

# **Report to the Finance & Performance Management Cabinet Committee**

**Report reference: FED-028-2011/12**

**Date of meeting: 19 March 2012**



**Epping Forest  
District Council**

**Portfolio: Finance & Economic Development**

**Subject: Update on EFDC Procurement and the Essex Procurement Hub  
and the Procurement Strategy 2012-15**

**Responsible Officer: Dawn Jolley (01992 564355)**

**Democratic Services Officer: R Perrin (01992 564532)**

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## **Recommendations/Decisions Required:**

1. To consider, and if appropriate amend, the updated Procurement Strategy and recommend it to Cabinet for adoption.
2. That the current performance of Epping Forest District Council (EFDC) Procurement and the Essex Procurement Hub (the Hub) be noted

## **Executive Summary:**

The current Procurement Strategy 2009-2012 was adopted by Cabinet in July 2009. The report seeks to update the strategy by outlining how the strategy supports the delivery of the Council's Corporate Plan 2011 – 2015 and to make mention of Sir Philip Green's Government Efficiency Review (October 2010) and its impact on procurement.

The report also sets out the publishing of new contracts and tenders data, Fighting Fraud against Local Government; the EFDC Procurement Toolkit; EFDC Corporate Procurement Training; the updated EC Procurement Thresholds (as at 01 January 2012) and changes in the use of the Accelerated Restricted Procedure; a brief update on the Essex Procurement Hub and a number of procurement projects concluded to date in 2011/12.

## **Reasons for Proposed Decision:**

1. We are nearly at the end of the period covered by the current procurement strategy and before it expires, an updated strategy needs to be adopted to guide work in this increasingly important area.
2. To keep Members informed of EFDC Procurement's current workload and the benefits to the Council of making use of the Hub.

## **Other Options for Action:**

1. Members are invited to consider and amend the attached draft Procurement Strategy 2012-2015 as they feel appropriate to either increase or reduce the relative importance of any of the issues covered in the strategy, or indeed to introduce any additional elements.
2. Members are being asked to note current procurement performance.

## **Report:**

### Procurement Strategy 2009-2012

1. Epping Forest District Council will continue its policy of using best practice procurement approaches and processes. This will assist in the delivery of high quality services to support strategic priorities at good value for money.

2. The Procurement Strategy supports the Council's Corporate Plan 2011 - 2015. At a general level, procurement of goods and services assists in delivering the Council's strategic objectives and statutory responsibilities. At a specific level, this procurement strategy is designed to support the Council's objectives of:

- Seeking continuous performance improvement and best use of resources, against the background of diminishing public expenditure: by improving efficiency through better processes and better procurement to enable the Council's money to go further in delivering its services;
- Achieving the levels of net savings necessary to maintain the Council's sound financial position: by using best practice procurement practices and decisions, supporting the delivery of excellent customer services, either directly provided by the Council or procured from third parties for delivery on behalf of the Council;
- Helping to mitigate the impact of the current economic conditions on local people and businesses, where resources permit and value for money can be achieved from the Council's activities: by continuing to improve its approach to joint purchasing, particularly through the Essex Procurement Hub. The Hub assists in developing and advising on framework agreements, collaborative procurements and spend-analysis, to help Essex local authorities achieve best value from purchasing.

3. It also supports the Council:

- To respond to issues of deprivation in the district: through promoting a consistent approach to equality and diversity and reducing inequality in the provision of services and through requiring and promoting good practice in equality and diversity in the employment and contracting practices of suppliers and partners.
- To maintain and improve the links between the Council, local town centres and the business community: through, to the extent that the EU Procurement Directives, collaborative procurement and value for money allow, sourcing appropriate goods and services through local businesses and promoting the development of local businesses by making the Council easier to do business with.

4. One of the key elements to the Government Efficiency Review (October 2010) is that Government has consistently failed to make the most of its scale, buying power and credit rating. In his key findings, Sir Philip Green makes the following recommendations:

- Centralised procurement should be mandated for common categories so that buying power can be leveraged and best practice achieved;
- Government needs to act as one organisation rather than a series of independent departments;
- There is a need for accurate spend and usage data;
- Demand and specifications should be managed down;
- When purchasing on behalf of Government, employees must apply the same principles as if the money were their own.

5. The above principles are acknowledged but any consideration of moving to

centralised procurement is on hold pending the outcome of the Ernst & Young organisational review.

