

**Committee: Performance & Audit**

**Agenda Item**

**Date: 15<sup>th</sup> November 2016**

**8**

**Title: Procurement Arrangements**

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Item for information

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### **Summary**

At the last meeting of Performance and Audit (19<sup>th</sup> May 2016), Members requested a report on procurement activity be brought to the Committee on a six monthly basis.

This report provides an update on procurement activity for the first six months of the current financial year (i.e. April – September 2016)

The report provides information on two specific areas requested

- A) Contracts awarded over the value at which they are required to be tendered (£50,000) and
- B) Instances where requests for exceptions to Contract Procedure Rules have been requested

### **Recommendations**

The Committee notes the content of the report

### **Financial Implications**

There are no financial implications associated with this report

### **Background Papers**

Procurement Strategy 2016/17 (Appendix A)

### **Impact**

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None

Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

### A) Contracts awarded over the value at which they are required to be tendered (£50,000)

Four new major contracts have been awarded since the start of the financial year. Each has been awarded having been tendered in accordance with Contract Procedure Rules.

The approach taken to the procurement of each contract is considered on an individual basis and documented in a detailed acquisition plan. Whilst the Council's approach is to make use of National frameworks where suitable, this is not always the case and the strategy includes a review of both the legal and commercial suitability. The contract for Servicing and Repair of Heating and Water Systems was tendered by the Council (in accordance with EU legislation given the contract is over the threshold value of £164,176) to allow the current contractor who is providing the service very well, the opportunity to bid for the new contract. This was also the case for the small engineering works, whilst the contracts for the replacement vehicles and water monitoring were tendered under national framework arrangements.

#### 1. Water Monitoring & Treatment (Legionella Control).

This contract was awarded on 19<sup>th</sup> May 2016 to Northumbrian Water Group for a period of four years with an optional two year extension. The estimated value over the life of contract is £58,287.84, bringing a projected saving of £271,712.16 against the current budget provision of £55,000 per annum.

#### 2. Servicing & Repair Heating and Hot Water Systems. This contract includes

- All Landlord Gas Safety Checks & Certificates
- Servicing, Maintenance & Repairs to Domestic Systems
- Servicing, Maintenance & Repairs to Commercial Plant & Equipment.

This contract was awarded on 7<sup>th</sup> June 2016 to Aaron Services Limited for a period of five years with an optional five year extension. The estimated value is £222,163.15 per annum. This represents a saving of over 40% against the current budget provision (the saving estimated to be £152,336.85 per annum or over £1.5m over the life of the contract) where the budget was set at £374,500 (£330,000 for domestic and £44,500 for commercial work).

### 3. Small Engineering Works (Civil Engineering)

This contract was awarded to J Breheny commencing 1<sup>st</sup> August 2016 for a period of four years with an optional two year extension. The total cost is expected to be in the region of £150,000 per annum, however savings are difficult to quantify as costs are taken from a number of budgets.

### 4. Vehicle Replacement Programme

Two contracts were awarded 15<sup>th</sup> July 2016. Two new sweepers being purchased from Abel Schmidt and two new refuse freighters from Dennis Eagle.

Savings of over 7.5% on a budget of £541,000 were achieved.

Contracts for three vehicles were not awarded as the costs were not considered to represent value for money and these were purchased separately.

During the acquisition stage, our needs are reviewed – both the contract conditions and the specifications, in conjunction with the internal clients. This challenge process has contributed to the significant savings on the Water Monitoring Contract and the Heating Servicing Contract although neither was awarded on price alone. The criteria for evaluating tenders for the Watering Monitoring contract was set at 60% in respect of quality and 40% on price and the Heating Servicing Contract was set at 40% in respect of quality and 60% on price.

The contract for the appointment of the Main Contractor for re-development of Hatherley Court has not been made, as the costs were over budget and not deemed to provide value for money. The contract is currently in the process of being re-tendered.

Negotiations have taken place with providers where contracts have entered their final year of the initial term with a view to agreeing extension options. These relate to Kitchen Replacements and External Painting & Repairs. Having been satisfied with performance these have been extended. In one instance an uplift in costs was agreed and in the other, the application was declined.

