
Report To:	Policy and Resources Committee	Date:	19 November 2019
Report By:	Corporate Director Environment, Regeneration and Resources	Report No:	PR/28/19/BH
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Subject:	Procurement – Environmental Assessments and Local SMEs		

1.0 PURPOSE

- 1.1 The purpose of this report is to fulfil a request from the September Policy and Resources Committee to address (a) measures the Council can take that better include environmental impacts as a result of the Council's Procurement Policy, eg environmental weighting, and (b) measures that can result in more locally based SMEs and Inverclyde workers being successful in being awarded Council contracts.

2.0 SUMMARY

- 2.1 There is no doubt that there are economic and social benefits in spending Inverclyde's budget locally and within Inverclyde. Where contracts are awarded to local suppliers this will lead to more likelihood of local Inverclyde residents being employed on those contracts. The profits obtained by these companies may also be reinvested in Inverclyde. The Council also needs to be compliant with its legal obligations and with the requirement to achieve best value.
- 2.2 In order to understand the ability to award a contract to a local supplier, the latitude to do this, as well as the constraints of the legislation and the associated budgetary impact, must be considered. The law means that Inverclyde Council cannot discriminate in favour of local suppliers but the Council's policy has been to seek ways to ensure that they are given every encouragement to compete for contracts.
- 2.3 Where the Council has a requirement for a contract, the accepted position is that consideration must be given as to whether the requirement can be fulfilled either by directly purchasing from a National Framework or by conducting a mini tender (competition). The Contract Standing Orders oblige officers to use Scotland Excel, Scottish Government and UK Government Frameworks unless a Head of Service justifies an alternative to the relevant Committee. Where a National Framework exists, the accepted position has been that these Frameworks are both legally compliant as they have been tendered under the relevant rules and offer best value due to the economies of scale that are available.
- 2.4 Section 5 of this report summarises the work that is already underway and what more can be done in terms of (a) measures the Council can take that better include environmental impacts as a result of the Council's Procurement Policy, eg environmental weighting, and (b) measures that can result in more locally based SMEs and Inverclyde workers being successful in being awarded Council contracts.

3.0 RECOMMENDATIONS

- 3.1 It is recommended that the Committee notes the work that is undertaken to include environmental impacts in terms of procurement, what can be done in future and the measures that are being taken to assist locally based SMEs and Inverclyde workers in being successful in being awarded Council contracts.

4.0 BACKGROUND

- 4.1 The ability for Local Authorities to award contracts to local suppliers has been the matter of some debate within all Local Authorities in the United Kingdom for a long period of time due to legal and financial issues that minimise the possibility of simply awarding contracts to local suppliers.
- 4.2 The legal constraints are in place due to the Council's obligations to remain compliant with procurement legislation. The relevant legislation is the Public Contracts Scotland Regulations 2015 and the Procurement Reform Scotland Act 2014. The intention of the legislation is to stop EU member states from taking the advantages of being an EU member state but at the same time not allowing free trade. In a UK and Scottish national sense, as well as within Inverclyde, this means that we must tender contracts above a certain value and allow bids from interested suppliers from all member states, all UK companies and all Scottish companies. If the Council does not follow the procurement laws, it can be taken to court. If the Court finds that the Council has not acted within the law then it can lead to contracts being nullified, damages being awarded to aggrieved suppliers, fines and reputational damage.
- 4.3 Contracts are now regulated above £50,000 for goods and services and £2m for works. These are the values above which the Council must adhere to the laws set down within the Procurement Scotland Act. The current EU tendering thresholds are £181,000 for goods and services contracts and £4,500,000 for works contracts.
- 4.4 In terms of finance and budget, the Council must consider Best Value when conducting any procurement exercise. Inverclyde Council spends in the region of £100m per year with suppliers. On average, 30% of this is spent with suppliers with addresses within Inverclyde. Around 65% is spent with SMEs.
- 4.5 The Council uses 64 Frameworks that have been put in place by Scotland Excel and pays an annual fee of £65,000 for this Service as well as some softer services that assist the Council in its management of Procurement. In addition to Scotland Excel contracts, the Council uses contracts that have been put in place by Procurement Scotland and the UK Government. The Scottish national contract for care homes is put in place by COSLA and the Council also takes part in this. SPT tender our school transport contracts. The total spend on National collaborative contracts is now around £30m per annum.
- 4.6 The Sustainable Procurement Duty outlined in the Procurement Reform (Scotland) Act 2014 requires that an organisation must think about how it can improve the Social, Environmental and Economic wellbeing of the area in which it operates, with a particular focus on reducing inequality. Statutory Guidance has been published on the Sustainable Procurement Duty. The Sustainable Procurement Duty outlined in the Procurement Reform (Scotland) Act 2014 requires that an Organisation must think about how it can improve the Social, Environmental and Economic wellbeing of the area in which it operates, with a particular focus on reducing inequality.
- 4.7 Where the Council has a requirement for a contract, the accepted position is that consideration must be given as to whether the requirement can be fulfilled either by directly purchasing from a National Framework or by conducting a mini tender (competition). The Contract Standing Orders oblige officers to use Scotland Excel, Scottish Government and UK Government Frameworks unless a Head of Service justifies an alternative to the relevant Committee. Where a National Framework exists, the accepted position has been that these Frameworks are both legally compliant as they have been tendered under the relevant rules and offer best value due to the economies of scale that are available.