#### Local Transparency – Publishing New Contracts & Tenders Data

6. As mentioned in the last report on procurement to the Finance & Performance Management Cabinet Committee (March 2011), the Secretary of State for Communities and Local Government wrote to local authorities in June 2010 committing them to publishing items of spending including tenders and contracts by January 2011. However consultation relating to this requirement was still ongoing as of 21 January 2011. On the 18 February 2011 the Local Government Group published its response to the consultation and the result was that new guidance on the exact requirements was not published until March 2011.

7. Epping Forest District Council has now met this requirement and is publishing contracts data on a monthly basis. These reports are provided in both pdf and csv formats and cover current contracts entered into as far back as August 1992.

#### Fighting Fraud against Local Government

8. In December 2011, the Audit Commission's study into 'Protecting The Public Purse 2011: Fighting Fraud Against Local Government' (November 2011), was appended to the report to Corporate Governance Group.

9. In summary, the report is a document written for councillors and senior officers responsible for governance. The National Fraud Authority (NFA) estimates that fraud against councils costs more than £2 billion a year and that of this, detected procurement fraud showed the largest increase in 2010-11, and totalled £14.6 million.

10. Fraud may occur at any stage in the procurement cycle, from the first business case to the award and management of the contract.

11. The key areas of fraudulent activity include:

- Applicants tendering but not in accordance with contract specifications, and then submitting false claims for extra costs under the contract;
- Contractors providing inferior goods or services;
- Contractors presenting false invoices.

12. The Audit Commission's survey advises that councils should continue to treat procurement fraud as high risk, with significant potential financial impact.

13. EFDC already has well established processes and procedures embedded in the Council's Financial Regulation to mitigate this type of fraud. Internal Audit undertakes annual reviews of creditor payments and procurement as a whole. As a direct result of the Local Transparency agenda (mentioned above), the number of country-wide fraudulent requests to change banking details has increased. EFDC not only ensures that all relevant officers are copied into pertinent correspondence from the National Anti-Fraud Network, there are also procedures in place which ensures that no banking details are changed without verbal confirmation from the supplier.

#### EFDC Procurement Toolkit

14. The procurement of goods and services can take many forms ranging from the purchasing of stationery, furniture, consultancy services to the outsourcing of services such as street cleansing, and it plays a critical role in the delivery of Council priorities. Savings realised from efficient procurement can be channelled into priority areas; and inadequate planning and contract failures can result in loss and damage to the Council's reputation.

15. The advice and guidance contained in the procurement toolkit is therefore designed to

be a tool to help and assist officers. It has been developed utilising national guidance from organisations such as Improvement & Development Agency for Local Government (I&DEA), Chartered Institute of Public Finance & Accountancy (CIPFA) and builds in the core principles of The Office of Government Commerce (OGC) Gateway review process. It is also intended that the information will serve to support and complement the Council's own core financial procedures that set out clearly the Council's corporate processes for procurement.

16. The toolkit was completed, in conjunction with the Procurement Steering Group, in February 2012, and is available to staff via the Council's Corporate Intranet under: *Procurement/General EFDC Procurement Information*

#### EFDC Corporate Procurement Training

17. As a means to support staff, especially those responsible for procuring goods, services and/or works on behalf of the Council, a new Corporate Procurement Training course has been developed in conjunction with PraXis4 Learning and Development. 'Ticket to Procurement' is a half day session which has been developed specifically for EFDC to ensure officers are protected by working within the current legal framework of procurement, avoiding procurement challenges which could potentially waste months of work and result in the payment of damages. A pilot session was held with the Procurement Steering Group on the 19 August 2011 and since then four further sessions have been run with another scheduled for the 13<sup>th</sup> March 2012.

18. Training will also be made available as an e-learning module for those staff that have either been unable to attend any of the sessions, or would like to refresh what they have learnt at one of the sessions.

#### Updated EC Procurement Thresholds and changes in the use of the Accelerated Restricted Procedure

19. Public procurement law regulates the purchasing by public sector bodies and certain utility sector bodies of contracts for goods, works or services. The law is designed to open up the EU's public procurement market to competition, to prevent "buy national" policies and to promote the free movement of goods and services.

