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| <b>Report To:</b>       | <b>Policy and Resources Committee</b>                                | <b>Date:</b>       | <b>17<sup>th</sup> May 2016</b> |
| <b>Report By:</b>       | <b>Corporate Director Environment<br/>Regeneration and Resources</b> | <b>Report No:</b>  | <b>PR/10/16/AF/BH</b>           |
| <b>Contact Officer:</b> | <b>Brendan Hurrell</b>                                               | <b>Contact No:</b> | <b>01475 712654</b>             |
| <b>Subject:</b>         | <b>Procurement Update</b>                                            |                    |                                 |

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## **1.0 PURPOSE**

- 1.1 The purpose of the report is to update Committee on developments within Procurement including developments regarding the new Procurement Strategy and the new Procurement Regulations.

## **2.0 SUMMARY**

- 2.1 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 The outstanding Procurement Work stream savings of £19,000 against a total target of £313,000 for 2013/16 has now been achieved. The summary of all savings is contained in Appendix 2. It should be noted that the draft 2016/18 budget contains a further £28,000 saving target.
- 2.4 The new Procurement Regulations, The Public Contracts Scotland Regulations 2015, are now in place. A summary of the changes was given within the last Procurement update in February. However a more detailed summary is contained in Appendix 3.
- 2.5 Previous reports to Committee have contained information on the portion of business the Council has with Local suppliers. A summary of the Council's position on this is contained in section 7 of this report. It is proposed that this section becomes a regular feature of future updates on procurement.

## **3.0 RECOMMENDATIONS**

- 3.1 That the Committee note progress on the Procurement Strategy and that the 2015/16 savings target has now been achieved.
- 3.2 That the Committee note the changes highlighted in the new Procurement Regulations.
- 3.3 That the Committee notes the portion of procurement spend with local suppliers and SMEs.

**Aubrey Fawcett**  
**Corporate Director Environment, Regeneration & Resources**

## **4.0 BACKGROUND**

- 4.1 A key requirement in the development of Procurement is that the Council requires to develop an ongoing Procurement Strategy. Previous versions of the Procurement Strategy have been approved by Committee and the actions monitored and reported to Committee.
- 4.2 Procurement has improved each year since 2010 as evidenced by increasing Procurement Capability Assessment scores each year. 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.
- 4.3 The new rules that govern public procurement in Scotland have changed as of 18<sup>th</sup> April 2016. The new regulations result from the Procurement Reform Act. The Procurement Strategy has been put in place with these new procurement regulations and the new (PCIP) assessment in mind.

## **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 delay in publication of the regulations and the guidance has delayed reviews of the Contract Standing Orders and other policy matters such as Community Benefits. The Scottish Government published guidance on these matters in March and within that further clarity was given on new tasks that should be contained within the Procurement Strategy. With these issues now clarified, new items have been added to the Procurement Strategy and new target dates for implementation have been added to the Action Plan which is contained in Appendix 1.
- 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 Procurement Board has agreed a list of suppliers that will be included in a supplier management process during 2016/17. The suppliers cover street lighting maintenance, waste management, roadstone, school transport and software.
- 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 whom which the Council has a significant financial relationship but it also assesses the performance of these organisations who 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. Various Meet the Buyer events at each Local Authority are being planned with Inverclyde scheduled to hold an event in June. This event will give local suppliers a chance to engage with the Councils on City Deal and hear about contract and sub contract opportunities that they will be encouraged to bid for.
- 5.6 As noted within a report to April's Environment and Regeneration Committee on the Corporate Directorate Improvement Plan, the Procurement function has now been transferred from Finance Service to the Regeneration and Planning Service. This move will build on linkages between the Council's procurement activities and the local business community.

## 6.0 PROCUREMENT REGULATIONS

- 6.1 Regulations transposing the public procurement directive have been laid in the Scottish Parliament and will take effect on 18 April 2016. These regulations flow from the new EU directives on procurement and the Procurement Reform Act (Scotland) 2014. An early summary of the new regulations was included in the previous procurement update. This report contains a more detailed summary on the changes within Appendix 3.

