

Scotland Excel

To: Executive Sub Committee

On: 18 November 2016

**Report
by
Director Scotland Excel**

Sustainable Procurement Strategy

1 Introduction

The purpose of this report is to provide Members with the opportunity to review the new Scotland Excel Sustainable Procurement Strategy. It is intended that this new strategy will be presented for approval of the Joint Committee at the meeting scheduled for 9th December.

2 Summary

The present Scotland Excel Sustainable Procurement Policy/Strategy has been in place since June 2013. It was developed from Scotland Excel's original Sustainability Policy which was introduced in 2010 following the launch of the first national plan for sustainable procurement – The Scottish Sustainable Procurement Action Plan.

Over the last few years there have been a number of changes to policy and legislation which has given greater focus on sustainable procurement and the benefits to be realised. In particular during 2016 the coming into force of the Public Contracts (Scotland) Regulations 2015; the Procurement (Scotland) Regulations 2016; and statutory guidance made under and in terms of the Procurement Reform (Scotland) Act 2014 have further supported the drive to deliver sustainable procurement.

The new Sustainable Procurement Strategy (attached as an annex to this report) has been developed following a detailed review of the statutory guidance and best practice and is clearly aligned to the strategic priorities of local government. The strategy will support local government in meeting the challenge of delivering social benefits and contributing to economic growth. Additionally it further strengthens the consideration of Social considerations such as Workforce Matters (including the Living Wage) and Community Benefits at the outset of a procurement exercise to ensure that overall value and potential social benefits are optimised.

Delivery of the Sustainable Procurement Strategy will be monitored through the internal governance process on a contract by contract basis and will be reported within Scotland Excel's Annual Procurement Report which will detail performance against and compliance with the Annual Procurement Strategy (as required under the Procurement Reform (Scotland) Act 2014).

3 Conclusion

Executive Committee members are requested to note the content of this report and endorse the submission of the Sustainable Procurement Strategy for approval by the Joint Committee.

Scotland Excel
Sustainable Procurement Strategy

October 2016

Scotland Excel: Sustainable Procurement Strategy

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1 Introduction

Sustainable procurement is a process whereby organisations meet 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 to the organisation, but also to society and the economy, while minimising damage to the environment¹.

With the goal of achieving social, economic and environmental value from public sector spend Scotland Excel has, particularly over recent years, been a prominent first-adopter and practitioner of sustainable procurement. Our lead in the development of the sustainable procurement Flexible Framework self-assessment tool and our sustainable public procurement training to the public sector exemplify this approach. Our success in implementing sustainable procurement is clearly seen in our National GO Award for Sustainability Initiative of the Year, and the fact that around 70% of suppliers on our contracts are SMEs.

This strategy builds upon current practice and sets out how Scotland Excel will best address recent changes in legislation, implement the new sustainable procurement duty and will further incorporate/embed sustainability into all of its procurement activity.

Scotland Excel is committed to understanding how its procurement activity can contribute to national and local priorities. The Scottish Government's National Outcomes align with those of the United Nations Sustainable Development Goals. The Scottish Government's purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish through increasing sustainable economic growth. Therefore, sustainable public procurement, covering all of Scotland and implemented and supported by Scotland Excel, will help the government achieve its overarching purpose and strategic objectives.

Scotland Excel is permitted under the EU public procurement rules and required under the Procurement Reform (Scotland) Act 2014's ("**Act**") sustainable procurement duty, to consider before it procures anything, how it can improve the social, environmental and economic well-being of the area in which it operates. There is a particular focus on reducing inequality. Scotland Excel is also required to consider how its procurement processes can facilitate the involvement of SMEs, third sector bodies and supported businesses and how its procurements can be used to promote innovation.

The purpose of this strategy is to set out how Scotland Excel intends to ensure that its regulated procurements (as defined under the Act ²) will be carried out in compliance with

¹ Procuring the Future (Sustainable Procurement Task Force).

