

Report to: Executive
Date: 7th February 2006
Report of: Report of the Corporate Procurement Manager
Subject: Adoption of the National SME Concordat
Ward: All

1. Purpose of the Report

The report has been prepared to advise Members of the implications of endorsing the Small Business (SME) Friendly Concordat Good Practice Guide and to seek approval for the Council to sign up to the principles set out in the draft Concordat (Appendix 1).

2. Consultation

2.1 This report has been prepared following consultation with the Executive Member for Organisational Development, the Executive Member for Regeneration, the Director of Regeneration and Development, Acting Manager of the East Durham Business Service, the Durham Procurement Partnership and the North East Centre for Excellence.

2.2 Management Team have also agreed this report in principle at its meeting of 19th December 2005.

3. Background

3.1 A report was submitted to Management Team on 23rd June 2005 outlining the principles of the National SME Concordat and seeking approval for the Council to adopt it. Management Team concluded that further consideration be given to determine the implications of adopting the Concordat and to ascertain 'readiness in the system' for the Council to meaningfully sign up to its underlying principles.

3.2 The Council has now made considerable progress in rolling out the National Procurement Strategy and its key milestones. In particular:

- The Council have been active and effective participants in the regional, collaborative approach to efficiency and procurement that the NE Centre of Excellence (NECE) has facilitated in the past 15 months.
- We have been one of the lead authorities responsible for developing the Durham Procurement Partnership (DPP), a forum that has been established to consider how best the District and the County Councils within the Durham area can work together to ensure that Strategic Procurement issues are considered and addressed effectively using the variable but generally limited resources available to each Council in the Partnership. It is to the credit of Easington and other neighbouring authorities that they have been willing to share

their resources, practices and procedures with the less developed Districts within the DPP.

- The partnership is currently involved in 2 significant and ambitious areas of work. One is the production of the “Durham Procurement Way” which is the development of a set of generic documents for use by each Council to cover the various issues related to strategic procurement and the procurement cycle itself. The aim of the “Durham Procurement Way” is to pool resources to minimise duplication of effort in production of policy and practical documents. One of the positive outcomes from the NECE point of view is that one product of this work will be a common approach to supplier engagement across this sub-region that will assist companies in trying to work with the Durham Councils. The approach is likely to be applicable to the Northumberland area as well.
- The Partnership is also developing a Commodities Strategy using the data gathered as a result of the NECE sponsored regional Spend Analysis project. The Councils are using the data gathered to develop a “business plan” that will lead to wider collaboration within the area under an agreed project managed framework. The aim of this project is to seek solutions that are applicable to each Council’s Community Plan in terms of being efficient but stimulating the local economy where applicable.
- The Council, through various representations, contributes regularly to the appropriate work streams of the RCE. In addition, the Council has secured funding for a groundbreaking project to examine the feasibility of operating some key “Care Related” Council services through the vehicle of a Social Enterprise.
- The Council was also among the first wave of Authorities in the region to implement a complete e-Procurement solution, which was introduced quickly, and effectively in a way that is being considered as a model for future adoption of e-Procurement in other authorities.

The Council is therefore in a much more favourable position to embrace the contribution that can be made by SME’s to promote the sustainability of our community and the local economy at large.

4. Why help small businesses?

- 4.1 SME’s represent a powerful engine for economic growth. Small firms are a crucial part of the UK economy. At the beginning of 2002, SME’s in the UK accounted for 99.8% of all businesses, 56% of employment and 52% of turnover.
- 4.2 There are approximately 1700 SME’s operating within the District and make up 98% of the business base of the District.

4.3 The belief that small & medium sized enterprises (SME') need to be more fully used in the public procurement process has become very topical. Given the size and significance of public procurement the question of how SME's can develop and maximise opportunities is of considerable importance for local, regional and national economies.

4.4 A number of key drivers currently exist which support the debate such as the need to achieve efficiency savings highlighted in the 'Gershon' efficiency review and the implications of the new Race Relations Act (Amendment) and Freedom of Information Acts in relation to improving transparency in public procurement. The business community itself has become more vociferous in its demands for greater transparency in the public procurement market.