5.0 CURRENT STATUS AND POSSIBLE FUTURE MEASURES

- 5.1 As detailed within the background above, the Council pays an annual fee to Scotland Excel of £65,000 and at present this covers 64 frameworks. If the Council were to procure these contracts itself with the view that the local economic benefit outweighed the budget savings available through use of the Scotland Excel framework supplier, this would require the Council to spend more in employing staff to tender these contracts by itself. The contracts would cost more as the accepted economies of scale would not be available.

- 5.2 Due to the size of these National Frameworks, there may be barriers or perceived barriers for smaller suppliers to win a place on the frameworks. There may be financial criteria in relation to possible contract value to turnover ratios which may mean smaller suppliers would not qualify for a place on the framework. However, Councils (including Inverclyde) have been lobbying for this to change and there are now more frameworks being procured that make allowance for smaller suppliers to be awarded a place on these frameworks. There are now 4 local suppliers on Scotland Excel frameworks.
- 5.3 Aside from considering whether whole contracts could be tendered, the question of whether elements of a contract could be subject to a separate procurement or lotted may also be considered. The Council's procurement policy demands that officers consider lotting. However, it should be noted that if the value of the separate contract or lot is more than £50,000, in terms of goods and services, it is regulated and therefore must be tendered on an open and transparent basis and any supplier who is interested in bidding must be allowed to put a tender forward. There is still, therefore, a chance that suppliers outwith the area could win contracts of this type.
- 5.4 The average procurement spend for Inverclyde Council is £100m. The table below lists the types of spends or contracts where there is already a local supplier, no local presence or supplier capable or servicing a contract.

Type of Spend or Contract	Average Spend
Already Local	£30M
PPP Contract	£9M
Utilities	£4M
Waste Processing	£4M
ICT Software and Hardware	£4M
Roadstone and Civils Contractors	£6M
Fleet and Environmental Capital	£3M
Total	£60M

- 5.5 On average 30% or £30m is already spent locally year on year. It is also worth noting that our local suppliers are gaining millions of pounds in contracts from other public sector bodies outwith the area. Should we decide to only award contracts to our local suppliers and other local authorities followed suit our local suppliers would suffer more and may not be sustainable as a result. There is an ongoing contractual obligation to spend £9m on the Council's legacy PPP contracts and this cannot be influenced and changed to a spend with a local supplier. Assuming there is agreement that we cannot produce and sell utilities or process our own waste this removes a further £7m, as this is the spend associated with these contracts. There is also no local provision for ICT software and hardware which has a spend of around £4m, Roadstone and Civils contractors at around £6m and fleet and environmental capital spends of £2.9m have no local supply chain presence. All of these contracts equate to around £60m of spend that is either already sourced locally or there is no definite mature and existing local supply source that the Council could rely on with minimal supply risk.
- 5.6 In addition to these contracts and further considering the value of opportunity to switch to local supply, there may be some merit in looking at how we categorise care homes and other care suppliers who have payment addresses outwith Inverclyde. Inverclyde Council uses a number of social care providers who all have payment addresses outwith Inverclyde and are paid over £20m in total. These providers will all require service delivery by local employees and use local buildings. Although the spend appears to be going out with Inverclyde we are seeing the economic and social benefits. There are elements of the spend that may go outwith the area such as administrative costs and profit, but this total should be recognised as a local spend. Doing this would bring our spend with local suppliers to 50%. If we remove the legacy PPP contract, as this cannot be influenced, our local spend percentage would increase again to around 55%.
- 5.7 The opportunity to 'localise' spend is then based on the remaining £40m and on the basis that there is agreement that all Scotland Excel contracts are out of scope to provide locally, the figure reduces to £33m. The vast majority of the value of this spend will be capital with other goods and service contracts making up the balance.

