

Birmingham City Council

Report to Cabinet

Date: 6th September 2022



Subject: KEY DECISION PLANNED PROCUREMENT
ACTIVITIES (OCTOBER 2022 – DECEMBER 2022)
Report of: ASSISTANT DIRECTOR – PROCUREMENT
Relevant Cabinet Member: Councillor Yvonne Mosquito, Finance and Resources
Relevant O &S Chair(s): Councillor Akhlaq Ahmed, Chair of Resources O & S
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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 010453/2022		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input 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 October 2022 – December 2022 which are 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 £10m, unless TUPE applies to current Council staff.

2 Recommendations

- 2.1 To approve the planned procurement activities as set out in Appendix 1 and approve 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 £10m for 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 £10m (excluding VAT) for 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 £10m 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 approve the planned procurement activities for all the projects listed in appendix 1 and approve 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 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 October 2022 – December 2022
 - 2. Appendix 2 – Background Briefing Paper
 - 3. Appendix 3 – Exempt Information

APPENDIX 1 – PLANNED PROCUREMENT ACTIVITIES (OCTOBER 2022 – DECEMBER 2022)

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	Approval to Tender Strategy	Highways PFI Legal Advice	P0989	Specialist external advocacy, legal advice and support for resolution of settlement issues, expert advice (including technical and commercial expert advice) and contract restructuring and litigation advice in relation to potential disputes.	1 year, 8 months	City Operations	Transport	Carl Tomlinson	Domenic De Bechi / Andrea Webster	01/11/2022
2	Strategy / Award	City-Wide Electric Vehicle Charge Points	TBC	To install innovative technology such as lamp post and/or inset kerbstone for low power level residential EV charging.	up to 5 years	Planning, Transport & Sustainability	Transport	Carl Tomlinson	Sylvia Broadley / Richard Hughes	19/10/2022
3	Strategy / Award	Supply of Furniture, White Goods and Flooring	TBC	The supply and installation of Furniture, white goods, floor and window coverings in temporary accommodation properties (part of the Housing Options service) and for emergency assistance to vulnerable citizens via community support grants (part of Revenue and Benefits service).	4 years	City Housing	Housing	Andrew Healey	Jayne Baylis / Jose Vitoria	01/11/2022
4	Strategy / Award	Supply of Furniture, White Goods and Flooring (Interim Contract)	TBC	The supply and installation of Furniture, white goods, floor and window coverings in temporary accommodation properties (part of the Housing Options service) and for emergency assistance to vulnerable citizens via community support grants (part of Revenue and Benefits service).	7 months	City Housing	Housing	Andrew Healey	Jayne Baylis / Jose Vitoria	19/10/2022

APPENDIX 2

BRIEFING NOTE ON PLANNED PROCUREMENT ACTIVITIES **CABINET – 6th September 2022**

Title of Contract	Highways PFI Legal Advice (P0989)
Contact Officers	Assistant Director: Kevin Hicks Client Officer: Domenic de Bechi, PFI Contract Manager Procurement Officer: Andrea Webster, Sub Category Manager
Briefly describe the service required	Specialist external advocacy, legal advice and support for resolution of settlement issues, expert advice (including technical and commercial expert advice) and contract restructuring and litigation advice in relation to potential disputes.
What is the proposed procurement route?	The contract will be advertised in Find a Tender, Contracts Finder and www.finditinbirmingham.com , and a tender process will be commenced using the open procurement route.
What are the existing arrangements? Is there an existing contract? If so when does that expire?	There is an existing contract with DLA Piper UK LLP that will expire when the new contract commences.
Will any savings be generated?	No cashable savings will be generated by this project.
Has the In-House Preferred Test been carried out?	The In-House Preferred Test has been carried out and shows that this service cannot be undertaken in house.
How will this service assist with the Council's commitments to Route to Zero?	The use of these external resources will assist the Council in obtaining service delivery that supports Route to Zero (through maintenance of the city's roads).
Is the Council under a statutory duty to provide this service? If not, what is the justification for providing it?	The Council is under a statutory duty to maintain its public highways as Highway Authority under the Highways Act 1980. The PFI contract also supports statutory duties under the New Roads and Street Works Act 1992 and Traffic Management Act 2004. These statutory obligations are delivered via the Highway Maintenance and Management PFI Contract. Completing restructuring of the contract is essential to continuing to provide these services.
What budget is the funding from for this service?	This is funded from the Highway Maintenance and Management PFI budget and reserves.
Proposed start date and duration of the new contract	The proposed start date is 5 th December 2022 for a period of 20 months to July 2024.

