

Birmingham City Council

Report to Cabinet

Date: 17th October 2023



Subject: NON-KEY DECISION PLANNED PROCUREMENT ACTIVITIES (NOVEMBER 2023 – JANUARY 2024)
Report of: ASSISTANT DIRECTOR – PROCUREMENT
Relevant Cabinet Member: Councillor Brigid Jones, Cabinet Member for Finance and Resources
Relevant O &S Chair(s): Councillor Jack Deakin, Chair of Finance and Resources OSC
Report author: Steve Sandercock, Assistant Director, Procurement
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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential : 3. Information relating to the financial or business affairs of any particular person (including the council)		

1 Executive Summary

- 1.1 This report provides details of the planned procurement activity for the period November 2023 – January 2024 which are not key decisions. Planned procurement activities reported previously are not repeated in this report.
- 1.2 The report enables Cabinet to identify whether any reports for procurement activities should be brought to this meeting for specific executive decision,

otherwise they will be dealt with under Chief Officer delegations up to the value of £500,000, unless TUPE applies to current Council staff.

2 Recommendations

- 2.1 To note the planned procurement activities as set out in Appendix 1 and Chief Officer delegations, set out in the Constitution, for the subsequent decisions around procurement strategy and contract awards.

3 Background

- 3.1 The report approved by Council Business Management Committee on 16 February 2016 set out the case for introducing this process.
- 3.2 At the 12th July 2022 meeting of Council changes to procurement governance were agreed which gives Chief Officers the delegated authority to approve procurement contracts up to the value of £500,000 for non-key decisions over the life of the contract. Where it is likely that the award of a contract will result in staff employed by the Council transferring to the successful contract under TUPE, the contract award decision has to be made by Cabinet.
- 3.3 In line with the Procurement and Contract Governance Rules that form part of the Council's Constitution, this report acts as the process to consult with and take soundings from Cabinet Members and the Resources Overview & Scrutiny Committee.
- 3.4 This report sets out the planned procurement activity over the next few months where the contract value is between the procurement threshold £177,897.50 (excluding VAT) and £500,000 (excluding VAT) for non-key decisions. This will give members visibility of all procurement activity within these thresholds and the opportunity to identify whether any procurement reports should be brought to Cabinet for approval even though they are below the £10m delegation threshold.
- 3.5 It should be noted that the procurement threshold has changed from £189,330 to £177,897.50 (excluding VAT) and applies from 1st January 2022 for a period of 2 years.
- 3.6 Individual procurements may be referred to Cabinet for an executive decision at the request of Cabinet, a Cabinet Member or the Chair of Resources Overview & Scrutiny Committee where there are sensitivities or requirements that necessitate a decision being made by Cabinet.
- 3.7 Procurements below £500,000 contract value that are not listed on this or subsequent monthly reports can only be delegated to Chief Officers if specific approval is sought from Cabinet. Procurements above £10m contract value will still require an individual report to Cabinet in order for the award decision to be delegated to Chief Officers if appropriate.
- 3.8 A briefing note with details for each item to be procured is listed in Appendix 2. The financial information for each item is detailed in Appendix 3 – Exempt Information.

4 Options considered and Recommended Proposal

4.1 The options considered are:

- To identify specific individual procurements as listed in appendix 1 for further consideration, along with clear reason(s) for such additional consideration, to Cabinet around the procurement strategy and contract award.
- To note the planned procurement activities for all the projects listed in appendix 1 and the Chief Officer delegations as set out in the Constitution, for the subsequent decisions around procurement strategy and contract awards.– this is the recommended option.

5 Consultation / Engagement

- 5.1 This report to Cabinet is copied to Cabinet Members, Cabinet Support Officers and to Resources Overview & Scrutiny Committee and therefore is the process for consulting with relevant cabinet and scrutiny members. At the point of submitting this report Cabinet Members/ Resources Overview & Scrutiny Committee Chair have not indicated that any of the planned procurement activity needs to be brought back to Cabinet for executive decision.

6 Risk Management

- 6.1 Members should note that in respect of any procurement projects which are sought to be referred back to Cabinet for further considerations these may impact on timescales around the delivery of those projects.
- 6.2 Details of Risk Management, Community Cohesion and Equality Act requirements will be set out in the individual reports.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

- 7.1.1 Details of how the contracts listed in Appendix 1 and Appendix 2 support relevant Council policies, plans or strategies, will be set out in the individual reports.

7.2 Legal Implications

- 7.2.1 Members are reminded that as a Local Authority the Council has specific duties under public sector procurement, specifically the Public Contract Regulations 2015.
- 7.2.2 Specific details of any implications related to public sector procurement Regulations are set out- in the individual reports appended to this report.

7.3 Financial Implications

- 7.3.1 Specific details of how decisions will be carried out within existing finances and resources will be set out in the individual reports.
- 7.3.2 Any cashable savings generated as a result of the procurement exercises are detailed in Appendix 2 to the delivery of procurement related savings and be removed from Directorate where identified in addition to the existing service area savings target as set out in the Medium Term Financial Plan (MTFP) in line with the principles to treatment of identified savings against third party contracts as agreed by CLT on 24th January 2022.

