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| Key Decision Required: | No | In the Forward Plan: | No |
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CABINET

16 NOVEMBER 2011

REPORT OF THE TECHNICAL SERVICES PORTFOLIO HOLDER

A.6 PROCUREMENT STRATEGY

(Report prepared by Richard Barrett and Jane Taylor)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present an updated and refreshed Procurement Strategy.

EXECUTIVE SUMMARY

A review of the Procurement Strategy has been undertaken set against the underlying principles of simplifying processes where possible and establishing a strategy that sets out a high level framework in a readily accessible and transparent way. A revised Procurement Strategy is set out at **Appendix A**.

A number of revised or renewed commitments have been set out within a high level procurement framework. Subject to approval of the revised strategy, the review is proposed to be extended to the Procurement Rules within the Council's Constitution along with establishing a complimentary and practical guide to procurement based on the same principles set out in the strategy. This approach is further supported by establishing a corporate or central point of 'expertise' within Resource Management where procurement can be coordinated through a central contact to maximise value for money / economies of scale along with associated efficiencies.

It is proposed that the revised Procurement Strategy is implemented on a rolling basis unless significant changes are required in which case it will be brought back to members for approval.

RECOMMENDATION

It is recommended:

a) That Cabinet supports the overall approach to procurement set out in this report and agrees the revised Procurement Strategy, with delegation to the Head of Resource Management in consultation with the Technical Services Portfolio Holder to refresh and keep the document up to date as appropriate.

b) That Officers undertake a review of the Procurement Procedure Rules within the Constitution along with implementing a complimentary internal guide to procurement to reflect the revised Strategy and approach to procurement.

c) That the Corporate Management Committee be consulted on the Procurement Strategy.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Robust and successful procurement plays a key role in supporting the Council in achieving its objectives and aspirations within a sustainable financial framework.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There are no direct financial implications as specific procurement decisions would remain part of the Council's wider decision making processes undertaken throughout the year.

Risk

Consideration of risk forms part of the actual Procurement Strategy. It is worth highlighting that although there is an aim of increased transparency and improvement to procurement processes, there still remains a need to follow proper practices with adherence to EU legislation for example. Therefore good procurement needs to balance value for money whilst limiting risks such as external challenge, ineffective procurement and following all internal and external requirements.

LEGAL

Public procurement regulations apply to all public sector procurement over set values, or 'thresholds'.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

A number of issues are recognised within the Procurement Strategy itself although further consideration would be given as part of any individual procurement decisions.

PART 3 – SUPPORTING INFORMATION

BACKGROUND AND CURRENT POSITION

The Council's existing Procurement Strategy has been in place since 2007 although updated in 2009. A review of the document is now timely especially in light of the current reorganisation and transformational agenda. The review has provided the opportunity to reflect on past experiences but also to consider and refresh the overarching principles that now need to be reflected.

Essentially the Procurement Strategy sets out:

- The Council's overall procurement aims and objectives
- The Council's procurement policies and responsibilities
- The Council's commitment to a range of procurement themes such as electronic delivery, ethical purchasing and removing barriers to local suppliers in competing for the Council's business.

The Procurement Strategy is designated in the constitution as a document within the

Council's Policy Framework. As such the document is required to be agreed by Cabinet for consultation with the Corporate Management Committee before being considered by Full Council for approval.

Periodic Review and Proposed Changes

In reviewing the Procurement Strategy a number of changes are proposed that reflect a range of issues such as renewed aspirations, changes in the market, opportunities for working with partners along with listening to feedback from local suppliers.

This is set against the overall aim of simplifying processes and establishing a Procurement Strategy that sets out a high level framework in a readily accessible and transparent way.

