

Cabinet

28 February 2023

Procurement Forward Plan Report – over £500k (2023-24)

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 a key decision, in terms of procurement activity, as those with a financial consequence of £500k or more. This report provides notice of the planned / known procurement activities that Cabinet will need to make a key decision on for 2023-24.

Commercial & Procurement have collaborated with colleagues across the Directorates to review the contracts database and establish a procurement programme for 2023-24. Procurement activity, within that programme, that are known / likely to exceed the £500k key decision threshold are set out in Appendix 1 for Cabinet's consideration.

Recommendation:

Cabinet is asked to consider the contents of this report in respect of proposed over £500k procurement activity for 2023-24 that are listed in Appendix 1 and to agree:

1. to begin each of the procurement procedures listed in Appendix 1 to the 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 good governance therefore to provide Cabinet with a summary of all proposed procurements, that individually are estimated to be total value of £500k or more, prior to procurement procedures formally commencing.

Planning procurement activity ensures:

- effective stakeholder management
- effective commissioning and sourcing
- compliance with Procurement Regulations and the Council's own Contract Procedure Rules
- there is consideration on how contract price is to be managed in contract and what contract price model will be used
- how best value is to be achieved is clearly defined including how contract management will ensure that the council attains best value during the life of the contract

1. Report

- 1.1 This report provides for Cabinet consideration, in Appendix 1, activity within the 2023-24 procurement programme, which are known to likely to exceed the £500k key decision threshold.

As service and transformation plans are developed it may be necessary to bring further requests for approval in respect of procurements over £500k that may be required to commence within 2023-24 timeframe.

- 1.2 Whilst this report is in respect of 2023-24 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 known new needs. This is part of commissioning, planning and pre-procurement process between Commercial & Procurement and colleagues across the Directorates as part of a Business Partner model.

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 such activity takes place in accordance with the Council's strategic aims, that it is effective and delivers best value to residents.
- 2.2 The Commercial Strategy is grounded in the principles of People, Skills and Development, Effective Commissioning, Strategic Sourcing, Contract Management, Partnership Working, Maximising the Dorset Pound, and the Climate and Ecological Emergency. Commissioning and procurement (especially those of major high value) is significantly valuable in leveraging positive change beyond the Council in line with these principles and our Council Plan objectives – especially for aiding us in transitioning to a cleaner, greener Dorset.

As such we have (a) supplemented the procurement project initiation report and sourcing report template with a prompt to this effect; and (b) noted below, in section 5. Environmental Implications, best practice consideration of national procurement policy where relevant and appropriate (i.e. the [National Procurement Policy Statement \(NPPS\)](#) and [PPN 06/21: Taking account of Carbon Reduction Plans in the procurement of major government contracts](#)). In the future we will further consider means to embed further decision-making tools in our processes to strengthen consideration of the climate and ecological impact of our commissioning and procurement decisions.

- 2.3 Having effective commissioning and procurement 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.

- 2.4 In this context, delivery of the Council's ambitions requires us to be resourceful, being more commercially minded and more business-like our approach when procuring and managing our supply chains. 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 term, or asset, not simply the initial price.
- 2.5 A proactive and consistent approach to supplier relationship and contract management shall ensure that any identified efficiencies, savings, cost avoidance, and service quality improvements are achieved. As such, contract management must be robust and effective, in accordance Council's Contract Management Procedure Guide and Guide to Managing Contract Criticality, to ensure what has been attained at point of procurement and award is delivered in contract and represents best value to our residents.

3. **Urgent Decisions**

- 3.1 There may be occasions 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 called 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 balance 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 apply to an urgency decision but the relevant Chief Officer can be called to account for their decision at a meeting of the relevant scrutiny committee.

4. **The Procurement Bill**

4.1 The Procurement Bill, under the Government’s Transforming Public Procurement Programme *, 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.

Currently the Bill is being debated in the House of Commons so there is still a long way to go to Royal Assent, and then afterwards there will be a need for secondary legislation to be made to bring elements of the Bill and the wider regime into effect. It is the current expectation that the new regulations will not come into effect until the beginning of 2024, at the earliest.

* Refer to [Transforming Public Procurement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/transforming-public-procurement) for details how public procurement will change to improve the way supplies, services and works are procured for the public sector.

4.2 Ahead of the Bill, the Government published in June 2021 the [National Procurement Policy Statement \(NPPS\)](#). This policy sets out the Government’s strategic priorities of public procurement and how contracting authorities can support their delivery. It is expected, following

the Royal Assent of the Procurement Bill, secondary legislation will be laid down for contracting authorities have due regard to the NPPS.

5. Financial Implications

5.1 Service budgets do incorporate funding required for the procurements set out in this report. However, the following to be considered by the relevant project team as part of the business case / procurement project initiation and sourcing report 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 targets 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

6. Environmental Implications

6.1 To be considered by the relevant project team as part of the business case / procurement project initiation and sourcing report and rationale for each procurement. In accordance with the Council's [Commercial Strategy - Commissioning and Procurement](#), such rationale should take into consideration the Council's own local priorities as set out in the Council's [Climate and Ecological Emergency Strategy](#), and the national priority outcome of "Tackling climate change and reducing waste" as set out by Government's [National Procurement Policy Statement \(NPPS\)](#). Best practice should also consider application of [PPN 06/21: Taking account of Carbon Reduction Plans in the procurement of major government contracts](#) where relevant and proportionate.

7. Well-being and Health Implications

7.1 To be considered by the relevant project team as part of the business case / procurement project initiation and sourcing report and rationale for each procurement.

8. Other Implications

- 8.1 **Social Value:** In accordance with the Council's [Commercial Strategy - Commissioning and Procurement](#), where appropriate and proportionate, procurement activity shall include social value evaluation criteria that reflects a minimum of 5% weighting.
- 8.2 **Modern Slavery:** In accordance with the Council's 2021/22 [Modern Slavery Transparency Statement](#) (as agreed by Cabinet on 26th July 2022), and the Government's [PPN 02/23: Tackling Modern Slavery in Government Supply Chains - GOV.UK \(www.gov.uk\)](#) (as published February 2023) the relevant project team of each procurement shall assess, as part of the business case / procurement project initiation and sourcing report, whether there is a modern slavery risk to the subject matter of the contract.

The relevant project team to ensure that they are familiar with "Modern Slavery – Commercial considerations" as provided in Council's internal training/learning resource Commercially Minded within the Learning Hub.

Knowing the risk of modern slavery guides the approach to contract management and how to work with suppliers to identify and mitigate risk during the life of a contract.

9. Risk Assessment

- 9.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:
- | | |
|----------------|-----|
| Current Risk: | LOW |
| Residual Risk: | LOW |
- 9.2 Level of risk to be considered by relevant project team as part of the business case / procurement project initiation and sourcing report and rationale for each procurement.
- 9.3 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.

10. **Equalities Impact Assessment**

10.1 To be considered by the relevant project team as part of the business case / procurement project initiation and sourcing report and rationale for each procurement.

11. **Appendices**

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

12. **Background Papers**

None