

AD HOC SCRUTINY PANEL

29th January 2008

Procurement – Supporting Local Business & Social Enterprise

PURPOSE OF THE REPORT

1. The report outlines the Councils current procurement procedures and how they can and do benefit local Small and medium sized enterprises (SME) and social enterprise. This is only one part of the sustainable procurement agenda and needs to be considered as part of an overall solution where contracts are placed with the most appropriate supplier.

BACKGROUND INFORMATION

2. Before trying to list the current procedures I think it may be worth trying to put into context and record the issues, which we need to work within.
 - Within Legal requirements, Standing orders, National and European directives
 - Central government drive towards using existing open or framework contracts (Adverts placed by Local Authorities are being checked and challenged by Office of Government Commerce (OGC) and Regional Centres) or shared services across Local Authorities
 - Regional Centre of Excellence and Regional Improvement & Efficiency Partnership also taking the Regional collaboration route seeking migration to the “optimal solution”, by proposing the amalgamation of spending power, a potentially biggest is best solution
 - Devolved procurement across all services makes it difficult to know what services are including / excluding in tender documents
 - Grant funding is no different - services still need to comply with standing orders and grants often have additional procurement requirements attached as part of the award criteria
 - CPA / VFM - Striking a balance between cost and value for money
 - National drive for 3% efficiency savings
3. What is meant by SME's and Social Enterprise?

4. The European definition of SME - is an organisation with fewer than 250 employees and less than € 50million euros (£36.25 million approx)
 - Actually we are often really talking about **Micro SME's** - companies with fewer than 10 employees and a turnover of less than € 2million euros (£145,000 approx)

5. What is meant by a social enterprise?
 - Social enterprises are social mission driven organisations which trade in goods or services for a social purpose. Social enterprises are generally held to comprise the more businesslike end of the spectrum of organisations that make up the third sector. A commonly-cited rule of thumb is that at least half their income is derived from trading rather than from subsidy or donations.

6. Finally what is Local?

Financial information downloaded from the councils financial system SAP indicate that during the financial year 2006 / 07 the council spent approximately £118 million on supplies and services.

Spend by postcode – Middlesbrough, Tees Valley, North East & National

Postcode	Percentage	Value
Middlesbrough	20.4%	£23,990,377
Tees Valley excluding Middlesbrough	23.4%	£27,518,374
North East excluding Tees Valley	7.8%	£9,172,791
National	48.4%	£56,918,347
Total	100%	£117,599,891

CURRENT PROCUREMENT PROCEDURES

Small Business Friendly concordat

7. In September 2005 Members gave a declaration of support for the Small Business Friendly Concordat, pledging to actively engage with small businesses and the councils commitment to good procurement practices. The key points include
 - Publishing the procurement strategy
 - Access to contract opportunities
 - Details of suppliers
 - Fair tender process
 - Meaningful feed back to supplier
 - Paying suppliers on time

8. The remainder of this report is aimed at documenting the steps we currently take to achieve these aims and objective plus other potential or impending changes, which have been identified.

Business opportunity - Notification process

9. All tender opportunities placed on the Council website, plus dependent on value and requirement either advertised on the European website for OJEU contracts of the Supply2gov site for smaller tenders. (As a check to ensure compliance service areas need to obtain a tender reference number from the Strategic Commissioning & Procurement Unit.)
10. A local advert (usually the Evening Gazette) is placed for all tenders.
11. In addition we have named contacts for the local chamber of commerce, the BME sector and the voluntary sectors. The contacts are sent details of all opportunities and act as Gatekeepers, sending tender details to their members.

Electronic tendering

12. With the move towards electronic tendering we also offer SME's one to one sessions to take them through the e tender process on the system so that they understand what is required and how to submit a tender.

