

North Tyneside Council

Report to Council

Date: 20 July 2017

ITEM 9

Title: Procurement and Appointment of Local (External) Auditor

Portfolio(s): Finance and Resources

Cabinet Member(s): Councillor Ray Glindon

Report from Service Area: Finance

Responsible Officer: Janice Gillespie, Head of Finance

Tel: (0191) 643 5701

Wards affected: All

PART 1

1.1 Executive Summary:

The Local Audit and Accountability Act 2014 introduced a new requirement for all local authorities to procure and appoint their own external auditor (known as a 'local auditor') from 2017/18 onwards. Previously all local authorities were allocated an external auditor by the Audit Commission and had no choice regarding the audit provider or price. North Tyneside Council's current external audit contract with Mazars ends with the audit of the accounts for 2017/18. The Authority, along with all other local authorities, must appoint a local auditor by 31 December 2017 in preparation for the 2018/19 year beginning in April 2018. The appointment must comply with all relevant procurement laws and the decision on the appointment must be made by full Council, consulting and taking into account the advice of an independent Auditor Panel convened for the purpose of evaluating and recommending the choice of local auditor to the Council.

This report outlines:

- (a) the outcomes of a collaborative procurement exercise for a local (external) auditor undertaken jointly by North Tyneside Council, Newcastle City Council and Northumberland County Council;
- (b) the recommendation of the independent Auditor Panel that Ernst and Young be appointed by full Council as North Tyneside Council's external auditor for the period 1 April 2018 to 31 March 2023;
- (c) that this procurement will be likely to deliver significant financial savings for all three Authorities involved in this collaborative procurement; and
- (d) that Newcastle City Council considered the report of the Auditor Panel on 28 June 2017, and Northumberland County Council on 5 July 2017. The recommendation of the Auditor Panel that Ernst and Young be appointed as local auditor was agreed by full Council at both of these partner authorities.

1.2 Recommendation(s):

It is recommended that Council:

- (1) Notes the outcomes from the collaborative procurement exercise for a local (external) auditor undertaken between North Tyneside Council, Newcastle City Council and Northumberland County Council;
- (2) Endorses the recommendation of the independent Auditor Panel, and agrees to the selection and appointment of Ernst Young as the Authority's local (external) auditor from 1 April 2018 to 31 March 2023.

1.3 Forward Plan:

This report was included on the Forward Plan first published on 12 June 2017.

1.4 Council Plan and Policy Framework:

The work of the local (external) auditor is based in statute. The external audit responsibilities to audit the published financial statements, and provide a value for money opinion, support all service responsibilities as identified within the Our North Tyneside Plan.

1.5 Information:

1.5.1 Background

All local authorities are required to be externally audited. The requirements of the external audit process have changed over the years, but are codified in a 'Code of Audit Practice'¹ which explains the duties required of the external auditor. Currently these comprise two main areas:

- **Accounts** – To perform an audit of the Authority's published financial statements; and
- **Value for Money** – To satisfy themselves that the audited body "...has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources".

The external auditor also audits certain grant and subsidy claims.

Historically, the Audit Commission appointed external auditors to local authorities, which had no involvement in the choice of appointment or the fees charged. Around two thirds of authorities had their audit provided directly by the Audit Commission and the remaining third had their audit provided by one of the larger accountancy firms.

The Local Audit and Accountability Act 2014 changed this. This legislation abolished the Audit Commission and introduced a number of other changes to local authorities' corporate governance and external audit arrangements.

One of the biggest changes provided by the Act is that North Tyneside Council – along with all other principal local authorities in England and Wales – must now make arrangements to procure and appoint its own external auditor (known as a 'local auditor'). To comply with the law, this appointment must be made by 31 December 2017 with the new auditor taking up their duties from April 2018.

