

Cabinet

5 September 2023

Additional Procurement Forward Plan Report – over £500k (2023-2024) and Modern Slavery Transparency Statement 2022-2023

For Decision

Portfolio Holders: Cllr G Suttle, Finance, Commercial and Capital Strategy
Cllr J Haynes, Corporate Development and Transformation

Local Councillor(s): all

Executive Director: A Dunn, Executive Director, Corporate Development

Report Author: Dawn Adams
Job Title: Service Manager Commercial & Procurement
Tel: 01305 221271
Email: dawn.adams@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary:

Additional Procurement Forward Plan

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 commissioning plans in order to establish a procurement plan for 2023-2024. A procurement forward plan report for 2023-2024 was approved by Cabinet on 28th February 2023. 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 2023-2024 procurement programme, which are known/likely to secure contracts exceeding the £500k threshold are set out in Appendix 1 for Cabinet's consideration. The information shown includes the maximum terms of the proposed contracts and estimated total value over the contract term; as known at the time of writing this report.

Modern Slavery Transparency Statement

The Transparency in Supply Chains Provision (TISC) section 54 of the Modern Slavery Act (MSA) requires commercial entities with an annual turnover of £36m or more to publish annually a Modern Slavery Transparency Statement and for this to be added to the government-run online Modern Slavery Statement Registry.

On 26th July 2022, Cabinet approved the Council's first statement, [Modern Slavery Transparency Statement 2021 - 2022](#), and this report is annual update of the statement in relation to financial year 2022-2023.

Recommendation:

Cabinet is asked to consider the contents of this report in respect of the Additional Procurement Forward Plan for 2023-2024 and the Modern Slavery Transparency Statement for 2022-2023, and that Cabinet agree:

1. to begin each procurement processes listed in Appendix 1 to this report, and,
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.
3. to publish the proposed Modern Slavery Transparency Statement for 2022-2023.

Reason for Recommendation:

Additional Procurement Forward Plan

The Cabinet is required to approve all key decision with financial consequences of £500k or more. It is also good governance to provide Cabinet with a summary of all proposed procurements prior to them formally commencing. Planning procurements ensures:

- effective stakeholder management
- efficient commissioning and sourcing
- compliance with regulations and contract procedure rules

① Internal only link (internal DC resources); ② External link (resources in the public domain)

- 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
- there is consideration how the procurement will exploit opportunities to support the wider objectives of the Council Plan

Modern Slavery Transparency Statement

It is a requirement for the Council to publish a Modern Slavery Transparency Statement on an annual basis.

1. **Additional Procurement Forward Plan**

- 1.1 This report provides for Cabinet consideration, in Appendix 1, additional procurement activity within the 2023-2024 procurement programme, which are known/likely to secure contracts exceeding the £500k threshold.
- 1.2 It refers to procurement activity that is in addition to those already agreed by Cabinet on 28th February 2023.
- 1.3 Whilst this report is in respect of 2023-2024 procurement activity, the approach of Commercial & Procurement is to review potential future activity by forwarding looking, over a minimum 18-month period, of contracts that may have break points or due to expire, and any potential known new needs. This is part of monthly strategic planning discussions between Commercial & Procurement and colleagues across the Directorates.

2. **Modern Slavery Transparency Statement**

- 2.1 The Modern Slavery Act was introduced in 2015 to provide victims of modern slavery with greater protections and police with greater powers.
- 2.2 Section 54, The Transparency in Supply Chains Provision (TISC) Section 54 of the Act requires commercial entities with an annual turnover of £36m or more to publish annually a Modern Slavery Transparency Statement and for this to be added to the government-run online Modern Slavery Statement Registry.
- 2.3 Whilst Local Authorities are currently under no legal obligation to publish statements, this will change under what will be new provisions of the

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Modern Slavery Act. Last year we followed the Local Government Association recommendation to proceed to publish an annual Modern Slavery Transparency Statement ahead of any change to the Act.

2.4 Appendix 2 provides the proposed Statement for financial year 2022-2023 for Cabinet's consideration, as produced by a cross-directorate Modern Slavery Group, as a revision to the previous published Statement.

2.5 The Statement declares the following training is available to our staff in respect of Modern Slavery:

- [Safeguarding learning pathway](#) ① via the Dorset Learning Hub which provides a basic overview of what safeguarding is and how we all can work together to protect the rights of others. This includes the Home Office Modern Slavery e-learning training and links to local protocols.
- [Modern Slavery and Commissioning, Procurement and Contract Management](#) ① learning pathway via the [Commercially Minded](#) ① area of the Dorset Learning Hub to support staff to assess modern slavery risk within supply chains.

3. **Commissioning and Procurement**

3.1 The Council's [Commercial Strategy - Commissioning & Procurement](#) ② 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 delivered best value to our customers.