² For the purposes of this policy, it is assumed that all of Scotland Excel's procurements are regulated procurements as defined in the Act, namely, any procedure carried out in relation to the award of a proposed contract / framework agreement with an estimated value equal or greater than £2,000,000 for public works contracts / framework agreements and £50,000 for other public contracts / framework agreements (assuming the contract / framework agreement is not an excluded contract / framework agreement).

the sustainable procurement duty. This strategy sets out how Scotland Excel will draft and / or revise its statement in its annual Procurement Strategy setting out its compliance with the sustainable procurement duty. This strategy, together with each year's Procurement Strategy, will detail a robust, achievable approach to sustainable procurement that is relevant and proportionate to the scope of Scotland Excel's procurement activities.

The sustainable procurement duty is roughly divided into three sections. It is sensible for this strategy to follow these sections, which are:

- Economic, Social and Environmental wellbeing
- SMEs, Third Sector Bodies, Supported Businesses
- Promoting Innovation

2 Economic, social and environmental wellbeing

2.1 What does this mean?

Under its sustainable procurement duty, Scotland Excel must, before carrying out a regulated procurement, consider how in conducting the procurement process it can improve the economic, social and environmental wellbeing of Scotland Excel's area and act, when carrying out the procurement, with a view to securing these benefits.

2.2 How Scotland Excel implements this

In general, we will consider how best our procurements can achieve the following:

- economic outcomes, including: optimal availability of suitable and high quality jobs; encouragement of local small businesses; efficient and effective transport links; lifelong learning, training and skills development; and the provision of infrastructure and new information and communication technologies;
- social outcomes, including: encouragement of the voluntary sector; satisfaction of the needs of children and young people (particularly the most vulnerable); and fuller access to education;
- environmental outcomes, including: improving the availability of clean air, clean water, and clean streets; improving the quality and safety of the built environment; protecting communities against the threat of climate change, including flooding; and improving and promoting biodiversity and accessibility to nature.

In particular, to ensure that Scotland Excel identifies and addresses how it can optimise these economic, social and environmental outcomes through its procurement activity (and so satisfy its sustainable procurement duty), it shall positively implement the methodology agreed by the Scottish Government's Public Procurement Reform governance structure.

First, each year in the preparation of its sustainable procurement duty statement in its annual Procurement Strategy (which outlines its proposed approach to sustainable

procurement), Scotland Excel will use the 'Sustainable Public Procurement Prioritisation Tool' ('SPPPT') to identify the best opportunities for sustainable procurement in relation to its anticipated procurement spend over that coming calendar year.

Second, during the development phase of each procurement exercise the 'Sustainability Test' may be used (alone, or using information derived from the SPPPT) to check the anticipated sustainability-related opportunities, outcomes and risks that an individual procurement might involve.

Third, during the development phase of each procurement, or at regular strategy development-related intervals, Scotland Excel may run the 'Life-Cycle Impact Mapping' exercise in order to identify sustainability-related (economic, social, health and environmental) impacts at each stage in the life of the works, products or services to be procured. The outputs of this exercise can then be used to best mitigate the potential for negative impacts, or further develop any positive impacts, in, for example, the design of the: procurement process; contractual performance clauses; or Scotland Excel's contractual management procedures.

Finally, Scotland Excel will continue to use the 'Flexible Framework' self-assessment tool for sustainable procurement to develop action plans, responsibilities and targets, to help it realise its intended sustainability outcomes. Note that in 2013 Scotland Excel was one of the first organisations to reach level 4 of the 'Flexible Framework'.

