

Notice of Meeting and Agenda Procurement Sub-Committee

Date	Time	Venue
Wednesday, 27 January 2016	14:30	Council Chambers (Renfrewshire), Council Headquarters, Renfrewshire House, Cotton Street, Paisley, PA1 1AN

KENNETH GRAHAM
Head of Corporate Governance

Membership

Councillor Derek Bibby: Councillor Audrey Doig: Councillor Christopher Gilmour: Councillor Jim Harte: Councillor Jacqueline Henry: Councillor Brian Lawson: Councillor Paul Mack: Councillor Kenny MacLaren: Councillor Mags MacLaren: Councillor Alexander Murrin: Councillor Allan Noon: Councillor Tommy Williams:

Councillor Michael Holmes (Convener): Councillor Eddie Grady (Depute Convener)

Further Information

This is a meeting which is open to members of the public.

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Members of the Press and Public

Members of the press and public wishing to attend the meeting should report to the customer service centre where they will be met and directed to the meeting.

Items of business

Apologies

Apologies from members.

Declarations of Interest

Members are asked to declare an interest in any item(s) on the agenda and to provide a brief explanation of the nature of the interest.

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|-------------|---|----------------|
| 1 | Contract Authorisation Report: The Construction of a New Build School- St Fergus' Primary School | 5 - 10 |
| | Joint report by the Chief Executive and the Director of Children's Services. | |
| 2(a) | Street Lighting Maintenance and Repairs Award - Update | 11 - 14 |
| | Joint report by the Chief Executive and the Director of Community Resources. | |
| 2(b) | Strategic Review of Street Lighting – LED Lantern Replacement 2016/2017 - Re-tender | 15 - 18 |
| | Joint report by the Chief Executive and the Director of Community Resources. | |
| 3 | Statutory Guidance on the Selection of Tenderers and Award of Contracts, Addressing Fair Work Practices, including the Living Wage, in Procurement | 19 - 24 |
| | Report by the Chief Executive. | |

To: Procurement Sub Committee

On: 27 January 2016

Report by:

**Joint Report
by
The Chief Executive and Director of Children's Services**

Contract Authorisation Report: The Construction of a New Build School- St Fergus' Primary School

1. Summary

- 1.1 The purpose of this report is to seek the approval of the Procurement Sub Committee to enter into a Standard Building Contract with Quantities for use in Scotland (SBC/Q/Scot (2011 edition)) for The Construction of a New Build School- St Fergus' Primary School RC1506_4334(ITT9000) which forms part of the work detailed in the School Estate Management Plan (SEMP 2014).
 - 1.2 The Contract was tendered in accordance with the above the EU Threshold Open Procedure for Works and the Council's Standing Orders Relating to Contracts.
 - 1.3 CPU and Children's Services agreed the Contract Strategy for this requirement including approach to market in September 2015.
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2. Recommendations

2.1. It is recommended that the Procurement Sub Committee authorise:

- 2.1.1 the Head of Corporate Governance to award the contract for the Construction of a New Build School- St Fergus' Primary School (Reference RC1506_4334(ITT9000)) to Clark Contracts Ltd.

2.1.2 The estimated contract value is £4,106,329.68 excluding VAT.

2.1.3 The contract is anticipated to commence on the 15th February 2016 or whenever the letter of acceptance states and will be for a total term of 157 weeks (breakdown detailed in 3.6 below).

3. Background

3.1 Renfrewshire Council's vision for its school estate is to promote learning and achievement, and to give our children and young people the opportunity to learn in the best possible environment.

3.2 School estate management planning is central to Renfrewshire Council's asset management strategy. Children's Services are required to provide the Scottish Government with an outline of its School Estate Management Plan (SEMP), an exercise which contributes to the Council's corporate asset management plan; designed to ensure effective management of all council assets. The purpose of the SEMP is to set out a strategy to focus the resources available for new and redesigned school and pre 5 accommodation.

