

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



**Report reference:** *FPM-028-2014/15*  
**Date of meeting:** *19 March 2015*

**Epping Forest  
District Council**

**Portfolio:** Finance

**Subject:** Procurement Strategy 2015-20

**Responsible Officer:** Shane McNamara (01992 564331).

**Democratic Services:** Rebecca Perrin (01992 564532).

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## **Recommendations/Decisions Required:**

To consider, and if appropriate amend, the updated Procurement Strategy and recommend it to Cabinet for adoption.

## **Executive Summary:**

The current Procurement Strategy runs until the end of March 2015, and as such an updated version is required. The strategy has been updated to reflect how Procurement can support the delivery of the Council's new Corporate Plan 2015-2020 as well as to include the recent Public Contract Regulations 2015, which will have a major impact on all public procurement over the coming years.

## **Reasons for Proposed Decision:**

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 important area.

## **Other Options for Action:**

Members are invited to consider and amend as appropriate the attached draft Procurement Strategy 2015-2020, to either increase or reduce the relative importance of any of the issues covered in this strategy, or indeed to introduce any additional elements.

## **Report:**

### Procurement Strategy 2015 - 2020

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. 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:

- Ensuring that the Council has appropriate resources, on an ongoing basis, to fund its statutory duties and appropriate discretionary services while continuing to keep Council Tax low.
- Ensuring the Council adopts a modern approach to the delivery of its services and that they are efficient, effective and fit for purpose.

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. The Public Contract Regulations 2015 came into effect from 26 February 2015 and implement the 2014 EU Public Sector Procurement Directive and a number of new reforms, recommended by Lord Young in his report 'Growing Your Business' to make public procurement more accessible to small businesses.

#### Key Reforms

5. The key reforms stemming from Lord Young's report are:

- Abolition of a pre-qualification stage for procurements below the EU thresholds, and a requirement to have regard to guidance on qualitative selection issued by Cabinet Office for above EU threshold procurements.
- A requirement for contracting authorities to insert provisions in all public contracts to ensure prompt payment through the supply chain
- The requirement to advertise as many public sector opportunities in one place (Contracts Finder), and to publish award notices for contracts and call-offs from framework agreements.

#### Publishing Contract Opportunities

6. As per the reforms, all contract opportunities over the value of £25,000 must now be advertised on the Government's website, Contracts Finder. This represents a significant change in process for Local Government and has been acknowledged accordingly within the strategy.

#### Changes to EU Procurement Guidelines

7. The Public Contract Regulations 2015 also implement the 2014 EU Public Sector Directive into UK Law. 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.

8. 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 of this 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, fire authorities).
- The contract is a public works, services or supplies contract. Sometimes the contract will be mixed (e.g. the supply and maintenance of computer systems). 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 apply. This is important to get right as the rules vary slightly depending on which type of contract is being undertaken. The main example of this is that lower financial thresholds apply to services and supplies than works.
- 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 threshold (aggregation). The most recent financial thresholds were set on 01 January 2014 and are as follows:

	SUPPLIES	SERVICES	WORKS
Other public sector contracting authorities	£172,514 (€207,000)	£172,514 (€207,000)	£4,322,012 (€5,186,000)

9. Where these three pre-conditions apply, a contracting authority must normally advertise the contract opportunity in the EU's Official Journal (OJEU) and follow the procedural rules set down in the Directive.

10. The 2014 EU Public Sector Directive has also been implemented into UK Law with the Public Contract Regulations 2015, and it is important that the Council keeps up to date with these changes and conducts its procurement activity accordingly.

### **Resource Implications:**

Given the financial pressures placed on the Council to make savings, it will be vital that value for money is obtained from all future procurement exercises. By working in conjunction with the Essex Procurement Hub, the Council made savings in excess of £200,000 during 2013/14 through best practice procurement exercises and these savings can subsequently be used to further improve services for the local community and/or to keep the District's Council Tax low.

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

Working with the Essex Procurement Hub helps the Council to fully comply with both UK Law and EU Procurement Regulations. Internally, EFDC Procurement aims to ensure officers are complying with Contract Standing Orders and Financial Regulations as well as promoting best practice.

**Safer, Cleaner and Greener Implications:**

The effective dissemination of the information on sustainability contained in the strategy should complement and assist compliance with the Council's Climate Change and Safer, Cleaner Greener strategies.

**Consultation Undertaken:**

EFDC Officers and the Essex Procurement Hub have been consulted in the formulation of this strategy.

**Background Papers:**

'Growing Your Business: A Report on Growing Micro Business' (Lord Young, May 2013)

Public Contract Regulations 2015

EU Public Sector Directive 2014

Crown Commercial Service PPN 03/15 – Reforms to make public procurement more accessible to SME's (Small and Medium Enterprises)

**Risk Management:**

If procurement is not co-ordinated and controlled, it is unlikely that the Council will achieve value for money.

Failure to comply with the EU Procurement Regulations could result in the UK High Court preventing the award of a contract and/or awarding damages to any supplier who has suffered loss or damage as a result of any breach in the regulations, as well as imposing fines on the authority.

# Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

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The report relates to the creation of the Council's Procurement Strategy 2015 – 2020. During the creation of the strategy, it has been considered that the Council has a duty to promote equality of opportunity and as such aims to achieve a robust and consistent approach to ensuring equality in the delivery of services. To help achieve this, the Council aims to ensure that suppliers are, as a minimum, compliant with relevant legislation both at the selection and award stage and throughout the life of a contract. The Council will proactively work with key suppliers to promote equality and positive practices in their operations and in the provision of services to customers on behalf of the Council.