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<b>Report To:</b>	<b>Policy &amp; Resources Committee</b>	<b>Date:</b>	<b>15 November 2016</b>
<b>Report By:</b>	<b>Corporate Director Environment, Regeneration &amp; Resources</b>	<b>Report No:</b>	<b>LP/144/16</b>
<b>Contact Officer:</b>	<b>Rona McGhee</b>	<b>Contact No:</b>	<b>01475 712113</b>
<b>Subject:</b>	<b>Sustainable Procurement Policy – Supporting the Local Economy and SMEs: Remit from Environment &amp; Regeneration Committee</b>		

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## **1.0 PURPOSE**

- 1.1 The purpose of this report is to request the Committee to consider a remit from the Environment & Regeneration Committee.

## **2.0 SUMMARY**

- 2.1 The Environment & Regeneration Committee at its meeting on 27 October 2016 considered a report by the Corporate Director Environment, Regeneration & Resources requesting the Committee to note the proposal to implement the Sustainable Procurement Policy attached to the report and to note the proposed increase in the percentage weighting attributed to Community Benefits in a future tender exercise.
- 2.2 A copy of the report to the Environment & Regeneration Committee is attached as Appendix 1. This provides background information, details of the proposals and information on the implications.
- 2.3 The Committee decided to note the sustainable procurement policy attached to the report and to note the proposal to complete a pilot tender where a 10% weighting for Community Benefits would be used and that both proposals be remitted to the Policy & Resources Committee for approval.

## **3.0 RECOMMENDATION**

- 3.1 The Committee is asked to consider the remit from the Environment & Regeneration Committee.

**Gerard Malone**  
**Head of Legal & Property Services**

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<b>Report To:</b>	<b>Environment and Regeneration Committee</b>	<b>Date:</b>	<b>27 October 2016</b>
<b>Report By:</b>	<b>Corporate Director, Environment, Regeneration &amp; Resources</b>	<b>Report No:</b>	<b>E+R/16/10/01/SJ/BH</b>
<b>Contact Officer:</b>	<b>Stuart Jamieson</b>	<b>Contact No:</b>	<b>01475 712402</b>
<b>Subject:</b>	<b>Sustainable Procurement Policy – Supporting The Local Economy and SMEs</b>		

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## **1.0 PURPOSE**

- 1.1 The purpose of the report is to allow the Committee to note the proposal to implement the attached Sustainable Procurement Policy and note the proposed increase in the percentage weighting attributed to Community Benefits in a future tender exercise.

## **2.0 SUMMARY**

- 2.1 The Council approved changes to the Contract Standing Orders in September. These changes included several updates related to sustainable procurement. These changes followed recent policies being approved on Fair Working Practices in relation to procurement and an older policy dealing with community benefits in procurement. The Procurement Strategy also contains an action to review the Council's approach to community benefits in procurement.
- 2.2 The proposed Sustainable Procurement Policy (Appendix 1) attempts to converge all policies in relation to sustainable procurement into one document. The attached policy should serve to give more details on how the Council will deal with the lotting of contracts and with the increase in the quotation threshold for works contracts but more generally how the Council will work to support the local economy and SMEs.
- 2.3 The November 2012 Policy and Resources Committee approved the use of a 5% weighting being attributed to Community Benefits within the Council's construction tenders. Since then these contracts have delivered a significant number of jobs. The Community Benefits Policy within the Sustainable Procurement Policy is intended to detail the definition and aims of Community Benefits. The policy does not as yet stipulate how officers will use community benefits in practice as this process should be reviewed in light of recent changes to the procurement regulations and collaborative work on community benefits that has been established as best practice via City Deal.
- 2.4 Officers have reviewed the success of the current use of a 5% weighting used to assess tenderers' approach to community benefits and believe there is merit in increasing the percentage. A trial of a 10% weighting within a future tender would give officers and Members the opportunity to review such an increase. It is therefore proposed that a future tender is used to test and pilot the use of a 10% weighting to assess tenderers' approach to community benefits with a report on the outcome and proposed future process to be reported to the Policy and Resources Committee. More detail on Community Benefits are given in section 5 of this report.
- 2.5 As detailed within Procurement Update to the September Policy and Resources Committee, the Council spend with SMEs was 54% in 2015/16 and 33.5% with local suppliers. The Sustainable Procurement Policy will assist in improving these figures.

