**Report to Strategic Cell**

**INTERIM PROCUREMENT Governance ARRANGEMENTS DURING THE CORONAVIRUS OUTBREAK**

1. **Actions / Decisions required of the Strategic Cell**

That the Strategic Cell note and approve:

* 1. the contents of the report and recognises that there may be urgent requirements to enter into contracts without competition in order to support the continuation of critical services during the Coronavirus outbreak. These will be effected under the Councils ability to exercise its use of regulation 32(2)(c) and regulation 72 (1) under the Public Contract Regulations 2015;
  2. a delegated authority for the award of contracts up to £10m in value in the above circumstances to the Interim Chief Finance Officer in conjunction with the Interim City Solicitor in line with Part E3 of the constitution, Delegation to chief officers, 3.3 Emergency and Business Continuity Plan.
  3. the proposed accelerated Council governance route set out below for approving such contracts awards to ensure probity and auditability of decisions;

1. **Purpose of Report**

2.1 This decision report sets out the procurement options available to the Council under the Public Contract Regulations 2015 (PCRs) where urgent contract award is required to ensure the supply of goods or services in the response to the current coronavirus, COVID-19, outbreak.

2.2 The report seeks Chief Officer delegation to award contracts up to the value of £10m where there are urgent requirements to ensure continuity of critical services and sets out a revised and accelerated governance route for these approvals to ensure probity and control of contract awards during this period of uncertainty.

2.3 The report recognises that establishing interim governance arrangements will enable the Council to keep proper records of decisions and actions on individual contracts, as this could mitigate against the risk of a successful legal challenge. Where direct contracts are awarded, we will publish a contract award notice.

1. **Summary of Key Issues**

3.1 Where urgent needs are identified, in the first instance the council will seek to utilise or vary (where permissible) the Council’s existing contracted supply chain.

3.2 However, it is already clear that in these exceptional circumstances, authorities may need to procure goods, services and works with extreme urgency. Local Authorities are permitted to do this using regulation 32(2)(c) under the Public Contract Regulations 2015.

3.3 The Options that may be considered in relation to procurements under the Public Contract Regulations 2015 include:

* direct award due to extreme urgency;
* direct award due to absence of competition or protection of exclusive rights;
* call off from an existing framework agreement or dynamic purchasing system;
* call for competition using a standard procedure with accelerated timescales;
* extending or modifying a contract during its term.

There are also further options under the PCRs, such as the additional delivery of supplies from an existing supplier, additional similar works or services from an existing supplier, or using the services of a subsidiary of another contracting authority. This is achieved under the modification of contracts regulation.

3.4 Whilst all of the above should be considered by Officers in responding to supply chain issues presented to the Council, for expediency it is likely that the following Regulations will principally be relied on in these circumstances:

* direct award due to extreme urgency;
* direct award due to absence of competition or protection of exclusive rights;
* contract modification.

3.5 To facilitate this and where existing council contracts cannot be utilised or modificed, a simple concise contract award report template has been developed which will be circulated once this report has been approved.

3.6 The proposed governance process is summarised below.

Where an urgent need to appoint a contractor or supplier is needed to ensure continuity of critical services, the condensed award report template is completed by officers and submitted to the delegated procurement reports email address at [DPR@birmingham.gov.uk](mailto:DPR@birmingham.gov.uk). The report headings are designed restrict the use of this accelerated governance route for contract award decisions for critical services only and to minimise the risk of any legal challenge under PCR.

DPR then circulate this to procurement, finance and governance, and legal and democratic services representatives for prior consideration.

Authorisation will be undertaken via email or via urgent report approval MS Teas meetings are held as required by procurement, legal services, and finance to consider and approve the award decisions to enable commencement of goods and services by service areas.

Approvals are then sent to the Interim Chief Finance Officer or Interim City Solicitor for final authorisation. A record of decisions is maintained by Corporate Procurement services.

1. **Next Steps & Timescales**

4.1 The accelerated governance route is established ad communicated, nominees from Finance, Procurement and Governance and Legal Services are in place to clear urgent reports of this nature prior to Chief Officer signature.