## 7.0 LOCAL AND SME SUPPLIER SPEND

- 7.1 Previous reports to Committee have contained sporadic information on the portion of business the Council has with Local and SME suppliers. The 2014 Audit Scotland report on Procurement in Councils, dealt with in another report on this agenda, stated that the Council had a low percentage spend with SMEs in comparison to the national average of around 50%.
- 7.2 The percentage of spend with SMEs has changed from 35% in 2013/14 to 51% in 2014/15. The spend with local suppliers was 31% in 2014/15 which is an increase of 4% from the previous year although the spend figure remained almost the same. The SME and local supplier spend figures for 2015/16 will be reported to Committee within the next update. However, the largest impact on the percentage of spend with SMEs has been the decrease in spends on large construction contracts such as the joint campus and an increase in awards to SMEs. These figures are summarised in the table below –

| Year                                | 2013/14 | 2014/15 |
|-------------------------------------|---------|---------|
| Total Spend                         | £90M    | £80M    |
| SME Spend                           | £31.5M  | £40.8M  |
| Percentage SME Spend                | 35%     | 51%     |
| Spend with Local Suppliers          | £24.2M  | £24.4M  |
| Local Suppliers percentage of Spend | 27%     | 31%     |

- 7.3 The ability to influence a change in these statistics is constrained by the Council's legislative obligations. There are changes to the regulations and associated Scottish Government guidance that now require the Council to consider lotting where it is appropriate. There is also more emphasis on sustainable procurement and fair work practices. This gives more clarity in the ability to structure tenders that may give more opportunities for SMEs and local suppliers to bid for Council contracts. The Regulations further require that the Council produces an annual Procurement report that details whether each tender has achieved the aims stated with its Procurement Strategy. Committees approve all tender awards for contracts over £500,000 and this Committee is also advised of all the individual awards under this threshold every 6 months. In future these reports will include details on whether the tenders have met the aims of the Procurement Strategy. This will include the decisions on why the contract was lotted or not lotted.

## 8.0 PROCUREMENT SAVINGS

### Finance

- 8.1 Appendix 2 shows the position in respect of savings planned during 2014/16. From this it can be seen that the savings target has been over achieved. More recent savings are as a result of the new national Water and Waste Water supply contract that has been tendered by the Scottish Government and awarded to Anglian Water.
- 8.2 A further savings target for 2016/2018 of £28,000 has been agreed and the 2015/16 over-recovery of £5000 will be scored against this target.

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**

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

**Human Resources**

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

**Equalities**

8.5 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.