### **3.0 RECOMMENDATIONS**

- 3.1 The Committee is asked to note the attached Sustainable Procurement Policy and note the proposal to complete a pilot tender where a 10% weighting for Community Benefits would be used. It is intended that both proposals are remitted to the Policy and Resources Committee for approval.

**Aubrey Fawcett**  
**Corporate Director of Environment Regeneration and Resources**

## **4.0 BACKGROUND**

- 4.1 The Council approved changes to the Contract Standing Orders in September. These changes included several updates related to sustainable procurement. These changes followed recent policies being approved on Fair Working Practices in relation to procurement and an older policy dealing with community benefits in procurement. The Procurement Strategy also contains an action to review the Council's approach to community benefits in procurement.
- 4.2 The November 2012 Policy and Resources Committee approved the use of a 5% weighting being attributed to Community Benefits within the Council's construction tenders. Since then these contracts have delivered a significant number of jobs. The Community Benefits Policy within the Sustainable Procurement Policy is intended to detail the definition and aims of Community Benefits.
- 4.3 As detailed within the Procurement Update to the September Policy and Resources Committee, the Council spend with SMEs was 54% in 2015/16 and 33.5% with local suppliers.

## **5.0 PROPOSALS**

- 5.1 The proposed Sustainable Procurement Policy attempts to converge all policies in relation to sustainable procurement into one document. The attached policy should serve to give more details on how the Council will deal with the lotting of contracts and with the increase in the quotation threshold for works contracts but more generally how the Council will work to support the local economy and SMEs. The Sustainable Procurement Policy will assist in improving spend with local and SME suppliers.
- 5.2 Officers have reviewed the success of the current use of a 5% weighting used to assess tenderers' approach to community benefits and believe there is merit in increasing the percentage. A trial of a 10% weighting within a future tender would give officers and Members the opportunity to review such an increase. It is therefore proposed that a future tender is used to test and pilot the use of a 10% weighting to assess tenderers' approach to community benefits.
- 5.3 The proposed Community Benefits Policy states that community benefit clauses are contractual clauses that create requirements which deliver wider benefits in addition to the core purpose of the contract. These benefits include: Targeted Employment and Training Initiatives, Educational Support Initiatives, Supply Chain Development Activity, Vocational Training, Community, Corporate Social Responsibility (CSR) and Environmental Initiatives, Supported Business, Third Sector and Voluntary Sector Initiatives, Equality and Diversity Initiatives. Previous tenders have concentrated suppliers approach to Targeted Employment and Training. It is proposed that these other benefits are assessed as part of a future tender, as a pilot, of a 10% weighted question. The results of this exercise would be brought back to a future Policy and Resources Committee to assess the benefits and assist in the decision on further use of a 10% weighted question.
- 5.4 The Council's latest spend figures with SMEs and local suppliers compare well with other Local Authorities. However, it is recognised that more can be done to support SMEs and the local economy. Appendix 3 of the attached policy details the existing policies and processes that the Council is using to improve this area but also how quotations and lotting contracts will be used to improve the chances for SMEs and local suppliers to bid for Council contracts. Officers from the services will work with Economic Development and Procurement colleagues to ensure that gaps or capacity constraints in the supplier market for certain types of work are recorded and that these opportunities are progressed with Economic Development colleagues.

## 6.0 IMPLICATIONS

### 6.1 Finance

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

Legal Services have been consulted on the content of this report and have commented as follows:-

This Sustainable Procurement Policy assists the Council to meet the Sustainable Procurement Duty under new National and European Procurement laws.

The Quotations Policy supports the Council's objective of the economic regeneration of Inverclyde. There is a risk of an equal treatment or discrimination challenge, however, this has been assessed as low. Open and competitive tendering would eliminate this risk however, the work involved in the tendering process would be disproportionate at this level of spend. Therefore, obtaining quotes as set out in this Policy carries an acceptable level of risk.

### 6.3 Human Resources

None

### 6.4 Equalities

None

### 6.5 Repopulation

This Policy and associated work will have a positive impact on the Council's repopulation agenda.