Title of Contract	City-Wide Electric Vehicle Charge Points
Contact Officers	Director / Assistant Director: Ian MacLeod, Director Planning, Transport & Sustainability Client Officer: Sylvia Broadley, Specialist Energy Manager Procurement Officer: Richard Hughes, Interim Assistant Sub-category Manager
Briefly describe the service required	This procurement project is part of the delivery phase of the City-wide Electric Vehicle Charge Point (EVCP) Strategy. One or more suppliers will be contracted to install innovative technology such as lamp post and/or inset kerbstone for low power level residential EV charging.
What is the proposed procurement route?	The contract/s will be awarded via Oxford City Council's dynamic purchasing system for electric vehicle charging infrastructure. More than one contractor is likely to be awarded a contract because different areas may require different charging solutions, and it is possible that no one provider can meet all residential charging requirements.
What are the existing arrangements? Is there an existing contract? If so when does that expire?	This is a new requirement.
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 as there is not the resources within the Council to provide this service.
How will this service assist with the Council's commitments to Route to Zero?	The installation of residential EV charging points is an important step in establishing a modal shift towards net zero emissions.
Is the Council under a statutory duty to provide this service? If not, what is the justification for providing it?	There is not a statutory duty to provide this service. However, the service will play a vital part in providing an innovative, carbon neutral and low emission alternative for supporting sustainable and inclusive economic growth; tackling the climate change emergency; and promoting the health and well-being of Birmingham's citizens.
What budget is the funding from for this service?	Anticipated to be funded via the OLEV grant with the contractor/s required to provide match funding up to 60% of the cost. This is subject to funding being identified and agreed.
Proposed start date and duration of the new contract	The proposed start date is 1 st November 2022 with a duration of up to 5 years.

Title of Contract	Supply of Furniture, White Goods and Flooring
Contact Officers	Director / Assistant Director: Julie Griffin, Strategic Director, City Housing Client Officer: Jayne Baylis – Modernisation and Strategic Manager, Ian Baker - Team Manager Procurement Officer: Jose Vitoria – Assistant Sub Category Manager
Briefly describe the service required	The supply and installation of Furniture, white goods, floor and window coverings in temporary accommodation properties (part of the Housing Options service) and for emergency assistance to vulnerable citizens via community support grants (part of Revenue and Benefits service) in order to meet the Local Welfare Provision Policy.
What is the proposed procurement route?	There are a number of national framework agreements available to opt into which include the Eastern Shires Purchasing Organisation (ESPO), Crown Commercial Service (CCS), Procurement for Housing (PfH), NHS Shared Business Services (SBS). It is proposed that following an options appraisal for the most suitable framework agreement to use by the Council and dependent on the framework protocol, a further competition exercise will be undertaken.
What are the existing arrangements? Is there an existing contract? If so when does that expire?	The existing agreement was awarded to Furniture Resource Centre for 4 years approved via DPR expires 10 th April 2023.
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 as there is not the resources within the Council to provide this service.
How will this service assist with the Council's commitments to Route to Zero?	Tenderers will be required to demonstrate how their proposed solution will assist in reducing their carbon footprint in their submission to be evaluated as part of the tender process.
Is the Council under a statutory duty to provide this service? If not, what is the justification for providing it?	<p>There is not a statutory duty to furnish temporary accommodation, However, the service has a legal duty - Section 188 of the Housing Act 1996 to provide interim accommodation to citizens making a homeless application that are destitute.</p> <p>The Housing Reduction Act 2017 further requires that temporary accommodation is offered as relief and prevention provision to vulnerable households who are potentially homeless or in housing need. The accommodation must be 'suitable' and the Council deem it necessary to furnish accommodation limiting the opportunity for citizens claiming 'unsuitability' of accommodation that can incur financial penalties on the authority.</p> <p>The Council has power to administer local welfare provision in accordance with the general power of competence in Section 1 Localism Act 2011 and the Welfare Reform Act 2012.</p>
What budget is the funding from for this service?	This is funded from the Housing Revenue budgets: <ul style="list-style-type: none"> • Homeless Centres – B1-AV00C-4A0A-E00-JZZZZZ-TV37J-JZZZ-JXXX • Dispersed – B1-AV00C-4A0A-E00-JZZZZZ-TV37V-JZZZ-JXXX • Benefit Service City Council's General fund • Local Welfare Provision - AV0G0 5A24 E00 TV569
Proposed start date and duration of the new contract	The proposed start date is 11 th April 2023 for a period of 4 years.

