

Minute of Meeting Scotland Excel Executive Sub-committee

Date	Time	Venue
Friday, 18 February 2022	09:30	Remotely by MS Teams,

Present

Councillor Charles Buchan (substitute for Provost Bill Howatson) (Aberdeenshire Council); Councillor Stephen Thompson (Dumfries & Galloway Council); Councillor Altany Craik (Fife Council); Councillor Jimmy Gray (Highland Council); Councillor Paul Di Mascio (North Lanarkshire Council); Councillor John Shaw (Renfrewshire Council); and Councillor Amanda Hawick (Shetland Islands Council).

Chair

Councillor Shaw, Convener, presided.

In Attendance

J Welsh, Chief Executive, H Carr, Head of Strategic Procurement, S Brannagan, Head of Customer and Business Services, L Campbell, Corporate Services Manager, L Richard, Strategic Procurement Manager, K Farley, Assistant Procurement Specialist, L Robertson, Project and Account Manager, S Christie, Commercial Manager, K Forrest, Office Manager, L Muir, Category Manager, and L Mooney, Senior Communications Specialist (all Scotland Excel); and L Mitchell, Managing Solicitor (Contracts and Conveyancing) and E Currie, Senior Committee Services Officer (both Renfrewshire Council).

Apologies

Provost Bill Howatson (Aberdeenshire Council); Councillor Angus Macmillan Douglas (Angus Council); Councillor Andrew Johnston (City of Edinburgh Council); Councillor Ruirí Kelly (Glasgow City Council); Provost Norman A Macdonald (Comhairle Nan Eilean Siar); Councillor Joe Cullinane (North Ayrshire Council).

Declaration of Interest

Councillor Craik declared an interest in item 4(a) for the reason that it related to Fife Council. Councillor Craik indicated that as he had declared an interest, he would leave the online meeting during any discussion and voting on the item.

Transparency Statement

Councillor Buchan indicated that he had a connection to item 4(b) by reason of a relative being an employee of Scottish Water. However, he indicated that he had applied the objective test and did not consider that he had an interest to declare.

1 Minute

There was submitted the Minute of the meeting of the Executive Sub-committee held on 28 January 2022.

DECIDED: That the Minute be approved.

Sederunt

Councillor Di Mascio and Councillor Hawick joined the meeting during consideration of the following item of business.

2 Fair Work and Living Wage Update

There was submitted a report by the Chief Executive of Scotland Excel providing an update on Fair Work practices, including the Living Wage.

The report intimated that Scotland Excel had been addressing Fair Work practices in procurement since the introduction of statutory guidance in October 2015 and, working within the applicable legislative framework, had been committed to encouraging suppliers/contractors to pay the real Living Wage.

The report advised that research showed that paying the real Living Wage helped businesses recruit and retain better staff, reduce absenteeism, encourage higher productivity and 93% of businesses had intimated that Living Wage accreditation had improved their reputation. To date legal advice and policy had allowed encouragement of the Living Wage but prohibited imposition. Those suppliers/contractors who do not pay the Living Wage cannot be penalised in the tender or subsequent contractual process and this had meant that public bodies were unable to make payment of the real Living Wage a mandatory requirement as part of a competitive procurement process.

In December 2020, the Scottish Government wrote to public bodies setting out the clear expectation that public sector partners must lead the way by embedding Fair Work in their organisations and through supply chains, including through procurement, by applying the five Fair Work First criteria in public procurement processes from April 2021.

The report noted that on 15 March 2021, the Scottish Government published a Scottish Procurement Policy Note (SPPN), SPPN 3/2021 setting out action for public bodies to apply Fair Work First criteria in regulated procurement processes that commenced

from 1 April 2021; on 24 September 2021, the Scottish Government published SPPN 6/2021 advising that Fair Work First had been expanded from five elements to seven elements and that SPPN 6/2021 superseded SPPN 3/2021, which had been withdrawn; and on 15 October 2021, the Director of Procurement & Property, Scottish Government, advised that the Scottish Government believed it would be possible to mandate the real Living Wage in public contracts where Fair Work First practices, including payment of the real Living Wage, was relevant to how the contract would be delivered; it did not discriminate amongst potential bidders; it was proportionate to do so; and the contract would be delivered by workers based in the UK. Additionally, the Minister for Business, Trade, Tourism and Enterprise announced that the Scottish Government would be implementing this change to all new contracts with immediate effect.

It was noted that the Scottish Government had advised that the content of SPPNs were not legal advice and should not be construed as such. Public bodies were advised to seek their own legal advice. It was hoped that the planned update of the current statutory guidance and SPPNs would provide clarification on the areas detailed in the report.

Scotland Excel had consistently applied Fair Work criteria and strongly promoted and encouraged payment of the real Living Wage and would continue to drive the relevant social, economic and environmental outcomes through procurement activity. Fair Work would continue to be included within the quality evaluation of all frameworks and the weightings attributed to each framework would be proportionate to the likely impact on quality for that particular framework and would therefore be assessed on a case-by-case basis. It was anticipated that this would continue to deliver improved employment conditions, better value frameworks and minimise potential for increased costs to councils.