3.2 Having effective commissioning and procurement is crucial to the Council in the light of ever challenging budget restrictions 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, 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

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- 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](#) ①

- 3.3 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. 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.
- 3.4 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](#) ① and [Contract Management Procedure Guide](#) ①, to ensure what has been attained at point of procurement is delivered in contract and represents value for money.
- 3.5 It is equally important that we look further into our supply chains to understand how, for example, suppliers will work with the Council to manage modern slavery risks within supply chains as reflected in the Council's 2022-2023 Modern Slavery Transparency Statement, as discussed in this report – Appendix 2.

Whilst there are laws in place which punish instances of modern slavery, the public sector can use its extensive buying power to identify and manage the risk of modern slavery in their supply chains.

Over half of the Council's annual budget is spent on buying external goods, services and works. It is therefore important that we continue to review and assess our commissioning, procurement, and contract management process to ensure we take into consideration the different risks associated in our supply chains, including modern slavery and human trafficking, and that we seek to mitigate risks. Knowing the risk of modern slavery guides the approach to contract management and how to work with the supplier to identify and mitigate risk.

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As part of the internal project initiation process, pre-procurement, project teams are required to evidence the assessment of modern slavery risk in respect of the requirements to be procured and state what will be their approach within the procurement process to address any identified risk, including how it is proposed this will be managed in contract.

4. **Urgent Decisions**

- 4.1 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 call on at notice) of a key decision, prior to spending over £500k.
- 4.2 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.
- 4.3 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.
- 4.4 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 "*

- 4.5 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.

5. The Procurement Bill

5.1 The Procurement Bill was introduced to Parliament on 10th May 2023 under the Government's [Transforming Public Procurement Programme](#) and proposes significant major reforms to the rules governing public sector procurement.

5.2 The Bill and its implications:

- Repeals over 350 individual regulations derived from EU Directives and replaces four existing statutory instruments
- The Bill includes a number of regulation-making powers which are necessary to ensure that the legislation will continue to facilitate a modern procurement structure for many years to come and will allow us to keep pace with technological advances, new trade agreements and ahead of those who may try to use procurement improperly
- Public procurement should support the delivery of strategic national, and local, priorities and Bill makes provision of a National Procurement Policy Statement (NPPS) – an indicative [NPPS](#) ② was published in June 2021
- Introduces a new procedure for running a competitive tendering process, “the Competitive Tendering Procedure,” ensuring that for the very first time that contracting authorities can design a competition to best suit the particular needs of their contract and market
- Continue to be a special regime, “Light Touch,” for certain social, health and education services (these are to be identified by secondary legislation)
- Will set out circumstances in which a supplier may be excluded from a procurement due to serious misconduct, unacceptably poor performance, or other circumstances which make the supplier unfit to bid for public contracts. Legislates a public debarment list of suppliers
- Legislates, for the first time, contract management in that it will set out steps that must be undertaken to manage a contract. Including strengthening rules that suppliers are paid on time and new requirements to assess and publish information how suppliers are performing
- Need to publish more transparency notices
- Requirement for contracting authorities to publish commercial pipelines which would be a forward look of potential commercial activity, i.e., procurements, contracts, contract extensions, and any significant contract amendments. At least an 18-month view.

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Applies to contracts over £2m (may increase to £3m) but contracting bodies encouraged to include lower values which may be of interest to SME and VSCE suppliers.

- Government to have a central platform where contracting authorities will be required to publish procurement and contracting data.
- Central government departments are able to take advantage of government [Procurement Policy Note 11/20](#) (PPN11/20) ^② that permits below-threshold contracts to be reserved for suppliers that are UK-based or located in a specific county or borough and (if the contracting authority chooses) are SMEs or VCSEs. Currently local authorities are subject to the rules of Local Government Act 1988 (LGA 1988), namely Section 17 (S17), therefore prevents local authorities awarding contracts on the basis of supplier location. The Bill intends disapply S17 which will free local authorities up to apply PPN11/20.

5.3 Journey so far

- The Bill spent 7 months in the House of Lords undergoing a record number of government amendments before moving to the House of Commons in March 2023
- The Procurement Bill cleared Commons Report and Third Reading stages in June 2023 and will progress to 'considerations of amendments' (or 'ping pong') in the House of Lords which has been scheduled for 11th September 2023.
- Key issues raised at Report Stage included national security and surveillance equipment, modern slavery and human rights, organ harvesting, tax transparency, direct award, worker rights, and NHS procurement. There were divisions on four amendments, with the Government winning all four.
- Once both Houses of Parliament reach agreement the Bill will proceed to Royal Assent.

5.4 Anticipated timeline for the new legislation:

- Currently planned to be live October 2024, subject to final secondary legislation
- There will be a 6-month training period before "go live" including resources for suppliers.

6. **Financial Implications**

Additional Procurement Forward Plan

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- 6.1 Service budgets do incorporate funding required for the procurements set out in this report.
- 6.2 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

Modern Slavery Transparency Statement

- 6.3 No additional financial implications. This is a report in respect of a Statement which reflects on the Council's current position and outputs for financial year 2022-2023 regarding modern slavery.