5. What is the SME Concordat?

- 5.1 A Key theme of the National Procurement Strategy; **Stimulating Markets and Achieving Community Benefits**; sets out the strategic objectives the council should adopt:
- Engaging actively with suppliers, and
 - Use procurement to help deliver corporate objectives including the economic, social and environmental objectives set out in the Council's Community Plan.

In addition, by 2005 every council should have signed up to the national concordat for SME's.

5.2 The Small Business (SME) Friendly Concordat is a voluntary, non-statutory code of practice. The Office of the Deputy Prime Minister (ODPM), the Local Government Association (LGA) and the Small Business Service (SBS) strongly encourage all authorities to sign up to the Concordat.

5.3 The purpose of the concordat is to set out what small firms and others supplying Local Government can expect when tendering for Local Authority contracts. It is not intended that smaller suppliers automatically be given a competitive advantage when tendering for local government contracts due to the Concordat, however, there are certain steps that all contracting authorities can take to ensure that suppliers of all kinds are treated equally.

5.4 The SME Concordat represents a commitment from the council to encourage and develop appropriate levels of competition in local government markets in order to increase value for money and foster innovation, particularly from those businesses/ suppliers who may find it difficult to break into this market. These may include the following:

- SME's
- Ethnic & minority owned businesses
- Woman-owned businesses

- Social Enterprises
- Voluntary & Community organisations
- Suppliers who prefer not to use e-procurement on religious or other grounds

5.5 The National Procurement Strategy recognises that small businesses can provide best value in procurement. The Strategy therefore recommends that authorities develop diverse and competitive sources of supply and this is consistent with the spirit of Best Value legislation, which encourages authorities to develop a mixed economy of service provision. Getting the balance right is what strategic procurement is all about. The key is for the council to establish an organisational culture that exposes current service delivery models and practices to challenge.

6. The Legal Framework

6.1 The Concordat is consistent with the delivery of Best Value and EU and UK Procurement Regulations. The duty of Best Value, requires authorities to make arrangements to secure continuous improvement in the way in which they exercise their functions, having due regard to a combination of economy, efficiency and effectiveness.

6.2 In addition, the EC Treaty of non- discrimination, transparency and equal treatment apply to all public contracts no matter what the value. Furthermore, the EU procurement directives, which are based on the treaty, lay down detailed procedures and criteria for the specification, selection, and award of public contracts above certain thresholds.

6.3 The Local Government Act gives councils in England and Wales a general power to promote economic, social and environmental well being in their areas.

6.4 The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, gives public authorities a statutory duty to promote race equality. There is a legal requirement to have due regard to the need to eliminate unlawful racial discrimination, and to promote equality of opportunity and good relations between people from different racial groups.

7.0 Corporate Considerations of adopting the SME Concordat

7.1 The link between procurement and delivery of the local Community Strategy must be recognised by those officers who procure across the Council and the benefits maximised, through appropriate use of Community Benefit Clauses (CBC's) and advertising of procurement opportunities. Any internal cynicism about using small contractors needs to be counteracted by highlighting the relevance of promoting the local economy.

- 7.2 Officers involved in procurement need appropriate training and support so that they are able to undertake modern procurement with confidence. A corporate training programme is currently being developed to accommodate this. Dedicated training on the use of CBC's for procurement staff will be initiated at a regional level through the NECE.
- 7.3 All future council procurement processes will demonstrate competitiveness and will be advertised through the 'Doing Business with the Council' guide published on the Council's procurement website. This will help the council secure value for money and facilitate SME's access to procurement opportunities and ensure they have an equal chance to compete for contracts.
- 7.4 Recognition must be given to the fact that the EU Public Procurement Directives are designed to ensure transparency and non-discrimination in public sector procurement. Therefore, Officers involved in procurement must ensure that these objectives are continually met.
- 7.5 East Durham Business Service and council officers should continue to work closely with business support agencies to ensure that local opportunities are widely advertised to SME's.
- 7.6 The use of prime contractors to provide opportunities to SME's must not lead to direct contracting opportunities for SME' s being lost. Information about prime contractors should be shared with SME's to enable them to seek opportunities, whilst shielding them from time consuming and inappropriate cold calls.
- 7.7 The impact on the entire supply chain should be considered when outsourcing service delivery opportunities. Equally consideration should be given to the life cycle of the procurement process and whether SME's can be brought in at different stages of delivery.
- 7.8 The new e-procurement system IDeA Marketplace must be used effectively to increase engagement of businesses, but not at the expense of SME's. Therefore the e-procurement strategy is designed to offer flexibility to accommodate the development of SME's.
- 7.9 A review of the use and relevance of the councils select tender list and its benefits for SME's must be undertaken and is defined as a key objective of the Corporate Procurement's function 2005/06 annual Service Plan.
- 7.10 The council must continue to monitor spend analysis and integrate current software to ensure compatibility with its financial management system to determine the current level of spend with SME's across the District and the region as a whole.