**Repopulation**

8.6 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

## Procurement Strategy Update

|    |                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                         |                        |                                      |                                  |
|----|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|------------------------|--------------------------------------|----------------------------------|
|    |                                     | <p><b>Procurement Action Plan</b></p> <p>A range of activities have been identified which will allow the Council to achieve the objectives and outcomes set out in the previous section. These are divided into the following three areas, more detail on which can be found in the following tables:</p> <p>a) Strategy, Policy and Advice<br/>b) People and Organisation<br/>c) Processes &amp; Systems</p> <p><b>a) Strategy, Policy and Advice</b></p> <p>In light of the significant changes being driven by the reduction in the Councils budget, the Procurement Team will be working with Council Services during the year to undertake a strategic review of procurement within the Council and identify how it can add most value to support delivery of the Council's strategic priorities.</p> <p>We will continue to act as the procurement centre of expertise for the Council and develop clear procurement policies, providing guidelines to employees on how to purchase goods, services and works. We will also continue to ensure compliance with relevant legislation and integration with Council policies and processes.</p> |                                         |                        |                                      |                                  |
|    | <b>Issue</b>                        | <b>Action</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Original Target Date</b>             | <b>New Target Date</b> | <b>Who By</b>                        | <b>Update</b><br><b>17/05/16</b> |
| 1. | <b>Procurement Strategy 2015/18</b> | 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. | <p>Individual contract strategies being prepared for spend above £50k to ensure that contracts deliver value for money (with a balance of cost quality and sustainability) and are advertised to ensure transparent and equal treatment of suppliers.</p> <p>Engage earlier with suppliers and the people who use public services.</p>     | <p>All spend above will have a contract strategy agreed prior to advertising.</p> <p>Develop contract specifications that more accurately reflect service user requirements and allow for greater innovation within contracts</p>                                                                                                                  | <p>Ongoing</p> <p>Ongoing</p>                                | <p>Ongoing</p> <p>Ongoing</p> | <p>Services/<br/>Procurement<br/>Team</p> <p>Services/<br/>Procurement<br/>Team</p> | <p>Ongoing.</p> <p>Ongoing.</p>                                    |
| 3. | <p><b>Community Benefits</b><br/>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.</p> | <p>Procurement Team will review further areas and spend levels and report back to the Committee with proposals.</p> <p>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</p> | <p>Update/Review report to Committee due by January 2016</p> | <p>September 2016</p>         | <p>Procurement Manager/Head of Service Regeneration and Planning</p>                | <p>Report delayed to tie in with new Contract Standing Orders.</p> |

|    |                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                             |                |                                                               |                                                                                                                                                               |
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| 4. | <p><b>Local employment</b><br/> <b>The Living wage</b><br/> The Council are 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</p> | 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        | Procurement Manager and HOS Legal and Property Services       | Ongoing - Policy established and being used. The Council are already compliant as per policy on workforce matters that was approved by Committee in May 2015. |
| 5. | <p><b>Standing Orders – Contract Standing Orders</b> are revised</p>                                                                                                                                                                                                       | Revise in line with new EU legislation and Directives when fully implemented.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | New CSOs to be in place by end of 2015.                                                     | September 2016 | Head of Service Legal and Property Services                   | Report delayed due to late issue of the new statutory guidance.                                                                                               |
| 6. | <p><b>Document Standardisation</b></p>                                                                                                                                                                                                                                     | 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– <ul style="list-style-type: none"> <li>• compliance with the relevant Health and Safety at work act.</li> <li>• Fairly and ethically traded goods and services</li> <li>• 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)</li> </ul> | Ongoing and review to 2018                                                                  | Ongoing        | Procurement Manager and Services at DPO meeting every 6 weeks | Ongoing                                                                                                                                                       |

|    |                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |               |                            |                                                         |                                                               |
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|    |                                                                                                                                                                                                                                                                                                                                                      | <ul style="list-style-type: none"> <li>• That payments are made to suppliers within 30 days and to their sub-contractors within the same period.</li> <li>• The treatment of tenderers involved in blacklisting</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                   |               |                            |                                                         |                                                               |
| 7. | <b>Supplier Management</b><br>Refresh Supplier management/<br>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 | Review completed in March. | Procurement Manager/<br>Procurement Board               | Review of contracts complete. Supplier Management now ongoing |
| 8. | <b>Sustainability</b><br>Refresh and consolidate Sustainability policy and action plan.<br><br>The Council has a Corporate Sustainability Policy (CSR), with recommendations to incorporate CSR in all strategies; where relevant. This has not been fully rolled out and is not consistent.<br><br>Policy requires to be refreshed and consolidated | Sustainability policy and action plan to be embedded.<br>Sustainability is built into the procurement process. Implementation of the Sustainability Policy will ensure consideration at contract strategy stage.<br><br>CSR and Sustainability rolled out and included as a consideration at a contract strategy stage; where relevant.<br>Introduction and implementation initiatives such as: <ul style="list-style-type: none"> <li>• Ongoing Supplier events for SME's to cover areas of concern and help educate on how to become a supplier to the Council.</li> <li>• 50% of suppliers selected in the quick quote process will be local (where possible).</li> </ul> | June 2016     | June 2016                  | Procurement Manager/<br>Procurement Board/<br>Committee | Discuss at Procurement Board in June.                         |



|  |  |                                                                                                                                                                                                                                                       |  |  |  |  |
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|  |  | <ul style="list-style-type: none"> <li>• Policy for dealing with Supported Business</li> <li>• Process for engagement with the Supplier Development Programme.</li> </ul> <p>Encourage main contractors to engage with local suppliers and SME's.</p> |  |  |  |  |
|--|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|--|

