

REPORT TO CABINET
22 November 2022**TITLE OF REPORT: Procurement and Contracts Report****REPORT OF: Mike Barker, Strategic Director, Corporate Services and Governance**

Purpose of the Report

1. Cabinet is asked to consider and approve the procurement and award of the contracts listed in appendix 2.

Background

2. On 21st May 2019, Cabinet agreed that a procurement and contract reports would be considered by Cabinet approximately twice per year. This was a move away from the previous process where approval to award contracts or to invite tenders for contracts that exceeded £250,000 were sought on a contract-by-contract basis.
3. This report is in line with the National Procurement Policy Statement that was issued by Government in June 21 setting out a number of strategic priorities for public procurement and describing how Contracting Authorities can support their delivery. One of the principles is that public sector organisations with a spend of £200m or more should publish annual pipelines of their planned procurements and commercial activity looking forward at least 18 months but ideally 3 to 5 years. Under the current short term financial settlement and grant funding arrangements, it is difficult to plan procurement activity 3 to 5 years ahead other than the recurring contracts for commodities and some services, however the proposed procurement activity listed in appendix 2 includes all known activity for the next 18 months and following Cabinet approval will be published as the Council's annual procurement pipeline. There will inevitably be projects undertaken or services funded as a result of funding bids, which do not align to these timescales, and Cabinet will be updated accordingly within the twice-yearly reports.

Proposal

4. The contracts listed in appendix 2, table 1, are at various stages of the procurement cycle, exceed £250k in value and require Cabinet approval to invite tenders, or undertake some other procurement process in accordance with the Contract Procedure Rules, and to continue through to award of contract. The table includes the proposed route to market including using existing frameworks, collaborating with other organisations, or directly awarding contracts where there is justification to do so.
5. It is also proposed that following approval by Cabinet, the contracts listed in appendices 2 and 3 form the basis of the Councils' Procurement Pipeline and are published accordingly.

Additional Information

6. Appendix 3 provides Cabinet with an updated picture of all other current and recently concluded procurement activity. This information enables Councillors to feed into processes that are not yet complete, obtain further information from the appropriate Service Director, or to ensure that Council priorities are adequately built into procurement activity from the outset. The information provided is set out in 4 further tables as follows:

Table 2	Provides information on contracts that are valued at below £250k (total contract value) and do not require Cabinet approval;
Table 3	Provides progress on contracts that have previously been reported to and approved by Cabinet;
Table 4	Provides information on contracts that have been varied;
Table 5	Provides an update on contracts that have been awarded or are no longer required and will be removed from the current procurement workplan and future Cabinet reports.

7. Cabinet is asked to note that as some of the contracts are not required immediately, or new contracts are at the very early planning stage, information may not be complete as, for example, the contract value may not yet be known, or may be based on previous contract information, which will be updated before the contracts are advertised; or the route to market may not yet have been determined. There is also a possibility that some of the proposed procurements may not progress. All information provided will be updated within the next report to Cabinet.

Recommendations

8. It is recommended that:
- (i) the Service Director, Corporate Commissioning and Procurement be authorised to invite or negotiate tenders or conduct other procurement processes (or to complete the relevant processes where they have already begun) in respect of the contracts listed in appendix 2 and to award the relevant contracts to the tenderers submitting the most economically advantageous tenders (or otherwise proving successful in accordance with other procurement processes) in accordance with the Contract Procedure Rules;
 - (ii) Cabinet continues to receive an updated report twice per year; and
 - (iii) following Cabinet approval, the procurement activity set out in appendices 2 and 3 will form the basis of the Council's Procurement Pipeline and will be published on the internet.

For the following reasons:

- (i) To enable the procurement of goods, works and services required for the efficient and effective delivery of services;

- (ii) To enable Cabinet to be updated with progress and changes to the procurement forward plan; and
- (iii) To comply with the National Procurement Policy Statement

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Policy Context

1. To deliver efficient and effective services, and the Council's Thrive agenda it is necessary for the Council to procure a wide variety of goods, works and services from a range of external organisations in accordance with the current Corporate Commissioning and Procurement Strategy and Council Constitution.