3.3 The SEMP is guided by Scottish Government's 9 principles for school estate management planning and the Council's 4 objectives for the school estate in Renfrewshire:

Scottish Government Principles:

1. Good consultation to support better outcomes;
2. Innovative design and change informed by experience;
3. A more integrated, holistic and longer term approach to change;
4. Schools must be in a condition to support and enhance their functions;
5. Schools must be more suitable and inclusive, better future proofed for flexibility and adaptability;
6. Schools should be greener, more sustainable and environmentally efficient;
7. A well managed estate should represent and deliver best value;
8. Schools should drive and support effective learning and teaching; and
9. Schools should best serve their communities.

Council Objectives:

1. To provide the best educational experience for all learners in Renfrewshire;
2. To satisfy the condition, sufficiency and suitability core facts;
3. To retain services within communities where possible; and
4. To provide environmentally and economically sustainable facilities with lower carbon footprints.

- 3.4 Through its school estate project team the Council continually reviews the performance of the school estate in terms of core fact findings which relate to the sufficiency, condition and suitability of buildings.
- 3.5 As a result of this review a phasing plan was created and Phase 1a and 1b were considered to be priority projects. Phase 1b includes the Construction of a New Build School- St Fergus' Primary School.
- 3.6 The total contract will be for a period of 157 weeks, with work on site commencing on the 14th March 2016 for a period of approx. 1 year followed by a 12 month defect period. The Contractor will also be responsible for the delivery of fuel and servicing of the heat source plant for 2 years, after the date of practical completion.
- 3.7 It was agreed that this tender would go out to the market under two lots; Lot 1 represented a Spring 2017 Completion and Lot 2 represented a Summer 2017 Completion. Tenderers were advised that only the Lot which represented best value for the Council would be awarded.
- 3.8 This tender opportunity followed the open procurement procedure for an above EU threshold contract for works in accordance with the Council's Standing Orders Relating to Contracts. A contract notice advertising the opportunity was sent to the Public Contracts Scotland portal and the Official Journal of the European Union (OJEU) on 8th September 2015. Tender documentation was available for immediate download through the online e-tender system.
- 3.9 Twenty-six (26) suppliers noted an interest of which two (2) tender submissions were received by the closing date for the receipt of tender submissions at noon, on 27th October 2015.
- 3.10 Tender submissions were evaluated using a two stage process of Bid Selection and Award criteria. The tender submissions were first evaluated by representatives from the Corporate Procurement Unit, Finance and Resources, Health & Safety and Corporate Risk against pre-determined Bid Selection criteria which assessed their capacity, experience & track record and their technical and financial capabilities. Both tender submissions met the minimum requirements moving on to stage 2.
- 3.11 The remaining two tenderers, who met the minimum requirements as outlined above, were then evaluated against a set of Award Criteria, based on a price / quality matrix of 55% price / 45% quality. The outcome of this evaluation determined the total score achieved by each tenderer.

Lot 1			
Tenderer	Quality Score (%)	Price Score (%)	Total Score (%)
Clark Contracts Ltd	28.05	55.00	83.05
Central Building Contractors (Glasgow) Ltd	30.75	50.76	81.51
Highest Score Contract Value			£4,106,329.68

Lot 2			
Tenderer	Quality Score (%)	Price Score (%)	Total Score (%)
Clark Contracts Ltd	28.05	55.00	83.05
Central Building Contractors (Glasgow) Ltd	30.75	50.32	81.07
Highest Score Contract Value			£4,127,257.68

- 3.12 Based on the evaluation carried out the tender from Clark Contracts Ltd for Lot 1: Spring Completion represents the best value and the most economically advantageous tender.
- 3.13 The cost of this project is funded from the capital budget within the SEMP 2014 programme.
- 3.14 As part of this tender Clark Contracts Ltd have committed to the delivery of the following community benefits during the delivery of this contract:

Description	Quantity
Modern Apprenticeship	2
Graduate Placement	2
Trainee Position	2
Work Experience Placement (16+ years of age)	2
Industry Awareness Days	2
Career Event	1
Supply Chain Briefings with SMEs	1
Mentoring third Sector Organisations	1
S/NVQ' or equivalent for Existing Employees	2