7.4 Procurement Implications (if required)

- 7.4.1 As noted under the Legal Implications the Council has a duty to ensure that public sector procurement activity is in line with public sector legislation, specifically the Public Contracts Regulations 2015.
- 7.4.2 For each of the individual projects the specific procurement implications associated to the legislation are set out and detailed in the appendices

7.5 Human Resources Implications (if required)

- 7.5.1 None.

7.6 Public Sector Equality Duty

- 7.6.1 Details of Risk Management, Community Cohesion and Equality Act requirements will be set out in the individual reports which should also give consideration to application of Equality Impact Assessments in line with Council Policy

8 Background Documents

- 8.1 List of Appendices accompanying this Report (if any):
- 1. Appendix 1 - Planned Procurement Activity November 2023 – January 2024
 - 2. Appendix 2 – Background Briefing Paper
 - 3. Appendix 3 – Exempt Information

APPENDIX 1 – PLANNED PROCUREMENT ACTIVITIES (NOVEMBER 2023 – JANUARY 2024)

No.	Type of Report	Title of Procurement	Ref	Brief Description	Contract Duration	Directorate	Portfolio Finance and Resources Plus	Finance Officer	Contact Name	Planned CO Decision Date
1	Strategy / Award	Asbestos Survey and Management Plan – Additional Programme	TBC	The Council has a statutory obligation to manage Asbestos, under the Control of Asbestos Regulations 2012, within the shared areas of all its housing stock. All properties, built prior to 2000, must have a management survey undertaken. Once completed, and where any materials are proven to contain asbestos an Asbestos Management Plan (AMP) is produced.	8 months	City Housing	Housing and Homelessness	Andrew Healey	Brian Clifton / Lucy Ford	20/11/2023

APPENDIX 2

BRIEFING NOTE ON PLANNED PROCUREMENT ACTIVITIES **CABINET – 17th October 2023**

Title of Contract	Asbestos Survey and Management Plan – Additional Programme
Contact Officers	Director / Assistant Director: Wayne Davies, Director Asset Management Client Officer: Brian Clifton, Compliance Manager Procurement Officer: Lucy Ford, Sub Category Manager
Relevant Portfolio	Councillor Jayne Francis - Cabinet Member for Housing and Homelessness
Briefly describe the service required	<p>The Council has a statutory obligation to manage Asbestos, under the Control of Asbestos Regulations 2012, within the shared areas of all its housing stock. All properties, built prior to 2000, must have a management survey undertaken. Once completed, and where any materials are proven to contain asbestos an Asbestos Management Plan (AMP) is produced.</p> <p>Low Rise: - approximately 2414 low rise require a management survey required to meet the requirements set out above.</p> <p>The Social Housing Regulator has expressed its concerns about the lack of compliance and the potential risk of exposure to ACM's to our residents, and it remains one of the formal areas to be remediated, required before June 24.</p> <p>High Rise: -Current contractors were instructed to undertake surveys to ensure all 210 high and medium properties have a current management survey and associated AMP in place by End July 2023. As of 4th August 2023, 13 inspections have yet to commence, and 65 reports are still awaiting issue to BCC an accelerated provision is required to meet the commitments provided to the Regulator of Social Housing.</p> <p>It is unlikely that the current contractor has the capacity to undertake and deliver the entire low-rise programme along with the completion of the high/medium rise programme and subsequent ongoing reinspection programme and therefore additional contractors are sought to apportion this work.</p>
What is the proposed procurement route?	A procurement process will be undertaken by way of a National Framework in accordance with its protocol.
What are the existing arrangements? Is there an existing contract? If so when does that expire?	Current in-house arrangements through Birmingham City Laboratories (BCL) will not meet the accelerated requirements of the Programme to ensure Regulatory Compliance as a result of Breach Notice. New requirement to be procured.
Will any savings be generated?	No cashable savings will be generated by this project.
Has the In-House Preferred Test been carried out?	Yes, and the test demonstrated this is not suitable to be carried out in-house due to insufficient resources and required technical skills. The current use of BCL, given the time constraints provided to the Regulator of Social Housing will provide insufficient capacity.
How will this service assist with the Council's commitments to Route to Zero?	The Asbestos Management report provides Regulatory compliance and assists with Repair and Capital Works Programme aligned to City Housings commitment to Net Zero ambitions.
How do these activities assist the Council with Everybody's Battle; Everybody's Business?	The contractor will be required to respect the householder where the works are installed in accordance with the Council's policy.
Is the Council under a statutory duty to provide this service? If not, what is the justification for providing it?	The Council have a statutory obligation to manage Asbestos, under the Control of Asbestos Regulations 2012.
Approval via Spend Control Board.	Approval for this requirement was obtained from City Housing Spend Control Board on the 1st September 2023 and approved at Section 151 Board on 14th September 2023.

What budget is the funding from for this service?	This is funded from the HRA budget.
Proposed start date and duration of the new contract	The proposed start date is January 2024 for a period of 8 Months.