1 PURPOSE AND SUMMARY

1.1 This report updates Scottish Borders Council on progress relating to the potential of sustainable procurement activity to support local priorities and local businesses, and makes a recommendation to Council for a number of amendments to Standing Orders.

1.2 Scottish Borders Council spends around £110 million a year procuring a diverse range of goods, works and services. 31% of this figure is currently spent in the Scottish Borders area. Significant work is underway to maximise the benefits of procurement. This work includes:

- The development of a Corporate Community Benefits Policy
- A review of existing Standing Order thresholds
- A review of the development and support provision for the local business sector

1.3 Community Benefits are the mechanism through which contractual requirements can deliver a wider social benefit. The development of a Scottish Borders Council Corporate Community Benefits Policy will create an opportunity to consider the incorporation of community benefits into appropriate Council contract opportunities.

1.4 Following a review of the standing order value threshold at which a quotation procedure is currently required, this report seeks to recommend revising the current threshold for goods and services from £20,000 to a new proposed threshold of £35,000, and the construction works threshold revised from £50,000 to £500,000. The rationale and benefits of these increases is set out in the report. They will;

- Simplify low value contracting for suppliers
- Apply a more proportionate approach that relates the requirement to the value of that requirement
- Increase the potential contracting opportunities for local suppliers
- Allow focus by the Corporate Procurement Service on strategic value adding activity

1.5 The Council recognises the need to support the local SME and Third sectors by developing a procurement approach which better assists those enterprises to engage with and participate in Council contract opportunities.
2 RECOMMENDATIONS

2.1 It is recommended that the Council:-

(a) notes the progress made towards maximising the benefits of procurement in the Scottish Borders.

(b) notes the immediate update to Standing Orders No 45 - 49 with all references to the Head of Procurement being amended to Chief financial Officer.

(c) approves the immediate addition of a new Standing Order No 46 (a) relating to any purchase where personal data is or might be involved.

Any type of purchase transaction for any value where personal data is involved (or might be involved) must be brought to the attention of the Corporate Procurement Service before seeking contact with any possible external provider.

(d) Approves the immediate amendment of Standing Order no 46 (a) to 46 (b) and the amendment of the upper limit from £20,000 to £35,000 :

In relation to the supply of goods and services, no public contract or framework agreement shall be made unless no fewer than three Invitations to Quote (between £5,000 and £35,000) or Invitations to Tender (above £35,000) are sought, unless there are fewer than three quotes or expressions of interest received, in which case the Procurement Manager in conjunction with the Senior Responsible Owner of the contract can decide the best method for executing the procurement. All Invitations to Tender shall be advertised.

(e) Approves the immediate amendment of Standing Order no 46 (b) to 46 (c) and the amendment of the upper limit from £50,000 to £500,000 :

In relation to the supply of works, no public contract or framework agreement shall be made unless the appropriate number of Invitations to Quote (between £5,000 and £500,000) or Invitations to Tender (above £500,000) are sought, unless there are fewer than three expressions of interest received, in which case the Procurement Manager in conjunction with the Senior Responsible Owner of the contract can decide the best method for executing the procurement. All Invitations to Tender shall be advertised.

(f) agrees that further progress relating to work relating to a Community Benefits Policy and Developing and Supporting the business sector will be reported back to Council in March 2014.
3 BACKGROUND

3.1 Scottish Borders Council spends around £110 million a year, from both revenue and capital expenditure, procuring a diverse range of goods, works and services with approximately 8,000 suppliers. Approximately 31% of this figure is currently spent in the Scottish Borders area. This is above the figure of 27% which is the average procurement spend for all Scottish local authorities within their own administrative area.