Implications of the Report

- 1. Financial** – The financial status of Clark Contracts Ltd has been assessed as part of the evaluation process and met with the Councils minimum requirements for this contract.
- 2. HR & Organisational Development** - None
- 3. Community Planning/ Council Plan Implications** – Clark Contracts Ltd has a commitment to deliver a number of community benefits under this contract as detailed in section 3.14 of this report. The works under this contract will also have overarching benefits:

Children and Young People	An improved school environment supports learning and achievement.
Community Care, Health and Well-being	An improved school environment supports health and wellbeing.
Empowering our Communities	None
Greener	Sustainable approaches to ensuring high quality assets will be developed.
Jobs and the Economy	None
Safer and Stronger	None

4. **Legal** – The tendering procedures for the establishment of a contract were conducted in accordance with the requirements of the Public Contracts (Scotland) Regulations 2012, as amended, and Renfrewshire Council's Standing Orders Relating to Contracts for over EU Threshold Works Contracts.
5. **Property Assets** – The works resulting from this contract are part of the School Estate Management Plan, which is designed to provide sustainable accommodation that is fit for education in the 21st century.
6. **Information Technology** – None.
7. **Equality & Human Rights** – The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – Clark Contracts Ltd health and safety submission was evaluated by Renfrewshire Council's Health and Safety section and met the minimum requirements regarding health & safety for this contract.
9. **Procurement** – The procurement procedures outlined within this report shall ensure that the Council meets its statutory requirements in respect of procurement procedures.

10. **Risk** – Clark Contracts Ltd insurances have been assessed and evaluated to confirm that they meet the minimum requirements regarding risk.

11. **Privacy Impact** – None

List of background papers

(a) **Education Policy Board Paper, 8th May 2014:**

Report on the consultation to develop the School Estate Management Plan (SEMP) and proposals to address the property challenges in the primary and pre 5 estate.

Author: Lauren Leitch, Senior Procurement Specialist, Tel 0141 618 5775

To: Procurement Sub Committee

On: 27th January 2016

Report by:

**Report
By
The Chief Executive
and
Director of Community Resources**

Contract Update Report

Update Report for Street Lighting Maintenance and Repairs Award

1. Summary

- 1.1 The purpose of this paper is to update the Procurement Sub Committee on recent developments in relation to the award of Street Lighting Maintenance and Repairs, reference RC1509_4636(MC_9698) under the terms of Renfrewshire Council's Framework for Street Lighting Maintenance, Repairs, Improvements & Developments, Lot 1 maintenance and repairs of street-lighting, reference R1111026690, recommended for approval at the Procurement Sub Committee on 19th October 2015.
- 1.2 The Procurement Sub Committee is asked to note the significance of adjudication proceedings instigated by the Council and currently taking place due to the awarded Contractor's interpretation of the Contract in comparison to the Council's interpretation and intentions.

2. Recommendations

It is recommended that the Procurement Sub Committee note:

- 2.1 The circumstances resulting in the Council raising adjudication proceedings in consequence of a contract dispute with Lightways Contractors Ltd in respect of the Street Lighting Maintenance and Repairs contract reference RC1509_4636(MC_9698) ; and
- 2.2 Further note that due to the result of the adjudication being published after the date of publication of the Sub-Committee agenda, the outcome of the adjudication will be provided separately to the Sub-Committee.