## 7.0 LIST OF BACKGROUND PAPERS

7.1 None

# Inverclyde Council

## Sustainable Procurement Policy

### 1. Introduction - What is sustainable Procurement duty?

- 1.1 The sustainable procurement duty requires the Council, at the outset of any procurement exercise, to think about how it can improve the social, environmental and economic wellbeing of the Inverclyde Council area, with a particular focus on reducing inequality. It also requires the Council 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.
- 1.2 When procuring goods and services, the Council should take account not only of cost and quality, but also environmental, economic and social factors, where relevant to the goods, services or works being procured.
- 1.3 This may necessitate an analysis of products and how they are made, where they have come from and who has made them. Aspects such as design, manufacturing materials, operation costs, energy consumption, waste and recycling options should also be considered to determine how they support a sustainable approach.
- 1.4 Such considerations should then be combined in a way that seeks to ensure the least adverse impact on society and its environment throughout the full life cycle of the goods, services or works purchased.

### 2. Legal Obligations

- 2.1 The National Procurement Rules require that prior to procuring any contract for the supply of goods or materials or for the provision of services equal to or greater than £50,000 or procuring any contract for the execution of works equal to or greater than £2million, the Council must, in line with the sustainable procurement duty consider:
  - (i) how its actions can improve the social, environmental and economic wellbeing of the Inverclyde Council area, focusing particularly on inequality and then procure in a manner which secures those identified improvements; and
  - (ii) seek to facilitate the involvement of SMEs, third sector bodies and supported businesses and support innovation in its procurement processes.

### 2.2 In this clause 2, the following expressions shall mean the following:

“SMEs” also “small and medium enterprises” means businesses with not more than 250 employees,

“third sector bodies” means organisations (other than bodies established under an enactment) that exist wholly or mainly to provide benefits for society or the environment and;

“wellbeing” includes, in particular, reducing inequality in the Inverclyde Council area.

2.3 The sustainable procurement duty should be applied to all regulated procurements in a proportionate way.

### 3. **Policy Aims**

3.1 The Council aims to embed sustainable procurement considerations into all spending decisions to ensure more sustainable choices. More sustainable ways of meeting requirements will require to be identified and procurement specifications will require to be redesigned accordingly.

3.2 As a matter of good practice, sustainability should be built in at the earliest stages of the Procurement Journey, when requirements are being identified and specified. The sustainability guidance checklist and toolkit provided by the Scottish Government should be used to identify the potential social, economic and environmental impact of any good, service or works requirement

3.3 The impact of the proposed procurement process should also be considered. Sustainable procurement requirements may affect the direction of the procurement exercise and influence the options available.

3.4 When evaluating tenders, sustainability considerations must be relevant and proportionate to the requirement being procurement.

### 4. **Examples of specific Policy Aims –**

#### 4.1 Community Benefits – The Council will

- Consider at an early stage of a procurement exercise, the impact our procurement activities could have on the local community.
- encourage a positive contribution through our procurement activities and suppliers to the local communities in which they work on our behalf;
- explore opportunities for further developing initiatives that deliver specific community benefits.

The Council's current Community Benefits policy is attached in Appendix 1.

#### 4.2 Workplace

- Promotion of Fair Employment Practices - The Council will ensure that Equal Opportunity in Employment and Race Relations are considered in all tender exercises.
- Promotion of Workforce Welfare - The Council's programme of procurement reform will seek to ensure that wherever appropriate, our contract terms will require suppliers to make provision for the welfare of their workforce.

The Council's Fair Work Practices Policy is attached in Appendix 2.

#### 4.3 Environment

- Promote greater Environmental Sustainability through procurement;
- Continue our commitment to ensure that environmental issues are proactively addressed in all appropriate aspects of the procurement process and monitor our progress in this area;
- Seek to reduce waste through reviewing the amount and type of materials purchased and by exploring opportunities to purchase refurbished, recycled/recyclable equipment, products & materials;
- Source green energy wherever possible and adopt appropriate energy management measures across all relevant Council sites;
- Seek to ensure that goods purchased by the Council are derived from natural sources where appropriate and do not have an adverse effect on the environment and furthermore comply with EU and international trading rules;
- Purchase fair-trade food and drink where practicable;
- Ensure that vehicles purchased have low emissions of local air pollutants and climate change gases, and take account of the need to minimise emissions and exposure to air pollution when purchasing goods and services where this is a relevant factor;
- Examine the environmental management practices of our current and potential suppliers where appropriate.

