

SURREY COUNTY COUNCIL

CABINET

DATE: 15 DECEMBER 2020

REPORT OF: MR MEL FEW, CABINET MEMBER FOR RESOURCES

LEAD OFFICER: LEIGH WHITEHOUSE, EXECUTIVE DIRECTOR FOR RESOURCES

SUBJECT: ANNUAL PROCUREMENT FORWARD PLAN 2021/22

ORGANISATION STRATEGY PRIORITY AREA: GROWING A SUSTAINABLE ECONOMY SO EVERYONE CAN BENEFIT/ TACKLING HEALTH INEQUALITY/ENABLING A GREENER FUTURE/EMPOWERING COMMUNITIES



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SUMMARY OF ISSUE:

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 2021/22 and Cabinet is asked to approve the Plan to allow implementation of the identified procurement activity. The APFP captures a number of projects across all Directorates which will contribute towards delivery of all four of the strategic priority areas.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. Gives Approval to Procure for the projects listed in Annex 1 – “Annual Procurement Forward Plan for 2021/22” 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 for review of the commissioning and procurement strategy prior to going out to market, and which is highlighted in grey in Annex 1.

REASON FOR RECOMMENDATIONS:

- To comply with the Procurement and Contract Standing Orders agreed by Council in May 2019.
- To provide Cabinet with strategic oversight of planned procurement projects for 2021/22.
- 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 2021/22.

DETAILS:

Business Case

1. Annex 1 lists all known projects over £189,330 that are due for procurement in 2021/22 year 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 the Official Journal of the European Union (OJEU) and conduct a public tender for goods and services. The threshold for works contracts is currently £4,733,252. These projects will be publicised in due time using the established e-procurement platforms. From 1 January 2021 a new e-notification service called Find a Tender will be used to post and view public sector procurement notices. It will replace the requirement to publish notices in the Official Journal of the European Union. Otherwise the existing public procurement regime stays largely the same until any new legislation is introduced by the Government.
2. Annex 1 has been agreed with the relevant Executive Directors, Directors, Heads of Service, Finance and the Strategic Commissioning Unit.
3. 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:
 - Under £1m: S151 Officer
 - Over £1m: S151 Officer and relevant service Portfolio Holder
 - Over £5m: S151 Officer and Cabinet
4. By approving the APFP in this way, there will be no need to gain Approval to Procure for each individual project during 2021/22. 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.
5. Where significant transformation or material change to the delivery of a commissioned service is proposed, these projects have been identified in grey in Annex 1. Depending on the nature of the changes, public consultation and equality impact assessments may also be necessary. This could also be true for other projects in Annex 1 which currently have not been highlighted. In any situation, the final proposed commissioning strategy and, if applicable, the outcome of any public consultation and equality impact assessment, will be brought back to Cabinet as an exception report for a new Approval to Procure.
6. 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. Where the contractual limits and the available budgetary provision are not in alignment, the lower of the two will generally prevail.

CONSULTATION:

7. Consultation will take place for individual projects as appropriate to the products or services required.

RISK MANAGEMENT AND IMPLICATIONS:

8. 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

9. 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. Further financial and Value for Money implications will be considered on an individual project basis.

Section 151 Officer Commentary

10. Although significant progress has been made over the last twelve months to improve the Council's financial position, the medium-term financial outlook is uncertain. The public health crisis has resulted in increased costs which may not be fully funded in the current year. With uncertainty about the ongoing impact of this and no clarity on the extent to which both central and local funding sources might be affected from next year onward, 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.
11. The Section 151 Officer supports the Annual Procurement Forward Plan, which sets out the contracts expected to be tendered during the 2021/22 financial year. It remains however, 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.

Legal Implications – Monitoring Officer

12. 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.
13. Notwithstanding Cabinet giving Approval to Procure, officers will have to ensure that the Public Contracts Regulations 2015 and any further legislation introduced after the transition Brexit end date on 31st December 2020 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."

14. 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. Once additional statutory requirements have been satisfied, a report will need to return to Cabinet for a new Approval to Procure. Legal Services will advise in relation to any such situations.
15. 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 Committee in Common with Surrey's Clinical Commissioning Groups. The relevant projects are included in Annex 1 for information only.

Other Implications:

16. There are no significant implications upon key council priorities and policy areas.

WHAT HAPPENS NEXT:

17. The approved plans will be delivered during the financial year 2020/21.

Contact Officer:

Anna Kwiatkowska, Head of Procurement, Orbis Procurement Service

Consulted:

Service Directors, Finance, Legal, Strategic Commissioning Unit.

Annexes:

Annex 1 - Annual Procurement Forward Plan FY 2021 22
Part 2 Report

Sources/background papers:

Procurement and Contract Standing Orders 2019