

Report To:	Policy and Resources Committee	Date:	6 February 2018
Report By:	Corporate Director Environment, Regeneration and Resources	Report No:	PR/09/18/BH
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Subject:	Procurement Update and Working	With Local Supp	bliers

1.0 PURPOSE

1.1 The purpose of the report is to update the Committee on the latest developments within Procurement and to provide details on how the Council's policies can be used and changed in relation to enable more business to go to local suppliers.

2.0 SUMMARY

- 2.1 The Committee approved the new Procurement Strategy and resultant Action Plan for the period 2015/18 in September 2015. This Strategy will assist the Council in managing changes in public sector procurement and with tendering and contract requirements.
- 2.2 The Action Plan is attached in Appendix 1 with updates against each of the actions that have been agreed. Changes have been made to the Strategy with new actions added as a result of the obligations contained within the new Procurement Regulations.
- 2.3 A pilot tender has been conducted using a 10% weighted question in relation to community benefits. The outcome of the pilot did not raise any issues and it is proposed that the Committee approve that all construction projects, over £1m, are tendered incorporating a 10% community benefit weighting. More details on community benefits are contained within section 6 of this report.
- 2.4 Previous reports to Committee have contained information on the portion of business the Council has with SMEs and local suppliers. Spend with SMEs was 54% in 2015/16 and 33.5% with local suppliers. Spend in 2016/17 with SMEs is 60% and 29% with local suppliers.
- 2.5 A request was made at the September Policy and Resources Committee to provide a report on how procurement policy and processes can be used to award more contracts to local suppliers. This detail is contained within section 7 of this report.

3.0 RECOMMENDATIONS

3.1 That the Committee note progress on the Procurement Strategy, note the policies and procedures in place in support of local suppliers and approve the increase in the percentage weighting used to assess Community Benefits from 5% to 10% for all construction contracts over £1m.

4.0 BACKGROUND

- 4.1 A key requirement in the development of Procurement is that the Council requires to have an ongoing Procurement Strategy. Previous versions of the Procurement Strategy have been approved by the Committee and the actions monitored and reported to the Committee.
- 4.2 Procurement has improved each year since 2010 as evidenced by increasing Procurement Capability Assessment scores. The Procurement Capability Assessment (PCA) has now been replaced by a new test. The Procurement and Commercial Improvement Programme (PCIP) focuses on the policies and procedures driving procurement performance and more importantly, the results they deliver. This new assessment involves a new question set and new scoring and performance bandings. The assessment will take place every two years. The latest score was 66% with a new assessment due in late 2018.

5.0 RECENT PROGRESS

- 5.1 The Procurement Strategy is attached as Appendix 1 and is split into discrete sections and, where appropriate, actions against each of the sections have been identified.
- 5.2 A number of actions within the Procurement Strategy are related to the publication of the new procurement regulations and the subsequent statutory guidance. The new Contract Standing Orders were approved in September 2016 and this closes a number of actions within the Strategy.
- 5.3 The focus on Contract and Supplier Management has in the past delivered softer benefits and awareness of supply issues. With the likelihood of achieving savings via tender activity becoming less likely the focus has now been put on obtaining savings from existing contracts. The suppliers included cover street lighting maintenance, waste management, roadstone, school transport and software. Future Committee reports on procurement progress will contain updates on the scores being achieved for each of the Suppliers that are involved in the process. Members will then be able to review Supplier performance for key contracts and this will help provide context for future tendering activity and outcomes.
- 5.4 Separate Committee reports give detailed updates on the Governance of External Organisations with an annual summary report to the Policy and Resources Committee. The Governance process was put in place to monitor the governance of key External Organisations with which the Council has a significant financial relationship but it also assesses the performance of these organisations which provide services directly to the residents of Inverclyde. This forms part of the supplier management process for these organisations and works in tandem with the Council's over-arching supplier management framework.
- 5.5 The Corporate Procurement Manager has been representing the Council at City Deal Procurement Officer meetings with partner Local Authorities. Inverclyde has taken part in and hosted Meet the Buyer events in relation to City Deal. Further engagement with suppliers has been carried out via the Construction Forum. One to one meetings with any supplier who requests these are regularly organised as well as regular debriefs with suppliers who have tendered for Council contracts.
- 5.6 The recent changes to the Contract Standing Orders now allow local suppliers more opportunity to bid for works contracts below £100,000. Since the increase of this threshold, analysis of quotation activity has demonstrated that the chances of a local supplier wining these contracts has increased.

