

<p>CABINET MEETING - 11 MARCH 2009</p> <p>EXECUTIVE SUMMARY SHEET – PART I</p>	
<p>Title of Report: Public Art Procurement</p>	
<p>Author(s): Director of Community and Cultural Services</p>	
<p>Purpose of Report: The purpose of this report is to advise Cabinet Members of the procurement issues specific to the commissioning of major pieces of public art, and to seek agreement to a continuation of the existing model for the procurement of public art by the Council over the next two years.</p>	
<p>Description of Decision: Cabinet Members are invited to note the contents of the report and agree to the continuation of the existing procurement model for public art commissions estimated to be over the tender limit of £75,000 and up to £250,000 for the period 2009/2010 and 2010/2011.</p>	
<p>Is the decision consistent with the Budget/Policy Framework? Yes</p>	
<p>If not, Council approval is required to change the Budget/Policy Framework</p>	
<p>Suggested reason(s) for Decision: The reason for the decision is to facilitate the progression of the current and forthcoming programme of public art commissions, and to create a procurement model by which further commissions can be procured with minimal delays..</p>	
<p>Alternative options to be considered and recommended to be rejected:</p> <p>1.0 The alternative option would be for the Council to not continue the existing 2.0 procurement route. This will require each project, where the Procurement 3.0 Procedure Rules are not considered appropriate, being presented to Cabinet for 4.0 approval on an individual basis, possibly delaying progress on the commissions 5.0 and agreed deadlines not being met. 6.0</p>	
<p>Is this a “Key Decision” as defined in the Constitution? Yes</p>	<p>Relevant Review Committee: Culture and Leisure</p>
<p>Is it included in the Forward Plan? Yes</p>	

REPORT OF DIRECTOR OF COMMUNITY AND CULTURAL SERVICES

PUBLIC ART PROCUREMENT

1.0 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to advise Cabinet Members of the procurement issues specific to the commissioning of major pieces of public art, and to seek agreement to a continuation of the existing model for the procurement of public art by the Council over the next two years.

2.0 DESCRIPTION OF DECISION

- 2.1 Cabinet Members are invited to note the contents of the report and agree to the continuation of the existing procurement model for public art commissions estimated to be over the tender limit of £75,000 and up to £250,000 for the period 2009/2010 and 2010/2011.