### 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

|           | Issue                                                                                                                                                                       | Action                                                                                                                                                                                                                                                                                                                                                                                    | Target Date | New Target Date | Who By                                               | Update 17/05/16                                                                                                                                                                                                                                         |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------|------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1.</b> | <u>Training</u><br>The Procurement Team have secured a training budget over the last 3 years to ensure staff are professionally trained and staff are encouraged to achieve | 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. <ul style="list-style-type: none"> <li>• Roll out e-learning course and ensure all officers involved in procurement</li> </ul> | March 2017  | March 2017      | 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.<br><br>An All Member Training Session on the new regulations will be arranged for Sept 2016. |

|           |                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                |                                                                                |                                                                                |                                                                                |                                                                                                                                              |
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|           | <p>certification with the Chartered Institute of Purchasing and Supply (CIPS).</p> <p>Encourage elected members sitting on the main committee(s) dealing with procurement to complete specific training to help them undertake their governance role more effectively</p> | <p>have passed.</p> <ul style="list-style-type: none"> <li>• Ensure All Procurement staff have undertaken training in the latest updates to the Procurement reform bill and EU legislation.</li> <li>• Deliver an All Member Training Session on the new regulations (Sept 2016)</li> </ul>                                                    |                                                                                |                                                                                |                                                                                |                                                                                                                                              |
| <b>2.</b> | <p><u>Engagement with Services</u><br/>The Procurement Team has developed effective working relationships with Services. However, this could be further developed with more formal communication and regular meetings.</p>                                                | <p>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</p> | <p>Review at Procurement Board June 2016 And ongoing review to end of 2018</p> | <p>Review at Procurement Board June 2016 And ongoing review to end of 2018</p> | <p>Procurement Team and Designated Procurement Officers/ Procurement Board</p> | <p>Review at Procurement Board June 2016</p>                                                                                                 |
| <b>3.</b> | <p><u>Compliance</u><br/>New EU Procurement Directive came into force in April 2014</p>                                                                                                                                                                                   | <p>Ensure all updates are implemented where not already in place by the completion date e.g.</p> <ul style="list-style-type: none"> <li>• Agree revisions required to the procurement strategy on</li> </ul>                                                                                                                                   | <p>Dec 2015</p>                                                                | <p>Ongoing</p>                                                                 | <p>Procurement Team and Designated Procurement Officers/</p>                   | <p>Officer Training is ongoing via Scottish Government e-learning and face to face sessions. Additional member training to take place in</p> |

|    |                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                               |                                                               |                                           |                                               |
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|    | <p>The New Regulations are expected to be in place by the end of 2015.</p>                                                                                                                                                                                                                                                                           | <p>an annual basis.</p> <ul style="list-style-type: none"> <li>• Continue to promote e-tendering for all tenders.</li> <li>• Continue to consider lot structure within tenders to ensure quality and opportunity for SMEs.</li> <li>• Implement new rules for Social Care contracts.</li> <li>• Increase market research at strategy stage.</li> <li>• Consider how to incorporate new rules within tendering and evaluation.</li> </ul> |                                                               |                                                               | Procurement Board                         | September.                                    |
| 4. | <p><u>Collaboration</u><br/>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).</p> <p>The Council is now actively working with Scottish Future Trust (SFT) Hub initiative and should ensure all communication</p> | <ul style="list-style-type: none"> <li>• Ensure the best possible pricing is being obtained from frameworks</li> <li>• Communication, collaboration and sharing of best practice with other Local Authorities.</li> <li>• Continue to work with the (SFT) Hub West Scotland to ensure successful conclusion of two Primary schools.</li> <li>• Regular meetings are held with City Deal partners and Local Authorities</li> </ul>        | Review at quarterly Procurement Board and report to Committee | Review at quarterly Procurement Board and report to Committee | Procurement Manager/<br>Procurement Board | Tender workplan reviewed at Procurement Board |

