

PROCUREMENT REFORM BILL - CONSULTATION

Executive summary

1. The Scottish Government has announced that it will introduce a Procurement Reform Bill to the Scottish Parliament next year. The proposed aim of the Procurement Reform Bill is “to establish a national legislative framework for sustainable public procurement that supports Scotland’s economic growth by delivering social and environmental benefits including community benefits, supporting innovation, and promoting public procurement processes and systems which are transparent, streamlined, standardised, proportionate, fair and business-friendly”.

2. The Scottish Government is undertaking an open consultation on a range of procurement related topics and written responses to the consultation must be submitted by 2nd November 2012.

Issues and Options

3. Any legislative framework in relation to procurement will have a potential impact upon SPCB procurement and some of the key issues to consider are:

- EU Treaty principles, namely equal treatment, non-discrimination, transparency and proportionality, already govern all public procurement and public sector bodies are obliged to consider these principles throughout their procurements, regardless of whether the full EU procurement rules apply.
- The EU Commission Green Paper on the modernisation of EU public procurement addresses a number of the issues raised in the consultation document such as new procedure to encourage innovation; limit on annual turnover to 3 times the contract value; use of references to demonstrate experience; exclusion of suppliers on ground of poor performance; any decision against division of a large contract into lots must be documented. A consistent approach is therefore essential to avoid confusion.
- Additional procurement resource may be required to conform to the proposed legislation; in particular additional legislation for low value procurement has the potential for making the procurement process more burdensome for purchasers and suppliers.
- Clear and effective methods of compliance and enforcement will be required and this could be onerous.

4. The SPCB applies best practice in its procurement and several of the proposals within the consultation document refer to procurement practices already in place at the Parliament. It is therefore not a question of whether the SPCB supports some of the issues raised, as a number of these are covered by the SPCB Responsible Purchasing policy, but rather responding to the consultation would provide the SPCB with an opportunity to comment on certain policy aspects and to feed in practical considerations about potential implementation issues.

5. The Corporate Body is invited to consider the draft responses proposed at Annex A.

Resource Implications

6. None.

Governance issues

7. Any views expressed by the SPCB in this consultation will form part of the Parliament's scrutiny of the proposed legislation in due course.

Publication Scheme

8. The Annex to this paper should not be published until the consultation responses are published by the Scottish Government.

Next steps

9. If the Corporate Body wishes to respond, the questionnaire will require completion and to be submitted by 2nd November.

Decision

10. The Corporate Body is invited to confirm whether it is content to respond to the consultation as proposed at Annex A.

Procurement Services
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