Title of Contract	Supply of Furniture, White Goods and Flooring (Interim Contract)
Contact Officers	Director / Assistant Director: Julie Griffin, Strategic Director, City Housing Client Officer: Jayne Baylis – Modernisation And Strategic Manager, Ian Baker - Team Manager Procurement Officer: Jose Vitoria – Assistant Sub Category Manager
Briefly describe the service required	The Council may require an interim contract for the supply and installation of Furniture, white goods, floor and window coverings in temporary accommodation properties (part of the Housing Options service) and for emergency assistance to vulnerable citizens via community support grants (part of Revenue and Benefits service) in order to meet the Local Welfare Provision Policy.
What is the proposed procurement route?	There are a number of national framework agreements available to opt into which include the Eastern Shires Purchasing Organisation (ESPO), Crown Commercial Service (CCS), Procurement for Housing (PfH), NHS Shared Business Services (SBS). It is proposed that following an options appraisal for the most suitable framework agreement to use by the Council and dependent on the framework protocol, a call-off contract is awarded to the most economically advantageous supplier following a desktop evaluation.
What are the existing arrangements? Is there an existing contract? If so when does that expire?	The existing agreement was awarded to Furniture Resource Centre for 4 years approved via DPR expires 10 th April 2023.
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 as there is not the resources within the Council to provide this service.
How will this service assist with the Council's commitments to Route to Zero?	Tenderers will be required to demonstrate how their proposed solution will assist in reducing their carbon footprint in their submission to be evaluated as part of the tender process.
Is the Council under a statutory duty to provide this service? If not, what is the justification for providing it?	<p>There is not a statutory duty to furnish temporary accommodation, However, the service has a legal duty - Section 188 of the Housing Act 1996 to provide interim accommodation to citizens making a homeless application that are destitute.</p> <p>The Housing Reduction Act 2017 further requires that temporary accommodation is offered as relief and prevention provision to vulnerable households who are potentially homeless or in housing need. The accommodation must be 'suitable' and the Council deem it necessary to furnish accommodation limiting the opportunity for citizens claiming 'unsuitability' of accommodation that can incur financial penalties on the authority. The Council has power to administer local welfare provision in accordance with the general power of competence in Section 1 Localism Act 2011 and the Welfare Reform Act 2012.</p>
What budget is the funding from for this service?	This is funded from the Housing Revenue budgets: <ul style="list-style-type: none"> Homeless Centres – B1-AV00C-4A0A-E00-JZZZZZ-TV37J-JZZZ-JXXX Dispersed – B1-AV00C-4A0A-E00-JZZZZZ-TV37V-JZZZ-JXXX Benefit Service City Council's General fund Local Welfare Provision - AV0G0 5A24 E00 TV569
Proposed start date and duration of the new contract	The proposed start date October 2022 for a period of 7 months.