- 7.11 To maximise public procurement opportunities, SME's should seek support from business support agencies, including East Durham Business Service, however, must supplement this with their own business development.

8.0 Benefits of adopting the SME Concordat

- 8.1 There are a number of benefits both to the council and SME's in adopting the SME Concordat as follows:

Benefits to the council:

- ❑ SME's can often respond quickly and flexibly to customer needs
- ❑ Can be a source of innovation, ideas and products
- ❑ Can offer cash savings, improved quality, service & effectiveness
- ❑ They are frequently close at hand
- ❑ Some, like social enterprise and those operating in the voluntary and community sector, may have better access to hard to reach customer groups
- ❑ They often attach more importance to doing business with a local authority

Benefits for the SME's

- ❑ Local Authorities are generally good payers
 - ❑ They are transparent and treat suppliers fairly
- Doing business with Local Authorities adds credibility – making it easier to win business with other public & private sector clients

9.0 Implications

9.1 *Financial*

An agreed budget needs to be determined to support the production of the SME Concordat. It is envisaged that this can be taken from existing resources.

9.2 *Legal*

The SME concordat is a key milestone of the National Procurement Strategy.

9.3 *Policy*

SME concordat supports the council's mission statement and corporate objectives and equally supports the key milestones of the National Procurement Strategy. Additionally there are clear links with other related policies of the council and in particular the Freedom of Information, Race Equality Scheme, and the Community Plan.

9.4 *Risk*

A full Corporate Risk Assessment has been carried out during the preparation of this report to ensure the SME concordat is compatible with current priorities, policies, practices and protocols.

9.5 *Communication*

A presentation to the East Durham Business Forum and the East Durham Business Service - Steering Group was given earlier in the year by the Corporate Procurement Manager, where he outlined the underlying principles of the SME Concordat. The presentation was accepted favourably and it was noted that the SME community would welcome the adoption of the SME Concordat by the council.

However, in adopting the concordat, it will require a cultural shift both internally and externally and will therefore need to be communicated corporately.

There will also need to be a change in mind-set through corporate training and development to ensure that appropriate consideration and access to council contracts is given to SME's.

9.6 *Corporate Plan*

The issues contained within this report are consistent with Corporate Plan priorities and policies. The Concordat will affect all services and will help address all of the corporate objectives detailed within the Corporate Plan. It will also have a direct impact upon the Community Plan.

9.7 *Service Plans*

Actions resulting from the SME Concordat must be written into future service plans.

9.8 *Performance Management & Scrutiny*

Actions resulting for the SME Concordat will be monitored through the performance management framework.

9.9 *Sustainability*

There are clear sustainability issues linked to the national and local economy and in particular the Community Plan.

9.10 *Expenditure related to 'well-being' powers*

The SME Concordat will promote the social and environmental 'well-being' of the District.

9.11 *Human Resource Implications*

There will need to be corporate training on all issues relating to strategic procurement as the National Procurement Strategy is rolled out. In addition cultural change implications and a change in mind-set will need to be carefully considered as the council begins to be more business like in its operations.

9.12 *Information Technology*

There are clear IT implications linked to the concordat in terms of doing business electronically with the council and supporting local businesses in becoming e-enabled.

9.13 *Equality & Diversity*

There are significant implications in relation to the Race Relations (Amendment) Act 2000 and the rollout of the National Procurement Strategy in terms of stimulating markets and achieving community benefits.

