

Cabinet

6 September 2022

Additional Procurement Forward Plan Report – over £500k (2022-2023)

For Decision

Portfolio Holder: Cllr G Suttle, Finance, Commercial & Capital Strategy

Local Councillor(s): All

Executive Director: A Dunn, Executive Director, Corporate Development

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Report Status: Public

Brief Summary:

The Council defines key decision as those with a financial consequence of £500k or more.

Commercial & Procurement have collaborated with colleagues across Directorates to review the contracts database and establish a procurement plan for 2022-23. The procurement forward plan report was approved by Cabinet on 1 March 2022. As stated in the said report, as service and transformation plans are developed it may be necessary to bring further approval requests to Cabinet.

Additional procurement activity, within the 2022-23 procurement programme, which are known/likely to secure contracts exceeding the £500k thresholds are set out in Appendix 1 or Cabinet's consideration. The information shown includes the maximum terms of the proposed contracts and estimated total value over the contract term.

Recommendation:

The Cabinet is asked to consider the contents of this report in respect of proposed contracts as set out in Appendix 1 which are in addition to those on the forward plan approved by Cabinet on 1 March 2022 and that Cabinet agree:

1. To begin each procurement processes listed in Appendix 1 to this report.
2. That in each instance the further step of making any contract award should be delegated to the relevant Cabinet portfolio holder, after consultation with the relevant Executive Director.

Reason for Recommendation:

Cabinet is required to approve all key decisions with financial consequences of £500k or more. It is also good governance to provide Cabinet with a summary of all proposed procurement prior to them formally commencing.

Planning procurements ensures:

- effective stakeholder management
- efficient commissioning and sourcing
- compliance with regulations and contract procedure rules
- there is consideration on how contract price is to be managed in contract and what contract price model will be used
- that best value for money is clearly defined including how contract management will ensure that the Council attains best value during the life of a contract

1. Report

- 1.1 This report provides for Cabinet consideration, in Appendix 1, additional procurement activity within the 2022-23 procurement programme, which are known/likely to secure contracts exceeding the £500k thresholds
- 1.2 It refers to procurement activity that is in addition to those already agreed by Cabinet on 1 March 2022.
- 1.3 Whilst this report is in respect of 2022/23 procurement activity, the approach of Commercial & Procurement is to review potential future activity by forward looking over a 5-year period of contracts that may have break points or due to expire, and any potential know new needs. This is part of commissioning, planning and pre-procurement process between Commercial & Procurement and colleagues across the Directorates.

2. Commissioning and Procurement

- 2.1 The Council's Commercial Strategy – Commissioning and Procurement, as approved by Cabinet on 8 November 2021, underpins all the Council's

commissioning and procurement activities. It provides the mechanism to ensure that such activity takes place in accordance with the Council's strategic aims, that it is effective and delivers best value to residents.

- 2.2 Having effective commissioning and procure is crucial to the Council in the light of ever challenging budget reductions and having to work with suppliers amid one of the hardest inflationary environments that supply markets have seen for decades. Consideration will be given as part of commissioning, pre-procurement, on how contract price is to be managed in contract and what contract price model will be used; both selected on what will secure best value to the Council but equally one that is viable to the supplier.

It is therefore a requirement to set out in any pre-commissioning / pre-procurement project plans the following:

- the proposed contract pricing model
- support rationale on the approach
- considerations in respect of any inflationary impacts
- whether there will be a contract price adjustment in the contract terms and conditions
- the proposed contract price adjustment clause (if one is to be applied)

in accordance with the Council's Guiding Principles to Managing Contract Price.

- 2.3 In this context, delivery of the Council's ambitions requires resourcefulness, being more commercially minded and more business-like in the approach. Contract award decisions need to take account, as appropriate, of quality, social value and all the costs that will be incurred by the council throughout the life of a contract period, or asset, not simply the initial price.
- 2.4 A proactive and consistent approach to supplier relationship and contract management shall ensure that any identified efficiencies, savings, and service quality improvements are achieved. As such, contract management must be robust and effective, in accordance with the Council's Contract Management Procedure Guide and Guide to Managing Contract Criticality, to ensure what has been attained at point of procurement is delivered in contract and represents value for money.