6.0 COMMUNITY BENEFITS

6.1 The Procurement Reform (Scotland) Act 2014 gives the expectation that CB clauses will be used wherever there is an appropriate legal basis. Where a procuring organisation is to let a contract valued at £4 million or above, it must, in terms of the procurement regulations, consider during the design of the tender whether to impose CB requirements. The impetus behind the use of

Community Benefit clauses has mainly come from public sector organisations, but increasingly many contractors are also keen to commit to CB clauses as they align with and demonstrate contractors' wider commitment to society and enable them to deliver on their Corporate Social Responsibility (CSR) agenda.

- 6.2 Community Benefits requirements have been included in several Inverclyde Council construction projects, including the schools programme and leisure sites. A 5% weighting had been incorporated within these contracts with a great degree of success. Given the positive outcome of the use of these clauses and the national shift towards an increased percentage weight, a pilot tender has been conducted using a 10% weighting. This was used on the tender for works to convert former offices to create Glenbrae Children's Centre. The tender results showed that increase in weighting for this question did not impact on the Council achieving best value and there were no other concerns raised on the application of the weighting.
- 6.3 Other Councils and public purchasing authorities are using a community benefits weighting in the region of 10% and there are no legal issues that have been raised with regard to the ongoing use of this percentage. The Procurement Board have been consulted on the proposal to use the 10% weighting and agreed to its use and have also agreed that all construction contracts above £1m would include this weighting. The threshold of £1m has been decided upon on the basis that it would be unlikely to achieve community benefits in the shorter timescales required for projects below £1m and would therefore be unlikely to achieve best value. While our tenders encourage bidders to employ local labour we cannot mandate this as this would constitute discriminatory procurement practice.
- 6.4 Community benefits can be used where officers can ensure that they can achieve best value, do not directly or indirectly disadvantage or discriminate against any bidder and are related to the subject matter of the contract. As construction contracts bring new work to the area there is a tangible net increase in the employment required. Given the types of roles required it is very likely that employment will be sourced within the local area. This is not the case in goods and services contracts that are regularly retendered on the basis of the same specification. Using a weighted community benefits question in these types of tenders, that includes an evaluated assessment of the impact on local employment, is discriminatory and disadvantages bidders from out with the area. The Scottish Government guidance on these matters includes a menu of community benefits that should be considered. Out with the examples that deal with employment and training, there are considerations around engagement of school children, community arts projects and local sponsorship. These are not examples of community benefits that would guarantee best value if they were given a weighted importance within a tender and instead officers will consider these for inclusion as voluntary community benefits within goods and services contracts and construction contracts below £1m at this time.
- 6.5 Some Local Authorities have incorporated community benefits aimed at assessing the use of 'Local' SMEs as suppliers and the procurement team will work with legal colleagues to understand the legal implications of widening the community benefits questions to incorporate assessment of these aspects in future tender exercises.