The proposed Procurement Strategy that is set out in **Appendix A** includes:

- *Procurement in Practice – Operating Procedures*
- *A commitment to Transparency, Fairness and Inclusion*
- *Our Partners in Procurement*
- *Procurement Quality and Standards*
- *E-Procurement*
- *Training*
- *Risk Management*
- *Sustainable Procurement (Environmental Policy)*
- *Ethical Purchasing, Equality and Diversity, Business Continuity*
- *National Context / Procurement Strategies for Local Government*
- *Performance Management*

The strategy covers a range of issues including an emphasis on transparency and fairness through seeking to remove barriers and enable local suppliers to compete for the Council's business. This will include advertising work and services required by the Council as widely as possible and via electronic means wherever practical along with investigating an alert service to potential suppliers. It is hoped that this can be done on a wider basis than just the Tendring district so local suppliers may have the opportunity to compete for work in neighbouring areas for example.

A summary of potential advantages include:

- Based on a range of values, work from the Council would be advertised through a procurement 'portal' which will allow suppliers to be able to see all work advertised by all Essex authorities who use the 'portal'
- Adverts would come through Resource Management so that advice on best practice and sharing procurement knowledge can be applied to support the Council in getting the best value for money through for example collaboration and 'packaging' up work to maximize economies of scale.
- Increased transparency in terms of what TDC procurement is being undertaking as well as allowing local suppliers to compete for the Council's work.

Further Proposed Changes

In recognising that the Procurement Strategy only sets out a high level position, it is proposed to extend the theme of increasing transparency and simplifying procurement processes where possible to the Council's constitution. Therefore subject to approval of the strategy, as part of the wider review of the constitution that is currently in progress, it is intended to reflect these principles within the Council's Procurement Rules.

It is further proposed to produce internal procurement guidance to compliment the Constitution. This will be based on providing a practical guide to procurement as an

alternative to attempting to include detailed and complex information within the Constitution. The aim of the guidance is to also enable departments to identify where expert advice and support can be obtained in-house along with opportunities within the market such as collaborative procurement, framework agreements, partnership opportunities or available and relevant suppliers.

In terms of timescales for the above, it is proposed to complete these tasks as soon as practical but the aim is to finalise them to broadly overlap with the outcomes from fundamental services reviews and the ongoing reorganisation where refreshed procurement procedures can compliment revised or updated roles and responsibilities within departments.

Notwithstanding the timing of the above, once approved the Procurement Strategy will set out a number of revised or strengthened commitments which should therefore become a consideration in all future procurement decisions.

With the Procurement Strategy being a high level framework, any appropriate changes or actions can be addressed within the procurement guidance which can then be communicated to all stakeholders in a more expedient and timely manner than seeking changes to the strategy itself or through existing processes such as the performance management framework. If such changes are significant then the appropriate member decision making processes can be followed as indicated below.

Proposed changes to the decision making process

It is proposed that in future the Procurement Strategy is only submitted to members for approval when it requires significant amendment with a recommended delegation to the Head of Resource Management in consultation with the Technical Services Portfolio Holder to refresh the document in the interim periods. In practice, bringing the strategy back for approval will be prompted by issues such as fundamental changes to external guidance or advice, feedback from internal or external stakeholders or revised commitments or requirements.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

APPENDIX A – Procurement Strategy

PROCUREMENT STRATEGY October 2011

Introduction

The aim of this strategy is to set out a high level framework for the procurement of goods, works and services within the Council. The strategy plays a key role in setting out the Council's overall approach to procurement and supports the Financial Strategy and other key strategies of the Council. This overall approach embraces the following high level principles:

- The Council aims to achieve affordable excellence in procurement to deliver its Corporate Priorities and reflects efficiency, effectiveness, ethical compliance and sustainability. This will be based on developing an appropriate and robust supplier base to include a mix of local, national, governmental and framework based procurement.
- The Council has a responsibility to ensure that it complies with the legal obligations surrounding procurement and will take advantage of new opportunities in areas such as collaboration, e-procurement and learning from its own experience.
- The Council is committed to ensuring that all suppliers have equal opportunities to support the Council in delivering its priorities and objectives though increased transparency whilst minimising barriers and bureaucracy.