#### 4.4 Marketplace

- Encourage a Diverse Base of Suppliers: The Council will
  - continue to support supplier diversity by lotting contracts where the Council considers it appropriate to the contract to give SMEs the opportunity to bid for contracts;  
  
The Council's 'Approach to Lotting contracts and Quotations' is attached in Appendix 3;
  - explore opportunities for working with voluntary and community sector organisations in the supply and delivery of services.
  - continue to review and improve the Council's procurement processes promoting transparency and ensuring opportunities are open to the whole of the supplier community.
- Ethical Sourcing Practices: The Council will, where appropriate,
  - continue its commitment to sourcing Fair Trade Goods;
  - seek to ensure that Conditions of Contract enhance health & safety and equalities.



- encourage ethical sourcing practices amongst suppliers, partner organisations and the broader market.

**5. Implementation and Monitoring**

- 5.1 Delivery of the commitments made in this Policy will be supported through the implementation of the Council's Procurement Strategy. Progress against the stated objectives and targets will be reported on an annual basis.

Appendix 1

## **Community Benefits Policy**

### **Background**

This Community Benefits Policy has been developed to align with the City Deal Procurement Strategy and the City Deal local authorities' existing approaches to delivery of Community Benefits within their contracts.

Community benefits will contribute towards improvements in economic, social and environmental issues, supporting the sustainable development of the economy within Inverclyde.

Community benefits will be incorporated in Inverclyde Council contracts providing a clear direction of the key socio-economic priorities and issues to be addressed in the Inverclyde area at the time of the contract.

### **What this strategy aims to achieve**

- A joined up approach to implementation and monitoring of community benefits, ensuring maximum value for the procurement spend in Inverclyde.
- Provide a framework which ensures the inclusion of realistic and achievable community benefit contractual clauses in all applicable Inverclyde Council contracts.
- Ensure compliance within legislative framework when incorporating community benefits into the contracts and agreements. The core procurement principles of transparency, proportionality, equality and non-discrimination set out within the Public Contracts (Scotland) Regulations 2015 still apply. Community Benefits must be relevant to the subject matter of the contract.
- Through guidance and the application of agreed approaches, deliver real and lasting benefits to our stakeholders.

### **Community Benefit Definitions**

Community Benefit clauses are contractual requirements which deliver wider benefits in addition to the core purpose of the contract. These clauses can be used to build a range of social, economic or environmental conditions into the delivery of council contracts.

Community benefits which will be targeted for delivery include, but are not restricted to, delivery of the following:

- Targeted Employment and Training Initiatives
- Educational Support Initiatives
- Supply Chain Development Activity
- Vocational Training
- Community, Corporate Social Responsibility
- (CSR) and Environmental Initiatives
- Supported Business, Third Sector and Voluntary Sector Initiatives
- Equality and Diversity Initiatives

Community benefits can be incorporated into contracts in two ways:

### **1. Contractual**

All contractual community benefits form part of the contract and suppliers have a contractual obligation to deliver these commitments. Appropriate contract conditions will be included to provide a remedy for failure to deliver contractual community benefits.

Contractual community benefits can be incorporated in the following ways:

- Evaluated

Community benefit proposals are assessed as part of the tender evaluation using Community Benefit criterion.

- Mandatory

These may be delivered in 2 ways.

1. Community benefit proposals will be offered by the supplier but will not be assessed under Community Benefit criterion as part of tender evaluation.

2. Specific requirements may be stipulated within the specification, e.g. advertising sub contracting opportunities.

### **2. Voluntary**

Voluntary community benefits may be offered from a supplier, typically post award but will not form part of their contractual obligations to deliver. Voluntary community benefits cannot form part of considerations at tender evaluation stage.

#### **Aim**

Set out clear responsibilities for regular monitoring and reporting of the achievement and outcome of community benefits for Inverclyde Council. We will undertake effective contract and supplier management, as this is critical to ensuring the potential benefits from contractor commitments are realised.

This monitoring will be reported on a regular basis to capture additional opportunities and identify common issues. This will be utilised to inform future requirements, ensuring Inverclyde Council provides sustainable community benefit outcomes.

