

# Croydon Council

<b>REPORT TO:</b>	<b>GENERAL PURPOSES &amp; AUDIT COMMITTEE</b> <b>25 March 2015</b>
<b>AGENDA ITEM:</b>	<b>8</b>
<b>SUBJECT:</b>	<b>Exceptions to the Tenders and Contracts Regulations</b>
<b>LEAD OFFICER:</b>	<b>Sarah Ireland, Director of Strategy Commissioning Procurement and Performance</b>
<b>CABINET MEMBER:</b>	<b>Councillor Simon Hall Cabinet Member for Finance and Treasury</b>
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b> Effective procurement will contribute to all corporate priorities.	
<b>FINANCIAL SUMMARY:</b> There are no direct costs arising from this report.	

## **1. RECOMMENDATION**

- 1.1 The Committee is asked to note as per Regulation 3 of the Tenders and Contracts Regulations the exceptions approved by the Director of Strategy, Communities and Commissioning since the last meeting of the Committee.

## **2. EXECUTIVE SUMMARY**

- 2.1 This is a standard report presented to General Purposes & Audit Committee (GPAC) notifying them of any exceptions agreed to the Tenders and Contracts Regulations by the Director of Strategy, Communities and Commissioning.

## **3. DETAIL**

- 3.1 Since the last meeting of GPAC there have been two exceptions approved under Regulation 3 both in relation to the direct award of contracts as follows:

**Integrated Sexual Health Service Contract Award** (Cabinet Minute Ref A12/15)

- 3.2 The Croydon Sexual Health Strategy 2011/16 identified a need to integrate existing service provision, improve access and increase the uptake of sexual health services through targeting groups at higher risk of sexual ill health to improve outcomes and cost effectiveness. As part of the procurement strategy a direct award of contract to the existing provider Croydon University Hospital for period of one year (1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016) was considered necessary to provide sufficient time to redesign and commission a new service in April 2016. .
- 3.3 The decision to make the award was taken by the Cabinet Member for People and Communities in consultation with the Cabinet Member for Finance and Treasury. Prior to the decision being made the intention to award was reported to Cabinet in January 2015 [London Borough of Croydon - Integrated Sexual health Services Contract Award](#). The direct award also delivers cost savings of £260k for 2015/16.

**Connected Croydon- Old Town (Church Street) Public Realm Works** (Cabinet Minute Ref A26/15)

- 3.4 To ensure the Council maximised the opportunity for the Easter Tram shutdown of 16 days in delivering the Church Street programme of Public Realm Works an exception to the Tenders and Contracts Regulations was approved to enable a direct award under the Council's Highways Framework to EM Highways Limited.
- 3.5 Running a competitive tender would not have enabled the construction works to start in time to make use of the Easter shutdown. The contractor having the possession of the whole road would improve efficiency and reduce the duration of construction works by five weeks. This will enable Church Street to be clear of major roadworks by Christmas 2015. In addition the direct award enabled the Council to take advantage of the base rates quoted by the EM Highways Limited which were provided in 2011 when the market was buyer constrained (highly competitive rather than supplier constrained as the market is currently). The index linked uplift from 2011 rates within the contract is 4.67% which is below construction inflation which was 6% for 2013/14.
- 3.6 The decision to make this award was taken the Cabinet Member for Economic development in consultation with the Cabinet Member for Finance and Treasury. Prior to the decision being made the intention to award was reported to Cabinet in February 2015 [London Borough of Croydon -Old Town \(Church Street\)](#)

#### **4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

##### **4.1 Revenue and Capital consequences of exceptions to the tenders and Contract Regulations**

<b>Contract Title</b>	<b>Contract Revenue Budget</b>	<b>Contract Capital Budget</b>	<b>Dept</b>
Integrated Sexual Health Services Contract Award	£3.4m		Resources
Connected Croydon-Old Town (Church Street) Public Realm Improvement Works		£0.9m	Places

Approved by Dianne Ellender, Head of Finance and Deputy Section 151 Officer

#### **5. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

- 5.1 The Council Solicitor comments that an exception to the Tenders and Contracts Regulations may be sought under Regulation 3 where a new approach to procuring supplies, services or works will achieve value for money. Approval of the exception must be sought from the Director of Strategy, Communities and Commissioning on the recommendation of the Contracts and Commissioning Board before that approach is taken.
- 5.2 The next available meeting of GPAC must then be notified of any exceptions approved under Regulation 3.

Approved by: Gabriel Macgregor, Head of Corporate Law, on behalf of the Council Solicitor and Monitoring Officer

#### **6. HUMAN RESOURCES IMPACT**

- 6.1 There are no HR issues arising from this report, which is a standard scheduled report for information.

#### **7. EQUALITY ANALYSIS**

- 7.1 The Equality Analysis process has been used to assess the actual or likely impact of the decisions related to contracts mentioned in this report and mitigating actions have been defined where appropriate.
- 7.2 Any issues identified through the equality analysis will be given full consideration and agreed mitigating actions will be delivered through the standard contract delivery and reporting mechanisms.

7.3 The equality analysis for the contracts mentioned in this report will enable the Council to ensure that it meets the statutory obligation in the exercise of its functions to address the Public Sector equality duty (PSED). This requires public bodies to ensure due regard to the need to advance equality of opportunity; foster good relations between people who share a “protected characteristic” and those who do not and take action to eliminate the potential of discrimination in the provision of services.

## **8. ENVIRONMENTAL AND DESIGN IMPACT**

8.1 Any issues emerging in reports to the relevant Cabinet member will require these considerations to be included as part of the standard reporting requirements, and will not proceed without full consideration of any issues identified.

## **9. CRIME AND DISORDER REDUCTION IMPACT**

9.1 Any issues emerging in reports to the relevant Cabinet Member will require these considerations to be included as part of the standard reporting requirements, and will not proceed without full consideration of any issues identified.

## **10. FREEDOM OF INFORMATION (FoI) / DATA PROTECTION CONSIDERATIONS**

10.1 The Council’s Procurement Strategy and Tenders & Contracts Regulations are accessible under the Freedom of Information Act 2000 as part of the Council’s Publication Scheme. Information requested under that Act about a specific procurement exercise or contract held internally or supplied by external organisations, will be accessible subject to legal advice as to its commercial confidentiality, or other applicable exemption, and whether or not it is in the public interest to do so.

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### **CONTACT OFFICER:**

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### **BACKGROUND DOCUMENTS:**