Before undertaking any procurement, Departments should challenge themselves by asking:

- Are the works, goods or services required – can a need be demonstrated?
- Are there any reasonable alternatives e.g. sharing or utilising spare capacity / inventories etc elsewhere within the Council?
- Is there an internal solution / provider?

Procurement in Practice – Operating Procedures

The Council's spend can be analysed into the following two categories which both fall within this strategy:

- Spend on Capital Projects or one-off items or initiatives that are financed by a range of options such as capital receipts, borrowing, revenue and reserves.
- Spend on on-going operational items that are funded from revenue.

All procurements of goods, works or services must be undertaken in accordance with the Council's Procurement Rules as set out in the Constitution along with any associated internal guidance as well as all applicable UK and EU legislation and external requirements.

This strategy is not a step-by-step manual for procurement. There is a balance to be made between procedures and process and conversely allowing a flexible response to a changing market place. The responsibility and accountability for good quality procurement rests with departments. It is important that the end result demonstrates good procurement practice that maximises savings and limits waste.

- **Department Responsibility** - Procurement remains essentially a decentralised activity within the Council where departments through the Head of Department retain the responsibility and accountability for their own procurement of goods, works and services. However processes and access to central / corporate expertise should be undertaken as set out below.
- **Support to Departments** - In order to provide a co-ordinated corporate approach and to support individual departments, Resource Management maintains a range of knowledge and skills along with specific procurement support from within the Finance and Procurement Service. Resource Management aims to coordinate procurement across the Council and provide advice and assistance on all aspects of procurement such as processes, availability of collaborative contracts and suppliers or maximising the benefits of market intelligence.
- **Tender Evaluation Panel (TEP)**
The tender evaluation panel of officers provides assistance, advice, support and monitoring of the procurement carried out by departments in accordance with the Procurement Procedure Rules that are set out in the Constitution.

Transparency, Fairness and Inclusion

The procurement process must be transparent and fully documented as applicable and be capable of demonstrating a balance between economical advantage quality, appropriateness and timescales in accordance with the following principles:

- Potential suppliers should know in advance what rules are applicable to each stage of the procurement process.
- All decisions need to be open and justifiable on clear and relevant criteria with an audit trail of how procurement decisions have been reached.

Appendix A

- Decisions to reject or refuse quotes, tenders etc throughout the selection process should be communicated to the individuals or organisations concerned where appropriate.
- Quotes and tenders should encourage suppliers and contractors to submit innovative options or alternatives or actions to improve performance or reduce costs over time.
- Promote and demonstrate fair competition and a healthy market and encourage all potential providers both locally, regionally and nationally in providing services to the Council.

In addition to the above the Council is specifically committed to supporting and encouraging local firms in competing for the works, goods and service required by the Council by:

- Adequately publicising contract opportunities on its website or via other available means in advance of procurement process commencement to give opportunity for a wide awareness of bidders.
- Give guidance on its procurement processes as required.
- Keep tender documentation and processes as simple and straightforward as possible.
- Identify and remove any barriers to local providers doing business with the Council.
- Set realistic procurement timescales.
- Encourage and support suppliers in adopting relevant electronic procurement processes.

Our Partners in Procurement

The Council seeks to work with a number of partners to maximise any procurement opportunities and provide best practice. This includes:

- Procurement Agency for Essex
- Other public bodies
- Our neighbours both locally and regionally
- Central Government and its associated bodies / agencies
- All interested groups involved in procurement initiatives such as collaborative based approaches
- Improvement East
- Voluntary and community groups
- Central buying contracts, consortia or framework agreements
- Shared Services or marketplaces

Procurement Quality and Standards

In the purchasing of goods the specific British or European Standard can normally be applied. However the Council's strategy is to ensure that consistent and best procurement practices are followed. The standards of operation, use and performance are defined from the outset and that monitoring and evaluation

take account of these key issues. The selection and monitoring process must identify / evaluate the quality and standard of the procured goods, works or services. This starts from the pre-qualification process through to on-going monitoring arrangements over the life of the contract and includes all aspects of contract management.

