

## COUNTY COUNCIL

5 JULY 2017

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### PROCUREMENT AND APPOINTMENT OF LOCAL (EXTERNAL) AUDITOR

Report of Alison Elsdon Director of Corporate Resources

Cabinet Member: Councillor Nicholas Oliver, Portfolio Holder for Corporate Services

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#### **Purpose of report**

This report outlines the outcomes of a collaborative procurement exercise for a local (external) auditor undertaken jointly by Northumberland County Council, North Tyneside Council and Newcastle City Council. Northumberland County Council has acted as the lead contracting Authority in this collaborative arrangement. The report explains the recommendation of the Independent Auditor Panel (convened as required by statute to advise on the selection of local auditor) that Ernst and Young be appointed by full Council as Northumberland County Council's local (external) auditor, for the period 1 April 2018 to 31 March 2023. The report also explains the value for money that this procurement will be likely to deliver for all three Authorities involved in this collaborative procurement.

#### **Recommendations**

**It is recommended that Council:**

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

### Link to Corporate Plan

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 identified within the Council's Corporate Plan.

### Key issues

- a) Under new arrangements established by the Local Audit and Accountability Act 2014, all principal Local Authorities in England and Wales are required to appoint a local (external) auditor by 31 December 2017, who will then take up their duties from April 2018.
- b) Northumberland County Council has led as contracting Authority in a collaborative procurement for this work, on behalf of Northumberland, North Tyneside Council and Newcastle City Council. The specification for the work required has been closely based on the national Code of Audit Practice, which all external auditors are required to observe. The Invitation to Tender set out a range of price and quality factors on which all tenders received would be evaluated.
- c) The Act requires that where local authorities are undertaking a direct procurement exercise, an Auditor Panel (independently chaired and with at least a majority of independent members) must be convened and consulted on by Council. An Auditor Panel (with an independent representative representing each of the three Authorities) has been duly convened and has worked to review and evaluate all tenders received for this contract.
- d) The Independent Auditor Panel has prepared a report (attached as **Appendix A** to this report) which explains that Ernst and Young have been evaluated as submitting the most economically advantageous tender for this work. The Auditor Panel recommends that Ernst & Young are therefore appointed as the local (external) auditor from 1 April 2018 for a period of 5 years.
- e) Council is required to consult and take into account the advice of the Independent Auditor Panel in making the selection and appointment of local (external) auditor. As the Ernst & Young bid has been clearly evaluated by the independent Auditor Panel as most economically advantageous, endorsement of the independent Auditor Panel's recommendation and appointment of this firm as local auditor will provide best value for money and will also ensure that prevailing procurement law (the Public Contracts Regulations 2015) is fully complied with.
- f) The procurement exercise is forecast to deliver a significant reduction in fees for the County Council as principal local authority, when compared with fees currently payable, over the five year term of the contract, whilst providing a high quality local (external) audit service.

## **Background**

- 1 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'<sup>1</sup> 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.

- 2 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.
- 3 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 Northumberland County 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.

### **Procurement process and the role of the Auditor Panel**

- 4 A collaborative procurement exercise (jointly undertaken between North Tyneside Council, Newcastle City Council and Northumberland County Council) has been undertaken, to ensure the requirements of the Local Audit and Accountability Act 2014 are properly discharged. The collaborative procurement option has allowed 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.
- 5 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.

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<sup>1</sup> National Audit Office, Code of Audit Practice, April 2015

- 6 The following independent persons agreed to convene as the Auditor Panel to support Northumberland County Council, North Tyneside Council and Newcastle City Council in the local auditor selection / appointment arrangements. All have also had experience as co-opted members of the respective Authorities' Audit Committees.
- Mr Hamish Moore (independent representative of Newcastle City Council), who chaired the Auditor Panel
  - Mr Ben Heywood Smith (independent representative of Northumberland County Council)
  - Mr Kevin Robinson (independent representative of North Tyneside Council)
- 7 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.

Evaluation of tender responses

- 8 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.
- 9 The highest overall 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 Northumberland County Council, North Tyneside Council and Newcastle City Council (see Appendix A).
- 10 The overall evaluation scores for the recommended bidder, Ernst and Young, and those other providers which submitted bids are summarised below:

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

### Value for Money

- 11 The tender submitted by Ernst and Young was scored most highly 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.
- 12 The prices submitted by Ernst and Young will deliver significant financial savings across all three Authorities, when compared with the latest fees charged by the incumbent external auditors for equivalent work across the Authorities in 2016/17 or 2017/18.

### Decision Making Process

- 13 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.
- 14 The Auditor Panel's evaluation has clearly demonstrated that Ernst and Young's tender scored most highly overall on the 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.
- 15 As the tender has been clearly evaluated as most economically advantageous, under the prevailing procurement law (the Public Contracts Regulations 2015) the contract should be awarded to Ernst and Young. Any decision to appoint an alternative provider would not be supported by the evaluated tender scores, and would be highly likely to attract legal challenge for non-compliance with the Authority's own published selection and award criteria.

## Implications

<b>Policy</b>	None.
<b>Finance and value for money</b>	<p>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, these fees can be contained within the current budget envelope for such costs and will deliver an annual saving when compared with current fees.</p> <p>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.</p>
<b>Legal</b>	<p>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 Northumberland County 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.</p> <p>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.</p> <p>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 would be highly likely to result in legal challenge.</p> <p>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. Once all necessary approvals are</p>

	obtained – including the decision of full Council – and the standstill period completed, the usual contracting award procedures can be completed.
<b>Procurement</b>	See ‘Legal’ above. The recommendations set out in this report will ensure that the Authority is compliant with both the requirements of the Local Audit and Accountability Act 2014 and the Public Contracts Regulations 2015.
<b>Human Resources</b>	None.
<b>Property</b>	None.
<b>Equalities</b> (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	There are no equalities and diversity implications arising from this report.
<b>Risk Assessment</b>	A risk register has been developed and all risks will be managed by the section 151 Officers of the three Authorities. Should any risks require escalation; these will be escalated in accordance with established risk management processes.
<b>Crime &amp; Disorder</b>	None.
<b>Customer Consideration</b>	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 and Portfolio Holder for Corporate Resources, and relevant Finance, Procurement and Legal Officers within the three Authorities.
<b>Carbon reduction</b>	None.
<b>Wards</b>	All

**Background papers:**

Appendix A

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

**Report sign off.**

***Authors must ensure that officers and members have agreed the content of the report:***

	<b>Name</b>
Finance Officer	Alan Mason
Monitoring Officer/Legal	Liam Henry
Human Resources	N/A
Procurement	Teresa Palmer
I.T.	N/A
Chief Executive	DL
Portfolio Holder(s)	Nick Oliver

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