20. The Regulations generally apply when three main pre-conditions are met:

- The procuring body is a "contracting authority" as defined in the rules. The definition is wide and includes central government, local authorities, associations formed by one or more contracting authorities and other "bodies governed by public law" (e.g. registered social landlords and fire authorities);
- The contract is a public works, services or supplies contract. Sometimes the contract will be a mixed contract (e.g. for the supply and maintenance of computers). Where it is, a contracting authority must determine, in accordance with the rules, the predominant element of the contract and, therefore, which set of rules will apply. This is important to get right as the rules vary slightly depending on the type of contract (e.g. lower financial thresholds apply to services and supplies contracts than to works contracts);
- The estimated value of the contract (net of VAT) equals or exceeds the relevant financial threshold. The rules expressly prohibit deliberately splitting contracts to bring them below the thresholds. The thresholds are updated every two years and were most recently updated on 1 January 2012 as follows:

*Public Contracts Regulations 2006 - from 1 January 2012*

	SUPPLIES	SERVICES	WORKS
<b>Public sector contracting authorities</b>	<b>£173,934</b>	<b>£173,934</b>	<b>£4,348,350</b>

21. Where these three pre-conditions are satisfied a contracting authority must normally advertise the contract in the EU's Official Journal (OJEU) and follow the procedural rules set down in the Regulations.

22. In 2009, the Commission decided to relax the rules on use of the accelerated restricted procedure, as an emergency measure during the financial crisis. The Commission has now reviewed and subsequently withdrawn that rule-relaxation, so the previous rules will resume for contract notices submitted to OJEU from 1 January 2012. From 1 January 2012, the accelerated restricted procedure is once again only available in situations where urgency renders impracticable the time limits for the restricted procedure.

#### Essex Procurement Hub – Brief Update

23. Epping Forest District Council (EFDC) has been a member of the Essex Procurement Hub (the Hub) since October 2006.

24. Current membership includes:

- Braintree District Council
- Colchester Borough Council
- Castlepoint Borough Council
- Epping Forest District Council
- Maldon District Council

25. When letting framework agreements, a condition of tender is that the successful bidder(s) will retrospectively pay to the Hub a percentage rebate on business received against the agreement. Retrospective rebates collected from Hub framework suppliers are apportioned back to its members on a pro-rata basis.

26. EFDC's gross subscription for 2011/12 equates to £48,650. Total projected rebates for 2011/12 are likely to be in the region of £44,120. If all rebates are realised, the net cost of the Hub to EFDC would be in the region of £4,530 (Please see *Appendix A* for further detailed information).

27. Below is a list of Hub framework agreements that were available for use nationally during 2011/12 - the items in bold are agreements that have either recently been used or are currently being used by EFDC:

- **Personal Protective Equipment**
- Refuse Freighter Hire
- Car Park Equipment
- Clearance and Cleaning of Void Properties
- **Parking Enforcement Services**
- **Playground Schemes**
- Staff Framework
- **Banking Services**
- **Consultancy for Construction based Projects**
- **Webcasting**
- **Corporate Wear**
- **Refuse Freighter, outright purchase**
- Crematoria Equipment and Maintenance

- **Plastic Sacks**
- Self Drive Vehicle Hire
- **Waste Management**
- Gas Boilers
- **IT Hardware**
- Oil Boilers
- **Contract Hire with Maintenance of Staff Cars**
- Service and Repair of Gas & Oil Central Heating
- Janitorial Supplies
- Corporate Website Design
- Repair & Maintenance Services
- Electrical re-wiring
- Civil engineering works
- Estates Environmental Improvement Programme
- **Grounds Maintenance Equipment**
- Pedestrian and Truck Mounted Sweepers

#### Recent Procurement Projects Carried Out In Conjunction With The Hub

28. *Ink / Toner Cartridges* – As a result of Central Government's drive to centralise the procurement of certain categories of spend, EFDC has been able to make use of the of the new Government Procurement Services, Government Office Supplies Contract set up with XMA and as such benefit from the savings. Through detailed spend analysis, it is anticipated that the Council is saving approximately £23,400 per annum on the direct purchase of ink and toner cartridges.

29. *Various IT projects* - By working strategically with the Hub and utilising various OGC / GPS framework agreements (on-line), EFDC has saved in the region of £20,000 against its approved ICT Capital budget for 2011/12.

30. *Cleaning Services* – By working collaboratively with Essex County Council, EFDC let a three year contract from April 2011, for the provision of corporate cleaning services. This has resulted in a 15% saving against the approved revenue budget or approximately £16,500 per annum.

31. *Print Room Equipment* - By providing guidance and advice, the Hub assisted the Council in letting a four year agreement against an ESPO framework agreement. Cashable savings equate to approximately £25,000 for the life of the contract.

32. *Stores Material Consultancy* – through advice provided, the Hub assisted EFDC in negotiating a 24% (£8,748) reduction against quoted consultancy fees.

