

Executive Decision Report

PROCUREMENT UPDATE 2017/18

Decision to be taken by: **City Mayor**

Decision to be taken on: **7 December 2017**

Lead director: **Alison Greenhill**

Useful information

- Ward(s) affected: **All**
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- Report version number: **003**
- Date of report: **9 November 2017**

1. Summary

- 1.1 The Council's Contract Procedure Rules require Executive approval of a Procurement Plan – a list of forthcoming procurement activity above EU thresholds anticipated in the coming year. This requirement aligns with the government's requirements of local authorities under the Transparency agenda. There is also a requirement to provide a mid-year update on progress against the Plan and procurement strategy.
- 1.2 Inclusion of a contract in the Plan does not necessarily mean that the procurement will go ahead. As with all expenditure, anticipated contracts will be subject to ongoing challenge as to whether they are required, and whether/how they should be procured. This review process may impact on the anticipated value and/or duration of contract.
- 1.3 The purpose of this report is to inform the Executive of progress against the Plan and obtain approval for the updated 2017/18 Procurement Plan which alerts all stakeholders of the potential up and coming major procurement activity across the Council, which includes renewal of existing contracts for ongoing requirements (e.g. maintenance and service provision contracts) and one-off major capital projects.

2. Recommendations

- 2.1 The Executive is recommended to:
 - i) Approve the attached Procurement Plan;
 - ii) To note the introduction of the Concession Contracts Regulations 2016 and consequential new category of contract to be included in future reports.
 - iii) Note the summary of waiver and extension activity in the current financial year to date as required by Rule 19.2 of the Contract Procedure Rules.

3. Supporting information

Procurement Plan

3.1 The Procurement Plan serves two principal purposes:

- a) To inform potential suppliers of major future market activity, including meeting the statutory requirement to publish planned procurement over the EU thresholds; and
- b) To provide the Executive and other readers with an overview of significant procurement activity and to enable links and efficiencies to be achieved.

3.2 The Plan is based on information from Directors and from reviewing the database of existing contracts approaching expiry. Entry on the Plan does not guarantee that procurement will happen and the actual costs may vary from the estimates.

3.3 Timely processing and approval of the Plan ensures better procurement planning and allows the market to consider upcoming opportunities, in line with the transparency agenda.

3.4 The scope of the Plan can be affected by major reviews across the Council, leading to the extension of existing contracts and uncertainty for including future procurements, with less procurement activity than might usually be expected. It will also be noted that the procurement approach and timing, contract term and values are still to be determined for some procurements, whilst review work takes place.

3.5 As required by the Contract Procedure Rules, the updated Plan (attached at Appendix A) includes details of expected procurement processes for contracts valued at over (or close to) the relevant EU threshold.

- Social & Other Specific Services £589,148
- All Other Goods & Services £164,176
- Works & Concessions £4,104,394

3.6 It should be noted that the EU Thresholds will be re-calculated on 1 January 2018 based on an updated exchange rate between the euro and the pound. This is likely to lead to an increase in the thresholds (possibly 10-15%).

3.7 The Contract Procedure Rules provide delegated authority to Divisional Directors to award contracts over the EU threshold so long as those contracts are included in the Procurement Plan – Appendix A (even if these contracts are not awarded until after the end of the current financial year). Any other proposed contract award over the EU threshold must be added to the Procurement Plan as set out in Rule 16 of the Contract Procedure Rules (as approved by Full Council in June 2015).

3.8 Of the 105 procurement exercises included in the original Plan, the following table sets out current progress.

Progress	Number of Procurement Processes
Exercise not started	53
Exercise in progress	19
Exercise on-hold	8
Contract awarded	21
Exercise cancelled	4
Total	105

Procurement Strategy

- 3.9 Following the report of a working group initiated by the Economic Development, Transport & Tourism Scrutiny Commission to develop a social value policy/ strategy, Executive has supported a draft of a Social Value Charter to be finalised and adopted later this financial year. This will become the Council’s Procurement Strategy and be the foundation for the development of clearer performance indicators and targets and which will form the basis for future reporting.
- 3.10 The Council has signed up to the Living Wage Foundation’s Licence Agreement to become a Living Wage Employer. This means that the Council is implementing the Living Wage into its procurement contracts which meet the criteria agreed with the LWF and will ensure all contracts meeting these criteria become compliant with this commitment by 2020.