3. Background

- 3.1 The Council awarded the Street Lighting Maintenance and Repairs contract (reference RC1509_4636(MC_9698)) to Lightways Contractors Ltd following the approval of the Procurement Sub-Committee on 19th October 2015. Following award of the contract a dispute arose between the Council and Lightways Contractors Ltd due to Lightways' interpretation of the contract and specifically with respect to the Council's intention with regard to planned and reactive maintenance and repairs of its street lighting infrastructure.
- 3.2 Efforts have been made to negotiate with Lightways Contractors Ltd to resolve the differences in interpretation of the contract. Unfortunately this has not been successful and it was determined that adjudication was necessary to resolve the contractual dispute. Adjudication proceedings were raised by the Council on 9 December 2015.
- 3.3 The adjudication is over a dispute with regard to interpretation of the contract. Subsequent to award, the Contractor has sought an interpretation of the contract which would result in very significant additional payments. It has been calculated for example that should the Contractor's interpretation of the contract be correct, the financial implications would be that the estimated contract value would be substantially in excess of the estimated contract value intimated to this Board.
- 3.4 It is the Council's position that the interpretation of the Contract is clear, the Contractor is not entitled to extra payment over and above what was tendered and this position has been confirmed by external legal advisors and the advice of Queen's Counsel. The Council referred the matter to adjudication for determination on the grounds that all attempts to negotiate a resolution to this issue with Lightways Contractors Ltd were unsuccessful. The process of adjudication was therefore commenced to protect the Council's position. The points submitted for a decision by the adjudicator are as follows:
 - a) that the contractor is under an obligation to carry out only those works instructed in a Task Order

b) that the contractor is not entitled to seek payment under billed items on the Price List referring to “Repair Physical Fault” on every occasion when they attend site to implement works under a Task Order

c) that the contractor is only entitled to receive payment under the “Repair Physical Fault” section of the Price List where that item of work has been expressly instructed by the Council under a Task Order.

d) that when instructed to attend site and replace a lamp, the contractor is only entitled to receive payment under the appropriate billed items of the Price List

e) that upon receipt of an instruction to attend site and renew a luminaire with free issue luminaire, the contractor is only entitled to receive payment under the appropriate billed item of the price List

f) that the remaining sections within the Financial Assessment Model and the Price List fall to be interpreted in the same way as in c) to e) above.

3.5 It is the case that the outcome of Adjudication cannot be guaranteed, although the Council’s case is considered robust and is supported by the views of expert legal and technical advisers. A decision is not anticipated however until around the 23rd January 2016 and it is proposed that the outcome be presented to this Board.

Implications of the Report

1. Financial

Financial costs in respect of this Contract are met from the Service’s revenue budget.

2. HR and Organisational Development

None.

3. Community Planning

Safer and Stronger

Renfrewshire Council has a statutory obligation under the Roads (Scotland) Act 1984 for the provision and maintenance of roads and footways.

This type of improvement to the condition of the road network contributes to maintaining network availability and public safety.

4. Legal

The Council is supplementing internal legal expertise with an external legal company who specialise in this type of dispute.

5. Property

None

6. Information Technology

None

7. Equality & Human Rights

None

8. Health and Safety

None

9. Procurement

The procedures for mini-competition under the Renfrewshire Council's Standing Orders Relating to Contracts and the terms and conditions of the original framework agreement were applied.

10. Risk

None

11. Privacy Impact

None

Author: *Fiona Hughes, Strategic commercial and procurement manager, 0141 618 7045.*

To: Procurement Sub Committee

On: 27 January 2016

Report by:

**Joint Report
by
The Chief Executive & Director of Community Resources**

Contract Authorisation Report

**Revised Report
for
Strategic Review of Street Lighting – LED Lantern Replacement 2016/2017
re-tender**

1. Summary

- 1.1 On the 11th November 2015 the Chief Executive and the Director of Community Resources requested the Procurement Sub Committee, authorise the Head of Corporate Governance to award Lightways Contractors Ltd a contract for the Strategic Review of Street Lighting - LED Lantern Replacement 2016/2017, reference RC1509_4859_ITT10106.
- 1.2 The contract was for the value of £1,700,688.88 and was intended to commence on 14 January 2016 for a period of 63 weeks.
- 1.3 The procurement exercise was conducted in accordance with the above EU Threshold Open Procedure (Works) and the Council's Standing Orders Relating to Contracts.
- 1.4 Since this authorisation was given, post tender negotiations with regard to the contract terms have taken place. The context of the negotiations was to provide clarity of contract terms, to appropriately manage contract risk, and to ensure

the sequencing of the installation programme was within the control of the Council. Unfortunately, there has been no meaningful negotiation that would result in a workable solution for the Council. In the absence of agreement with Lightways Contractors Ltd, and in recognition that Lightways Contractors Ltd view is that the changes are 'substantial' and would result in an increase in the tendered prices, the Board is advised that it would be prudent to re-tender this contract.