|           |                                                                                                      |                                                                                                                                                                                                                                  |                                       |                                       |                                             |                                                                                                                                                                                                                              |
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|           | and joint work leads to a successful conclusion.<br><br>The Council is part of the City Deal project |                                                                                                                                                                                                                                  |                                       |                                       |                                             |                                                                                                                                                                                                                              |
| <b>5.</b> | <u>Serious organised crime accessing public funds through public procurement</u>                     | 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.<br><br>Share tender workplan with Police Scotland | Review tender Workplan every 6 months | Review tender Workplan every 6 months | Head of Service Legal and Property Services | Serious and Organised Crime Training has been held with all procuring officers, legal and Audit in March.<br><br>Officers are aware of policies on conflicts of interest, anti-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.

|           | <b>Issue</b>          | <b>Action</b>                                                                                                       | <b>Target Date</b> |               | <b>Who By</b>                         | <b>Update 17/05/16</b>                                                                                           |
|-----------|-----------------------|---------------------------------------------------------------------------------------------------------------------|--------------------|---------------|---------------------------------------|------------------------------------------------------------------------------------------------------------------|
| <b>1.</b> | <u>Purchase Cards</u> | <ul style="list-style-type: none"> <li>Increase the rebate on purchase cards by increasing the volume of</li> </ul> | December 2016      | December 2016 | Procurement Team/ Services/ Creditors | Procurement and Finance have met Procurement Scotland with a view to a P2P review. Business Case to be prepared. |

|           |                                                                                                       |                                                                                                              |               |               |                                                          |                                                                                                                  |
|-----------|-------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|---------------|---------------|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
|           |                                                                                                       | spend <ul style="list-style-type: none"> <li>• more use of Pcards instead of non-matched payments</li> </ul> |               |               |                                                          |                                                                                                                  |
| <b>2.</b> | <b><u>Electronic Invoicing</u></b><br>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.      | December 2018 | December 2018 | Procurement Team/ Services/ Creditors                    | Procurement and Finance have met Procurement Scotland with a view to a P2P review. Business Case to be prepared. |
| <b>3.</b> | <b>E-Procurement eTendering</b>                                                                       | Ensure Public Contracts Scotland – tender system known as pcs-t, is fully rolled out to all services         | August 2017   | August 2017   | Procurement Team/ Legal/ Designated Procurement Officers | Ongoing. Property and Roads Officers now receiving training.                                                     |

## Appendix 2

| Commodity              | New Supplier    | Start Date | Annual Spend/ (Income) | Achieved or Planned | New Projected 2014/16 Savings | Full Year Savings |
|------------------------|-----------------|------------|------------------------|---------------------|-------------------------------|-------------------|
| Software               | Northgate       | 01/04/14   | £85,000                | A                   | £3,000                        | £3,000            |
| Mobile Phones          | Vodafone        | 01/04/14   | £70,000                | A                   | £4,000                        | £4,000            |
| School Transport       | SPT             | 01/08/14   | £160,000               | A                   | £3,000                        | £3,000            |
| PPE                    | Parker Merchant | 01/04/14   | £46,000                | A                   | £16,000                       | £16,000           |
| Waste Recycling        | Greenlight      | 01/07/14   | £154,000               | A                   | £18,000                       | £18,000           |
| Water                  | Anglian Water   | 01/03/16   | £400,000               | A                   | £3,000                        | £23,000           |
| High Volume Print      | Critiqom        | 01/09/2016 | £60,000                | A                   | £2,000                        | £2,000            |
| Multi Function Devices | Konica          | 01/06/14   | £400,000               | A                   | £16,000                       | £75,000           |