Contract Procedure Rules

3.11 The current Contract Procedure Rules were approved at Full Council on 18th June 2015. No changes have been made to them since and none are currently proposed. The Head of Procurement has commenced a review of how the new Rules have worked and whether any changes could be beneficial. It is anticipated this will lead to a report in 2018. This will include changes to help the Rules align with the recent Concession Contracts Regulations 2016 as well as any changes that may support the development of the Council’s new finance system. These regulations introduce a new category of public contract which includes contracts where the ‘concessionaire’ takes on the operating risk in exploiting the works/services encompassing demand and/or supply risk. They also set out certain requirements for the contract conditions of concession contracts.

Waivers

3.12 The Contract Procedure Rules also requires the Head of Procurement to report waivers of the Rules to Executive. The tables below show an analysis of the waivers approved during the last financial year and the first part of the current financial year. This is shown by both department and a broad categorisation of the reason for the waiver.

Reason for Waiver	2016/17		2017/18 (to 30 September 2017)	
	Qty	Value	Qty	Value
Continuity of Provision	22	£1,136,177	5	£769,122
Urgency	11	£736,198	4	£488,272
Limited Supply Market	7	£103,872	7	£177,458
Other	8	£114,929	3	£169,900
	48	£2,091,176	19	£1,604,752

Department	2016/17		2017/18 (to 30 September 2017)	
	Qty	Value	Qty	Value
Adult Social Care (ASC)	0	£0	1	£10,200
City Development & Neighbourhoods (CDN)	30	£1,706,860	9	£648,434
Corporate Resources & Support (CRS)	10	£291,855	7	£786,118
Education & Children's Services (ECS)	6	£75,503	1	£155,000
Public Health (PH)	2	£16,958	1	£5,000
	33	£2,091,176	23	£1,604,752

Contract Extensions

3.13 The Contract Procedure Rules also require bi-annual reporting of contract extensions of Large and EU Contracts made where there wasn't provision for this in the original contract. The table below sets out such extensions approved in the last financial year and first half of this one. (Note: Contract values given below include the full contract value from the original start date to the end of the extension period.)

Department	2016/17				2017/18 (to 30 September 2017)			
	Large		EU		Large		EU	
	Qty	Value	Qty	Value	Qty	Value	Qty	Value
ASC							1	£563,176
CDN	1	£145,000	1	£650,000	5	£5,369,500	2	£7,430,000
CRS	1	£150,257			1	£160,743	2	£469,511
ECS			2	£1,040,107			2	£1,157,586
PH			3	£31,619,657				
	2	£295,257	6	£33,309,764	6	£5,530,243	7	£9,620,273

4. Details of Scrutiny

4.1 As required by the Contract Procedure Rules, the Procurement Plan and other contents of this report will be reported to the Audit & Risk Committee on 6 December 2017.

5. Financial, legal and other implications

5.1 Financial implications

5.1.1 Inclusion of contracting activity on the attached Plan is a statement of intent and is subject to the necessary funding being available. The Plan provides a basis for challenge and a more strategic approach to achieving value for money through major procurement activity.

Colin Sharpe
Head of Finance
Ext 37 4081

5.2 Legal implications

5.2.1 The Contract Procedure Rules form part of the Constitution of the Council therefore this report satisfies the Constitution requirements in relation to reporting and procurement procedures.

5.2.2 Each procurement process will need to follow due process in accordance with internal and legislative requirements, with advice from Procurement Services and Legal Services.

5.2.3 It should be noted that the Concession Contracts Regulations are now in force which create a new category of public contract with its own threshold for EU procurement and own rules. The current CPRs do not reflect these recent legal changes however the thresholds reply regardless and will need to be reflected in the procurement plan and contract reporting.

Emma Horton
Head of Law (Commercial, Property & Planning)
Ext 37 1426

5.3 Climate Change and Carbon Reduction implications

5.3.1 There are no significant climate change implications arising directly from this report.

5.4 Equality Impact Assessment

5.4.1 These will be considered a part of each procurement process, as appropriate.

5.5 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

5.5.1 Procurement is used to drive wider social value, i.e. to bring about improvements in economic, social and environmental well-being.

6. Background information and other papers:

6.1 None.

7. Summary of appendices:

7.1 Appendix A – Procurement Plan 2017/18 (Updated as at October 2017).

8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

8.1 No.

9. Is this a “key decision”?

9.1 No.