2. Recommendations

- 2.1 It is recommended that, for the reasons outlined in this Report, the Procurement Sub Committee agree that:
 - 2.1.1 the tender procedure to award a contract for the Strategic Review of Street Lighting-LED Lantern replacement 2016/17, reference RC1509 _ 4859_ ITT 10106 referred to in the report to the Sub Committee on 11 November 2015 is terminated; and
 - 2.1.2 the authorisation to the Head of Corporate Governance to award the contract in that tendering procedure to Lightways Contract Ltd is withdrawn; and
 - 2.1.3 a new tendering procedure for the LED Lantern Replacement 2016/2017 contract be commenced using revised tender documents.

3. Background

- 3.1 At the Procurement Sub Committee on the 11th November 2015 authorisation was given to award a contract to Lightways Contractors Ltd (contract reference RC1509_4859_ITT10106) for a value of £1,700,688.88 (the "LED Installation Contract").
- 3.2 At the Procurement Sub Committee on 19th October 2015 authorisation was given to award the contract for street lighting maintenance and repairs (contract reference R1111026690) to Lightways Contractors Ltd (the "Street-lighting Maintenance Contract"). The Council is in dispute with Lightways Contractors Ltd under the Street-lighting Maintenance Contract. This is the subject of a separate report to this Board which describes the circumstances of the dispute and why the Council commenced Adjudication proceedings against Lightways Contractors Ltd.
- 3.3 In the context of the dispute on the Street-lighting Maintenance Contract, it has become apparent that Lightways Contractors Ltd had a different interpretation than the Council on some elements of the LED Installation Contract as originally tendered. It was considered prudent to revise the LED Installation Contract to ensure clarity of the contract terms for both Parties. Such clarity was intended to minimise the risk of compensation events arising under the contract, which may entitle the contractor to additional payments (it should be noted that, in the context of a construction contract the risk of compensation events cannot ever be completely eradicated, only minimised). The Council also required to amend the requirement on the Contractor to provide a works programme to ensure that the Council retained control over the sequencing of the installation, particularly to ensure the Council could

provide accurate information to constituents about the LED replacement programme within their area.

- 3.4 Since the Procurement Sub-Committee approved the award of the LED Installation Contract on the 11th November 2015 negotiations have taken place between the Council and Lightways Contractor Ltd on the proposed changes. The Council's position with respect to the negotiations was flexible and extended to considering an increase to the rates originally submitted by the Contractor, always ensuring that Lightways Contractors Ltd remained the most economically advantageous bid. The Council also required to carry out the negotiations within the remit of the Public Contracts (Scotland) Regulations 2012.
- 3.5 Lightways Contractors Ltd have intimated that they consider that the changes proposed by the Council are 'substantial', would result in an increase in prices, and to date, there has been no meaningful negotiation that would result in a workable solution for the Council.
- 3.6 The Council has discretion not to award the contract under the Council's Contract Standing Orders Relating to Contracts (Standing Order 25.5) and it is considered that in this instance it would be prudent to commence a new procurement exercise. This will ensure certainty of programme, certainty of contract terms, and certainty of contract scope. It is suggested that due to the identification of issues around the terms of the tender documentation, the potential emerging for different interpretations of some of those terms between the parties and a failure to successfully negotiate a solution to those issues, there has been a material change in circumstances that was not apparent when the sub-committee made its decision on 11 November 2015. Therefore, the sub-committee is justified in reviewing its previous decision.
- 3.7 The procurement process will progress immediately with a view to reporting back to this Board in due course. It should be noted that in consequence of this decision there will be a delay on the commencement of LED replacement programme.

Implications of the Report

1. Financial

Financial costs in respect of the LED replacement programme will be met from approved capital resources.

The timescales for the delivery of savings which will be realised by replacing existing street-lighting with LED lighting will be delayed as a result of the re-tender exercise.

2 HR and Organisational Development

None.