9.14 *Crime & Disorder*

There are no crime and disorder implications other than those specific actions identified for the Community Safety Unit particularly in relation to promoting the economic, social and environmental 'well-being' of our community.

9.15 *Human Rights*

The Concordat will have regard to Article 14: Prohibition of Discrimination of the Human Rights Act 1988.

9.16 *Social Inclusion*

The Concordat will have regard to social inclusiveness by promoting good relations between cross-sectors and small firms, social enterprises, ethnic minority businesses and voluntary and community sector suppliers.

9.17 *Procurement*

The SME Concordat supports the delivery of the National Procurement Strategy, particularly in relation to meeting the key theme: Stimulating markets and Achieving Community Benefits.

10.0 Recommendations

- 10.1 Members are requested to endorse the SME Concordat as outlined in Appendix 1; to formally sign up to it, and to agree a course of action to ensure it is communicated corporately and has corporate ownership.
- 10.2 It is also recommended that the Council use the opportunity to promote a marketing campaign to encourage local SME engagement and to promote the functions of the East Durham Business Service.

Documents/Publications/Data used in the preparation of this report:

National Procurement Strategy for Local Government (ODPM/LGA)

Delivering Efficiency in Local Services: further guidance (ODPM)

Local Performance Indicators for Procurement (IDeA/AC)

Supply Chain Management in Public Sector Procurement (OGC)

Race Equality & Procurement in Local Government (CRE)

Public Procurement: A Toolkit for Social Enterprises (DTI)

Minutes of the North East Public Procurement Forum

Letter to all Local Authorities Chief Executives from the ODPM (Small Business Concordat: Good Practice Guide for Local Authorities)

SME Public Sector Procurement Initiative

www.supplingovernment.gov.uk

www.nece.gov.uk

Glossary:

- DTI: Department of Trade and Industry.
- EC Directives: the EC Public Procurement Directives, and the UK Procurement Regulations giving effect to the Directives in the UK.
- EC rules: the EC Treaty, EC Procurement Directives, UK Procurement Regulations and relevant decisions of the European Court of Justice.
- EMB: an ethnic and minority owned business - more specifically, a business 51 percent or more of which is owned by members of one or more ethnic minority groups. Alternatively, if there are few owners, where at least 50 percent of them are members of one or more ethnic minority groups.
- ESD: electronic service delivery.
- Framework agreement: an agreement setting out terms and conditions under which specific purchases ('call offs') can be made throughout the period of the agreement.
- GO: Government Office.
- HMT: HM Treasury.

- ICT: Information and Communication Technologies
- LGA: Local Government Association.
- NPS: National Procurement Strategy for Local Government
- ODPM: Office of the Deputy Prime Minister.
- OGC: Office of Government Commerce.
- OJEU: This is where all Local Authorities must place tender notices where the value of the tender falls within the scope of the EC Procurement directives
- PQQ: pre-qualification questionnaire.
- RDA: Regional Development Agency.
- RRAA 2000: Race Relations (Amendment) Act 2000.
- SBC: Small Business Council.
- SBS: Small Business Service.
- SME: small and medium-sized enterprise - a small firm is defined as one with 0-49 employees (includes micro) and a medium firm as one with 50-249 employees.
- Social Enterprise: a business with primarily social objectives whose surpluses are principally reinvested in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners.
- VfM: Value for Money - the optimum combination of whole-life cost and quality to meet the requirements of the Local Authority.
- VCO: Voluntary and Community Organisation.
- VCS: Voluntary and Community Sector.
- Whole-life cost: the total of all costs in a project, including capital and revenue implications such as construction, maintenance and running costs and ultimate decommissioning/disposal.
- Women-owned business: a business 51 percent or more of which is female owned.

National Procurement Concordat for SME's

District of Easington - Statement of principles to encourage effective trade between local authorities and small businesses.

Introduction

The District of Easington is committed to delivering locally the National Procurement Strategy for Local Government. The strategy asks local authorities to adopt a small and medium sized enterprise (SME) friendly procurement concordat and to encourage a mixed range of suppliers in order to help develop and stimulate a varied and competitive marketplace. The concordat sets out the actions that local authorities will take to make their contracts more accessible to SMEs.

