



# Consultation on Procurement Reform Bill

To: All Chief Executives, Main Contacts and APSE Contacts in Scotland

For information only to England, Northern Ireland and Wales

## Key Issues

- The Scottish Government have issued a consultation on the proposed procurement reform bill
- The consultation identifies a range of measures which are designed to enhance and improve the public sectors approach to procurement
- There may be a new general procurement duty placed on public sector organisations to govern and underpin the function
- The consultation sees procurement as being central to delivering economic, environmental and social benefits
- Any approach needs to have due regard to the changing EU regulations with regard to procurement

## 1. Introduction

1.1 The Scottish Government have issued a consultation concerning their proposals to further reform public sector procurement in Scotland. The consultation paper highlights that the public sector spends over £9billion per year on goods and services.. The local government sector spends some £5billion per annum despite the spending reductions. It follows therefore that effective procurement is a vital contributor to growing the Scottish economy and in turn supporting job creation, infrastructure development, strengthening communities and supporting the transition to the low carbon economy. It is clear that public sector organisations need to make the best use of the resources they are entrusted with if they are to deliver best value and improve outcomes for service users. This reflects the spirit of the recently produced Christie Commission Report.

1.2 The consultation rightly acknowledges that procurement processes will differ depending on the value and type of contract. However the consultation makes the

point that there is a need for a new procurement framework for Scotland which is better suited to its own economic, social and economical requirements. This would need to reflect the EU procurement regime. The consultation seeks to establish a revised procurement framework which supports:

- Economic Growth, by delivering economic, social and environmental benefits
- Process and systems which are transparent, streamlined and standardised
- Innovation

1.4 The consultation recognises the actions of the public sector have a huge impact on society, the economy and the environment. Procurement therefore can and does have a key role in terms of delivering on both national and local priorities/outcomes.

1.5 The consultation addresses a whole range of related issues which are considered to be central in terms of framing effective, fit for purpose procurement policy and supporting processes and changes.

## **2.0 Context**

2.1 The consultation acknowledges that a degree of progress has been made in Scotland with regard to improving public sector procurement. Through procurement reform the Scottish Government together with other parts of the public sector have introduced new organisations, supporting structures, processes and systems which have delivered substantial savings. The consultation however recognises more can be done in extracting maximum value from the public pound.

2.2 For the purposes of the consultation sustainable procurement is defined as:  
***“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 and generates benefits not only to the organisation but also to society, the economy and the environment”***

Scottish Government Sustainable Procurement Action Plan

## **3.0 Legal Framework for Public Procurement**

3.1 The consultation recognises that procurement in Scotland operates in a European policy context and is governed by a range of E.U. directives. The implementation of the E.U. Procurement is however a matter for the Scottish Parliament. Given recent changes to public procurement in Europe there is now a requirement to review Scottish regulations by 2014. This is recognised within the consultation .

## **4.0 Public Procurement Reform in Scotland – Progress to Date**

4.1 The consultation recognises that a degree of progress has been made since a fundamental review of public procurement was undertaken by John McClland (2006). The degree of progress was reflected in the Audit Scotland report “Improving Public Sector Purchasing” (2009). The Scottish Governments Public Procurement Reform Bill signals a further phase of reform which seeks to:

- Maximise efficiency and collaboration
- Deliver and demonstrate real cash savings across the public sector
- Improve access to public sector contracts particularly for SMES and the third sector
- Embed sustainable procurement

## 5.0 Aim of the Consultation Bill

- 5.1 The consultation clearly sees procurement as a “lever” for economic growth. At the same time the consultation wishes to streamline and standardise the public sectors dealings with business, adopting more efficient procurement practices that encourage competition and secure best value.

## 6.0 Components of Consultation

The following areas are addressed within the consultation paper:

- **Public procurement processes are transparent, streamlined, proportionate, standardised and business friendly**

The consultation proposes a new general duty on all public organisations to conduct procurement in an effective and proportionate manner. In addition, the consultation proposes to simplify the processes so that it is easier for suppliers to “do business” with the public sector in terms of standardising pre-qualification processes. This includes removing charges for the issue of tender documentation and standardisation pre-qualification tender expenses.

- **Making it easier for consumers, particularly newer businesses, SMEs and third sector, to access public contract opportunities and sub-contracting requirements**

The consultation paper suggests public sector organisations should endeavour to facilitate new businesses, SME’s and third sector. In addition, the consultation suggests a requirement will be placed on the public sector to utilise an outline portal to advertise contract availability. The objective being to create a “**one stop shop**” approach for suppliers in searching for public sector contracts. This may be extended to all sub contract opportunities.

- **Smarter use of public procurement to encourage innovation and growth**

The consultation paper wishes to “instil” more innovation into the public sector procurement process a particular reference is given to I.C.T. This being interrelated to new business opportunities.

- **Taking account of social and environment sustainability**

The consultation proposes a further general duty which will encourage public sector organisations to procure in a way which promotes economic, environmental and social benefits. To this end, the consultation addresses the value in stipulating community benefit clauses in to contracts in order to promote jobs and training opportunities for young/local people.

- **Dealing with inappropriate conduct and poor performing suppliers**

The consultation reinforces the need for business ethics and standards particularly from suppliers. The consultation proposes that public sector organisations will be given a new power which addresses inappropriate conduct in relation to both the delivery of contracts, business standards and ethical behaviour.

- **Application and compliance**

The consultation places an emphasis on compliance whilst balancing issues associated with cost and risks. The consultation does however recognise the

need to establish and embed good quality, processes, systems and practices as part of the need to reform and improve public procurement.

## **7.0 APSE Comment and Conclusion**

- 7.1 The consultation seeks to improve Scotland's approach to public sector procurement in both policy and process terms with a view to delivering greater financial, social and environmental value from the public pound. The Scottish Government and the public sector have achieved much particularly from a savings perspective. Some £61million was "saved" from procurement spend in 2011/12. It is hoped that some £400million will be saved in 2012/15, across the Scottish public sector.
- 7.2 There is a recognition that more needs to be done. A recent report Using our Buying Power to Benefit Scotland (Cuthbert) found "too much" of the procurement spend was leaving Scotland particularly in relation to infrastructure based projects. The consultation contains a number of positive developments particularly in relation to viewing procurement as being central to an areas economic, social and environmental well being. Members of APSE are guided to the research "More Bang for the Public Buck" February 2010 which gives advice on this very issue. In addition, the consultation proposes a new procurement duty for public sector organisations, which will govern how they conduct and manage the procurement function. This is welcomed by APSE.
- 7.3 Of particular interest is the proposal to include community benefit clauses in all major contracts. This could have a significant impact on employment levels amongst young people in terms of creating much needed modern apprenticeships. APSE is conducting research in this regard through its knowledge transfer programme. The direction the consultation sits well with APSE policy. Members are directed to APSEs "Towards Sustainable Procurement for Local Authorities" which gives practical help and support to the local government sector.

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