3. **Urgent Decisions**

- 3.1 There may be occasion where the Council must take urgent action in response to a situation where there is not sufficient time to seek formal approval at a Cabinet meeting (which must be call on at notice) of a key decision, prior to spending over £500k.
- 3.2 Such occasions are usually rare, but as seen in the pandemic, the Council at times needs to respond at scale and pace to critical situations, national priorities, and funding initiatives.
- 3.3 Where there is an urgency, the Scheme of Delegation within the Council's Constitution allows for such decisions to be made which can be executive or non-executive in nature, depending on the delegation given.
- 3.4 Part 3 of the Scheme of Delegation specifies the Chief Officers responsibilities. Paragraph 32 explains the circumstances in which the delegation can be used:

“In any cases which s/he considers to be urgent, to discharge any function and deliver any service within the Chief Officers responsibility, other than those functions which can only be discharged by the Council or a specific Committee. This delegation is subject to the following conditions:

- a) prior consultation with the Monitoring Officer and the Section 151 Officer;*
- b) consultation with the appropriate Executive Member or the Chairman of the appropriate Committee; and,*
- c) to the extent it will incur expenditure from working balances and/or reserves, the prior approval of the s151 Officer “*

- 3.5 Where urgency means that it is not possible to convene a Cabinet meeting on notice then to ensure transparency a decision notice is prepared giving details of the decision made and the reasons for it and the notice is published on the Council's website. Call-in does not apply to an urgent decision but the relevant Chief Officer can be called to account for their decision at a meeting of the relevant scrutiny committee.

4. Financial Implications

- 4.1 Service budgets do incorporate funding required for the procurements set out in this report.
- 4.2 The following to be considered by the appropriate project team as part of the business case and rationale for each procurement:
 - how best value from the procurement / contract will be achieved

- how the contract and supplier(s) will be effectively managed to deliver saving target that are incorporated into the MTP
- whether full funding is available in the budget provision, after savings have been accounted for
- the intended best approach to assess the contract performance and supplier relationship to manage expectations in respect of annual price increase amid a higher level of inflation that has not been experienced for many years

5. **Climate Implications**

- 5.1 To be considered by the appropriate project team as part of the business case and rationale for each procurement.

6. **Well-being and Health Implications**

- 6.1 To be considered by the appropriate project team as part of the business case and rationale for each procurement.

7. **Other Implications**

- 7.1 **Social Value:** In accordance with the Council's Commercial Strategy, where relevant and proportionate, procurement activity shall include social value evaluation criteria that reflects a minimum of 5% weighting.
- 7.2 **Modern Slavery:** In accordance with the Council's 2021/22 Modern Slavery Transparency Statement (as agreed by Cabinet on 26th July 2022) the appropriate project team of each procurement shall assess whether modern slavery risk is relevant to the subject matter of the contract. Knowing the risk of modern slavery guides the approach to contract management and how to work with suppliers to identify and mitigate risk.
- 7.3 **Procurement Bill:** The Bill was introduced to Parliament on 10th May 2022 and repeals over 350 individual regulations derived from EU Directives contained in what are four existing statutory instruments and replaces them with a single new procurement regime. It proposes significant major reforms to the rules governing public sector procurement.

The expectation is that the process of taking the Bill through Parliament will take about 9 months to Royal Assent (May 2022 to January 2023). Cabinet Office has then promised a 6-month implementation period (February 2023 to August 2023). This timeline therefore suggests that the new rules will apply to new procurement as soon as August 2023. This

however will be dependent on timelines for what will be secondary legislation and Cabinet Office issuing statutory guidance.

8. **Risk Assessment**

8.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: LOW

Residual Risk: LOW

8.2 Level of risk per procurement to be considered by the appropriate project team as part of the rationale for each procurement.

8.3 Notwithstanding the low risk of the decision, inflation remains a risk to the Council's budgets. All decisions and recommendations must therefore be mindful of the actual and potential impact of inflation, especially when committing future funding.

9. **Equalities Impact Assessment**

9.1 To be considered by the appropriate project team as part of the business case and rationale for each procurement.

10. **Appendices**

10.1 **Appendix 1** – Additional procurement forward plan where the contract value is expected to exceed £500k

11. **Background Papers**

11.1 None

Appendix 1 – Additional procurement forward plan where the contract value is expected to exceed £500k

Contract Description	Directorate / Portfolio Lead	Executive Director	Contract Term (max)	DC Total Spend over Contract Term	Sourcing Strategy	Risk Category
Mechanical Sweepers	Place / Cllr Ray Bryan	John Sellgren	6 years	£4,000,000	Call off from framework	Medium
Pay & Display Machines	Place / Cllr Ray Bryan	John Sellgren	5 years	£1,500,000	Call off from framework	Medium
Microsoft Licences 2023 - 2026	Corporate / Cllr Jill Haynes	Aidan Dunn	3 years	£4,500,000	Call off from framework	Low
Multi-Functional Devices (MFDs)	Corporate / Cllr Jill Haynes	Aidan Dunn	5 years	£960,000	Call off from framework	Medium
Audio Visual and IT Related Equipment	Corporate / Cllr Jill Haynes	Aidan Dunn	1 year	£500,000	Call off from framework	Medium
Inpatient Detoxification (ID) and Residential Rehabilitation (RR)	People - Adults / Cllr Peter Wharf	Sam Crowe	9 years	£1,466,093	Tender	Medium
E-Brokerage and E-Market Place Platform	People - Adults / Cllr Peter Wharf	Vivienne Broadhurst	5 years	£558,000	Call off from framework	Low
	People - Children's / Cllr Andrew Parry	Theresa Levy				