3. Community Planning

Safer and Stronger Renfrewshire Council has a statutory obligation under the Roads (Scotland) Act 1984 for the provision and maintenance of roads and footways.

This type of improvement to the condition of the road network contributes to maintaining network availability and public safety.

4. Legal

The procurement exercise was tendered in accordance with Council's Standing Orders Relating to Contracts for below EU Threshold Open Procedure (Works), Public Contracts (Scotland) Regulations 2012, as amended.

The Council is able to terminate an ongoing tender procedure prior to award of the contract in terms of its Standing Orders Relating to Contracts.

5. Property

None.

6. Information Technology

None

7. Equality & Human Rights

None.

8. Health and Safety

None.

9. Procurement

The procurement exercise was conducted in accordance with Renfrewshire Council's Standing Orders Relating to Contracts for below EU Threshold Open Procedure (Works), Public Contracts (Scotland) Regulations 2012, as amended.

10. Risk

None.

11. Privacy Impact

None.

Author: *Fiona Hughes, Strategic commercial and procurement manager,
0141 618 7045.*

To: Procurement Sub Committee

On: 27th January 2016

Report by: The Strategic Commercial and Procurement Manager

Heading: Statutory Guidance on the Selection of Tenderers and Award of Contracts, Addressing Fair Work Practices, including the Living Wage, in procurement.

1. Summary

- 1.1. The purpose of this report is to inform the Procurement Sub-Committee of the statutory guidance on addressing 'Fair Work Practices, including Living Wage in Procurement' published by the Scottish Government under section 29 of the Procurement Reform (Scotland) Act 2014.
- 1.2. The guidance was implemented on the 1st November and is available on the Scottish Governments website at the following address;
<http://www.gov.scot/Publications/2015/10/2086>.
- 1.3. Renfrewshire Council as a contracting authority must have regard to it in relation to the selection of tenderers and the award of contracts for regulated procurements (which are procurements where the estimated value of the contract is equal to or greater than £50,000 for goods and services and £2,000,000 for works contracts unless the contract is otherwise exempt from regulation).
- 1.4. The Scottish Government considers payment of the Living Wage, the new rate for which is £8.25, as one of the clearest ways for an employer to demonstrate that it takes a positive approach to its workforce. However, the guidance stresses that failure to pay the Living Wage does not mean that the employer's approach automatically fails to meet fair work standards.
- 1.5. The Council has discretion on the wording of the question adopted to address fair work practices, where it is appropriate to do so the following will be used in the relevant procurement procedures is;
 - Please describe how you will commit to fair work practices for workers (including any agency or sub-contractor workers) engaged in the delivery of this contract.'
- 1.6. The inclusion of the fair work practice question requires taking into account the particular circumstances surrounding the contract to be procured and will have

a 5% evaluation weighting of the tender award criteria, where it is considered proportionate and/or appropriate to do so ensuring an appropriate balance between quality and cost of the contract. Scoring is most likely to be used for services and works contracts, but where there is scope to do so it will be applied to supplies contracts.

- 1.7. Fair work practices should be broadly comparable with those adopted by public sector organisations and those working on public contracts should receive fair, equitable and non discriminatory pay, terms and conditions and reward packages.
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2. Recommendations

- 2.1. It is recommended that the Procurement Sub Committee:
 - 2.1.1. Note that Renfrewshire Council as a Contracting authority must have due regard to statutory guidance.
 - 2.1.2. Note that in line with the requirements of the statutory guidance the template question for use within the Invitation to Tender (ITT) is attached as Appendix 1.
 - 2.1.3. Note that an update on the outcomes that are being achieved from the fair working practices by those delivering contracts awarded by Renfrewshire Council will be provided to Sub Committee by June 2016.
-

3. Background

- 3.1. Since January 2013, tenderers have been actively encouraged to pay the living wage. Within the current procurement process tenderers are requested to confirm if they have a living wage policy, if they pay the living wage, use zero hour contracts and sessional staff as well as if they participate in workfare schemes. The responses are for information only and do not form part of the tender award criteria.
- 3.2. Section 9 of the Procurement Reform (Scotland) Act 2014 places a sustainable procurement duty on contracting authorities to consider improvements to the economic, social and environmental wellbeing of the authority's area.
- 3.3. As such Renfrewshire Council is committed to ensuring delivery of high quality services and achieving best value through contracts by:
 - Securing continuous improvement in the performance and delivery of its functions,
 - Maintaining an appropriate balance between quality and whole life cost,
 - Having regard to efficiency, economy, effectiveness and equal opportunities, and
 - Actively contributing to sustainable development.