33. *Waste Management* – By working strategically with EFDC, advice provided assisted EFDC in saving £212,000 against approved budget for 2011/12.

34. *CCTV - Provision and Maintenance of (Loughton Broadway)* - By providing both guidance and advice, and by working strategically alongside EFDC, the Hub undertook a tender exercise on behalf of the Council for the provision and maintenance of CCTV equipment for the Loughton Broadway area. Savings against capital budget equate to £21,000.

35. Total savings for 2011/12 as of February 2012 are calculated to be approximately

£383,800. Please see Appendix B and C for more information on the recent projects completed by EFDC Procurement and the Hub and associated cash savings.

### **Resource Implications:**

Given the increasing financial pressures on the Council, it will be imperative that best Value for Money is obtained from all future procurement exercises. As stated above, savings for 2011/12, as at February 2012, exceed £380,000 and this money can be used to further improve services to the local community and/or keep the rate of Council Tax down.

### **Legal and Governance Implications:**

The work of the Hub helps ensure that the Council complies fully with EU Procurement Regulations. The work undertaken internally by EFDC Procurement endeavours to ensure better compliance with Contract Standing Orders and Financial Regulations and promote Best Practice.

### **Safer, Cleaner and Greener Implications:**

The dissemination of information on sustainability undertaken by EFDC Procurement should ensure better compliance with the Council's existing Climate Change and Safer, Cleaner, Greener strategies.

### **Consultation Undertaken:**

EFDC staff and the Essex Procurement Hub have been consulted.

### **Background Papers:**

'Efficiency Review – Key Findings and Recommendations' (October 2010), Sir Philip Green;

'Protecting The Public Purse 2011: Fighting Fraud Against Local Government' (November 2011), Audit Commission;

Cabinet Office – Procurement Policy Note – New Threshold Levels for 2012 and changes in the use of the Accelerated Restricted Procedure. Information Note 10/11; 12 December 2011.

### **Impact Assessments:**

#### Risk Management

If procurement is not properly co-ordinated and controlled, the Council is unlikely to achieve value for money.

Failure to comply with EU regulations may result in the UK High Court preventing the award of a contract by setting aside the contract award decision and/or awarding damages to any provider who has suffered loss or damage as a result of any breach and imposing fines on the authority

#### Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? **No**

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? **N/A**

What equality implications were identified through the Equality Impact Assessment process?

Not applicable

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

Not applicable



EFDC HUB SUBSCRIPTION FEES PAID AND REBATES RECEIVED 2006 – 2012

Hub Financial Year			Subscriptions	Net Rebates	Net Contribution		
From	To		(£)	(£)	(£)		
Oct-06	Aug-07		33,000.00	11,230.86	21,769.14		
Sep-07	Aug-08		37,080.00	21,570.67	15,509.33		
Sep-08	Mar-09		22,277.50	7,427.47	14,850.03		

  

Accounting Year								
	From	To	Subscription	Rebate 1	Invoice Total	Rebate 2	Net Contribution	
<i>6 months only</i>	2006/07	Oct-06	Mar-07	18,000.00	-6,125.92	11,874.08	0.00	<b>11,874.08</b>
	2007/08	Apr-07	Mar-08	36,630.00	-17,687.83	18,942.17	0.00	<b>18,942.17</b>
	2008/09	Apr-08	Mar-09	37,727.50	-16,415.25	21,312.25	0.00	<b>21,312.25</b>
	2009/10	Apr-09	Mar-10	38,190.00	-7,427.47	30,762.53	-22,495.33	<b>8,267.20</b>
	2010/11	Apr-10	Mar-11	47,150.00	-12,730.00	34,410.00	-30,838.00	<b>3,572.00</b>
	2011/12	Apr-11	Mar-12	48,650.00	-22,353.00	26,297.00	-21,767.00*	<b>4,530.00</b>