#### **How will we do this?**

- Achievement against community benefit commitments should be reported as part of contract and supplier management conducted by contract owners, on a regular basis to the Environment and Regeneration Committee.
- Provide employer support post contract award to ensure smooth delivery aligned to key priorities.
- Provide regular case studies to highlight and promote the benefits being achieved.
- Develop a guidance note for suppliers that explain the commitments and the ethos of this Community Benefits Strategy and encourages a proactive approach. This guidance note will identify employability partners, relevant agencies and wider support available who can assist in the delivery of community benefits;
- Develop a guidance note to support officers in implementing the commitments within this Community Benefits Strategy in a consistent manner. This will include suggested evaluation criteria weightings and benchmark community benefit outcomes which

## APPENDIX 1

take cognisance of value and disciplines within the contract. This guidance note will also provide an evaluation model and monitoring & reporting tools;

- Provide standard contractual clauses;
- In consultation with key stakeholders, create a menu of community benefits;
- Develop a monitoring and reporting framework.

Appendix 2

**Fair Working Practices Policy**

**Background**

1. The Scottish Government advised in a Policy Note dated 22 August 2012 on Living Wage through Procurement that the European Commission had clarified that public bodies are unable to make payment of the Living Wage a mandatory requirement as part of a competitive procurement process. It is therefore not possible to reserve any element of the overall tender score solely to the payment of a Living Wage. Present Council policy is that we encourage and request suppliers pay the Living Wage but in line with EC Legislation this is not a mandatory requirement in the Council's tenders or contracts.
2. This position has been reaffirmed in the Scottish Government's latest Policy Note (1/2015) dated 4 February 2015 on how and when workforce matters, including payment of the Living Wage, should be considered in the course of a public procurement exercise. However, the Scottish Government has stated it is possible to encourage suppliers to pay a living wage as part of a procurement exercise when contained within a question on workforce matters. The Scottish Government has recently successfully piloted this approach in a tender exercise. This latest Policy Note has been issued in advance of statutory guidance to be issued by Scottish Ministers regarding the selection of tenderers and award of contracts including payment of the living wage. This statutory guidance is expected in the autumn of 2015 and therefore may result in the proposals contained in this report being amended.
3. The Policy Note also confirms that any decision to include a question on 'workforce matters' in a tender exercise should be made on a case by case basis and the question should be framed in a way that is consistent with the principles deriving from the Treaty on the Functioning of the European Union: transparency, equal treatment, non-discrimination, proportionality and mutual recognition.
4. To bring our existing policy into line with this latest Scottish Government Policy Note: Evaluating Workforce Matters in Public Contracts, Inverclyde Council has the opportunity as part of the quality evaluation of a tender to include criterion for workforce matters, including the Living Wage, where workforce is relevant to the subject matter of the contract and quality of the service delivery, goods supplied or delivery of the contract. This element of the evaluation must also be proportionate to the scale of any proposed contract.

**Our Agreed Policy**

5. Whilst the Policy Note states that any decision to include a question on 'workforce matters' in a tender exercise should be made on a case by case basis, it is appropriate to provide officers with guidance on the operation of this policy. The Policy and Resources Committee agreed in May 2015 that the following become a standard maximum weighting for workforce matters for each category of contract.:

Social Care Contracts - Maximum 25% of total quality weighting;  
Construction Contracts – 5% maximum of the total available 100%;  
Corporate Services and Waste Contracts – Maximum 25% of total quality weighting.

6. The Contract Standing Orders dictate that the balance between quality and cost must not fall below 60/40, where 60 represents cost and 40 represents quality. Starting from this position, a 40% overall quality weighting is available as a maximum to be used when splitting weighted questions to ascertain the quality of a bid. Any increase in the quality percentage beyond 40% requires justification and Committee approval.

7. In any contract there will be the option to address workforce matters as part of the available quality weighting. However, it is also essential to assess other aspects of the bidder's quality and ability to provide the service which has been specified. The bidder's approach to the contract in general terms should be assessed, their training of staff for the duration of the contract, their ability to mobilise in time for the contract start, their ethos in relation to the service being tendered and more importantly in the case of Social Care, their approach to client profiles should carry some percentage of the weighted quality questions available.