- 3.4. Use of exploitative and avoidable zero hour contracts are not consistent with fair work practices. Zero hour contracts may be appropriate for seasonal work in sectors such as agriculture or tourism because there is a need to cover unanticipated peaks in service delivery.
 - 3.5. Those delivering public contracts are required to respect International labour standards, set by European Union and the International Labour Organisation demonstrating compliance with employment, equality and health and safety law, including human rights standards. A key requirement for bidders is to describe how they have adopted fair work practices for all workers engaged on delivering the contract.
 - 3.6. Renfrewshire Council as a Contracting authority is also required by Equality legislation to promote equality and have due regard to the public sector equality duty. As such Renfrewshire Council has adopted policies which support the development of a positive and inclusive working environment and organisational culture where all employees have rights to fair treatment, respect and continuous professional development.
 - 3.8 The recommended question to evaluate fair working practices of those delivering public contracts delivering public contracts has been incorporated in the Invitation to Tender (ITT) is attached as Appendix 1.
 - 3.9 In order to ensure that fair working practices continue to be applied a database is being developed to support contract management and monitoring of the fair working practices.
-

Implications of the Report

1. **Financial** – Renfrewshire Council as a Contracting authority must have regard to the statutory guidance in relation to the selection of tenderers and the award of contracts for regulated procurements where the estimated value of the contract is equal to or greater than £50,000 for goods and services and £2,000,000 for works contracts and which is not otherwise exempt from regulation.
2. **HR & Organisational Development** – None
3. **Community Planning** – **actively** contribute towards improving the social wellbeing element aligned to the sustainable procurement duty under section 9 of the Procurement Reform (Scotland) Act 2014 (“the Act”) by adopting policies to promote fair work practices in relevant public contracts.
4. **Legal** –The statutory guidance on addressing ‘Fair Work Practices, including Living Wage in Procurement’ published by the Scottish Government under section 29 of the Procurement Reform (Scotland) Act 2014. The statutory guidance commenced on 1 November 2015.
5. **Property Assets** – None.
6. **Information Technology** – None.

7. **Equality & Human Rights**

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because for example it is for noting only. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety** – None.

9. **Procurement** – The requirements of the statutory guidance will be incorporated within the procurement procedures that enable evaluating fair working practices in the delivery of contracts awarded by Renfrewshire Council.

10. **Risk** – None.

11. **Privacy Impact** – None.

List of background papers

(a) Scottish Government's – Statutory Guidance on the Selection of Tenderers and Award of Contracts

Author: Yasmeen Khan, Procurement Policy Officer, telephone number 0141 618 7404.

TEMPLATE QUESTIONS FOR USE WITHIN ITTs

This Appendix provides a template question to be included within ITTs where considering fair working practices.

1. Background Information

1.1 Renfrewshire Council is committed to ensuring delivery of high quality services and achieving best value through contracts by:

- Securing continuous improvement in the performance and delivery of its functions,
- Maintaining an appropriate balance between quality and whole life cost,
- Having regard to efficiency, economy, effectiveness and equal opportunities, and
- Actively contributing to sustainable development.