7. Climate Implications

Additional Procurement Forward Plan

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

Modern Slavery Transparency Statement

- 7.2 Not applicable. This is a report in respect of a Statement which reflects on the Council's current position and outputs for financial year 2022-2023 regarding modern slavery.

8. Well-being and Health Implications

Additional Procurement Forward Plan

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

Modern Slavery Transparency Statement

8.2 Publishing annually a Modern Slavery Transparency Statement supports well-being and health implications within the Council's supply chains and wider communities, by ensuring transparency of the Council's policy and approach to responding to and mitigating the risk of Modern Slavery.

9. **Other Implications**

9.1 None

10. **Risk Assessment**

10.1 HAVING CONSIDERED: the risks associated with the decisions in respect of both Additional Procurement Forward Plan and the proposed Modern Slavery Transparency Statement; the level of risk has been identified as:

Current Risk: LOW
Residual Risk: LOW

10.2 Level of risk per procurement to be considered by the appropriate project team as part of the rationale for each procurement however indicative assessments are shown on Appendix 1.

10.3 Notwithstanding the level risk of the decision against an individual procurement, 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.

11. **Equalities Impact Assessment**

Additional Procurement Forward Plan

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

Modern Slavery Transparency Statement

11.3 Publishing an annual Modern Slavery Transparency Statement is a positive policy in that it is setting out the Council's commitment to opposing Modern Slavery and acting ethically with integrity and transparency. The Equalities Impact Assessment concludes that it is anticipated that the Statement for 2022-2023 will have a positive impact.

12. **Appendices**

① Internal only link (internal DC resources); ② External link (resources in the public domain)

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

12.2 **Appendix 2** – Modern Slavery Transparency Statement 2022-2023.

12. **Background Papers**

12.1 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) | Estimated DC Total Spend over Contract Term | Sourcing Strategy | Risk Category |
|--|-------------------------------------|---------------------------|----------------------------|--|--------------------------|----------------------|
| Framework for the Supply of Sign Manufacturing Materials | Place / Cllr Ray Bryan | John Sellgren | 4 years | £600k | Tender | Low |
| Purchase of 3.5t Vehicles | Place / Cllr Ray Bryan | John Sellgren | one-off purchase | £1.8m | Call off from framework | Low |
| Purchase of 7.5t RCV's | Place / Cllr Ray Bryan | John Sellgren | one-off purchase | £500k | Call off from framework | Low |
| Purchase of 7.5t caged tippers | Place / Cllr Ray Bryan | John Sellgren | one-off purchase | £680k | Call off from framework | Low |
| Purchase of Dedicated Gritters for Highways | Place / Cllr Ray Bryan | John Sellgren | one-off purchase | £1.5m | Call off from framework | Low |
| Laboratory Testing Services | Childrens / Cllr Bryon Quayle | Theresa Levy | 4 years | £500k | Tender | Medium |
| Building Compliance Works | Place / Cllr Andrew Parry | John Sellgren | 2 years | £4m | Call off from framework | High |

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|---|-------------------------------------|---------------------|----------|--------------|-------------------------|--------|
| Repairs, Maintenance, Minor & Small Capital Works (RMMSCW) Framework | Place / Cllr Andrew Parry | John Sellgren | 4 years | £100 - £200m | Tender | Medium |
| Advocacy and Independent Visitors Service | Childrens / Cllr Bryon Quayle | Theresa Levy | 4 years | £500k | Tender | Low |
| Battlelab Site Operation (<i>working title</i>) | Place / Cllr Andrew Parry | John Sellgren | 3 years | £1.35m | Tender | Medium |
| Highways Drainage Surveys | Place / Cllr Ray Bryan | John Sellgren | 4 years | £500k | Tender | Low |
| Enterprise Resource Planning) | Corporate / Cllr Gary Suttle | Aidan Dunn | 10 years | £10m - £20m | Call off from framework | High |
| (ERP) System Replacement including implementation partner) | Corporate / Cllr Jill Haynes | | | | | |
| Digital Innovation | Place / Cllr Jill Haynes | John Sellgren | 4 years | £100m | Tender | Low |
| Short Breaks for Children who are Disabled Framework | Childrens / Cllr Bryon Quayle | Theresa Levy | 5 years | £11,769,976 | Tender | Medium |
| Adult & Children social care system | Corporate / Cllr Gary Suttle | Aidan Dunn | 5 years | £510,000 | Call off from framework | Low |
| Care and support services for the St Martins Extra Care Housing Scheme (Gillingham) | Adults & Housing / Cllr Jane Somper | Vivienne Broadhurst | 3 years | £1,650,000 | Other | Low |

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|--|-------------------------------|--------------|---------|----------|-------------------------|--------|
| Assessment and Therapies | Childrens / Cllr Bryon Quayle | Theresa Levy | 4 years | £820,000 | Tender | Low |
| Customer Platform | Corporate / Cllr Jill Haynes | Aidan Dunn | 4 years | £750,000 | Call off from framework | Medium |
| Speech and Language Services for Children and Young People | Childrens / Cllr Bryon Quayle | Theresa Levy | 1 year | £500K+ | Other | Low |

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