\*predicted rebate

**APPENDIX B**

**EFDC PROCUREMENT SAVINGS ACHIEVED FOR 2011-2012**

		Savings		
Contract	Type	Revenue	Capital	Comments
Ink / Toner Cartridges	MoD Framework Agreement	£ 16,613.00		
Ink / Toner Cartridges	GPS Framework	£ 11,196.00		Savings made against GPS framework
Cash in Transit	EFDC specific Tender	£ 9,000.00		Savings made against previous contract value
CCTV Maintenance	EFDC specific Quote	£ 14,600.00		Savings based on work being undertaken for 6 months at a cost of £1400 - this period runs from 1/4/11 - 30/9/11
Vending Machines	EFDC specific Tender	£ 4,622.00		Savings made against budget of £70,350 divided by 5 years (contract length)
Arboricultural Maintenance	EFDC specific Tender	£ 35,776.00		Savings made against current schedule of rates (5 year contract)
Graffiti Removal	EFDC specific Tender	£ 10,400.00		Savings made against the rates and removal figures of 2009/10 (650 sq meters - 26 jobs)
Cleaning Services	EFDC specific Tender via ECC	£ 16,528.39		Savings made against current costs for a three year contract
Mobile Phones	GPS Framework	£ 10,125.00		Savings made against budget for a two year contract
Print Room Equipment	ESPO Framework	£ 4,176.00		Savings made against budget for a four year contract
Stores Materials Consultancy (Housing)	EFDC specific Tender	£ 8,750.00		Savings made as a result of client / Hub negotiating a reduction in rate
Landlines	GPS Framework	£ 9,015.00		Savings made against budget for a three year contract
Waste Management	Hub Framework	£ 212,000.00		Savings made as a result of client negotiating dry recyclable gate fees
CCTV Equipment (Loughton Broadway)	EFDC specific Tender	-	£21,000.00	Savings Made against Budget
<b>TOTAL SAVINGS FOR 2011/12 - AS OF FEBRUARY 2012</b>			<b>£ 383,801.43</b>	

**APPENDIX C**

**EPPING FOREST PROCUREMENT PROJECTS 2011/2012 - CONCLUDED**

PROJECT NAME	PROJECT DESCRIPTION	TYPE	BUDGET	STATUS	DATE CONCLUDED
Grounds Maintenance Equipment	Ride-on Mower	Hub Framework	£20k	Awarded to Tuckwell's as lowest bidder	14.2.11
Refuse Sacks	Refuse Sacks	Hub Framework	£240k	Quote awarded to BPI	23.2.11
Light Commercial Vehicles	4 - Ford Transit Vans	Hub Framework	£50K	Contract awarded to Haynes of Maidstone	23.2.11
Civil Engineering Works	Small Civil Engineering Works	EFDC Specific Non-OJEU	£40k p.a.	Contract awarded to Wedge Contracts	28.2.11
Street Furniture	Installation & Maintenance of Street Furniture	EFDC Specific Non-OJEU	£35k p.a.	Contract awarded to W&I Craig Ltd	28.2.11
Ground-works - North Weald Airfield	Ground-works	-	£20k p.a.	Client has gained wavier of standing orders for one year due to study of Airfield.	31.3.11
Housing Stock Survey	Private Housing Stock condition survey	EFDC Specific Non-OJEU	£50k	Awarded to CPC Ltd	20.4.11
Refuse Freighters	Purchase of 7 Refuse Freighters	Hub Framework	£1m	Contract awarded to Farid	4.5.11
Bed & Breakfast	Bed & Breakfast - Housing	EFDC Specific Non-OJEU	£80k p.a.	Contracts have been issued to 3 suppliers and OJEU award notice has been issued and published.	Jun-11
Mobile Phones	Mobile phone subscriptions	GPS	£25k p.a.	Contract awarded via Buying Solutions to O2	1.6.11
Print Room Equipment	Photocopiers (2 mono & 1 colour)	GPS	£40k p.a.	Contract awarded to Oce	28.6.11
PAT Testing	Portable Appliance Testing	ESPO	£14k p.a.	Contract awarded under the ESPO framework.	Jul-11

PROJECT NAME	PROJECT DESCRIPTION	TYPE	BUDGET	STATUS	DATE CONCLUDED
Waste Management Contract / Review	Waste Management inc. Grounds Maintenance	Hub Framework	£6.4m p.a.	Agreement has been made to extend current contract for a further two year period from 2012.	Sep-11
On & Off Street Parking	On & Off Street Parking Management	-	£720k p.a.	Approval has been given by cabinet to link up with NEPP for both contract requirements.	Sep-11
Landline Calls	Landline calls	GPS	£?k	Client to award to BT direct via Buying Solutions portal.	23.9.11
Wheeled Bins	Metal Wheeled Bins (500L +)	ESPO	£130k	Awarded to Straight	12.10.11
CCTV Maintenance	Maintenance of CCTV Equipment	EFDC Specific Non-OJEU	£10k p.a.	Awarded to PSL	13.10.11
Bailiffs	Bailiff Services	EFDC Specific Non-OJEU	£150k p.a.	Awarded to Ross & Roberts, Equita & Phoenix	26.10.11