How to do Business Guide

13. Available from the council website this details in plain English exactly "what it says on the tin".
 - What the tender process entails
 - What opportunities are available and
 - Includes a form where businesses can register details saying who they are and what they do. This information is then input into a database of companies for easy reference when we are looking for a product or service provider.
 - In addition it provides hints and tips on how to complete a tender

Seminars & workshops

14. Through out the year managers from Strategic commissioning & procurement and Regeneration attend a number of events, workshops and seminar with the business and third sector to explain the procurement process
15. Feed back from Local business groups collected via workshops and seminars aimed at explaining " How to do Business with the Council " indicates that businesses understand the legal reasons why the council has to go out to tender and they are happy with the process.
 - What they would like to see is more visibility of opportunities that fall below the tender threshold (single or three written quotations) so they have a greater chance of winning lower value work.
 - We are working towards a solution and this will be covered later in the report

Tees Valley Joint Procurement group

16. One of the big procurement drivers from central government is collaborative working, the Tees Valley authorities working together have
 - Joint contracts register
 - Joint working with Tees Valley Authorities via the Tees Valley Voluntary & Community Sector forum we are trying to establish a Directory of all Third sector bodies, establishing contact details, capacity and capability information
 - The Tees Valley procurement officers speak as "One voice" at NEPO North East Purchasing Organisation) meetings seeking sub regional lots in all NEPO

contracts to ensure Tees Valley businesses get the same opportunities as Tyne & Wear businesses

CORPORATE PROCUREMENT STRATEGY

“Sustainable procurement is a process whereby organisations met their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only for the organisation, but also for society and the economy, whilst minimising damage to the environment.”

Footnote

Sustainable Procurement should consider the environmental, social and economic consequences of: Design; non-renewable material use; manufacture and production methods; logistics; service delivery; use; operation; maintenance; reuse; recycling operations; disposal; and suppliers capabilities to address the consequences throughout the supply chain.

The current corporate procurement strategy (which is due for review and updating) includes the following requirement:

SUSTAINABILITY

17. All major procurement shall have due regard to the issue of sustainability through assessing the costs and benefits of each significant investment whilst ensuring that projects achieve what end users want and can afford. All cost / benefit analysis shall include environmental, social and economic benefits to the community that are relevant and appropriate to the contract in question
18. Middlesbrough Council has a set of standard tender documents based on the OGC (Office of Government Commerce) which are available to services. Because of the devolved nature of procurement across the authority and the need to assess on an individual case-by-case basis what is appropriate and therefore what can or cannot be included, we are unable to say for certain that the individual service areas always adhere to this requirement.
19. The Regional NECE has recently also undertaken a project aimed at the harmonised documents including social, environment and community benefit clauses. The harmonised documents do provide examples of standard clauses but they are limited and they do not help with evaluation of bids and deciding which offer is the most economically advantageous.

NESEP (North East Social Enterprise Partnership)

20. Because of the issue identified in the previous paragraph Middlesbrough with CMT approval are taking part in a specific Third Sector Project, - working with NESEP Middlesbrough is one of two local authorities (South Tyneside is the other) working to develop:
 - A Database of local providers, to identify availability, capacity and any specialist capabilities

- Review Financial PQQ evaluation - to provide clarification to take account of the special requirements for charities and not for profit organisations. Also Risk based assessment looking at financial, operational and reputation risk to the council
- Social clauses – how and why, to include the development of a tool kit identifying what can / cannot be included and a method of measurement for evaluation purposes

Evaluation Criteria – Price / Quality not lowest cost

21. Standing orders does not require acceptance of the lowest bid but is aimed at achieving the most economically advantageous offer to the council based on an assessment of both price and quality. As mentioned earlier each procurement has to be assessed individually and the provision of community benefits can only be included within contract award criteria if
- They have been mentioned in the contract notice or tender documents
 - They are directly relevant to the contract itself and not just to external costs and benefits when used as evaluation criteria
 - They are transparent and non discriminatory
 - They also give a benefit to the Council and therefore help to identify which bid is either the lowest price or the most economically advantageous

Business case development based on whole life costing

22. To assist services with option appraisal we have developed a standard Business Case Template which can be used to document the justification for the undertaking of a project, based on the estimated cost of development and implementation against the risks and the anticipated business benefits and savings to be gained. Additional training for managers is currently being developed with External consultants and will be added to the annual procurement-training programme available for all managers involved in procurement

AREAS OF POTENTIAL OR IMPENDING CHANGES

A number of issues are currently being progressed and will be reported shortly to CMT & Members

LM3 Assessment

23. The use of LM3 (Local Multiplier 3) where the value of a pound spent with suppliers is tracked from leaving the council to the supplier through to where it goes next, has previously been reported to CMT when considering ways that local businesses can be supported. It was discounted at that time as an evaluation tool as it was felt it fell foul of anti competition regulation.
24. Although it does not have a use as a tender evaluation tool, it can be used as a general regeneration tool / indicator in support of the added value provided by local businesses within the local economy. With the support of NECE, Northumberland CC led a project to base line spend within the Tees Valley Local Authorities using LM3.
25. It should be stressed that LM3 is not an exact measuring tool and the results from a very small section of suppliers can be taken as no more than a first stage early

indicator, that could be developed over time if it was made a requirement on companies taking part in the quotation / tender award process.

