

SURREY COUNTY COUNCIL**CABINET****DATE: 20 DECEMBER 2022****REPORT OF CABINET MEMBER: DAVID LEWIS, CABINET MEMBER FOR FINANCE AND RESOURCES****LEAD OFFICER: LEIGH WHITEHOUSE, DEPUTY DIRECTOR AND EXECUTIVE DIRECTOR FOR RESOURCES****SUBJECT: ANNUAL PROCUREMENT FORWARD PLAN FY2023/24****ORGANISATION STRATEGY PRIORITY AREA: GROWING A SUSTAINABLE ECONOMY SO EVERYONE CAN BENEFIT/TACKLING HEALTH INEQUALITY/ENABLING A GREENER FUTURE/EMPOWERING COMMUNITIES****Purpose of the Report:**

The revised Procurement and Contract Standing Orders agreed by the Council in May 2019 require the preparation of an Annual Procurement Forward Plan (APFP) during the business planning cycle. The APFP has been developed for 2023/24 and Cabinet is asked to approve the plan to allow implementation of the identified procurement activity.

Recommendations:

It is recommended that Cabinet:

1. Gives Approval to Procure for the projects listed in Annex 1 – “Annual Procurement Forward Plan for FY2023 24” in accordance with the Council’s Procurement and Contract Standing Orders.
2. Agrees that where the first ranked tender for any projects listed in Annex 1 is within the +5% budgetary tolerance level, the relevant Executive Director, Director or Head of Service (as appropriate) is authorised to award such contracts.
3. Agrees the procurement activity that will be returned to Cabinet prior to going out to market (see Annex 1).
4. Notes projects that will be presented to Cabinet or the Strategic Investment Board for approval of the business case (see Annex 1).

Reason for Recommendations:

- To comply with the Procurement and Contract Standing Orders agreed by Council in May 2019 and further revised in October 2022.
- To provide Cabinet with strategic oversight of planned procurement projects for FY2023/24.
- To ensure Cabinet oversight is focussed on the most significant procurements.
- To avoid the need to submit multiple individual requests for Approval to Procure as well as individual contract award approvals for work taking place in FY2023/24.

Executive Summary:

Business Case

1. Annex 1 lists all known projects over £213,477 (inc. VAT) that are due for procurement in FY 2023/24 for each Directorate and Service. This threshold figure is the level at which the Council is currently bound by the UK Public Contract Regulations 2015 to advertise in Find a Tender (UK e-notification service where notices for new procurements are required to be published) and conduct a public tender for goods and services. The threshold for works contracts is currently £5,336,937 and Light Touch Services are £663,540. These projects will be publicised in due time using the established e-procurement platform.

Annex 1 has been agreed with the relevant Executive Directors, Directors and Heads of Service.

2. Under section 1.6 of the Procurement & Contract Standing Orders (PCSO), Cabinet is asked to approve these forward plans so that they may proceed to procurement without delay and delegate award decisions to Executive Directors, Directors, or Heads of Service provided the tender outcome is within +5% of the budget agreed with Finance when each project begins. Any project with a tender outcome not within tolerance will be reported in line with PCSO table 2.7a:
 - i. Under £1m: S151 Officer
 - ii. Over £1m: S151 Officer and relevant service Portfolio Holder
 - iii. Over £5m: S151 Officer and Cabinet
3. By approving the APFP in this way, there will be no need to gain Approval to Procure for each individual project during 2023/24. This will streamline Cabinet input and ensure focus on the most important projects throughout the year. However, it is likely that unforeseen projects will arise, and officers will need to seek Approval to Procure for these separately.
4. Whilst the APFP is integral to the business planning cycle, it is not intended to set budgets for coming years, a task which is handled via the council's annual budget report.

Consultation:

5. Consultation will take place for individual projects as appropriate to the goods or services required.

Risk Management and Implications:

6. If the Council does not manage the contract renewal programme effectively and efficiently it could lead to a detrimental impact on value for money and required outcomes and benefits from our contracted services. Good forward planning will enable adequate resources and sufficient time are dedicated to ensure appropriate procurement strategies and commercial negotiations to take place. Also, by bringing forward Cabinet approval there will be opportunity for Members to review and influence the plans in advance of any procurements being carried out.

Financial and Value for Money Implications:

7. The APFP approach has been designed to facilitate better planning, early engagement, and strategic oversight and, therefore, allows for more efficient and effective use of resources to support delivery of commissioning intentions.
8. In the current financial climate with inflationary pressures and cost of living going up, all projects will be subject to a full procurement report which details the commercial considerations. The intention is that SCC will work closely with the supply market to form stronger relationships, mitigate risk and secure the appropriate procurement models to drive sustainability and affordability.

Section 151 Officer Commentary:

9. Although significant progress has been made to improve the Council's financial position, the financial environment remains challenging. The UK is experiencing the highest levels of inflation for decades, putting significant pressure on the cost of delivering our services. Coupled with continued increasing demand and fixed Government funding this requires an increased focus on financial management to ensure we can continue to deliver services within available funding. In addition to these immediate challenges, the medium term financial outlook beyond 2022/23 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.
10. It remains the responsibility of the relevant Executive Director, Director or Head of Service to ensure that any expenditure committed to as a result of these procurements remain within approved budget envelopes and is consistent with the Directorate Commissioning Strategy. As such, the Section 151 Officer supports the recommendations.

Legal Implications – Monitoring Officer:

11. Cabinet is being asked to give formal Approval to Procure for the projects listed in Annex 1 in accordance with the Council's Procurement and Contract Standing Orders. In making this decision, Cabinet should be cognisant of its fiduciary duty to Surrey residents to ensure services are provided effectively while also maintaining a balanced budget.
12. Notwithstanding Cabinet giving Approval to Procure, officers will have to ensure that the Public Contracts Regulations 2015 and any further legislation introduced are complied with in relation to any procurements undertaken. Furthermore, commissioners will need to be aware of the 'best value duty' under Section 3 of the Local Government Act 1999 and its requirements on them. It states that the Council "...must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."
13. For projects where additional statutory duties arise at a later date, for example as a result of a change in commissioning strategy, the Approval to Procure given at this stage will no longer be valid and further approvals will be required. Once additional statutory requirements have been satisfied, the report will need to return to Cabinet for a new Approval to Procure. Legal Services will advise in relation to any such situations.

14. Cabinet will note that authority to grant Approval to Procure in relation to selected health and social care matters has been delegated to the Council's representatives on the Surrey-wide Committees in Common. The relevant projects are included in Annex 1 for information only.

Other Implications:

15. Procurement strategies will be developed for each of the APFP projects. Due consideration will be given to potential implications for the council priorities and policy areas, such as Social Value, Environmental Sustainability as well as opportunities to contribute to the net-zero emissions target.

What Happens Next:

16. The approved plans will be delivered during the financial year 2023/24.

Contact Officer:

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Consulted:

Service Directors, Finance, Legal.

Annexes:

Annex 1 – Annual Procurement Forward Plan FY 2023 24
Part 2 Annex

Sources/background papers:

Procurement and Contract Standing Orders October 2022 (Issue 11)