¹ National Audit Office, Code of Audit Practice, April 2015

1.5.2 Procurement process and the role of the Auditor Panel

In March 2017, Cabinet agreed that a collaborative procurement exercise (jointly undertaken between North Tyneside Council, Newcastle City Council and Northumberland County Council) would be the optimum procurement route, and most likely to deliver the quality of service and value for money required. This procurement option would allow the three Authorities to offer a contract of a size likely to be attractive to eligible providers in the market, which would in turn allow the market to deliver and pass on economies of scale to the three Authorities in the procurement arrangement.

Under this procurement route, the Local Audit and Accountability Act required that an independent Auditor Panel be convened. The Auditor Panel must be independently chaired, with at least a majority of independent members and must advise the Authorities on the selection and appointment of a local auditor.

The following independent persons agreed to convene as the Auditor Panel to support North Tyneside Council, Newcastle City Council and Northumberland County Council in the local auditor selection / appointment arrangements:

- Mr Hamish Moore (Independent Chair of Newcastle City Council's Audit Committee), who chaired the Auditor Panel
- Mr Kevin Robinson (Independent Chair of North Tyneside Council's Audit Committee)
- Mr Ben Heywood Smith (Independent member of Northumberland County Council's Audit Committee)

The supporting procurement process was led by Northumberland County Council's Procurement Service on behalf of all three Authorities, and ensured that all legal requirements were fully complied with. The contract opportunity was advertised in the Official Journal of the European Communities on 11 April 2017, with tenders being received from six interested audit providers on 16 May 2017. The Auditor Panel, supported by officers from the three Authorities, met to consider and evaluate the tenders received on 18 May 2017, and undertook additional clarification interviews with three of the providers on 26 May 2017. The report of the Auditor Panel is attached as Appendix A.

1.5.3 Evaluation of tender responses

As the local auditor is required to deliver a range of services specified in the Code of Audit practice, and as there are already eligibility criteria which help to assure quality (such as registration with the Financial Reporting Council), the evaluation criteria established for this contract comprised 60% price and 40% quality.

The highest score against the evaluation criteria established was achieved by Ernst and Young. The independent Auditor Panel has therefore recommended that this provider is appointed as the Local Auditor for North Tyneside Council, Newcastle City Council and Northumberland County Council (see Appendix A).

The overall evaluation scores for the recommended bidder, Ernst and Young, and the other providers which submitted bids are summarised below:

Evaluation Criteria	Maximum Available score	Ernst & Young Score	Tenderer B Score	Tenderer C Score	Tenderer D Score	Tenderer E Score	Tenderer F Score
Quality	40%	38%	36%	33%	36%	33%	27%
Price	60%	57%	31%	37%	32%	60%	24%
Total	100%	95%	67%	70%	68%	93%	51%
Ranking		1st	5th	3rd	4th	2nd	6th

1.5.2 Value for Money

The tender submitted by Ernst and Young was scored most highly overall by the Independent Auditor panel on the combined quality and price criteria established for the award of this contract, which were published as part of the Invitation to Tender for this work.

The prices submitted by Ernst and Young will deliver a significant financial saving across all three Authorities, including North Tyneside, when compared with the latest fees charged by the incumbent external auditors for equivalent work across the Authorities in 2016/17 or 2017/18.

1.5.3 Decision Making Process

Under the Local Audit and Accountability Act 2014 the decision on the selection and appointment of the local (external) auditor must be made by full Council, after consulting and taking into account the advice of its Auditor Panel. In addition, the procurement process must comply with all relevant procurement laws.

The Auditor Panel's evaluation has clearly demonstrated that Ernst and Young's tender scored most highly overall on the combined quality / price evaluation criteria established. The bid submitted by Ernst and Young therefore represents the most economically advantageous tender, which was described in the Invitation to Tender as the basis on which the award of contract would be determined. It is therefore recommended that Council agree the award of the local auditor contract to Ernst and Young from 1 April 2018 for a five year period.

1.6 **Decision options:**

The following decision options are available for consideration by Cabinet:

Option 1

To agree the recommendation of the independent Auditor Panel that Ernst & Young be appointed as the local (external) auditor for North Tyneside Council, for a five year period commencing 1 April 2018.