7.0 LOCAL SUPPLIERS

- 7.1 A request was made at the September Policy and Resources Committee to provide a report on how procurement policy and processes can be used to award more contracts to local suppliers.
- 7.2 The analysis of spend for the last financial year has now been completed. The spend with SMEs was 54% in 2015/16 and 33.5% with local suppliers. The spend in 2016/17 with SMEs has increased to 60% while the local suppliers spend was 29%.
- 7.3 In order to provide context for these figures, Inverclyde Council's spend with its local suppliers comes 14th in comparison to the same measurement at all 32 Local Authorities. The highest figure being 45% and the lowest 9%. As expected the Local Authorities with the highest spend percentage are the largest cities with a high availability of local suppliers and also the island and rural authorities. The high costs of travel make it prohibitive for non-local suppliers to win contracts in rural and island communities. It would also be expected that large cities would have a high percentage of work being undertaken by their resident suppliers as they have the diverse range and volume of suppliers to support their requirements. Inverclyde has a higher percentage include Glasgow, Edinburgh, the Highlands and Shetland. These figures do not indicate that Inverclyde has a significant issue in terms of abnormally low spend with its local suppliers.
- 7.4 In order to understand whether policy changes could have an impact, the Procurement Manager has researched other Local Authority policies with respect their approach with local suppliers. Audit Scotland singled out and gave specific praise to North Ayrshire Council for their leading economic development approach with local suppliers within their procurement report in April 2014. They detailed that North Ayrshire had implemented the following: Holding Supplier Development Programme (SDP) events and providing 'Meet the Buyer' and 'Is the Public Sector for you?' presentations offering to meet local businesses one-to-one, offering to debrief unsuccessful suppliers to help with future bids, monitoring the SME and local business success rate in the pre-qualification questionnaire (PQQ) process, ensuring its tender strategies take account of SMEs' needs, ensuring they invite a fair representation of local companies to bid for low-value quotes and monitoring the success rate of this policy, reviewing tender documents to ensure they are consistent and user friendly and by streamlining the information required in a tender process.
- 7.5 Inverclyde had been adopting many of those practices since before the Audit Scotland report was published, however, has since implemented all of those policies and practices. In addition, contracts at Inverclyde are now considered for lotting, and local suppliers are paid early. The increase in the quotation threshold for works (as referenced at 5.6) and the mandatory requirement that invitations to quote must go to at least 2 local suppliers has increased the chances of local suppliers winning our contracts. Further to these practices the procurement team has been working closely with Scotland Excel and Economic Development colleagues and has developed a process of informing local suppliers of Scotland Excel opportunities. Scotland Excel have committed to monitoring other Councils' policy changes and informing Inverclyde if there are any new policies they feel would be beneficial and help improve local supplier involvement in procurement. There are now 3 local suppliers on Scotland Excel frameworks.
- 7.6 The Council cannot legally discriminate in favour of local suppliers. The Procurement regulations require that the Council treats suppliers, 'equally and without discrimination' and acts in a 'transparent and proportionate manner'. Further that, 'competition shall be deemed to be artificially narrowed where the design of the procurement is made with the intention of unduly favouring or disadvantaging any particular economic operator'. The spend achieved by Inverclyde companies with other Local Authorities is £34.9M. If all other Councils took the view that they could legally ring fence contracts for their local suppliers and did not open these up to competition, then Inverclyde's suppliers would suffer. The status quo and success of these suppliers in getting this work demonstrates the benefit in seeking work outside the area and generates competition leading to best value. Efforts should not just be focussed on giving local suppliers Inverclyde Council contracts where they could become over reliant on Inverclyde Council funding and subsequently demand increases in their fees as they know there is no competition. The recent issues surrounding Carillion also emphasise the need for private companies to have some balance between public sector work and private sector work. The work

with the Supplier Development Programme is key to achieving supplier growth and interest in tendering for a variety of contracts.