Standing Orders – Current Financial Thresholds

26. Where spending levels are below financial thresholds requiring tenders the council can take a conscious decision to support local suppliers. From the figures detailed earlier in this report it can be clearly demonstrated that over 20% of current spend is within Middlesbrough, over 40% in the Tees Valley and over 50% of the council spend is in the North East Region.

Financial Thresholds – Below Tenders

27. Within the financial thresholds, standing orders currently requires services to obtain three written quotations. This is within the control of the Council and without falling foul of anti competition legislation it would be possible to change the requirement to have a more positive stance in support of Local Businesses by making the requirement three written quotations at least one of which shall be a local business. Members would need to decide if Local in this case is within the Middlesbrough postcode area or would the Tees Valley be considered local. Consideration should also be given to the need for an exemption and justify should services decide not to include a Local business.

Financial Thresholds - Tenders

28. Support at the Tender threshold is more difficult to achieve without falling foul of anti competition legislation, but when the restricted procurement process is used (below the European level) and a short list drawn up it would be possible to make the requirement the short listed companies plus at least one local supplier.

29. Providing the changes in support of local businesses are limit to quotations and tenders below the EU financial thresholds, the council will not fall foul of anti competition legislation.

New Approaches to Public Procurement (NAPP) / Construction employer integrator (CEI)

30. Developed mainly in relation to construction contracts but being refined to cover other areas, linked to the requirement for local regeneration and sustainability the aim is to provide training and employment opportunities. This was first reported to CMT in 2004 but a joint report from regeneration / procurement & environment is seeking approval to re launch the scheme early in 2008

Council Sustainable Procurement policy

31. A draft policy is currently under development and will be presented to members for approval early in 2008. Based on 15 principles all collectively impacting on sustainability. The two most important in this context are points 11& 12 (listed below)

11 We will aspire to and work towards achieving the ten guiding principles of the One Planet Living model of a world in which people everywhere can lead happy, healthy lives within their fair share of the earths resources

- *Zero carbon*
- *Zero waste*

- *Sustainable transport*
- *Local and sustainable materials*
- *Local and sustainable food*
- *Sustainable water*
- *Natural habitats and wildlife*
- *Culture and heritage*
- *Equity and fair trade*
- *Health and happiness*

12. Sustainability will underpin the council's procurement strategy

Local Government Sustainable Procurement policy

32. In 2003 Central Government issued the National Strategy for Local government procurement including a 3-year set of mile stone action. This was followed later in 2006, by the setting up of the Strategic Procurement taskforce, which published the report “ Procuring the Future – a sustainable procurement national action plan and flexible framework. Central Government then responded with the document UK Government Procurement Action plan. This sets out how the recommendations outlined by the taskforce are to be implemented. As a major part of this reform the OGC will take account of the Task Force flexible framework and will develop a detailed procurement framework that sets out the standards that government procurement functions need to meet.
33. In the first instance it relates only to Central Government departments and excludes Local authorities that will become the subject of later guidance and direction. Whilst the government encourages organisations to make use of the flexible framework it is expected in due course that the framework being developed by OGC will replace the flexible framework.
34. In the meantime the Local Government Association, assisted by the North East Centre of Excellence has produce its own “ Local Government Sustainable Procurement Strategy” which is intended to provide a clear steer to councils seeking to respond to the challenge of sustainable procurement.
- Finally striking the balance
35. Environmental, Social and Community Benefits do have a cost – In most cases this is built into cost of tender in one way or another and as with all things it is about striking a balance.
36. Each case has to be considered individually and not covered by a blanket rule (as previously stated benefits must be relevant to the contract).

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BACKGROUND PAPERS

The following background papers were used in the preparation of this report:
 Corporate Procurement Strategy
 National Procurement Strategy

UK Government Sustainable Procurement Action Plan
Local Government Sustainable Procurement Strategy