**Position on Each Service Area**

8. Construction contracts are primarily conducted using a pre-qualification questionnaire with a selection of bidders then proceeding to price the tender. A question on community benefits is the only weighted question that is included at the tender stage at present and this carries a maximum weighting of 5% in line with Council Policy. Construction contracts do not require a substantial quality weighting as the specifications and PQQ determine the quality of work and minimum criteria for suppliers. The proposal for workforce matters in construction tenders is that a separate quality question(s) on workforce matters should be included and that this will have maximum weight of 5%. Both questions together would then carry a maximum quality weighting of 10% with price making up 90%. The justification for this is that Staffing costs are not the largest cost in construction compared to materials, hire of heavy vehicles etc. Those likely to benefit are lower numbers of young workers, unskilled labourers and apprentices at a relatively minor additional cost. The lower proportionate labour cost and volume of staff that would benefit, in comparison to Social Care for example, justifies a maximum weighting of 5%.
9. The Council has several Corporate goods and services contracts. However, most of these are now tendered by Scotland Excel or by Procurement Scotland. These bodies will follow the Scottish Government Guidance. There are still a few contracts that are tendered by the Council and workforce matters form an element of the quality of service eg. Debt Recovery. Whilst the labour cost can form a sizeable portion of the total contract cost these are not as high as in some social care contracts. However, the same evaluation principles apply with a 40% maximum weighting being available for quality.
10. Typically Corporate contract tenders are carried out on the basis of 80% price and 20% quality. It is proposed that this type of tender carries a maximum weighting of 25% for workforce matters from the overall total quality weighting. This recognises the importance of workforce matters for these contracts and gives the opportunity to increase the work force matters % in proportion to the overall increase where there is a requirement for a greater overall quality weighting.

### **Example Workforce Matters Weighted Question**

Inverclyde Council is persuaded by evidence which shows that the delivery of high quality public services is critically dependent on a workforce that is well-motivated, well led and has appropriate opportunities for training and skills development. These factors are also important for workforce recruitment and retention, and thus continuity of service. Inverclyde itself has adopted workforce policies to meet these requirements. These policies include:

a pay policy that is focused on tackling poverty (e.g. through a commitment to paying at least the living wage),

(NB this is different wording from the SPPN)

fair employment practices;

clear managerial responsibility to nurture talent and help individuals fulfil their potential;

a strong commitment to Modern Apprenticeships and to the development of Scotland's young workforce;

support for learning and development;

no inappropriate use of zero hours contracts;

no inappropriate use of "umbrella" companies

flexible working;

career breaks.

Inverclyde Council also attaches importance to ensuring effective consultation and involvement of staff and Scottish Government management work in partnership with the trade union. While it is, of course, a personal decision whether or not to join a Trade Union, Inverclyde Council encourages its staff to join an appropriate Union and to play an active part within it, making sure their views are represented.

In order to ensure the highest standards of service quality in this contract we expect contractors whose workers work alongside ours to take a similarly positive approach to workforce-related matters as part of a fair and equitable employment and reward package.

### ***Workforce Matters (5%\*)***

Q - Please describe how your organisation proposes to commit to being a best practice employer in this respect in the delivery of this contract.

Answers need not be constrained to or be reflective of any of examples given alongside this question.

Good answers will reassure evaluators that your company takes the engagement and empowerment of workers seriously; takes a positive approach to rewarding workers at a level that can help tackle poverty (e.g. through a commitment to paying at least the living wage), adopts fair employment practices, provides skills and training which help workers fulfil their potential, that you do not exploit workers (e.g. in relation to matters such as the

In-appropriate use of zero hours contracts or "umbrella" companies); and that your company will demonstrate organisational integrity with regards to the delivery of those policies, including having arrangements in place to ensure effective employee representation. This reassurance

should be achieved by providing tangible and measurable examples that can be monitored and reported during contract management procedures.

### Worked Example

As it stands at the moment if we take the 5% maximum as the weighting for a workforce matters question in relation to a construction tender then for the purposes of an example the question above will be worth 5%.

That being the case if we test this with scenario 1 (tenderer 1) where a tenderer states that they do pay the Living Wage and scenario 2 (tenderer 2) where a tenderer states they do not pay the living wage, this is how things could turn out

#### **Tenderer 1**

We can't commit to paying the Living Wage to all employees on this contract, however we do have and support the following

- fair employment practices;
- clear managerial responsibility to nurture talent and help individuals fulfil their potential;
- a strong commitment to Modern Apprenticeships and to the development of Scotland's young workforce;
- flexible working;
- career breaks.
- support for learning and development; we do not use zero hours contracts;
- we do not operate inappropriate use of "umbrella" companies

#### **Tenderer 2**

We can commit to paying the Living Wage to all employees on this contract, and we do have and support the following

- fair employment practices;
- clear managerial responsibility to nurture talent and help individuals fulfil their potential;



- a strong commitment to Modern Apprenticeships and to the development of Scotland's young workforce;
- flexible working;
- career breaks.
- support for learning and development; we do not use zero hours contracts;
- we do not operate inappropriate use of "umbrella" companies

Possible evaluation outcome

Simply answering "no" to the Living Wage will not mean they get fewer marks as a standalone criteria because the Council's approach is to assess the bidder's overall approach to tackling poverty.