1.2 Renfrewshire Council has adopted policies which support the development of a positive and inclusive working environment and organisational culture where all employees have rights to fair treatment, respect and continuous professional development. These include;

- Supporting the living wage by guaranteeing a minimum standard of income for all Council employees.
- A wide range of staff training and development opportunities
- Flexible working and flexi time
- Offering a range of employee assistance scheme's
- A strong commitment to Modern Apprenticeships
- No inappropriate use of zero hours contracts or other forms of demand driven contracts
- Respect at Work Policy
- Equal Pay Policy supported by equal pay audits
- Code of Conduct for employees
- Equality and Diversity at Work Policy

1.3 Fair work practices should be broadly comparable to those adopted by public sector organisations with those working on public contracts receiving fair, equitable and non-discriminatory pay, terms & conditions and reward packages.

2. Question

2.1 Please describe how you will commit to fair work practices for workers (including any agency or sub-contractor workers) engaged in the delivery of this contract.

2.2 Guidance on Response/Answer

Response/answers need not be constrained to, or be reflective of any of examples given alongside this question.

2.3 Good answers will reassure evaluators that your company takes a positive approach to rewarding staff at a level that helps tackle inequality (e.g. through a commitment to paying at least the Living Wage); improves the wider diversity of your staff; provide skills and training, and opportunities to use skills which help staff fulfil their potential; avoids exploitative employment practices (e.g. in relation to matters such as the inappropriate use of zero-hours contracts); takes the engagement and empowerment of staff engaged on this contract seriously, including having arrangements in place to ensure trade union representation where possible; otherwise alternative arrangements to give staff an effective voice and that your company will demonstrate organisational integrity with regards to the delivery of those policies.

2.4 This reassurance can include a variety of practices which demonstrate your approach to fair work and should be tangible and measurable examples that can be monitored and reported during contract management procedures.

Appendix 1 - Fair Working Practices within Contracts Policy

3. Additional Guiding Information

3.1 Living wage is a term used to describe the minimum hourly wage necessary for shelter (housing and incidentals such as clothing and other basic needs) and nutrition for a person for an extended period of time (lifetime). This standard generally means that a person working full-time, with no additional income, should be able to afford a specified quality or quantity of housing, food, utilities, transport, health care, and recreation. The idea behind the Living Wage is to encourage employers to raise their own rates of pay - and those of contracted staff - to at least £8.25 an hour (UK Rate).

The rate of £8.25 is based on research carried out by the Joseph Rowntree Foundation which looked at developing a formula for calculating a minimum income standard. For their purposes, a Living Wage could be defined as the level of income needed to provide an acceptable standard of living in United Kingdom (outside of London where a different living wage is set) to ensure good health, adequate child development and social inclusion.

3.2 Companies delivering on public contracts need to demonstrate that the International labour standards, set by European Union and the International Labour Organisation are being respected, demonstrating compliance with employment, equality and health and safety law, including human rights standards. All of these measures demonstrate positive approaches towards fair working practices.

3.3 Providing descriptions of the positive and optimistic measures that demonstrate contribution towards improving the economic, social and environmental wellbeing to achieving better outcomes for everyone by putting something back in the community.

4. The following evaluation methodology can be applied where assessing fair working practices as part of the tender award criteria:

Fair work practices/workforce matters Scoring Guidance	RATING %
No response is provided to the question or a response is provided that is not relevant to the nature of the question or the Tenderer has confirmed that they will not promote good workforce practices in the delivery of this contract.	0
Response is partially relevant however provides limited information in relation to commitment to promote good workforce practices in the delivery of this contract.	25
Response is relevant, acceptable and whilst it broadly demonstrates the Tenderer's commitment to promote good workforce practices in the delivery of this contract it lacks detail on approach/measures/policies	50
Response is relevant and provides good information in relation to the Tenderer's commitment to promote good workforce practices in the delivery of this contract. The response is sufficiently detailed to demonstrate a good understanding of the impact of good workforce practices on the Quality of contract delivery and provides details on how these practices will be applied, monitored and refined during the contract.	75
Response is completely relevant and excellent overall, and gives a comprehensive and unambiguous account of the Tenderer's commitment to promote good workforce practices in the delivery of this contract. Response demonstrates a good understanding of the impact of good workforce practices on the Quality of contract delivery and is supported by evidence of how this commitment is embedded across the organisation, and how these practices will be applied, monitored and refined during the contract. Response may be supported by relevant case studies	100