3.2 Contracting opportunities have the potential to further support Council priorities by:
   - Facilitating opportunities for local Small to Medium sized Enterprise’s (SME’s)
   - Considering corporate social responsibility
   - Stimulating local economic growth

3.3 Significant work is underway to maximise the benefits of procurement in the Scottish Borders and to set the direction for appropriate procurement activity in relation to the potential opportunities noted above. This work includes:
   (a) The development of a Corporate Community Benefits Policy
   (b) A review of existing Standing Order thresholds
   (c) A review of the development and support provision for the local business sector

3.4 This activity is in advance of planned changes to national and European legislation as noted:
   - The Procurement Reform Bill is progressing through the Scottish Parliament, and is due to receive Royal Assent post the summer of 2014. This Bill focuses on the value triangle of cost, quality and sustainability. The Bill further aims to regulate for business friendly, socially responsible and streamlined procurement processes.
   - A European Parliament vote is due in January 2014 to agree amendments to the European Union Directives. Any subsequent changes will be due for implementation by the Scottish Government within a two year period.
   - The Scottish Government’s formal response to the recommendations output from the Review of Public Sector Procurement in Construction published October 2013

3.5 The Council recognises the importance of supporting local suppliers and the many advantages of purchasing works, goods and services in ways that minimise environmental impact, make best use of local produce and labour, support and maximise local employment and training initiatives, and encourage economic development.

3.6 The Council commits itself to encourage local suppliers to take advantage of procurement opportunities by:
   - engaging with key suppliers and organisations;
   - monitoring its proportion of works, goods and services spend with SME organisations;
   - providing detailed information and guidance to local organisations via
its website;

- supporting the strategic development of the local economy through procurement practice;
- use contracts or include requirements which encourage and promote job creation in the local community and
- keeping abreast of current good practice in procurement as it relates to these issues

4. **COMMUNITY BENEFITS POLICY DEVELOPMENT**

4.1 Community Benefits are the mechanism through which contractual requirements that can deliver a wider social benefit, in addition to the core purpose of the contract, can be considered. Added value social and environmental benefits can be included in the contract specification.

4.2 In Scotland, and to date, the main use of Community Benefit clauses has been towards targeted recruitment and training, however a wide range of social and environmental benefits could be built into public contracts.

4.3 The development of a Scottish Borders Council Corporate Community Benefits Policy will create an opportunity to consider the incorporation of community benefits into appropriate Council contract opportunities. The Corporate Procurement Service is leading on a collaborative approach to development of this policy and is working with internal stakeholders across the organisation along with external stakeholders to determine the approach to the policy.

4.4 Consideration is being given to the extent of this policy, and whether there is a potential for it to be used beyond direct Scottish Borders Council contracting opportunities. This could be where SBC has input to supporting, for instance, Community Asset transfers and any procurement subsequently carried out by Community Groups in relation to that asset transfer.

4.5 It is intended to bring a fully developed policy to Council for approval by March 2014.

5. **CONTRACT STANDING ORDER THRESHOLDS**

5.1 The Council’s Procedural Standing Orders are made in terms of section 81 of the Local Government (Scotland) Act 1973 and set out the legal and operational framework within which procurement activity must be undertaken by officers on behalf of the Council. The existing value thresholds included in these standing orders have remained unchanged for a number of years.

5.2 The value of any proposed contract (for the whole life of that contract), determines the procedures that Council officers must follow to procure goods, services and works.

5.3 A review of the threshold at which a quotation process is required has been undertaken to determine if the existing thresholds remain appropriate in the current economic climate, and what further positive economic impact could be achieved by a review.

5.4 This review has been carried out with the following considerations;
Identification of any risks associated with ensuring ongoing compliance with all relevant legislation
- Continuing to ensure the achievement of best value through competition
- The impact on the local economy and local suppliers/contractors
- Operational Efficiency

Current Arrangements

5.5 The current Procedural Standing Order No. 46 specifically relating to securing competition for any public contract or framework agreement that is not a UK national, Scottish national or regional public contract or framework agreement and is procured solely by the Council for the Council and presently determines that:

(a) In relation to the supply of goods and services, no public contract or framework agreement shall be made unless no fewer than three Invitations to Quote (between £5,000 and £20,000) or Invitations to Tender (above £20,000) are sought, unless there are fewer than three quotes or expressions of interest received, in which case the Head of Procurement in conjunction with the Senior Responsible Owner of the contract can decide the best method for executing the procurement. All Invitations to Tender shall be advertised.

(b) In relation to the supply of works, no public contract or framework agreement shall be made unless no fewer than three Invitations to Quote (between £5,000 and £50,000) or Invitations to Tender (above £50,000) are sought, unless there are fewer than three expressions of interest received, in which case the Head of Procurement in conjunction with the Senior Responsible Owner of the contract can decide the best method for executing the procurement. All Invitations to Tender shall be advertised.