This should also be extended to the use of sub-contractors by any contractor or supplier.

E-Procurement

An electronic ordering system is maintained by the Council that must be used for the ordering of all goods, works or service unless otherwise specified in procedure rules.

Further development of maximising opportunities from electronic procurement methods will be considered in future including e-invoicing and e-tendering in consultation with other users including other authorities that successfully operate these approaches.

Training

The capacity of the Council to promote and sustain sound procurement skills across all of the departments is key to successful procurement. Appropriate training in marketplace based procurement, contract preparation and general procurement management skills should be undertaken as appropriate and training needs should be identified by departments through the Council's performance management and training and development processes.

Risk Management

Successful procurement needs to consider the intended process and procedure and the risks involved. Aspects to consider are complexity, duration, sustainability, legislation and price. In procurement terms this means making appropriate and timely decisions, always bearing in mind public responsibility and value for money and insurance implications.

Sustainable Procurement (Environmental Policy)

Procurement needs to take into account the environmental costs involved and ensure, so far as is reasonable, that these important considerations are specifically considered.

When procuring goods, works and services, the procuring department should take into account the following key aims:-

- the conservation of all resources especially those that are scarce or non renewable
- reducing waste through reuse, recycling, refurbishment and efficient on-site activities

- monitoring and reducing harmful discharges and emissions to air, land and water, including noise and light pollution
- complying with Government legislation, guidance as well as European Union and trading rules to prevent the use of banned practices and reduce or prevent the use of harmful substances or non sustainable sources
- working with contractors and partners to improve environmental performance and ensure contractual compliance to statutory regulation, codes of practice and relevant guidance whilst providing value for money.

Ethical Purchasing

When procuring goods, works, and services the procuring service should where reasonably practical ensure that they are being procured from companies and organisations where

- employment has been freely chosen
- there is no exploitation of children
- living wages are paid
- freedom of association and the right to collective bargaining are respected
- working conditions are safe and hygienic
- working hours are not excessive
- no discrimination is practised
- regular employment is provided
- no harsh or inhumane treatment is allowed

Equality and Diversity in Procurement

It is a statutory responsibility of all Local Authorities to eliminate discrimination in carrying out their various functions. The main aim in procurement should be to promote compliance by service providers, contractors and partnership organisations with their obligations for non-discrimination and to address equality and diversity issues.

In order to determine whether equality is a core requirement in the procurement being considered the following should be considered:

Is the procurement related to a function or policy that is relevant to the duty to promote equality and does the procurement affect the ability to meet this duty?

If the answer is yes then there will be a need to include requirements within the procurement terms in order to meet equality requirements.

An Equality Impact Assessment must be undertaken where functions and policies that form part of the procurement process have the potential to impact on the Council's duties and responsibilities.

Business Continuity

Business continuity is the process of preparing for and responding to a disaster event or situation that could have a serious impact on the delivery of the Council's services. All procurement should consider and include provision for business continuity wherever appropriate.

National Context / Procurement Strategies for Local Government

National guidance and a Procurement Strategy for Local Government have been published in the past. The Council's approach to procurement will continue to take account of any existing and future guidance with improvement actions implemented as appropriate and monitored within the Council's performance management processes.

Performance Management

Successful Procurement does not end with the award of contract or purchase of goods or services. Good procurement should cover the whole life of the contract or service provision. Although financial performance will be addressed via the Financial Strategy and Corporate Budget Monitoring Processes a review of the success of procurement should be undertaken during its life as well as at the end where appropriate, which should also include a non financial analysis. This will support continuous improvement and also inform future procurement decisions.