Savings Summary (2014/16)

|                        |                |
|------------------------|----------------|
| Savings Achieved       | £<br>144,000   |
| Savings Target         | <u>138,000</u> |
| Savings to be Achieved | -6,000         |

### 1. Introduction

Regulations transposing the public procurement directive have been laid in the Scottish Parliament and take effect on 18 April 2016. These regulations flow from the new EU directives on procurement and the Procurement Reform Act (Scotland) 2014. The Act also provides for Scottish Ministers to publish statutory guidance on the selection of tenderers and award of contracts; the sustainable procurement duty; the carrying out of regulated procurements relating to contracts for health or social care services; the preparation and publication of procurement strategies and annual procurement reports; and the use of community benefit requirements.

### 2. Procurement Strategy

Contracting Authorities must now produce a procurement strategy where the cumulative value of its regulated procurements falls above £5m.

Regulated Procurements are those above £50k for Goods and Services and £2m for works. Inverclyde Council must produce a procurement strategy as our cumulative activities are above £5m. A procurement strategy has already been published and has been modified in line with this statutory guidance.

The aim of the strategy is to ensure that a contracting authority aligns its regulated procurement activity with its functions and purposes so as to better use its procurement activity as a lever for delivering its objectives.

### 3. Annual Procurement Report

The Act requires a contracting authority to prepare an annual procurement report. According to the guidance, Inverclyde Council will not be required to produce its first annual report until after March 2018.

The Annual report should contain the following –

- a) A summary of regulated procurements
- b) Whether the regulated procurements complied with the procurement strategy
- c) How any areas of non-compliance will be addressed
- d) A summary of community benefits where appropriate
- e) Summary of any steps taken to involve Supported Businesses
- f) A summary of the regulated procurement the authority expects to commence in the next two financial years.

### 4. Sustainable Procurement Duty

The sustainable procurement duty applies to regulated procurements from June 2016.

The sustainable procurement duty requires that before a contracting authority buys anything, it 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. It also requires a contracting authority to consider how its procurement processes can facilitate the involvement of SMEs, third sector bodies and supported business and how public procurement can be used to promote innovation.

For the purposes of the Act, the sustainable procurement duty is the duty of a contracting authority

(a) before carrying out a regulated procurement, to consider how in conducting the procurement process it can

- (i) improve the economic, social, and environmental wellbeing of the authority's area,
- (ii) facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses in the process, and
- (iii) promote innovation

A contracting authority must now consider dividing its requirements into smaller lots, which might encourage smaller businesses to bid. Where an authority decides not to do this, it must explain why

it has not done so. Contracting authorities will be able to award more than one lot to the same tenderer, and may award contracts combining several or all lots when they have indicated in the contract notice that they might do this. The Council already do this but more attention should be paid to ensure this is an area of focus in each and every tender

## 5. Selection of Tenderers and Award of Contracts

There are circumstances in which a supplier must be excluded from the procurement process, and there are other circumstances in which a contracting authority can determine on a case-by-case basis whether an economic operator should be excluded. These are referred to as mandatory and discretionary exclusion grounds, respectively.

In the case of mandatory and discretionary exclusion grounds, a supplier must be given the opportunity to provide evidence which proves that it has taken sufficient and appropriate remedial action to demonstrate that it has 'self-cleansed' (i.e. that the problem will not occur and that the economic operator can be regarded as reliable).

Mandatory exclusion grounds – must be applied in all regulated procurements; these include circumstances in which a potential supplier has been convicted by final judgement of one of the criminal offences contained in the relevant regulations. These are contained in regulations 58(1) and 58(3) of The Public Contracts (Scotland) Regulations 2015 and regulations 8(1) and 9(1) of The Procurement (Scotland) Regulations 2016.

Discretionary grounds include the ability to exclude suppliers based on previous poor performance where they have been proven to have been in breach of contract.