Option 2

Not to agree the recommendation of the independent Auditor Panel that Ernst & Young be appointed as the local (external) auditor for North Tyneside Council, for a five year period commencing 1 April 2018.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reason:

The tender submitted by Ernst & Young has been evaluated as achieving the highest overall scores by the Independent Auditor Panel, on the combined quality and price criteria established for the award of this contract. As such, this tender has been clearly evaluated as the most economically advantageous tender for the work specified. Under the prevailing procurement law (the Public Contracts Regulations 2015), it would therefore be expected that the contract is awarded to Ernst and Young. Should a decision be made by Council to appoint an alternative provider, the contracting Authority would be likely to be subject to legal challenge for non-compliance with its own published selection and award criteria.

1.8 Appendices:

Appendix A
Report of the Independent Auditor Panel (Evaluation of Local (External) Audit Tenders, May 2017)

1.9 Contact officers:

Allison Mitchell, Chief Internal Auditor, 0191 643 5720

1.10 Background information:

The following background papers have been used in the compilation of this report and are available at the office of the author.

- Local Audit and Accountability Act 2014
<http://www.legislation.gov.uk/ukpga/2014/2/contents>

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The Authority has always been required to budget for external audit fees, which are part of the mandatory external audit requirement. It will similarly be a requirement for the Authority to include fees for an auditor procured under the new Local Auditor requirements of the Local Audit and Accountability Act 2014 in its budget and financial plan each year. As the prices submitted by the recommended tenderer, Ernst and Young, are lower than current fees payable to the current external auditor, these fees can be contained within the current budget envelope for such costs and will deliver an annual saving when compared with current fees.

Across the three Authorities which have collaborated in this procurement (North Tyneside Council, Newcastle City Council and Northumberland County Council), significant savings are likely to be realised for each of the three Authorities as a result of this direct procurement exercise.

2.2 Legal

The legal implications of the requirements of the Local Audit and Accountability Act 2014 are set out in the report. The procurement and appointment of a local auditor by 31 December 2017 will ensure that the Authority secures compliance with the legal requirements of the Act. A relevant authority (such as North Tyneside Council) must consult and take into account the advice of its auditor panel on the selection and appointment of a local auditor under section 7 of the same Act.

The decision to authorise a procurement process to secure the services of a local auditor and to make arrangements for the creation of and appointment to the Auditor Panel is the responsibility of Cabinet. The decision to appoint the local auditor is reserved to full Council, which is required to consult and to take into account the advice of its independent Auditor Panel on the selection and appointment of the Local Auditor.

Under the Public Contracts Regulations 2015, and the evaluation criteria established for the fair award of this contract set out clearly in the Invitation to Tender, the Authority is expected to award the contract to the supplier submitting the most economically advantageous tender. A decision to the contrary might result in legal challenge.

As Northumberland County Council has led on the procurement process on behalf of all three Authorities, contract award is subject to the formal approval process of Northumberland County Council as the contracting authority. Until all necessary approvals are obtained – including the decision of full Council – and the standstill period completed, no contract will be entered into.

2.3 Consultation/community engagement

Consultation on this report has been undertaken with the independent Auditor Panel (membership described in paragraph 1.5.2 of this report), the Cabinet Member for Finance and Resources, and relevant Finance, Procurement and Legal Officers within the three Authorities.

2.4 Human rights

There are no human rights implications arising from this report.

2.5 Equalities and diversity

There are no equalities and diversity implications arising from this report.

2.6 Risk management

A risk register has been developed and all risks will be managed by the section 151 Officers of the three Authorities, and reported regularly to the independent Auditor Panel in the first instance. Should any risks require escalation, these will be escalated in accordance with North Tyneside Council's established risk management framework.

2.7 Crime and disorder

There are no crime and disorder implications arising directly from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications arising directly from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive X
- Head(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X