- 7.7 Procurement case law and national procurement guidance makes it clear that there is a risk of legal challenge where the Council is in breach of the procurement legislation relating to any form of intended discriminatory practice. Illegal practice would cover areas such as: specifying the requirement for a local office when there is none required, specifying a mandatory requirement to use local labour or local sub-contractors, specifying response times that are not needed in practice. There is a legal requirement to tender all regulated contracts and there will be instances where local suppliers bid for these contracts and are unsuccessful despite the application of the policies and practices outlined within this paper. In general all of the policies and practices outlined above should assist local suppliers in bidding for Council contracts. Officers will continue to seek opportunities to improve policy and practice that will assist local suppliers.
- 7.8 The Council will continue to use the following policies and practices which may assist local suppliers in bidding for Council contracts
 - Consider Lotting contracts
 - Continue to pay local suppliers early where this is requested
 - Select at least 50% of suppliers from the local area to bid for quotations
 - Refer suppliers to the Supplier Development Programme
 - · Hold meet the buyer events, supplier debriefs and individual meetings
 - Inform Local Suppliers of Scotland Excel contract opportunities
 - Simplify tender documents and ask for less repeating information
 - Take local suppliers and SMEs into account when creating tender strategies
 - Promote access to Public Contracts Scotland

8.0 IMPLICATIONS

Finance

8.1 There are no financial implication associated with this report.

Financial Implications:

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact £000	Virement From (If Applicable)	Other Comments
N/A					

Legal

8.2 There are no matters of a legal nature arising from this report.

Human Resources

8.3 There are no matters of a HR nature arising from this report.

Equalities

8.4 Has an Equality Impact Assessment been carried out?



Yes See attached appendix



This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required.

Repopulation

8.5 A Procurement Strategy which supports local opportunities will have a positive impact on the Council's repopulation agenda.

9.0 CONSULTATIONS

9.1 None.

10.0 LIST OF BACKGROUND PAPERS

10.1 None.

Appendix 1 Procurement Strategy Update

		A range the previ tables: a) Strate b) People	nent Action Plan of activities have been identified which will a ous section. These are divided into the follow gy, Policy and Advice e and Organisation sses & Systems					
		In light of Procure strategic support We will clear pro- services	erategy, Policy and Advice when of the significant changes being driven by the reduction in the Council's budget, the surement Team will be working with Council Services during the year to undertake a egic review of procurement within the Council and identify how it can add most value to bort delivery of the Council's strategic priorities. will continue to act as the procurement centre of expertise for the Council and develop r procurement policies, providing guidelines to employees on how to purchase goods, ices and works. We will also continue to ensure compliance with relevant legislation and gration with Council policies and processes.					
	Issue		Action	Original Target Date	New Target Date	Who By	Update 06/02/18	
1.	Procurement Strategy 2015/1	18	The Procurement Team will work with the Council Services to build a deep understanding of the strategic challenges and opportunities and to identify how procurement can best support the delivery of Council strategic priorities. The conclusions and agreed changes in the Council's approach to procurement resulting from this review process will form the basis of a new Procurement Strategy for 2015/18.	New Strategy approved by September 2015	Complete	Procurement Board/ CMT and Committee	Complete	

2.	Individual contract strategies being prepared for spend above £50k to ensure that contracts deliver	All spend above will have a contract strategy agreed prior to advertising.	Ongoing	Ongoing	Services/ Procurement Team	Ongoing.
	value for money (with a balance of cost quality and sustainability) and are advertised to ensure transparent and equal treatment of suppliers.	Develop contract specifications that more accurately reflect service user requirements and allow for greater innovation within contracts	Ongoing	Ongoing	Services/ Procurement Team	Ongoing.
	Engage earlier with suppliers and the people who use public services.					
3.	Community Benefits With a view to increasing community benefits achieved through contracts tendered by the Procurement Team Committee approved the recommendations to, where possible, implement a total of 5% evaluation weighting for community benefits within construction and infrastructure procurements over £1m.	Procurement Team will review further areas and spend levels and report back to the Committee with proposals. Develop a systematic approach to collecting information on non-financial benefits including economic, community and environmental benefits and report the benefits to the relevant council committee on a regular basis	Update/Review report to Committee due by January 2016	February 2018	Procurement Manager/Head of Service Regeneration and Planning	Pilot tender exercise complete. Report back to committee on results and revised policy