Although the principles should relate to all SMEs, the concordat is particularly focused on small businesses of less than 50 employees.

We recognise the important contribution that small businesses can make to the delivery of public services and the vital role these businesses play in the national and local economy. We are committed to making the most of the benefits offered by them.

Underlying Principles

Contracts are awarded in order to support the Best Value delivery of local government services. We will deliver value for money and take into account the whole life costs in contract decisions; this means considering quality, longer term cost and benefits as well as initial price.

We will make appropriate use of our legal powers including the power to promote the economic, social and environmental well being of our community.

All tender processes and contract awards will comply with EU Public Procurement Directives and the principles of non-discrimination, equal treatment and transparency and our duties under UK law.

Local Authority Commitments

Procurement Strategy

We will publish a corporate procurement strategy. The strategy will include a commitment to:

- The role procurement plays in delivering the Council's objectives and its contribution to the community strategy, workforce issues, diversity and equality and sustainability.
- How we will encourage a diverse and competitive supply market, including small firms, social enterprises, ethnic minority businesses and voluntary and community sector suppliers.

- A commitment to ensure that our approach to individual contracts, including large contracts and framework agreements etc, is supported by a sound business case and options appraisal.
- A commitment that where we decide that the best value option is to aggregate supply or let a longer term contract or framework agreement we will invite bidders to demonstrate their track record in achieving value for money through effective use of their supply chain.
- A commitment to consider the role of SME specialist suppliers in delivering elements of larger contracts and framework agreements.

Access to contract opportunities

- We will publish on our website;
 - Guidance for suppliers on how to do business with the council;
 - Details of forthcoming bidding opportunities, and;
 - Contact details for each contract, with appropriate links to any regional site and the national public sector opportunities portal.

Details of our key suppliers.

- We will advertise contracts. We will use a range of publications and other means in order to encourage greater diversity and competition.
- We will give potential suppliers an opportunity to discuss the procurement in order to understand our requirements and assess their own suitability. Nothing will be done, however, which would give a particular business or provider an unfair advantage in competing for a specific contract.
- We will work with prime contractors - both at tender stage and during the life of a contract - to establish the contribution that small firms, ethnic minority businesses, social enterprises and voluntary and community sector suppliers can play in the supply chain. We will provide details of our prime contractors on our website.

Fair tender processes

- We will apply our own rules and policies fairly.
- At pre-tender stage and during the tender process we will ensure that all tenders have equal access to relevant information.
- We will keep the tender process as simple as possible in order to help minimise the costs to suppliers.
- If a pre-qualification stage is used we will use a Council-wide pre-qualification questionnaire containing common core questions with limited bespoke additions for each contract. We will work with regional and national partners to ensure a consistent approach to pre-qualification.
- We will assess potential suppliers against published pre-qualification and tender evaluation criteria. These criteria will be proportionate to the risks of the individual contract process. In particular the criteria relating to financial standing will not be set to unreasonably exclude newer businesses.

Feedback

We will offer meaningful feedback to suppliers following the procurement process in order that suppliers can improve for future tenders.

- We will seek feedback from suppliers, and their respective trade associations, on our tender processes and address where we can any problems that are brought to our attention.
- We will publish a complaints procedure.

Contract management

- We will treat suppliers openly and fairly. Suppliers will:
 - Be paid on time. No more than 30 days from receipt of an undisputed invoice.
 - Receive honest and constructive feedback on the supplier's performance of the contract.
 - Be given notice of any performance problems and an opportunity, if appropriate, to put matters right.
- All contracts will require our suppliers to pay their sub-contractors, throughout the supply chain, within 30 days from receipt of an undisputed invoice.

Supplier commitments

As customers we will make clear to our suppliers, and those wishing to do business with us, what is expected of them?

District of Easington Declaration of support for the small business friendly concordat.

Position:

Chief Executive:

Leader of the Council:

Chair of East Durham Development Agency:

Chair of East Durham Business Forum:

Chair of the Joint Trade's Union

Signature:

Janet Johnson

Alan Napier

Jim Cunningham

John McGowan

Tom Scott