Whilst contracts below £50,000 may be agreed under delegated powers by departments, there have been increasing requests for assistance in negotiating contract terms to remove onerous requirements and apportion risk in a more even manner between the parties. Whilst placing additional pressures on the service, it is good to see greater understanding across the organisation of the need to consider these issues before contracting with providers.

**B) Instances where requests for exceptions to Contract Procedure Rules have been requested**

- Five exception requests have been made and are detailed in Appendix B
- Three applications were for Housing, one for IT (for software for Committee Section) and the other for Asset Management.

**Risk Analysis**

Risk	Likelihood	Impact	Mitigating actions
That the council does not ensure value for money through its procurement activities	1 – The council has robust contract procedure rules in place, and a Procurement Strategy is approved by Members annually	2- There may be some risk that if procurement rules are not followed the council may not realise best value through its contracts	The current structures and processes that are in place give sound reassurance that the council is receiving value for money through its contracts

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

## Appendix A – Procurement Strategy

The Procurement Strategy is reviewed annually and provides an update on work completed during the previous financial year as well as setting out the programme of work for the new financial year,

General guidelines in relation to procurement are set out in the Council’s Contract Procedure Rules. There are specific requirements that quotations or tenders be obtained where the value of the contract falls into the following bands :

Up to £10,000	Deputy Chief Officers have discretion regarding the obtaining of quotations (including the number of quotes obtained and how they are obtained). It is advisable to obtain at least two comparable prices. Officers shall obtain at least one quotation from a local <sup>1</sup> company wherever possible	During 2015/16, 3,080 orders were raised in this category <sup>2</sup> .
Up to £50,000	A minimum of three written quotations shall be obtained. Officers shall obtain at least one quotation from a local <sup>1</sup> company wherever possible	During 2015/16, 70 orders were raised in this category, one of which was a “mini-tender” and three of were subject to an exception request approved in accordance with Contracts Procedure Rules.
Over £50,000	Offers will be invited by tender as follows  <i>Contracts for the supply of Goods or Services</i> Up to £164,176 – UK Only Over £164,176 – European Tender  <i>Contracts for Works or Concessions<sup>3</sup></i> Up to £4.1m – UK Only Over £4.1m – European Tender	During 2015/16, 12 new contracts were let in this category.  Tenders (or “mini-tenders”) were undertaken in ten instances and two were subject to exception requests approved in accordance with Contracts Procedure Rules.  Full details of the contracts are set out on pages 5-9

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<sup>1</sup> “local” shall mean within 20 miles radius of either Great Dunmow or Saffron Walden

<sup>2</sup> Purchase orders are not used in all instances and therefore the exact number is difficult to determine with accuracy. It has been identified as an action for 2016/17 to increase use of the ordering system across the authority.

<sup>3</sup> New legislation introduced April 2016 that applies where the authority awards a concession (ie where the contractor stands to gain financially from the award. Examples include the operation of leisure centres, running of café’s, toll roads, solar pv installations)

## **Appendix A – Procurement Strategy**

The values have been reviewed and there is no proposal to amend the thresholds, these came into force on 18 April 2016. These values are reviewed every two years and are next due in January 2018.

The Council's preferred option when developing the approach to the acquisition of contracts is to use national frameworks where possible. These have been used in some instances during 2015/16 (see table overleaf for more details). This allows us to benefit from economies of scale and to award contracts above threshold values without further need to tender in Europe, although there is still a need to carry out further competition in the form of a "mini-tender". It is recommended that this approach, which forms part of the acquisition plan for each contract, continues. This stage also considers the relative importance of cost v quality when evaluating tenders – it is rare that contracts over £50,000 are awarded simply on cost alone.

## Appendix A – Procurement Strategy

### Review of 2015/16

The Procurement Strategy for 2015/16 was approved by Cabinet in May 2015.