If they answer "no" to the Living Wage but then state that they are for example providing other benefits to employees such as pension, enhanced healthcare, access to before tax benefits such as child care vouchers etc. then they will get credit for this. The marks given would be the maximum available when it can be demonstrated that the overall benefits clearly address the tackling of poverty in the same way as the Living Wage [and are thus equivalent to or better than the living wage].

These equivalent benefits would not require to be assessed as an equivalent wage value. However, to avoid subjectivity, the evaluation team should in advance of issuing the tender detail for their own purposes the number of benefits that would tackle poverty and gain marks in the evaluation of workforce matters. A clear case of not providing any benefits at all as well as not paying the Living Wage would demonstrate that the tenderer should not be attributed with any credit for that element of the question.

The avoidance of possible accusations of the Living Wage having a sub criteria weighting would also be dealt with by marking the entire question on a range of 0 to 5 for all 9 elements. As follows

- 0- no answers or evidence completed
- 1- 2 to 3 elements addressed
- 2- 3 to 5 elements addressed
- 3- 4 to 6 elements addressed
- 4- 6 to 8 elements addressed
- 5- All elements addressed

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Therefore in the example given, Tenderer 1 would get 4 marks and Tenderer 2, 5 marks. This would lead to percentage scores of 4% and 5% respectively. In order for Tenderer 1 to get 5 marks they would have to have demonstrated that they were tackling poverty by detailing other benefits than they were giving to staff

## **Appendix 3**

### **Supporting the Local Economy and SMEs,**

#### **Background**

1. The Council agreed to change the Contract Standing Orders in September 2016. These changes included that works contracts were excluded from the requirement to tender where the estimated contract value is below £100,000. This exclusion previously had a threshold of £50,000.
2. The reason for this change was to represent the scale between the EU threshold for works contracts at over £4 million and that of Goods and Services at over £160,000. This also represented an opportunity to increase the chances for SMEs and Local suppliers to win Council contracts.
3. Changes were also made to the Contract Standing Orders to include obligations under the European laws with respect to lotting contracts. These laws dictate that, where the decision is taken not to award in the form of separate lots the main reason(s) for this must be explained in the contract documents. The practice of lotting contracts is already being carried out at Inverclyde Council, at both European and National contract threshold levels and this policy looks to formalise the process.
4. Further changes were also made to reflect that the Council can restrict participation in a tendering procedure to providers operating supported businesses, supported employment programmes or supported factories where more than 30% of the workers are disabled or disadvantaged persons in accordance with the European Procurement Rules.

#### **Quotations Policy**

5. The increase in the threshold for works presents an opportunity to increase the chances of an SME or local supplier winning this business. Therefore it is proposed that all future quotations for works are carried out by inviting at least 2 Local suppliers (where 2 local suppliers can be found) and at least 1 other SME from the minimum of 4 suppliers who are invited to bid.
6. Suppliers should be suitably qualified to carry out the work and carry the correct accreditations appropriate to the works. The procuring service will find suppliers using the public contracts Scotland search facility. It is therefore important that all suppliers are registered for public contracts Scotland and assistance is available from Economic Development and procurement colleagues for suppliers wishing to register.
7. There are no 'Large' suppliers within Inverclyde and therefore the 2 Local suppliers will also be SMEs. Where there are no Local Suppliers for the type of contract officers should invite other SMEs from out with the area to bid.
8. Where 2 local Suppliers can be found to bid, this gives a local supplier a 50% chance of winning the work. There will be a 75% chance of an SME winning the work where there are 4 suppliers chosen to quote.
9. When there are repeating contracts being procured of a similar nature, it will be appropriate to rotate the suppliers who are invited to bid. In these cases, the winner of the previous bid should be invited along with a new supplier who was not invited to quote

on the previous occasion. However, the make-up of the field of bidders should take precedence and not deviate from 2 local suppliers, 1 SME from out with Inverclyde and 1 'Large' supplier where this is possible.