5.8 As detailed at previous committees, the Council's procurement policy means that officers already consider the following initiatives when tendering these contracts:–

- 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
- Ensure that 50% of the number of suppliers chosen to bid for quotations are local
- Include community benefits where appropriate

These initiatives and processes as part of agreed policy already address the measures the Council can take that better include environmental impacts as a result of the Council's Procurement Policy and include measures that already result in more locally based SMEs and Inverclyde workers being successful in being awarded Council contracts.

5.9 Furthermore, officers already consider the inclusion of an environmental weighting where it is appropriate on a case by case basis. These weightings must, by the proper application of the procurement laws, be proportionate to the contract. For example, a 20% total weighting attributed to environmental impact would be disproportionate on a tender for consultancy services where there was minimal use of transport or goods such as paper in the delivery of the contract. Care must also be taken to ensure that the inclusion of an environmental weighting does not have a disproportionate and negative impact on local suppliers who could bid. An example of this would be a local supplier who may use diesel vehicles and have no policy on using a vehicle tracking system that allows them to reduce mileage as compared to a non-local supplier who uses electric vehicles and has a vehicle tracking system.

5.10 Another consideration may be that a local supplier may source products from the Far East or Asia whereas a non-local supplier may source from the UK or Scotland. The local supplier then is at a disadvantage in terms of any environmental considerations. The Committee could consider creating a procurement policy that mandated a certain minimum percentage being allocated to environmental considerations but this would not be advised due to the requirement to be proportionate and compliant with the procurement laws. The advantage in assessing each contract on a case by case basis prior to forming a tender strategy is that officers can then consider each of these possibilities rather than taking a broad approach that may not fit each contract and may then be detrimental to local suppliers. Members have the opportunity to scrutinise and approve contract awards as part of the Council's governance procedures and through regular reports on contracts that are awarded.

5.11 In order for more locally based SMEs and Inverclyde workers being successful in being awarded Council contracts, there is a requirement for further supplier development and growth. This activity is already underway given that the procurement, business development and workforce development functions of the Council are now under the remit of one manager within the Regeneration and Planning Service.

5.12 This structure will drive a commitment to investigate ways to grow the local supplier market to assist the Council's aims and also create profitable and sustainable business within Inverclyde. Work is underway to engage with established supplier groups such as the Construction Forum, the Chamber of Commerce and Connecting Women in Inverclyde. The objective of these meetings is to establish connections with public spend opportunity with existing suppliers who are part of these groups and to use the suppliers' knowledge to create innovative spend opportunities that may not already exist. These groups will continue to be supported by the Supplier Development programme and by the Council's Business Development service. Further work is also underway to establish links with University research projects that may be able to assist the Inverclyde area in harnessing better ways for new and existing suppliers to engage with the public and private sector and create growth and job opportunities.

6.0 IMPLICATIONS

6.1 Finance

Financial Implications:

One off Costs

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

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact £000	Virement From (if Applicable)	Other Comments

6.2 Legal

The legal implications are as detailed in the report.

6.3 Human Resources

There are no Human Resources implications.

6.4 Equalities

Has an Equality Impact Assessment been carried out?

Yes See attached appendix

No 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.

6.5 Repopulation

There are no repopulation implications.

7.0 CONSULTATIONS

7.1 Consultation has taken place with Legal Services in connection with the content of this report

8.0 BACKGROUND PAPERS

8.1 None