

AD HOC SCRUTINY PANEL

A meeting of the Ad Hoc Scrutiny Panel was held on 29 January 2008.

PRESENT: Councillor Carr (Chair), Councillors Elder, Mawston, Purvis, Rostron and Williams.

OFFICIALS: J Bennington, R Brown and P Clark.

**** PRESENT BY INVITATION:** C J Beety Chief Executive, Community Ventures (Middlesbrough) Ltd.

**** PRESENT AS AN OBSERVER:** Councillor N J Walker (Executive Member for Resources).

**** AN APOLOGY FOR ABSENCE** was submitted on behalf of Councillor J Walker.

**** DECLARATIONS OF INTEREST**

Name of Member	Type of Interest	Item / Nature of Interest
Councillor Rostron	Personal/Non Prejudicial	Any matters relating to Mouchel Business Services – employee

**** MINUTES**

The minutes of the meeting of the Ad Hoc Scrutiny Panel held on 13 December 2007 were taken as read and approved as a correct record.

PROCUREMENT – SUPPORTING LOCAL BUSINESS AND SOCIAL ENTERPRISE

The Chair welcomed Ron Brown the Council's Strategic Commissioning & Procurement Manager and Chris Beety, Chief Executive, Community Ventures (Middlesbrough) Ltd to the meeting. Whilst the Panel had no detailed terms of reference it was intended for Members to receive information on the Council's current procurement policies with a particular regard as to how local businesses and social enterprises were supported.

The Council's Strategic Commissioning & Procurement Manager presented a report which outlined the Council's current procurement procedures and how they benefited medium sized enterprises (SME) and social enterprise. It was noted that this was only one part of the sustainable procurement agenda and needed to be considered as part of an overall solution where contracts were placed with the most appropriate supplier.

As part of the background information an indication was given of the various legislative and local and national requirements which had to be taken into account. One of the key issues was striking a balance between cost and value for money. Specific reference was also made to the central Government drive towards using existing open or framework contracts. Adverts placed by local authorities were overseen and challenged by the Office of Government Commerce (OGC). Authorities had to justify the reasons for tendering and give reasons for pursuing a different route examples of which were given.

The European definition of SME was an organisation with fewer than 250 employees and less than £36.25 million approximately. It was pointed out that it was often Micro SME's, companies with fewer than 10 employees and a turnover of less than £145,000 approximately.

Social enterprises were social mission driven organisations, which traded in goods or services for a social purpose. They were generally held to comprise the more businesslike end of the spectrum of organisations that made up the third sector. A commonly used benchmark was that at least half their income was derived from trading rather than from subsidy or donations.

In terms of what was described as local and percentage spent a breakdown was given for 2006/2007 based on postcodes under Middlesbrough (20.4% - £23,990,337), Tees Valley excluding Middlesbrough (23.4 % - £27,518,374), North East excluding Tees Valley (7.8% - £19,172,791) and National (48.4% - £56,918,347).

In terms of the measures taken to support small businesses, in September 2005 the Council gave a declaration of support for the Small Business Friendly Concordat, pledging to actively engage with small businesses and the Council's commitment to good procurement practices the key points of which included: -

- a) Publishing the procurement strategy;
- b) Access to contract opportunities;
- c) Details of suppliers;
- d) Fair tender process;
- e) Meaningful feedback to supplier;
- f) Paying suppliers on time.

The report outlined the steps taken to achieve such aims, which included: -

- i) all tender documents were placed on the Council website and dependent upon value and requirement either advertised on the European website for OJEU contracts or the Supply2gov site for smaller tenders;
- ii) a local advert, usually in the Evening Gazette was placed for all tenders;
- iii) details of all opportunities were sent to named contacts such as the local Chamber of Commerce, BME sector and the voluntary sectors acting as Gatekeepers sending details to their members;
- iv) given the move towards electronic tendering SME were offered one to one sessions to take them through the tender process;
- v) a 'How to do Business Guide' in plain English was available on the Council's website which included a form whereby businesses could register information which was subsequently placed into a database of companies for easy reference when looking for a service provider;
- vi) throughout the year managers from Strategic Commissioning & Procurement and Regeneration attended a number of events, workshops and seminars with the business and third sector to explain the procurement process;
- vii) feedback from events indicated at (vi) suggested that local business groups understood the legal reasons why the Council had to go out to tender and were satisfied with the process but had indicated that they would like to see more visibility of opportunities that fell below the tender threshold (single or three written quotations) so they had a greater chance of winning lower value work;
- viii) Officers were currently working towards a solution in respect of (vii) above.

One of the main procurement drivers from central Government was collaborative working and in this regard Tees Valley authorities were working together to have;

- Joint contracts register;
- Joint working via the Tees Valley Voluntary & Community Sector forum and trying to establish a Directory of all Third sector bodies;
- Tees Valley procurement Officers spoke as 'one voice' at meetings of North East Purchasing Organisation (consortium of North East authorities) seeking sub regional lots in all NEPO contracts to ensure Tees Valley businesses got the same opportunities as Tyne & Wear businesses.

In accordance with current legislation and guidance the Council's corporate procurement strategy which was due for review and updating included the following requirement:-

'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.'

The Council had a set of standard tender documents based on the OCG (Office of Government Commerce) which were available to services. Given the devolved nature of procurement across the Authority and the need to assess on an individual case-by-case basis as to what was appropriate a full assurance could not be stated that all individual service areas always adhered to such a requirement.

Although the Regional NECE had recently undertaken a project aimed at harmonised documents including social, environment and community benefit clauses they were considered to be limited as they did not help with evaluation of bids and determining which offer was the most economically advantageous.