4.	Local employment The Living wage The Council is committed to encouraging payment of the Living Wage to all employees working for or servicing the Council. This is promoted through all tender exercises conducted by the Procurement Team	Procurement Team will review the use of the procurement approach to the Living Wage with partners and other Local Authorities and adopt further changes if necessary	To be embedded in Report due to Committee before end of 2015 on new Procurement Regulations	Ongoing	Manager and HOS Legal and Property Services	Ongoing - Policy established and being used. Updates being requested by Unions in line with ethical care charter.
5.	Standing Orders – Contract Standing Orders are revised	Revise in line with new EU legislation and Directives when fully implemented.	New CSOs to be in place by end of 2015.	Complete	Head of Service Legal and Property Services	Completed
6.	Document Standardisation	 Documentation to be kept up to date according to legislation and lessons learned. Include compliance with the new European Single Procurement Document and in particular include statements on the Council policy on– compliance with the relevant Health and Safety at work act. Fairly and ethically traded goods and services Provision of food to improve health, wellbeing and education of communities in the organisations area: and promote the highest standard of animal welfare. (where applicable) 	Ongoing and review to 2018	Ongoing	Procurement Manager and Services at DPO meeting every 6 weeks	Ongoing

		 That payments are made to suppliers within 30 days and to their sub-contractors within the same period. The treatment of tenderers involved in blacklisting 				
7.	Supplier Management Refresh Supplier management/ Governance for the top high value and/or high risk suppliers in each service.	A review of the supply base is underway in 2015 to consider the contracts currently being managed from a high value, high complexity and/or high risk perspective. The aim is to establish if Procurement Team is managing the correct contracts and how this process interacts with Governance of external organisations.	December 2015	Ongoing.	Procurement Manager/ Procurement Board	Review of contracts complete. Supplier Management now ongoing. Audit review complete with ongoing actions.
8.	SustainabilityRefresh and consolidateSustainability policy and action plan.The Council has a CorporateSustainability Policy (CSR), with recommendations to incorporate CSR in all strategies; where relevant. This has not been fully rolled out and is not consistent.Policy requires to be refreshed and consolidated	Sustainability policy and action plan to be embedded. Sustainability is built into the procurement process. Implementation of the Sustainability Policy will ensure consideration at contract strategy stage. CSR and Sustainability rolled out and included as a consideration at a contract strategy stage; where relevant. Introduction and implementation initiatives such as: • Ongoing Supplier events for SME's to cover areas of concern and help educate on how to become a supplier to the Council. • 50% of suppliers selected in the quick quote process will be local (where possible).	June 2016	April 2018	Procurement Manager/ Procurement Board/ Committee	P&R Committee approved the Sustainable Procurement policy in November 2016 with all actions now ongoing. Review of Property requirements requires to be included.

 Policy for dealing with Supported Business Process for engagement with the Supplier Development Programme. 		
Encourage main contractors to engage with local suppliers and SME's.		

b) People and Organisation

Effective implementation of the strategy is dependent on having staff with the right skills and experience in place and on a close working relationships with the Procurement Team

	ssue	Action	Target Date	New Target Date	Who By	Update 06/02/18
T T S b la e p tr a a c t t Ir P S E n t	Training The Procurement Team have secured a training budget over the ast 3 years to ensure staff are professionally rained and staff are encouraged to achieve certification with he Chartered nstitute of Purchasing and Supply (CIPS). Encourage elected members sitting on he main committee(s)	 During the period 2015/18 it is intended to continue providing professional training for Procurement Team staff. Procurement Team focuses on training staff within Services and providing training and information to suppliers and third sector partners. Roll out e-learning course and ensure all officers involved in procurement have passed. Ensure All Procurement staff have undertaken training in the latest updates to the Procurement reform bill and EU legislation. Deliver an All Member Training Session on the new regulations (Sept 2016) 	March 2017	March 2018	Procurement Team and Designated Procurement Officers	Ongoing- Online e-learning tool now available. Specific training to be completed and recorded for officers involved in procurement on the new regulations. An All Member Training Session has been completed. Further training/ awareness completed in September 2017