Background

2. Procurement activity exceeding specific financial thresholds must comply with the Public Contract Regulations 2015 amended by Public Procurement (Amendment etc) (EU Exit) Regulations 2020.
3. The Council's Contract Procedure rules set out a framework within which all procurement activity must be undertaken and implement the above Regulations.
4. On 21 May 2019, Cabinet approved amendments to the Contract Procedure Rules that require approval of Cabinet for all contracts exceeding £250,000 to:
 - “2.1 invite or negotiate tenders, or conduct some other procurement process and to award the Contract to the tenderer(s) submitting the most economically advantageous tender(s) as determined by the Service Director, Corporate Commissioning and Procurement, in accordance with the stated terms of the tender or other process, or:
 - 2.2 subsequent to the conduct of a tendering process or other procurement process to award the Contract to the tenderer(s) submitting the most economically advantageous tender(s) in accordance with the stated terms of the tender or other process.”
5. Prior to this date Cabinet approval was only required for 2.2 above. Councillors were not always aware of the procurements that were planned, and therefore had limited input into the scope and content of contracts, or proposed route to market. The effect was that Cabinet had no input until the tender or procurement process had identified the preferred bidder.
6. The revised Contract Procedure Rules are designed to be more flexible by not requiring specific processes to be carried out based on value alone and will enable Cabinet members to influence specific contracts by contacting the Service Director, Corporate Commissioning and Procurement to discuss any aspects of contracts before the procurement processes commence.

Consultation

7. Consultation has taken place with Service Directors to identify their future requirements as set out in appendices 2 and 3. In many instances a procurement working group has been established to oversee the procurement and comprises officers who have appropriate technical expertise in relation to the subject matter of the procurement and they too will have been consulted.

8. Prior to issuing tenders or commencing other procurement processes, varying degrees of market engagement routinely takes place.

Alternative Options

9. For each contract, a range of options are considered as part of the procurement process and the options can include:
- whether or not works and services can be delivered via a directly employed workforce (i.e.in-house), in which case no procurement activity will be undertaken;
 - a range of routes to market (including obtaining tenders, use of existing procurement arrangements, procuring collaboratively with other organisations, using frameworks established by other organisations, directly awarding contracts where it is appropriate to do so, etc);
 - whether a simple quotation or other process can be used rather than a comprehensive tender process;
 - the actual procedure to follow where the contract exceeds the threshold (open tender, restricted tender, dynamic purchasing system, process using negotiation etc.).

Implications of Recommended Option

10. Resources:

- a) **Financial Implications** – The Strategic Director, Resources and Digital will be asked to confirm that budgetary provision is available prior to any tender being issued and/or contract being awarded.
- b) **Human Resources Implications** – In the event that there are potential human resource implications that may result from a procurement process (e.g. TUPE may apply), advice will be sought from the Service Director, Human Resources and Workforce Development.
- c) **Property Implications** - In the event that there are potential property implications that may result from a procurement process advice will be sought from the Strategic Director, Housing, Environment and Healthy Communities.

11. Risk Management Implication -

Each contract will be subject to various risk assessments including health and safety, financial, and where appropriate safeguarding on a contract by contract basis. Processes have also been implemented to try to minimise the risk of procurement challenges.

12. Equality and Diversity Implications -

Each contract will be considered in terms of equality and diversity implications prior to the procurement process commencing. The use of the Corporate Social

Responsibility Pledge will also communicate the minimum equality and diversity standards that the Council requires from its supply chain and the use of the Social Value Toolkit will help to address equality and diversity issues across the Borough.

13. Crime and Disorder Implications –

Each contract will be considered in terms of crime and disorder implications prior to the procurement process commencing.

14. Health Implications -

Each contract will be considered in terms of health implications prior to the procurement process commencing. The use of the Corporate Social Responsibility Pledge will also communicate the minimum health implication standards that the Council requires from its supply chain and the use of the Social Value Toolkit will help to address health issues across the Borough.

15. Climate change and Sustainability Implications -

Each contract will be considered in terms of sustainability implications prior to the procurement process commencing. The use of the Corporate Social Responsibility Pledge will also communicate the minimum sustainability standards that the Council requires from its supply chain and the use of the Social Value Toolkit will help to maximise sustainability outcomes.

16. Human Rights Implications -

Each contract will be considered in terms of human rights implications prior to the procurement process commencing. The use of the Corporate Social Responsibility Pledge will also communicate the minimum human rights standards that the Council requires from its supply chain.

17. Ward Implications -

Each contract will be considered in terms of ward implications prior to the procurement process commencing.

Background Information

18. The report to Cabinet on changes to the Constitution on 21 May 2019, Corporate Commissioning and Procurement Strategy, Corporate Social Responsibility Pledge, National Procurement Policy Statement and Gateshead Social Value Toolkit have all been relied on in the preparation of this report.