An economic operator (Supplier) must not be excluded indefinitely from participating in procurement activity. In respect of mandatory exclusion grounds, an economic operator must only be excluded for a maximum of five years from the date of the conviction, three years for a breach of the blacklisting regulations, or in the case of a breach of tax or social security obligations, until the amount owed is paid, including any applicable interest or fines, a binding agreement to pay it has been entered into, or it becomes otherwise no longer owed.

### Self-cleansing

If an economic operator is in a situation which might result in its exclusion, it must be given the opportunity to provide evidence to show that it has taken sufficient and appropriate remedial action to demonstrate its reliability. This is known as self cleansing.

### Economic and financial standing

Important point to note is that the Council policy on the financial suitability of tenderers is already compliant as we do not exceed a threshold set.

i.e. -

Where it is considered appropriate to set a minimum yearly turnover as a requirement for economic operators, this must not exceed two times the estimated contract value, except in duly justified cases such as relating to the special risks attached to the nature of the goods, works or services.

### Most economically advantageous tender

Important to note here that EU-regulated contracts may not be awarded on the basis of lowest price or lowest cost only. This is a change that was not previously in any of the regulations or in the guidance.

## 6. Procurement for Health and Social Care Services

The important point to note here is that the previous distinction of Social Care Services as part B and therefore exempt from the full force of the regulations has been removed. Instead the new regulations introduce the Light Touch Regime for Social Care procurement, whereby any contract above 750,000 Euro is subject to the Light Touch Regime (LTR). The Guidance in the SPPN does not go into a lot of detail on the differences between the LTR and the full application of the regulations but it does infer that the main principles of the full EU procurement principles can be applied. Also, contracts below the 750,000 Euro threshold but above £50,000 are regulated by the act but do not require to be advertised. Contracts above £50,000 may not require to be advertised



but will still be subject to the rules set within our own Contract Standing Orders and the associated Social Care rules of procedure. As the CSOs are being updated, it has been noted that the new LTR threshold will be written in to the new CSOs.

## 7. The European Single Procurement Directive

The ESPD replaces the standard Pre Qualification Questionnaire and covers all of the selection criteria and grounds for exclusion.

The ESPD must be used in all procurement exercises worth at least the EU threshold which are commenced on or after the 18th of April.

Bidders will fill in the details about their business and return a completed ESPD. The returns are then assessed and their suitability to bid against your selection criteria and the grounds for exclusion.

You cannot add any of your own questions to the ESPD. This is because the questions in the ESPD come from the EU Regulations and already cover every potential selection criterion and ground for exclusion.

You must make sure that your contract notice sets out what your requirements are against each selection criterion. For example if you require a particular quality assurance standard, you must say this in the contract notice. This will then allow the bidder to answer the question which asks if it will be able to produce certificates showing that it complies with the required quality assurance standards.

## 8. Other Notable Changes

The minimum time limits for procurement exercises have been reduced, meaning that contracts can be put in place more quickly.

The regulations confirm the circumstances in which contracts may be varied without requiring a new procurement process. These circumstances include:

- low value/below threshold changes;
- changes, regardless of their monetary value, that have already been provided for in the initial procurement documents in "clear, precise and unequivocal" review clauses; provided that the clauses state the scope/nature of the possible changes and the conditions under which they may be used, and the changes do not alter the overall nature of the contract;
- changes that are not "substantial", defined with reference to the familiar 'materiality' tests established by the EU courts.

The most noteworthy development in the area is the ability to allow a new supplier to step into the shoes of the originally appointed supplier, in whole or in part, following corporate restructuring such as a takeover or insolvency, provided certain conditions are satisfied.

Tied to the above development, the regulations introduce the right for an authority to terminate the contract in three scenarios; one of which includes "substantial" modifications as set out above. Importantly, even if these cancellation rights are not included in the contract terms they will be deemed to apply by virtue of this new regulation, subject to reasonable notice being given. It is also open to authorities to define relevant terms and conditions to aid in the operation of these new termination rights.