Some of the ways in which Scotland Excel will specifically promote economic, social and environmental sustainability are:

- Economic sustainability:
 - o *Fair working practices*: Use our procurement processes to the full extent permissible to promote fair working practices by our suppliers, in particular, encouraging the payment of the Living Wage and discouraging the use of zero-hours contracts;
 - o *Community benefits*: Further embed the provision by suppliers of recruitment and training and other economic community benefits into our future tender opportunities, and encourage current suppliers to provide these;
 - o *Unfair commercial practices*: Continue to use and develop our procurement processes to the full extent permissible to discourage the use of unfair commercial practices such as blacklisting, corruption, bribery, fraud and anti-competitive practices;
 - o *Local businesses*: Further encourage the participation of local businesses in our tender opportunities, for example, by strengthening our partnership with the Supplier Development programme, supplier / buyer events, training suppliers on our e-procurement platforms and by developing a model for engaging directly with local suppliers in partnership with our members' procurement and economic development teams;

- *Best-value*: Continue to make sure that all our procurement provide the opportunity for our members to achieve best value in their procurements;
- *Education and training*: Ensure that our education related frameworks provide the best products and services for child and adult education;
- Social sustainability:
 - *Ethical procurement*: Continue to design our procurement processes to offer fairly sourced, manufactured and traded products;
 - *Social Care*: Continue to ensure our adult and children care services deliver relevant national policy outcomes;
 - *Community benefits*: Fully embed the provision by suppliers of social-related community Benefits into our future tender opportunities, and encourage current suppliers to provide these;
 - *Our frameworks*: Continue to design our food-related procurement processes to offer healthy food options, such as organic products , and to ensure that all of our frameworks, and in particular our social care, food, hygiene and safety and safety and security frameworks, maximise healthy and safe outcomes;
- Environmental sustainability:
 - *Our frameworks*: Continue to embed in all of our frameworks, in particular, those specifically with environmental-related purposes, implementation of relevant Government environmental-related strategies (e.g. reduction of environmental impacts, waste, recycling and climate change) and, so, support, our members' compliance with legislation, climate change targets and efforts to recover value from waste;
 - *Community benefits*: Fully embed the provision by suppliers of environmental-related community Benefits into our future tender opportunities, and encourage current suppliers to provide these;

3 SMEs, Third Sector Bodies, Supported Businesses

3.1 What does this mean?

Under its sustainable procurement duty, Scotland Excel must, before carrying out a regulated procurement, consider how in conducting the procurement process it can facilitate the involvement of: SMEs; third sector bodies; and supported businesses in the relevant procurement process. This is particularly important for micro-businesses which constitute the majority of businesses in Scotland.

In brief, this means keeping the costs associated with submitting a tender as low as possible, and removing barriers to participation, in order to encourage the participation of small firms (including the self-employed), third sector bodies and supported businesses.

3.2 How Scotland Excel implements this

Scotland Excel already addresses the well-documented concerns regarding the participation of SMEs, Third Sector Bodies and Supported Businesses in its procurement processes, namely, transparency, simplicity of processes and facilitating access. A key driver of the sustainable procurement duty is to increase the transparency of procurement activity to economic operators and simplicity is the key to help facilitate access to public contracts.

Transparency

Scotland Excel already carries out a number of requirements that complement the sustainable procurement duty's aims of increased transparency, with the aim of assisting businesses to assess current spend areas, organisational priorities and potential future contract opportunities:

- Full use of Public Contracts Scotland ('PCS') to provide fully transparent tendering and award procedures;
- Using the Contracts Register on the Scotland Excel website to provide information on the scale and nature of procurement by a contracting authority (enabling the market to identify opportunities); and
- Fully debriefing of unsuccessful candidates and tenderers to help them understand in detail the relative strengths and weaknesses of their bids to provide them with a focus for developing their business.

Scotland Excel will continue to provide its transparency enhancing activities outlined above. In addition,

- Its annual procurement strategy will set out how it intends to conduct its procurements and its annual procurement report will set out the scale and nature of its previous year's procurements, both of which will enable the market to identify further opportunities; and
- Scotland Excel foresees that it will continue to develop and enhance its debriefing of unsuccessful candidates and tenderers to assist them in future tenders.