The plan included three initiatives –

- Letting contracts set out in the work plan for the year
- Providing support for colleagues implementing new working practices as a result of the implementation of “E-Buy” (the order module of the financial information system) and
- Reviewing processes and template documents – particularly to ensure they are compliant with the Public Contracts Regulations 2015

Nine contracts on the work plan have been awarded along with a further eight that were not planned. A further ten contracts from the work plan are in progress along with a further two that were not planned. Details are set out overleaf. Work will continue on the remaining contracts and are included in the work plan for 2016/17.

Support for colleagues using the ordering system continues. A significant upgrade of the system in March has gone smoothly and although there have been some minor issues the use of the system is now being used more readily.

The review of processes and templates has been completed, but remain under constant review in the changing environment.

It is pleasing to report that Procurement and the process of awarding contracts was subject to an internal audit in February 2016 and found to be providing effective systems and controls – an opinion of “substantial” was awarded..

## Appendix A – Procurement Strategy

Requirements	Value	Housing	Corporate	Update
Electrical Rewiring	£3.3m (based on £650,000/yr)	✓		A five year contract awarded to Oakray, commencing 1 <sup>st</sup> April 2016. The award followed a tender undertaken by the Procurement Department
Photovoltaic Panels on Workshop and Museum Store	£60,000		✓	A contract awarded to Playfords The award followed the approval of an exception request given the changes introduced to the Feed-in Tariff by the Government at short notice
Housing Development at Catons Lane – Appointment of Main Contractor	£866,759	✓		A contract awarded to Court Homes The award followed a tender undertaken by the Procurement Department
Power Supplies	£588,000 (based on £147,000/yr).	✓	✓	A four year contract awarded to Npower commencing on 1 October 2016. The award is part of a larger framework arrangement whereby the Council benefits from aggregation under the framework let by LASER (a specialist division of Kent County Council) who, acting on behalf of a significant number of Authorities, trade on the commodities markets (the framework is estimated to be worth £900m)
Gas Supplies	£612,000 (based on £153,000/yr).	✓	✓	A four year contract awarded to Total commencing on 1 October 2016. The award is part of a larger framework arrangement whereby the Council benefits from aggregation under the framework let by LASER (a specialist division of Kent County Council) who, acting on behalf of a significant number of Authorities, trade on the commodities markets (the framework



				is estimated to be worth £600m)
Requirements	Value	Housing	Corporate	Update
External Wall Insulation (under Energy Efficiency Improvement Schemes)	£380,000	✓		<p>A contract awarded to Foster Property Maintenance to supply and install external wall insulation to approximately 60 domestic properties has been concluded. The contract attracted external funding reducing the final figure payable by the Council.</p> <p>The award followed a tender undertaken by the Procurement Department</p>
Managed Telecoms	£860,000 (based on £172,410/yr)		✓	<p>A five year contract awarded to AdEPT commencing 15<sup>th</sup> December 2015</p> <p>The award followed further competition under a Crown Commercial Services framework.</p>
Treasury / Investment Advice	£45,450 (bringing total to £95,450)		✓	<p>A three year extension to the current contract with Arlingclose commencing 1 January 2016</p> <p>The award followed satisfactory reviews with the client and provider and the approval of an Exception Request.</p>
Window Replacement Programme	£198,800 (bringing total to £1.06m)	✓		<p>A two year extension to the current contract with Wrekin Windows commencing 1 April 2016</p> <p>Following satisfactory reviews with the client and provider, the option to extend the contract has been exercised.</p>

## Appendix A – Procurement Strategy

*New Contracts not included in the original programme for the year but which have been undertaken:*