In light of the most recent communication from the Scottish Government regarding their revised approach to mandating payment of the real Living Wage, Scotland Excel would now, on a contract-by-contract basis, look further into ways in which where appropriate it could, within the law, consider and mandate the real Living Wage.

The Head of Strategic Procurement intimated that a report would be submitted to a future meeting of the Executive Sub-committee in relation to Scotland Excel's approach to The Fairer Scotland Duty. Further that he would provide further clarity on the report to Councillor Hawick, out with the meeting, specifically in relation to reference made to mandating the real living wage where appropriate to do so.

DECIDED:

(a) That the report be noted;

(b) That it be noted that a report would be submitted to a future meeting of the Executive Sub-committee in relation to Scotland Excel's approach to The Fairer Scotland Duty; and

(c) That it be noted that the Head of Strategic Procurement would provide further clarity on the report to Councillor Hawick, out with the meeting, specifically in relation to reference made to mandating the real living wage where appropriate to do so.

Declaration of Interest

Councillor Di Mascio declared an interest in the following item for the reason that he was an owner/occupier in the industry. Councillor Di Mascio indicated that as he had declared an interest, he would leave the online meeting during any discussion and voting on the item. Councillor Di Mascio then left the meeting.

3 **Contract for Approval: Pest Control Services and Associated Products**

There was submitted a report by the Chief Executive of Scotland Excel relative to the award of the renewal framework for pest control services and associated products for the period 1 February 2022 until 31 January 2025, with the option to extend for up to 12 months until 31 January 2026. It was noted that, subject to approval and completion of a standstill period, it was intended that the framework would commence on or around 1 March 2022.

The framework covered the removal of rats and mice, crawling insects, flying insects and the supply of pest control chemicals and accessories.

The report summarised the outcome of the procurement process for the framework which had been divided into two lots, as detailed in table 1 of the report.

The report advised that the framework had been advertised at a total value of £1 million per annum, which equated to an estimated spend of £4 million over the maximum four-year term of the framework and Appendix 1 to the report detailed the participation, spend and savings summary of those councils participating in the framework.

Tender responses had been received from 11 suppliers and Appendix 2 to the report provided a summary of the offers received. It was noted that all respondents had passed the first-stage qualification/selection assessment, however one bidder was non-compliant having failed to upload a pricing schedule and had been advised accordingly. Further, that one bid had been withdrawn.

Based on the criteria and scoring methodology set out in the tender document, a full evaluation of the compliant offers had been carried out and Appendix 3 to the report detailed the scoring achieved by each bidder.

Based on the evaluation undertaken, and in line with the criteria and weightings set out in the report, it was recommended that a multi-supplier framework arrangement be awarded to five suppliers across the two lots, as outlined in Appendix 3 to the report.

Appendix 4 to the report detailed the approach taken by suppliers in relation to fair work practices and their position on the payment of the Real Living Wage.

The report intimated that, in accordance with Scotland Excel's established contract and supplier management programme, the framework had been classified as class D in terms of risk and spend, as detailed in Appendix 5 to the report.

DECIDED: That the award of the multi-supplier framework for pest control services and associated products, as detailed in Appendix 3 to the report, be approved.

Declaration of Interest

Councillor Craik having previously declared an interest in the following item, left the meeting and took no part in the discussion or voting thereon.

4(a) Request for Associate Membership: Fife Sports and Leisure Trust Limited

There was submitted a report by the Chief Executive of Scotland Excel advising that Fife Sports and Leisure Trust Limited had submitted an application to become an associate member of Scotland Excel.

The report provided details of the organisation and the legislative position in relation to the application.

DECIDED: That the application by Fife Sports and Leisure Trust to become an associate member of Scotland Excel, with no annual membership fee, be approved subject to completion and signing of the agreement documentation.

4(b) Request for Associate Membership: Scottish Water

There was submitted a report by the Chief Executive of Scotland Excel advising that Scottish Water had submitted an application to become an associate member of Scotland Excel.

The report provided details of the organisation and the legislative position in relation to the application.

The Head of Customer and Business Services intimated that he would provide a written response to Councillor Hawick in relation to her query regarding the recommendation that a proposed public organisation would not pay a fee for membership and also around Scotland Excel resources being deployed towards associates and not core members.

DECIDED:

(a) That the application by Scottish Water to become an associate member of Scotland Excel, with no annual membership fee, be approved subject to completion and signing of the agreement documentation; and

(b) That it be noted that the Head of Customer and Business Services would provide a written response to Councillor Hawick in relation to her query regarding the recommendation that a proposed public organisation would not pay a fee for membership and also around Scotland Excel resources being deployed towards associates and not core members.

4(c) Request for Associate Membership: Thenue Housing Association Limited

There was submitted a report by the Chief Executive of Scotland Excel advising that Thenue Housing Association had submitted an application to become an associate member of Scotland Excel.

The report provided details of the organisation and the legislative position in relation to the application.

DECIDED: That the application by Thenue Housing Association to become an associate member of Scotland Excel, with an annual membership fee of £4,461, be approved subject to completion and signing of the agreement documentation.

5 **Date of Next Meeting**

DECIDED: That it be noted that the next meeting of the Executive Sub-committee would be held at 9.30 am on 18 March 2022.