Simplicity

Scotland Excel currently aims to make the process of accessing its procurements by candidates and tenderers as simple as possible. For example, it strives to ensure that its selection and award stages are designed in as simple and as clear a manner as possible, and fully and clearly explained to candidates and tenderers via PCS, the procurement documents and tenderer information sessions. Further, we make no charges for participation in our procurement processes and have no intention to do so.

Scotland Excel will build upon its current systems to make the process of accessing its procurements by candidates and tenderers as simple and straightforward as possible. Furthermore, it will consider whether other models of procurement might suit its

procurement categories, for example, consider substituting the procurement of framework agreements with the procurement and use of the dynamic purchasing model.

Access

Scotland Excel currently strives to ensure maximum access to its procurements by SMEs, third sector bodies and supported businesses in the following ways:

- Using only selection conditions and requirements, award criteria and conditions of contract that are proportionate to the framework agreement being procured;
- Undertaking significant preliminary market consultations to ensure that the market is aware of Scotland Excel's requirements and procurement plans;
- Dividing framework agreement requirements into lots to permit access from smaller businesses;
- Flexibly procuring our social care framework agreements to the extent permitted by the procurement rules; and
- Encouraging its suppliers, via community benefit tender commitments or otherwise, to consider: using SME, third sector and supported business sub-contractors to fulfil the contract requirements; and providing / facilitating development activities within its supply chain.

In addition to its current access enhancing activities outlined above, Scotland Excel foresees that it will further develop the access of SMEs, third sector bodies and supported businesses to its procurements and plans to:

- take full advantage of the new public procurement rules to help participation of these organisations, such as: limited financial capacity no longer being a bar on being selected to tender; only asking relevant and proportionate questions and requiring the satisfaction of proportionate minimum conditions and requirements in the new ESPD (Scotland); and, limiting the qualification-related evidence required by bidders to the minimum necessary;
- take steps to encourage the participation of consortiums involving SMEs, third sector bodies and supported businesses;
- consider whether it is appropriate for certain framework agreements, or lots thereunder, to reserve participation, or certain contracts, to supported businesses;
- consider ways to further encourage its suppliers (e.g. legally enforceable community benefit contract commitments, or softer means) to consider: using SME, third sector and supported business sub-contractors to fulfil the contract requirements; and providing / facilitating development activities within its supply chain;
- consider how the flexible procurement regime for health and social care might encourage SME, third sector and supported business bidder, for example, by reducing for them any administrative burden barriers to participation; and

- continue to encourage participation by local companies in Scotland Excel's tender opportunities. For example, Scotland Excel will: continue to host supplier events and train suppliers on our e-procurement platforms; continue to strengthen our partnership with the Supplier Development Programme; engage with industry bodies, such as the Federation of Small Businesses and Chambers of Commerce, all to identify opportunities to improve access for SMEs.

4 Promoting innovation

4.1 What does this mean?

Under its sustainable procurement duty, Scotland Excel must, before carrying out a regulated procurement, consider how in conducting the procurement process it can promote innovation. This means Scotland Excel can influence the market towards innovative solutions. This might involve: innovation in the design and delivery of public services; the procurement of innovative goods and services; and innovative procurement processes and models.

4.2 How Scotland Excel Implements this

Not only do a number of Scotland Excel's framework agreements facilitate the purchase of innovative technologies by our members, but Scotland Excel has driven: the procurement of innovative goods and services; and, innovative procurement processes and models.

In relation to the former, Scotland Excel implements government policies through its procurements and thus drive demand for, and the development of, new goods / services available to our members. For example, the provision of a recycled furniture lot in our recent Domestic Furniture and Furnishings procurement process was driven by the government 'circular economy' policy. The desire for such a lot was only developed at the instigation of Scotland Excel via our preliminary market consultations.

In relation to the latter, Scotland has been at the forefront of developing novel ways to encourage its suppliers to pay at or above the living wage and provide economic, social and environmental community benefits to their wider community. Furthermore, we have helped establish and embed the development of e-procurement and the use of e-catalogues and e-invoicing through our frameworks.

