

ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	COUNTY COUNCIL
DATE:	12 MAY 2011
TITLE OF REPORT:	AWARDING OF TENDERS
PURPOSE OF REPORT :	IN RESPONSE TO A REQUEST FOR A REPORT AT THE MARCH MEETING OF THE COUNTY COUNCIL
REPORT BY:	HEAD OF SERVICE (FINANCE)
CONTACT :	DAVID ROSS CORPORATE PROCUREMENT OFFICE
ACTION:	FOR INFORMATION

1. Background and Context

- 1.1** At the meeting of the County Council in March, questions were raised about the processes adopted by the Council for the awarding of contracts, and the Portfolio Holder for Finance confirmed that a report could be presented to the next meeting of the Council. This report seeks to provide some background to the matter.
- 1.2** The Council spends around £90m annually on buying goods, and commissioning works and services. A number of differing, and often conflicting, pressures are placed upon the Council – to obtain value for money within reducing budgets (usually seen as buying cheaply) whilst ensuring that the services or commodities bought are of an appropriate quality for our needs, and to do so within a complex legal framework that reflects both UK and EU Procurement Law and the Council’s own Contract Procedure Rules. The money spent by the Council can, if properly managed, be seen as a potential boost to the local economy, and understandable pressures arise from business interests to attempt to secure an appropriate share of that expenditure. Policy initiatives from Government in both Whitehall and Cardiff are promoting the use of collaborative procurement initiatives as a route to delivering savings through larger contracts, and at the same time encouraging the adoption of a range of other initiatives (for example “green issues”, the use of ICT for electronic tendering and e-commerce, and a raft of equalities and similar issues) which may act as a deterrent to smaller suppliers to consider working with the public sector.

2 Local spending?

- 2.1** It is worth briefly considering the current position of the Council's external expenditure on goods and services. Around one third of the annual spend of the Council on such matters goes to organisations that have an Anglesey post code as their payment address. In addition, a further quarter goes to organisations that have a North Wales post code. The 6 largest value contractors to the Council have post codes that are outside the region, and account for some 20% of our expenditure, and provide services such as waste collection, grounds maintenance, highways maintenance, school meals catering, and the prime contractor for WHQS housing improvements. Such contracts are all heavily labour intensive, and employ predominantly local residents. This means that a considerable proportion of the expenditure of the Council – around 80% - already goes directly, or indirectly, to support local business or local employees.
- 2.2** This latter issue is fundamental to the concerns raised at the last meeting of the Council – it does not matter where we pay the bill to, but where the impact of the expenditure goes. In this respect a service contract, with a large labour content, can make far more impact on the local economy than a supplies contract, where the commodities purchased are manufactured elsewhere and brought into the community for distribution.

3 Legal Framework

- 3.1** The legal framework is complex, and changing frequently as a result of new primary legislation and emerging case law. The primary legislation is the UK Public Contracts Regulations 2006, which reflect the EU Consolidated Directives 2004. Under that Act, we are bound to engage in European wide competition for contracts for the supply of goods or services which have an aggregated value over their life of more than £156k. For works contracts (primarily construction) we are required to follow such processes where the contract value exceeds £3.9m. Where we are spending WEFO or WAG money, lower limits apply. The Act defines the various approaches to tendering that we can adopt, together with strict rules on advertising, timescales for various steps within the process, what matters we can (and cannot) take into account when considering suppliers, how tenders are to be evaluated, and how they are to be awarded. We are expected under the regulations to adhere to a number of these matters even when we are tendering for below-threshold tenders.

3.2 Under the legislation we are expressly prohibited from discriminating between suppliers based on their location or country of origin. There are, however, clearly going to be occasions when, for operational or economic reasons, the supply can only be effectively or economically provided by an organisation with a local operational base, and it would be entirely justifiable to build that requirement into our specifications. For example, many services provided to our residents, particularly in social care, require suppliers to have a local facility. Similarly, a service contract which had a proven requirement for (say) a rapid emergency response would imply a local operational facility. We can – and indeed must – ensure that where there is a service provided direct to end users we take into account our obligations under the Welsh Language Act, which would require the employment of an appropriate number of Welsh speaking staff by the service provider. It would, however, be unlawful for us to discriminate against organisations that were **owned and managed** elsewhere.

3.3 It follows, then, that where we are tendering for supplies for goods or services, in open competition, in almost all instances the determining factor in selecting suppliers will be their competence and competitiveness. These are the matters we must take into consideration, and over which the Council, as buyer, has no discretion.

4 Collaboration

4.1 The issue of collaborative procurement is also important when considering the local economy. Collaboration in arranging contracts almost always brings cost benefits, and in the current economic climate that is an important consideration for the Council. As indicated, both Central Government and WAG place great importance on the financial benefits of collaboration, where possible, and we are expected to actively pursue such collaborations. To that end the Council is a member of the North Wales Procurement Partnership, a collaboration of the 6 local authorities in the region, and works actively with them to deliver benefits from collaborative contracts. Consultants recently appointed to review the work of the Partnership have been specifically charged as part of their remit to consider the issue of Small and Medium Enterprises (SMEs) in their recommendations.

4.2 There is an inevitable tension then with the possible impact of such contracts on existing local suppliers, and a number of strategies have been adopted to ameliorate the impact wherever possible. These include consideration of lotting strategies (allowing suppliers to opt for part of the region if appropriate); significant advance warning to suppliers of tendering opportunities, including briefing events; working

with Menter a Busnes who offer support to suppliers in bid preparation; giving feedback to suppliers when they are unsuccessful to allow them to improve their bidding performance; and actively supporting Menter a Busnes in regular “Meet the buyer” events held across the region.

- 4.3** Whilst this approach is actively followed on collaborative projects across the region, it has perhaps been less well adopted by individual authorities in respect of their own procurement. In part this is due to resource issues, but perhaps more importantly due to the lack of clarity over the future procurement programmes of the business units within the Councils. As Business Plans and Medium Term planning become embedded, such an approach, with input from Corporate Procurement, Regeneration, and other external support agencies, may prove beneficial to local suppliers.
- 4.4** It is also worth noting work that is being undertaken by colleagues in Regeneration and WAG, looking at what is referred to as “supply voids”. This is a complex piece of work which is attempting to identify those larger areas of expenditure where Welsh based companies exist, but expenditure is going to organisations based elsewhere. As previously noted, this is a simplistic analysis, as it initially ignores where the benefit of the expenditure is going, but does open the way to examining why Welsh based companies are either not seeking to win the work, or are unsuccessful in their attempts.
- 4.5** WAG are actively encouraging the public sector in Wales to adopt a range of ICT based solutions for their procurement. This authority has already done so in respect of using web-based technology to handle some tender submissions, and in common with others in the region has utilised electronic auctions for transport contracts with considerable success. (That experience is being used as a model of good practice now across Wales). There is confidence that these particular tools can be utilised with benefit, and do not disadvantage local suppliers in some areas of our procurement.
- 4.6** However, WAG are also promoting the use of electronic ordering systems, which require suppliers to maintain on-line catalogues and price lists, accept electronic orders and submit electronic invoices. Officers have reservations that such an approach may actively disadvantage many of our existing suppliers, and are cautious at this stage in recommending wholesale adoption of such ordering tools, and the Council would be unable to take full advantage of them until our key financial systems are replaced.

5. Recommendation:

- (i) That the report be noted.

EINIR WYN THOMAS

HEAD OF SERVICE (FINANCE)

6 MAY 2011