Requirements	Value	Housing	Corporate	Update
Saffron Walden Castle – Repairs to West & North Curtain Wall	£300,000		✓	<p>A contract awarded to Bakers of Danbury Ltd.</p> <p>An external Architect was engaged by the service to undertake the tendering process for this and a proposal was received to appoint a contractor A number of issues were identified regarding the process and following discussions with the Procurement Manager and Chief Officers it was recommended that the contract should not be awarded and it was subsequently withdrawn. Historic England are supporting the project with a grant of £300,000 that required the contractor to be on site by the end of the financial year. Discussions between procurement, chief officers and the Architects took place and the contract was re-tendered meeting all legislative requirements and those set out in Contracts Procedure Rules.</p>
Consultant for works in connection with the Local Plan – Retail Impact Assessment	£33,000		✓	<p>A contract awarded to Savills to update the Retail Impact Assessment carried out previously.</p> <p>The re-appointment was made following the submission and approval of an exception request.</p>
Consultant for works in connection with the Local Plan – Employment Land Review	£19,068		✓	<p>A contract awarded to Aecom.</p> <p>The award followed further competition under an ESPO framework for Consultants</p>
Consultant for works in connection with the Local Plan – Transport	£62,193		✓	<p>A contract awarded to WYG</p>

Consultant				The award followed further competition under an ESPO framework for Consultants
Requirements	Value	Housing	Corporate	Update
Consultant – Legal Advice for the creation of SPV	£15,000		✓	A contract awarded to Pinsent Masons  The award was made as a “direct award” under the terms of the Government Procurement Services framework for Legal Services.
Utilities – Management of Void Properties	Approx. £9,000	✓		A contract awarded to British Gas  The appointment was made following the submission and approval of an exception request
Waste Transfer Station	£113,000		✓	A contract awarded to Essex County Council  The appointment was made following the submission and approval of an exception request.  The Council have been in dialogue with Essex County Council for some time regarding the intention to use the new waste transfer station being built at Great Dunmow. The contract (being over £50,000) must be tendered or an exception submitted for approval. Using the Teckal exception set out in the Public Contracts Regulations, the same principle was applied (given the Conditions could be met) and the exception approved.
Supply and Installation of Solar PV to Housing Stock	Fully funded by third party	✓		A contract awarded to AMP (Solar) UK Ltd  The award was made under the terms of the Alliance Homes framework Although under significant time pressures due to Government changes in funding, an appointment was made which resulted in the installation of Solar PV to almost 300 properties. Some contractual issues remain outstanding and the project team will continue to work to remedy these.

Requirements	Value	Housing	Corporate	Update
Back record conversion - planning files converted to microfilm	Up to £60,000		✓	A contract awarded to Stor-a-File Ltd  The award was made as a “direct award” under the terms of an ESPO framework arrangement
Supply & Installation of Replacement windows to second floor of London Road Council Office Building	£57,410		✓	A contract awarded to Haslemere Windows  The award followed further competition under an LHC Window Replacement framework arrangement
Appointment of Consultant to provide support on the creation of Garden Developments	£18,000		✓	A contract awarded to Garden City Developments CIC  The appointment was made following the submission and approval of an exception request.
The supply and installation of air handling units in the Civic Suite of London Road Council Office Building	£47,100		✓	A contract awarded to Oakray Ltd  The appointment was made following the submission and approval of an exception request.

## **Appendix A – Procurement Strategy**

### **Ambitions & Priorities for 2016/17**

There are two pieces of work to be included as a priority in 2016/17 from external sources.

The requirements of The Modern Slavery Act introduced in 2015 will be addressed during the financial year. The Act sets out requirements for commercial organisations with a turnover above £36m to publish a statement about slavery and human trafficking in their supply chains.

The Council will make use of this information in selecting and monitoring our suppliers but may also elect to provide a statement of our own.

As the Act seeks to improve working conditions, the Procurement Department will take the lead on this initiative.

The Public Contracts Regulations introduced in 2015 require us to trade electronically by 2018. Work should commence during 2016/17, in conjunction with the IT department to consider new ways of working and options to deliver them

The procurement of fourteen contracts are already underway – these should be completed during the year. A further ten have been identified on the succession planning or from capital bids.

A programme of improvement is also to be implemented to further progress the use of the purchase order system, with a view to reducing the number of invoices processed manually outside of the ordering system – giving greater accountability and monitoring and will aid in streamlining working practices.

The Procurement Officer, appointed in June 2015 will be supported to progress to membership of the Chartered Institute of Purchasing & Supply.