Scotland Excel will continue to proactively monitor the legislative, policy, commercial and market place backgrounds in order to identify opportunities through which it can develop, or encourage its members or suppliers to develop new: ways to deliver public services; goods and services; and procurement processes and models, and contractual models.

Scotland Excel, in a spirit of continuous improvement, will also further build knowledge and understanding through collaboratively engaging with Scottish Government and Zero Waste Scotland, and by further developing relationships, it will actively participate in the development of new learning initiatives with other sectors including higher education.

5 Supporting our members

Scotland Excel actively promotes the sustainable “whole organisation” approach to procurement starting at the very beginning of the procurement process when customers (local authorities) begin to consider their contract requirements.

In line with this approach Scotland Excel are also committed to taking a lead role in the delivery of sustainable procurement through being an advocate of best practices, facilitating sharing knowledge and support, and building capacity and capability within local authorities across Scotland.

Where required, Scotland Excel will support its members with duties arising from the new procurement rules applicable in Scotland. We will work with partners and members to ensure that tools and guidance to support sustainable procurement are developed and used to maximise social, economic and environmental benefits.

6 Summary, Key Principles and Outcomes

Scotland Excel is totally committed to the on-going development of, and delivering, this Sustainable Procurement Strategy. As the Centre of Procurement Expertise for Local Authorities it is appropriate and suitable that Scotland Excel aims to be at the forefront of best practice.

For Scotland Excel, procuring responsibly and sustainably means adhering to our sustainability principles:

- We will deliver best value collaborative contracts which fully incorporate sustainability considerations and support the delivery of best practice sustainable procurement;
- We will ensure that the procurement decisions we take are full informed to so that resulting courses of action have the minimum possible impact on the environment, both now and in the future. We aim to increase knowledge and skills to evaluate and respond to conflicting demands;
- We will continue to further embed ethical and social issues into the procurement process including the Living Wage and Community Benefits, and will be proactive in addressing issues of broader human rights within the supply chain;
- We will demonstrate the highest possible professional standards, which we will underpin by providing effective training, development and support to all staff involved in the procurement process. We will fully meet the requirements of the Chartered Institute of Purchasing and Supply (CIPS) Code of Ethics;
- We will engage with suppliers across all the markets in which we work and simplify our processes wherever possible, helping to better equip them to compete for public sector business. We will work in partnership with suppliers to drive sustainability benefits from contracts;

- We will share expertise, best practice and engage with internal and external stakeholders to promote approaches to sustainable procurement. We will monitor our progress and publish outputs; and
- We will keep abreast of developments and take an innovative approach to sustainable procurement, ensuring that our decisions are based on prevailing best practice.

Successful implementation of this strategy will be demonstrated by delivery of the following outcomes:

- Procurements with potential for high sustainability impacts clearly identified and appropriate mitigation plans and actions determined;
- Specifications include sustainability considerations (including whole life costing) ;
- Terms and Conditions upgraded to include appropriate sustainability and corporate social responsibility provisions.
- Sustainability within the Evaluation Criteria appropriately weighted;
- Improved transparency of Contractors position regarding Workforce matters (in particular payment of the Living Wage;)
- Increased Number of Contractors paying the Living Wage;
- Reduced Number of Contractors using zero hours contracts;
- Provision of Community Benefits will be maximised;
- Improved assurance that goods on Scotland Excel Frameworks are ethically sourced;
- Raised production and process standards;
- Waste and environmental impacts will be minimised;
- Increased participation from small and medium sized local businesses, supported businesses and the third sector; and
- Higher consumption of healthy and nutritious food.

7 Change Control

Amendments to this document can only be authorised by the Author and in accordance with approved processes and procedures.

The electronic version of this document held by the Custodian is the only true version – all printed copies are uncontrolled.

8 Document history and version control

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