3.0 INTRODUCTION/BACKGROUND

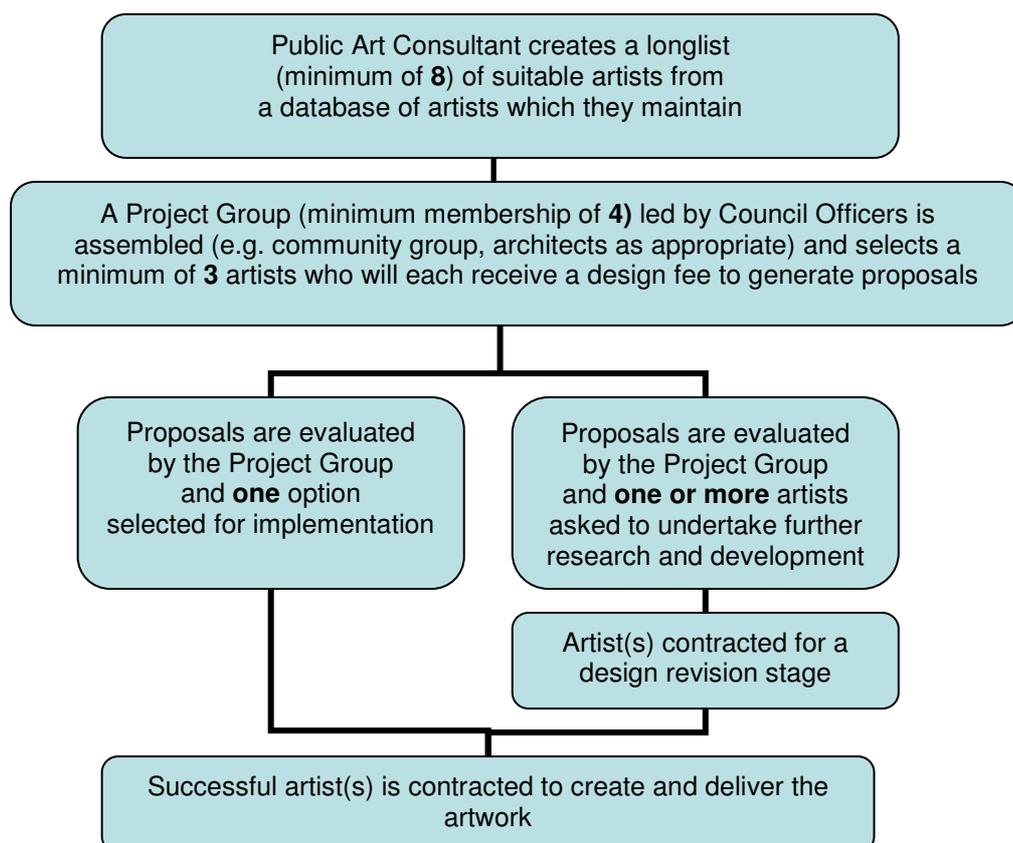
- 3.1 In April 2007, Cabinet approved a procurement model for public art commissions estimated to be over the tender limit of £75,000 and up to £250,000 for the period 2007/08 and 2008/09. This approval ends on 31 March 2009.
- 3.2 In the last two years there has been a significant expansion in the city's public art programme. Sunderland City Council committed a substantial capital allocation to two public art/creative projects – the Empire Theatre Flytower and the Stadium Park Gas Vents in addition to contributing to the development of a number of other public art commissions including artworks on the C2C route and the development of the public realm in Sunnyside
- 3.3 Historically, the vast majority of public art commissions within the city have been below the current tender threshold of £75,000, and have therefore, in accordance with the Council's Procurement Procedure Rules, been contracted on the basis of seeking quotes from appropriate artists. The few projects that were previously above the tender threshold were dealt with on an individual basis and subject to delegated decisions or Cabinet reports as appropriate until the introduction of the procurement model 2 years ago.
- 3.4 The aspirations for the city's current and future public art commissions necessitated a review of the Authority's approach to commissioning public artworks above the current tendering threshold of £75,000.
- 3.5 Officers from the Council's Culture and Tourism, Legal and Procurement Sections worked together to agree an appropriate procurement model,

tailored to the specific challenges of the public art field. This model was developed to address the following requirements:

- A procurement route that addresses all legal requirements.
- To achieve an appropriate balance between the proper use of the expertise and judgement of the Council's contracted Public Art Consultant, and a clear and transparent collective decision making process.
- To devise a route whereby the most appropriate and talented artists are identified and attracted to work in Sunderland, delivering the best possible outcomes for the city's residents and visitors.
- To create a procurement route that is open to all artists, whilst recognising the Authority's limited capacity and budget to advertise and facilitate repeated 'open calls'.

4.0 CURRENT POSITION

4.1 The current model for public art procurement for commissions over the Authority's tender threshold up to £250,000 is as follows



4.2 The total design fees payable for the outline proposal phase of each commission will be set at an appropriate rate based upon the nature of the specific project but will be capped at £10,000 per project (ie £2,500 per short-

listed artist if four were selected) or 10% of the budget for the commission whichever is the higher. Additional fees will be payable to the successful artist upon contracting, proportionate to the individual project.

- 4.3 Although the procurement model described in paragraph 4.1 above involves a transparent and accountable selection process, it deviates from the Council's Procurement Procedure Rules in one area – each commission with a value over the current £75,000 tender threshold is not advertised in the press / relevant journals and put out to tender.

The reasons for this approach are as follows:

- It is the experience of the Public Art Consultant that an advertised 'call for artists' will generate between 150 and 200 expressions of interest, with the vast majority of these applications being sub-standard or otherwise inappropriate. Highly qualified or experienced artists of the calibre which Sunderland should expect to attract for its commissions are often recruited nationally by Public Art Consultants or the private sector and therefore do not make speculative applications. In addition, there is an understandable assumption amongst some of the best artists that open calls are the starting points in a process of 'design by committee' through which mediocre artwork is produced. In the long-term, this assumption can be counteracted by establishing a reputation for excellence, but this would take several years to achieve.
- An essential element of any successful public art commission is its uniqueness and appropriateness for its location, as a key function of the artwork is to make Sunderland more distinctive. Priority must therefore be given to identifying suitable artists and providing adequate time and resource for the development of ideas through the short-listing process.
- The working relationship between selected Artist and Public Art Consultant extends beyond one of contractor and supervisor. In researching suitable artists for any given project the Public Art Consultant assesses the skills and potential of each artist in relation to the project requirements, but also in relation to their own skills and strengths. For example, a Public Art Consultant with strong fabrication skills may be able to work with and assist an artist with excellent ideas but poor fabrication skills. This working relationship broadens the pool of artists available to the Council, offering greater opportunity and minimising the risk of commissioning artworks similar to other cities.
- There are other more cost-efficient routes through which the Council can ensure that all artists have the opportunity of being considered for commissions as detailed in paragraph 4.4 of this report.