## Appendix A – Procurement Strategy

### Work Plan for 2016/17

Procurement of new Contracts already in progress -

Requirements	Budget	Housing	Corporate	Update
Water Monitoring & Treatment (Legionella Control)	£55,000/yr.	✓	✓	This contract is due to be awarded shortly. Further competition under a national framework has been undertaken and is currently in the evaluation stage
Lifts & Stair lifts	£32,000/yr.	✓	✓	An on-going arrangement with the incumbent provider is being continued given the statutory duties on the Council to carry out the works. The service has not been tendered as planned but significant progress has been made to collate the asset list.  Initial investigations of some national frameworks are not promising although we are aware of some recently awarded arrangements and will keep this under review up to the point of issuing tenders.
Servicing & Repair Heating and Hot Water Systems  Including  All Landlord Gas Safety Checks & Certificates  Servicing, Maintenance & Repairs to Domestic Systems	£330,000	✓	✓	This contract is due to be awarded shortly. An on-going arrangement with the incumbent provider is being continued given the statutory duties on the Council to carry out the works whilst procurement of a new contract is underway.  A notice was published in the Official Journal of the European Union and tenders invited under an open procedure.  Tender submissions are currently being evaluated.

Servicing, Maintenance & Repairs to Commercial Plant & Equipment	£44,500			Subject to the mandatory standstill period and there being no legal challenge, the contract is expected to commence on 6 <sup>th</sup> June
Small Engineering Works (Civil Engineering)	£120,000	✓	✓	Tender Documents are currently being prepared and tenders will be invited for a new contract to commence in July.
Photocopiers in Reprographics	£68,000/yr		✓	These contracts have all expired but rather than simply re-procure new contracts, the opportunity to carry out a complete review of how the services are provided will be taken. Procurement of contracts will commence shortly and Initial scoping suggests that the procurement will follow a “competitive dialogue” procedure seeking innovative ideas from the market to suggest ways to streamline working practices and deliver savings. Competitive dialogue can be very effective but is resource intensive and will need to be managed and planned well to achieve the best outcome. In the interim, current contracts are being extended on a quarterly basis
MFD's			✓	
Mailing / Franking Machine	£34,000/yr		✓	
Culvert Trash Screen	£40,000	✓		
Asbestos Surveys	£80,000	✓		An on-going arrangement with the incumbent provider is being continued given the statutory duties on the Council to carry out the works. The service is on the programme of work for 2015/16.
Asbestos Removal	Not known	✓		Removal works carried out as part of capital works do not have a separate budget so are difficult to predict, however it has been a significant area of expenditure. A new approach to this is being considered with a view to streamlining work particularly in void

				properties
Housing Sheltered Scheme –  Appointment of Main Contractor for demolition and re-development of Reynolds Court	£6.5m	✓		<p>Following the recommendations of the Employers Agent (Henry Riley), the Council have conducted a two stage tender commencing in February 2015 with the release of an OJEU Notice, for the appointment of the main contractor. The main contractor – Lovell Partnership – has been appointed and is currently working on stage two, working with the project team to complete detailed designs and inviting tenders from sub-contractors in order to arrive at the final, fixed contract price.</p> <p>Difficulties are being experienced in obtaining pricing given the buoyant state of the construction market at present and whilst firm prices should have now been achieved they are either not complete or not considered competitive enough to bring the scheme in on budget.</p> <p>The project team continue to work through the difficulties, in the meantime have released several discrete pieces of work so that some progress on site can be made without having a detrimental effect on either the completion date or external funding.</p>
Housing Sheltered Scheme  Appointment of Main Contractor for re-development of Hatherley Court	£1.6m	✓		<p>A domestic tender for the appointment of a main contractor. Following the recommendations of the Employers Agent (Oxbury), the Council have conducted a two stage tender for the appointment of the main contractor.</p> <p>The main contractor – Thomas Sinden – has been appointed and is currently working on stage two, working with the project team to complete detailed designs and inviting tenders from sub-contractors in order to arrive at the final, fixed contract price.</p>