5.6 The overarching principles of the European Union requires all procurement activity to be carried out with regard for current EU legislation, and specifically requires formal tendering to be undertaken when the estimated value of the contract exceeds £173,934 for goods and services, and £4,348,350 for works. The additional legislation being considered by the Scottish Parliament will further regulate contracts with an estimated value greater than £50,000 for goods and services and £2m for works.

5.7 It should be noted that all contract opportunities (including sub threshold) must comply with the principles deriving from the treaty of the functioning of the European Community including; transparency, equal treatment and non-discrimination, proportionality, and where appropriate, mutual recognition.

New Proposed Goods & Services Threshold

5.8 The review of the goods and services threshold has been undertaken by the Corporate Procurement Service.

5.9 Research has been carried out across the Public Sector to consider the appropriateness and context of any proposed amendment.

5.10 To maintain a balance between minimising the cost of tendering for both internal and external stakeholders, and to maximise the achievement of
best value the proposed new threshold for goods and services is recommended to be set at a maximum value of £35,000.

5.11 The rationale and benefits of this increase will include:

- a more efficient operational approach to low value contracting
- create a more proportionate approach to the value of requirements
- increase potential contracting opportunities for local suppliers
- allow focus by the Corporate Procurement Service on strategic value adding activity

5.12 This proposal will require the following revision to the upper limit value of Standing Order No 46 (a).

In relation to the supply of goods and services, no public contract or framework agreement shall be made unless no fewer than three Invitations to Quote (between £5,000 and £35,000) or Invitations to Tender (above £35,000) are sought, unless there are fewer than three quotes or expressions of interest received, in which case the Head of Procurement in conjunction with the Senior Responsible Owner of the contract can decide the best method for executing the procurement. All Invitations to Tender shall be advertised.

New Proposed Construction Works Quotation Threshold

5.13 In relation to the Construction Works threshold, the review has included input from all internal stakeholders. The review considered factors such as the benefits and barriers of the thresholds, the current economic environment, along with a review of the levels set by other local authorities.

5.14 The factors noted relating to economic impact included the current low profit margins associated with works contracts and the risks associated with the outturn cost of these tenders, the associated pressures created by this market which coupled with tendering at a low value creates a high cost of competition. These factors exacerbate an already highly competitive marketplace and create a particular risk to SME contractors and their associated supply chains.

5.15 The publication in October 2013 of the Review of Scottish Public Sector Procurement in Construction includes detail specifically noting the greater latitude available for sub threshold spend. The value at which a quotation process is suggested is £500,000.

5.16 Consideration of the appropriate value to be adopted by SBC and at which a quotation process can be applied has been based on the above detail. This report seeks to recommend that the threshold for a quotation process for Works procurement is increased to a maximum value of £500,000.

5.17 The rationale and associated benefits of this increase include;

- a simplified and less bureaucratic approach to low value contracting for suppliers
- a more proportionate approach in relation to the value of requirements
- an increase in potential contracting opportunities for local suppliers
- increased activity in the local market may support benefits to the local economy
• an increased focus on strategic value adding activity by the Corporate Procurement Service

5.18 This proposal will require the following revision to the upper limit value of Standing Order No 46 (b).

In relation to the supply of works, no public contract or framework agreement shall be made unless an appropriate number of Invitations to Quote (between £5,000 and £500,000) or Invitations to Tender (above £500,000) are sought, unless there are fewer than three expressions of interest received, in which case the Head of Procurement in conjunction with the Senior Responsible Owner of the contract can decide the best method for executing the procurement. All Invitations to Tender shall be advertised.

Governance

5.19 A new standing order will take precedence over any value based thresholds to ensure the contracts with any data protection concerns are fully supported by the Corporate Procurement Service. This new Standing Order will be referenced Standing Order No 46 (a) and will state.

Any type of purchase transaction for any value where personal data is involved (or might be involved) must be brought to the attention of the Corporate Procurement Service before seeking contact with any possible external provider.

5.20 At any time any officer may determine that due to the specific nature of the requirement, a tender procedure is required to be conducted rather than a quotation procedure.