As a result Middlesbrough were taking part in a specific Third Sector Project working with North East Social Enterprise Partnership to develop:

- a database of local providers, to identify availability, capacity and any specialist capabilities;
- review Financial Pre Qualification Questionnaire evaluation to provide clarification to take account of the special requirements for charities and not for profit organisations;
- also examining RISK based assessment looking at financial, operational and reputation risk to the Council;
- social clauses and 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.

Standing Orders did not require acceptance of the lowest bid but was aimed at achieving the most economically advantageous offer to the Council based on an assessment of both price and quality. Each procurement was assessed individually and the provision of community benefits could only be included within contract award criteria.

To assist services with option appraisal the Council had developed a standard Business Case Template which could 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 was currently being developed with external consultants and would be added to the annual procurement-training programme available for all managers involved in procurement.

The Panel was advised of a number of issues, which were currently being progressed, which included: -

- a) use of LM3 (Local Multiplier 3) where the value of a pound spent with suppliers was tracked from leaving the Council to the supplier through to where it goes next to be used as a general regeneration tool/indicator in support of the added value provided by local businesses within the local economy;
- b) where spending levels were below financial thresholds requiring tenders the Council could take a conscious decision to support local suppliers, figures clearly demonstrated that over 20% of current spend was within Middlesbrough, over 40% in the Tees Valley and over 50% of the Council spend was in the North East region;

- c) Standing Orders required services to obtain three written quotations which could be changed to have a more positive stance in support of local businesses by making the requirement the same but at least one of which should be a local business although it was pointed out that there was a need to define local in such cases either within the Middlesbrough postcode area or Tees Valley area and it would also be necessary to consider the need for an exemption and justify should services decide not to include a local business;
- d) support at the tender threshold was considered to be more difficult to achieve in terms of anti competition legislation but when the restricted procurement process was used (below the European level) and a short list was drawn up it would be possible to make the requirement the short listed companies plus at least one local supplier.

Reference was made to new approaches to Public Procurement (NAPP) / Construction employer integrator (CEI) which had developed mainly in relation to construction contracts but was being refined to cover other areas, linked to the requirement for local regeneration and sustainability the aim of which was to provide training and employment opportunities;

A draft Council Sustainable Policy for Procurement was currently being developed which was based on 15 principles all collectively impacting on sustainability the two most important of which in this context were indicated as follows: -

'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 earth's 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.'

Whilst Government guidance was awaited the Local Government Association assisted by the North East Centre of Excellence had produced its own 'Local Government Sustainable Procurement Strategy' which was intended to provide a clear steer to councils seeking to respond to the challenge of sustainable procurement.

In most cases environmental, social and community benefits were built into cost of a tender but it was acknowledged there needed to be a balance. Each case had to be considered individually and not covered by a blanket rule but stated benefits relevant to the contract.

Chris Beety, Chief Executive, Community Ventures addressed the Panel and gave a perspective of a Social Enterprise on the current procurement arrangements the main points of which included the following: -

- i) a good relationship existed with the Council's Strategic Commissioning and Procurement Department and much work had been undertaken;
- ii) Community Ventures had funded a piece of work locally and with the Regional North East Centre for Excellence aimed at developing social and community benefit clauses;
- iii) there appeared to be a contradiction between the current legislation and what was needed for regeneration in terms of local employment;
- iv) whilst measures were being pursued to increase opportunities for small businesses and social enterprises it was felt important that the current direction for a change of culture should continue;
- v) an indication was given of an example where a local authority, Liverpool City Council had pioneered social enterprise by developing innovative ways to encourage social enterprises;

- vi) it was acknowledged that an important issue was to ensure that Gatekeepers disseminated information;
- vii) reference was made to technical difficulties faced by Community Ventures and other similar organisations in trying to meet the criteria for the submission at PQQ stage as although resources were going back into the local regeneration by gift aiding to charity it meant that profits were not shown;
- viii) it was considered important that the current approaches continued to be developed and work at national level as to how to overcome barriers on the use of social clauses;
- ix) as indicated by national research the promotion of social clauses, as a tool for commissioners to provide additional community benefit through informed procurement was supported;
- x) particular support was given to the joint work in respect of the Third Sector Project as outlined.

Members discussed the overall arrangements the key issues of which included: -

- a) the efficiency of Gatekeepers in circulating information to their own members was considered an important issue and the compilation of a directory of voluntary sector business was supported;
- b) whilst endeavours were being made to increase opportunities for local businesses the constraints of current regulations and the need to justify the reasons for tendering in a different way was acknowledged;
- c) in response to clarification sought on the extent to which it was possible to exert influence over major contracts by increasing the opportunity for smaller contracts it was explained that if regarded as being artificially carried out such measures could be challenged by the OGC and could even impact on the budget allocation;
- d) Members supported the notion of being able to specify that from the written quotations required, one should be from a local business from Middlesbrough and if not, Tees Valley and thereafter North East;
- e) it was acknowledged that the Council's current arrangements allowed the Service areas the control to get precisely what was required through the tender process but the Strategic Commissioning and Procurement Department was available to give advice, assistance and provide appropriate training;
- f) whilst the Council's Sustainable Policy for Procurement was in place the need for an overall change of culture was acknowledged.

AGREED as follows: -

1. That Ron Brown and Chris Beety be thanked for the information provided.
2. That further consideration be given as to the formulation of a response, if any, to the Executive regarding current procurement policies with a particular regard as to how local businesses and social enterprises were supported.