- 4.4 The Council's appointed Public Art Consultant – Grit and Pearl, will make available their database of artists for the duration of their contract, and will augment this by accessing other regional and national databases as appropriate (eg Commissions North, AXIS and Call For Artists). In addition to

this, and to ensure that commission opportunities are open to all artists, it is proposed that a standing invitation to artists to be considered for opportunities will be posted on the Council website and the Commissions North website (the Public Art Department of Arts Council England, North East). These notices will direct artists to the Council's Public Art Consultant.

- 4.5 Each phase of the selection process, ie longlisting, shortlisting and the final selection, is to be documented by the Public Art Consultant through notes, minutes and scoring sheets, which will be retained by the Council. The Public Art Consultant will be required to declare to the Council any relationships with prospective artists that could be perceived to create a conflict of interest. Long-listing will be undertaken by the Public Art Consultant, but shortlisting and final selection will be carried out by a selection panel led by Council officers, rendering the decision making process transparent and accountable.
- 4.6 Selection panels will be convened for each individual project, be led by Council officers facilitated by the Public Art Consultant and may also comprise of funders, Members, partner organisations, independent experts and community representatives as appropriate for the project in hand.
- 4.7 The public art procurement model places the Public Art Consultant in an influential position regarding the long and short listing selection process. However this process is closely monitored by Senior Officers in order to prevent the process being exploited by the Public Art Consultant for personal gain. The relationship between the Public Art Consultant and Senior Officers has been tested over the past two years and proved to be a useful two way process.
- 4.8 As mentioned in section 3.2 three projects have used the public art procurement model: Empire Theatre Fly tower, Stadium Park Gas Vents and artworks on the C2C route. The Public Art Consultant in consultation with Senior Officers produced an initial long list for each of the three projects. A steering group was assembled for each project to consider the long list and select a minimum of three artists for a shortlist. The long lists provided the relevant steering groups with a varied and diverse choice of artists including new and emerging artists from the North East. Without the expertise and knowledge of the Public Art Consultant the artists on both long and short lists would not have encompassed the quality and diversity required to achieve iconic artworks for the city.
- 4.9 During the two-year period, and for each project, the process shall be reviewed to ensure it remains fit for purpose and achieves value for money.
- 4.10 In exceptional circumstances where this proposed procurement model or Procurement Procedure Rules are not considered to be appropriate for a particular project, Cabinet approval will be sought for the proposed procurement process.

5.0 REASONS FOR DECISION

- 5.1 The reason for the decision is to facilitate the progression of the current and forthcoming programme of public art commissions, and to create a procurement model by which further commissions can be procured with minimal delays.

6.0 ALTERNATIVE OPTIONS

- 6.1 The alternative option would be for the Council to not continue the approved procurement procedures. This will require each project, where the Procurement Procedure Rules are not considered appropriate, being presented to Cabinet for approval on an individual basis, possibly delaying progress on the commissions and agreed deadlines not being met.

7.0 RELEVANT CONSIDERATIONS/CONSULTATIONS

- 7.1 Legal and Procurement Considerations

The City Solicitor and City Treasurer were consulted on the original proposal and their views were incorporated into the current model.

- 7.2 Risk Analysis

Future commissions are currently on programme. However, as indicated in 6.1 above, should approval not be granted there is a real risk in project and funding deadlines not been met which will impact on the delivery of the schemes.

8.0 LIST OF APPENDICES

- 8.1 There are no Appendices attached to this report.

9.0 BACKGROUND PAPERS

- 9.1 Background papers referred to are detailed below:

Paper:	Public Art Procurement Models
Discussion Note:	Proposed Public Art Procurement
Powerpoint Presentation:	Changing The Landscape
Cabinet Report:	Public Art Procurement April 2007