5.21 Appropriate and robust internal control mechanisms to provide a structured and consistent approach to any quotation process will be developed. (The PCS Quick Quote facility for low value procurement ensures transparency and facilitates engagement with local suppliers).

5.22 It is intended to undertake further detailed work to ensure full governance, compliance with legislation and quality management are maintained.

5.23 To ensure transparency it is anticipated that a two tier banding for Construction Works activity will be implemented, with the Public Contracts Scotland Quick Quote facility used as appropriate.

5.24 It is proposed the amendments to Standing Order No 46 (a) and (b) are effective immediately. Associated detailed requirements for conducting procurement activity will be dealt with by the production of a Procurement Manual, to be issued and amended as necessary, by the Chief Financial Officer. This manual will sit underneath the Standing Order no 45 - 49 specific to Procurement.

5.25 By extending the quotation thresholds there may be an impact on resources at service level. This will be mitigated by a reduction in resource required to support a full tender exercise.

6 DEVELOPING AND SUPPORTING THE BUSINESS SECTOR
6.1 The Council recognises the need to support the local SME and Third sectors by developing a procurement approach which better assists those enterprises to engage with and participate in Council contract opportunities.

6.2 There are a number of well known issues with public sector procurement that most affect the SME and Third sectors. These include:

- The time and cost involved with public sector tendering;
- Finding and accessing public sector contracts;
- The level of bureaucracy involved in the procurement process; and
- The ability to compete on a level with large national suppliers.

6.3 Having recognised the need to focus support for the SME and Third sector the work to date includes:

- The early adoption of the Scottish public sector standard Pre Qualification Questionnaire (sPQQ);
- Use of monitoring and mapping data to create mechanism to identify outcomes achieved through tendering;
- The provision of advice and guidance available to the SME and Third sectors on how to supply to the Council;
- Creation of local industry specific focus groups; and
- Consideration of the appropriate application of turnover and insurance requirements.

6.4 There are a number of recommendations from a recent Federation of Small Business report that the Corporate Procurement Team are actively considering. These will include monitoring the application of best practice with consideration for these sectors.

6.5 Further work will be undertaken to identify the proportion of the influencable spend that has the potential to be fulfilled by the local supply base. This figure can then be used to support further analysis and direct future activity.

6.6 A robust set of management information specific to this sector will be produced; against which Corporate Procurement and Economic Development can measure the value and distribution of spend.

6.7 The first stage of this work is underway with the development of a supplier engagement survey to the business sector to ensure the Council fully understands the particular needs of the Scottish Borders business base.

7 IMPLICATIONS

7.1 Financial
There will be no direct financial costs.

7.2 Risk and Mitigations
The report fully describes all the elements of risk that have been identified in relation to this project and no specific additional concerns need to be addressed.

7.3 Equalities
Equality is an integral part of the current Procurement Strategy and is an ongoing consideration.

7.4 **Acting Sustainably**

(a) This work aims to further support the current Procurement Strategy, ensuring that decisions taken around Procurement are taken in line with the existing Acting Sustainably commitments.
(b) This work aims ensure the benefits of Procurement to support local economic growth, support communities and consider the environment are maximised.

7.5 **Carbon Management**

No direct impact, however, should there be an increase in participation from local suppliers, there is the potential for a commensurate reduction in the associated carbon footprint.

7.6 **Rural Proofing**

(a) There is likely to be a wide range of positive outcomes including the potential for increased activity from the local market. This may support local business development, an increase in turnover and associated recruitment in the local economy.
(b) One of the key findings of the FSB report – Local Procurement: Making the Most of Small Business One Year On: Scotland Report and the case study relating to Scottish Borders Council - is the value of procurement to the Scottish Borders local economy. The report includes the local economic impact using the 2011/12 spend data and notes that procurement has brought £45.1m of benefit to the area, equating to 43.4p for every £1 invested.

7.7 **Changes to Scheme of Administration or Scheme of Delegation**

Amendment to standing orders as per recommendations included.

8 **CONSULTATION**

8.1 The Chief Financial Officer, the Head of Corporate Governance, the HR Manager, Head of Audit and Risk, the Clerk to the Council, the Head of Strategic Policy, and the Head of Economic Development have been consulted.

Approved by

Chief Financial Officer  
Signature  

Author(s)

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**Background Papers: Previous Minute Reference:**

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