10. Rotating suppliers and including a large supplier should ensure that best value is achieved. The results of quotations will be regularly tested by Corporate Procurement for all services to ensure that the process is achieving best value.
11. Contracts should not be disaggregated to achieve 2 or more contracts which would logically be tendered as one opportunity.
12. It is recognised that there is a lack of suppliers available in Inverclyde for most of the Goods and Services being procured via a quotation process. However, the same principles as described in terms of the make-up of the supplier field and rotation should apply where it is possible.

### **Lotting Policy**

13. The new procurement regulations dictate that, where the decision is taken not to award in the form of separate lots the main reason(s) for this must be explained in the contract documents for contracts above £4million. The Scottish National procurement regulations dictate that lotting must be considered between £2 million and £4million however, no justification is required within the contract notice if lots are not used. This legislation is aimed at ensuring that procurement strategies do not create unwanted barriers for smaller businesses.
14. Inverclyde Council have lotted contracts at all spend levels and will continue to do so. The possibility of lotting contracts should be considered at the procurement planning stage and there is no threshold of contract (for tenders) below which lotting should not be considered.

### **When to consider lotting**

15. Lotting might achieve a more competitive procurement, leading to improved value for money. A simple example might be a national contract where only two or three bidders can offer that full national service. However, splitting it into regional lots might bring into play many smaller suppliers who will vigorously compete at that regional level.
16. Lotting can stimulate the long term market for a product or service, with positive results for the buyer and the citizen. Too often, contracting authorities create "limited monopolies" by awarding large and often long-term contracts, which shut new suppliers out of the market and act against competition and innovation. Lots may well mean that more suppliers can win business, and that can lead to a more dynamic market with more innovation in the long run.
17. Lotting can spread the risk; a single large contract with one supplier has an inherent risk if that supplier under-performs or goes out of business. Splitting that contract and using multiple suppliers may (depending how the lotting is done) build more resilience into the system, with the possibility of other suppliers stepping in if one has issues.
18. Lotting can support social objectives, such as development of a diverse supply base, support for SMEs or local firms, as well as the innovation mentioned above. SMEs for example may find it impossible to bid credibly for a large or national contract; but they may be well placed to win one (or more) lots if the contract is dis-aggregated.

19. Lotting enables contracting authorities to experiment, to try different solutions and approaches. A single supplier will generally deliver in a single manner; multiple suppliers will have different approaches, and the user can examine which works best with obvious potential benefits.

### **When not to consider lotting**

20. Lotting can in some circumstances reduce competition (just as it can improve it). In a market dominated by large suppliers, splitting a requirement into small lots might make it unattractive to all or many of the players who might bid. Whilst the converse argument probably applies more often (i.e. lotting increases competition), it is important to understand that every market and situation is different and needs specific consideration.
21. The cost of contract management is also likely to be higher. Clearly, multiple suppliers are likely to need require more resource, time and effort to manage properly than a single provider.
22. Lotting can introduce costs and / or risks into the delivery phase of the contract. That may arise from technical inconsistencies; different suppliers using different software or equipment that means the overall service is not delivered seamlessly. In some instances it may be in the best interests of the Council to work within a single contractual relationship. The main contractor has sole responsibility for the project management of the multidisciplinary trades and would manage any potential time delays. This one to one responsibility means that the contractor is responsible for the rectification of defects and any cross liabilities which could arise between the various trades as well as delivery of the project within the tendered cost and within the tendered timescale.
23. Lotting may lose potential economies of scale and therefore value to the contracting authority. There is no doubt that in some markets (not all,), buying 1,000 units from one supplier will achieve better value than buying 100 from ten different firms. (Clearly, this is a balancing factor against the argument earlier around creating more competition in a market).

### **Other Initiatives to Assist Local Suppliers and SMEs**

24. Aside from the above, the Council regularly conduct meet the buyer events both locally within Inverclyde and in collaboration with other Local Authorities and public purchasing authorities.
25. Officers from Corporate Procurement regularly conduct meetings with suppliers in the form of debriefs on tender evaluation results, to inform new tender exercises and to conduct supplier management reviews.
26. The Council funds the Supplier Development Programme in conjunction with other Local Authorities. This programme gives opportunities to refer SMEs for training on tendering.
27. Local suppliers are paid in less than 20 days.