Vehicle Replacement Programme	£847,000	✓	✓	Invitations have been issued to invite offers for the supply of nine new vehicles. Previously purchased as single requirements, they have been aggregated into one piece of work, streamlining the procurement process and aiming to improve prices by aggregating the value of the contract. Tenders are due back in mid-May, and will include driver evaluation and the inclusion of revenue costs (such as fuel economy and servicing costs) as well as the acquisition cost (a move towards “whole life cycle” costs).
New Depot at Great Dunmow	£1.5m		✓	A consultant has been appointed to locate a suitable site for the new depot and negotiations are continuing. Once the land has been purchased and needs identified, procurement of buildings and/or equipment may commence.
London Road Building Works	£190,000		✓	The schedule of works is based on the stock condition survey carried out 3 years ago. Either a framework or a domestic tender is likely to be suitable for these works.

#### New Contracts to be Procured

Requirements	Budget	Housing	Corporate	Update
Energy Bureau	£11,000/yr	✓	✓	This contract expires in December 2016. Succession planning will commence in September 2016

External Painting & Repairs	£200,000/yr	✓		This contract expires in March 2017. Succession planning will commence in September 2016.
Payroll Services	£25,600/yr		✓	This contract expires in September 2017. Due to issues with the current levels of service, succession planning has already commenced and tender documents are being prepared to include the provision of new HR software.
Insurance	£438,660/yr		✓	These contracts expire in September 2016, although there is an option to extend by a further two years. Succession planning will commence in June.
ICT Software for Revenues & Benefits	£29,440/yr		✓	This contract expires in December 2016. Succession planning will commence in June 2016
Telecare – Upgrades & Servicing	£6,000/yr	✓		This contract expires in March 2017. Succession planning will commence in October 2016.
Domestic Boiler Installations	£570,000/yr	✓		This contract expires in March 2017. Succession planning will commence in June 2016
Household Wheelie Bins	£70,000		✓	A standing General Fund Capital scheme, the financial year 16/17 has an increase from £40k to £70k which is then sustained until 2019/20. Whilst usually a call-off under a framework, a review of our approach may be beneficial
London Road & Museum Buildings	£119,000 & £52,000		✓	Potentially small value contracts as opposed to one single contract, advice and support will be provided to the budget manager for

				these capital allocations for 2016/17
Housing Sheltered Scheme Appointment of Main Contractor for re-development of Walden Place	£800,000	✓		A new capital project for redevelopment of Walden Place.

## Appendix B – Exception Requests

Details	Estimated Value of Contract		Client Department	Contract Awarded to	Reason for Exception Request	Expiry Date
	£10,000 to £50,000 (Quotations)	£50,000 to EU Threshold (Tenders)				
Heating & Hot Water Systems: Servicing, Maintenance & Repair		£70,609.00	Housing Repairs	Oakray	Delay in the re Procurement process. Cover required for approximately three months with the incumbent provider	1st July 2016
Saffron Walden Castle, Phase 2 Repairs to the East & South Curtain Walls		£210,579	Corporate Team	Bakers of Danbury	Request to waive the requirement to tender the contract on the basis that Bakers of Danbury have carried out Phase 1 and are still on site. This will also give continuity in the finish of the soft capping works which is to be carried out during Oct/Nov. As the contract is subject to grant provision from Historic England who have been extremely complimentary about the works already completed, this approach is also likely to increase the	April 2017

					support of the grant application.	
IT Software – Committee (Decision) Management System	£31,010.00		ICT	Modern.Gov	Request to waive requirement for three quotations. Only two providers on the market. This provider offers better functionality	01 August 2019
Redevelopment of Hatherley Court  (Re-Tender)		£1,737,076.00	Housing	TBC	In anticipation of the original tender being over budget. To avoid unnecessary delays in administering a new tender process, the previous unsuccessful bidders are invited to re-tender rather than advertise in accordance with Contract Procedure Rules.	N/A
Redevelopment of Reynolds Court - Performance Bond		£7.2m	Housing	Lovell Partnerships	Upon the recommendation provided by the appointed consultants, Henry Riley, a LABC Building Warranty and a LABC Contractor Insolvency Cover have been arranged in lieu of a Performance Bond.	01 July 2028