	dealing with procurement to complete specific training to help them undertake their governance role more effectively					
<u>2.</u>	Engagement with Services The Procurement Team has developed effective working relationships with Services. However, this could be further developed with more formal communication and regular meetings.	Strengthen the ongoing operational engagement between the Procurement Team and Service management teams to ensure Procurement Team fully understands service priorities and challenges and is best able to highlight areas where procurement innovation can help support the delivery of Service objectives in the short to medium term	2016 And ongoing	Procurement Board and ongoing review to end of 2018	Procurement Team and Designated Procurement Officers/ Procurement Board	To be reviewed at ongoing Procurement Boards
<u>3.</u>	Compliance New EU Procurement Directive came into force in April 2014 The New Regulations are expected to be in place by the end of 2015.	 Ensure all updates are implemented where not already in place by the completion date e.g. Agree revisions required to the procurement strategy on an annual basis. Continue to promote e-tendering for all tenders. Continue to consider lot structure within tenders to ensure quality and opportunity for SMEs. Implement new rules for Social Care contracts. 	Dec 2015		Procurement Team and Designated Procurement Officers/ Procurement Board	Officer Training is ongoing via Scottish Government e-learning and face to face sessions with procurement. Additional member training has taken place in September alongside briefings on the Contract Standing Orders.

		 Increase market research at strategy stage. Consider how to incorporate new rules within tendering and evaluation. 				
<u>4.</u>	Collaboration The Council makes use of many of the contracts put in place by the centres of expertise. These are mainly Scotland Excel, Scottish Government and the Crown Commercial Service (CCS). The Council is now actively working with Scottish Future Trust (SFT) Hub initiative and should ensure all communication and joint work leads to a successful conclusion. The Council is part of the City Deal project	 Ensure the best possible pricing is being obtained from frameworks Communication, collaboration and sharing of best practice with other Local Authorities. Continue to work with the (SFT) Hub West Scotland to ensure successful conclusion of two Primary schools. Regular meetings are held with City Deal partners and Local Authorities 	Review at quarterly Procurement Board and report to Committee	quarterly Ma ProcurementPro	anager/	Tender workplan reviewed at Procurement Board

<u>5.</u>	Serious organised crime accessing public funds through public procurement	Work with Police Scotland, Scottish Government and partner public bodies to ensure that measures are in place to avoid serious organised crime getting access to public funds.	Review tender Workplan every 6 months	Review tender Workplan every 6 months	and Property Services	Serious and Organised Crime Training has been held with all procuring officers. Follow up to be arranged in March 2018 with members and officers. Officers are aware of policies on conflicts of interest, anti-
		Share tender workplan with Police Scotland				competitive behaviour, hospitality and fraud.

c) Process & Systems, P2P, Benefits Tracking, E-Procurement

This element of the strategy is essential if the Council is to achieve the efficiencies identified. If we do not have detailed processes and systems, which are adhered to, savings achieved through the tender process will not materialise.

	Issue	Action	Target Date	New Target Date	Who By	Update 06/02/2018
<u>1.</u>	Purchase Cards	 Increase the rebate on purchase cards by increasing the volume of spend more use of Pcards instead of 	December 2016	June 2017	Procurement Team/ Services/ Creditors	Review of current use of Pcards has taken place and compared with spend. Schools are being encouraged to purchase more with p cards to increase spends. Notre Dame cluster undertaking pilot to procure all goods via P card.

		non-matched payments				
<u>2.</u>	Electronic Invoicing Legal requirement to have electronic invoicing in place by 2019	Ensure e-invoicing is in place by 2019 by working with Scottish Government and Finance System supplier.		2018	Team/ Services/ Creditors	Review of P2P completed by procurement in conjunction with Finance colleagues with a draft report on findings to be reviewed by CFO prior to next steps.
3.	E-Procurement eTendering	Ensure Public Contracts Scotland – tender system known as pcs-t, is fully rolled out to all services	August 2017			Ongoing. Property and Roads Officers now receiving training.