across the Tees Valley area.**

This service is deemed strategic due to the contract value exceeding £5,000,000. It is to be noted this is spend for the Tees Valley which is noted, as Darlington is leading on this framework and will be the contract lead. It is expected the service will be procured by open tender as an OJEU compliant procurement.

(b) **NEPO Neutral Vendor Agency Staff**

This service is the re-procurement of the regional agency framework, previously brought to Cabinet in last years plan. The tender process has been concluded by NEPO and there is an update below.

(c) **Older Persons Residential and Nursing Care Homes**

This service is the planned re-procurement of 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 on the existing established model. The services benchmark appropriately against Tees Valley rates, which demonstrate the tariff rates meet the cost of care and provide value for money.

A proposal is under consideration to extend existing arrangements 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.

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

This is a procurement exercise to set up a 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. Calls will be made from the framework by call of competition. Contract terms will be selected as appropriate to the subject matter to be NEC, or JCT / build only with bills, or design and build as applicable.

(e) **NEPO Highways Surfacing Framework**

This is a procurement exercise to set up a regional framework of preferred providers for highways re-surfacing. Darlington led on this framework in 2015 and this is a renewal of this framework as a NEPO hub and spoke procurement. Accordingly the spend shown over the contract term of £60,000,000 is the total spend for the regional authorities, and authorities outside of the region are also able to call off the framework – where this applies a rebate is generated which is paid to NEPO as associate member rebate.

Update on contracts previously designated as strategic

22. The following contracts were designated Strategic in previous Procurement Plans 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. Subject to approval by Procurement Board it is expected that the award will be made using the Scape framework which has strong evidence of delivery and also has been used successfully in European funded projects. Contract award is expected to be concluded shortly.

(b) **NEPO602 Children's 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. The framework remains in place. Commissioning intentions are being considered for the Tees Valley framework which is due to end in March 2020 and covers the same service area, though placements on both frameworks have been challenging.

(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. The procurement process has been concluded and the contract is due to be awarded to GRI.

(d) **Private Sector Litter Enforcement**

This was a procurement exercise to seek a private sector operator to delegate the Council's statutory powers of litter enforcement to a private sector provider and is detailed more fully in the April 2018 Cabinet report on this service. This service was procured in an OJEU procurement exercise in Spring/Summer 2018. The successful bidder appointed was Kingdom Services Limited and the service is due to commence shortly.

(e) **NEPO Electricity**

This service was procured by NEPO as a regional procurement. The successful bidder appointed was EDF energy. The services are due to commence in April 2019.

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. 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 28 February 2018 – 18 September 2018.

General Update

22. Modern Slavery - pursuant to a Council decision made in July 2018 Cabinet adopted a Modern Slavery Charter for implementation in procurement services. By way of update the Procurement documentation has been reviewed and is confirmed to contain specific reference to Modern Slavery. This will be kept under review and an update to members provided in this report on the delivery of the training recommended by the charter.

23. 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 reflects a high degree of compliance with Council procurement processes by officers throughout the Council.

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

Outcome of Consultation

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

Fig 1 – referred in para 25

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