

<b>Committee(s):</b> Policy and Resources Committee	<b>Dated:</b> 7 July 2022
<b>Subject:</b> Follow-Up Paper to Responsible Procurement Policy Update	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	1, 2, 3, 5, 8, 10, 11, 12
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>N</b>
<b>If so, how much?</b>	<b>£</b>
<b>What is the source of Funding?</b>	
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	<b>N/A</b>
<b>Report of:</b> Chief Operating Officer	<b>For Decision</b>
<b>Report author:</b> Lisa Moore, Responsible Procurement Manager	

### Summary

This is a follow-up paper in response to the discussion on the Responsible Procurement Policy Update paper by Policy & Resources (P&R) Committee in June 2022. Officers were asked to respond to the following member queries:

- Can we provide a timeline for SMEs to show the aims and ambitions of the implementation period?
- How does the Supplier Diversity commitment align to the forthcoming SME strategy?
- Can we accelerate the 15% responsible procurement (RP) tender weighting for large companies ahead of the proposed 2023 uplift?

This paper sets out the response and any proposed actions:

Supplier engagement will be a key focus over the next few months in order to support implementation of the new policy. A timeline for supplier guidance and engagement will be provided to P&R in September.

The Corporation's SME strategy is focused on SMEs located within in the square mile. The commitment in the RP policy takes a much broader view and seeks to enable more UK SMEs to enter our supply chain. The Responsible Procurement Manager sits on the officer-led SME Working Group providing input and review of the SME strategy and is taking an active role in championing Supplier Diversity.

Officers have sought further legal input regarding options for the responsible procurement evaluation weighting. Given the constraints of the UK's Public Contracts Regulations and the clear risk of challenge, it is not advised to set variegated weightings (within the same tender) dependent on bidder type. The Policy will however advise buying officers and category boards that the move to the minimum of 15% weighting should happen as soon as possible, and no later than 2023.

## **Recommendation(s)**

Members are asked to approve:

- Approve changes to the Responsible Procurement Policy, in particular refocusing from 18 commitments to the proposed six.
- Approve amendment to the responsible procurement weighting establishing it as an overall score of 15% by September 2022.
- Approve that for any categories of spend where it is evidenced that the move to 15% may negatively disrupt the market, the overall score moves to a minimum of 10% from 1 September 2022 and to 15% by no later than 1 April 2023.

## **Main Report**

### **Background**

1. The remainder of this paper will focus on providing further information in regard to the recommendation to change the RP evaluation weighting.
2. The June Responsible Procurement Policy Update paper asked Members to consider the recommendations set out above including a two-step increase in the RP weighting to 10% in September 2022 and 15% in April 2023. In making this recommendation, the following options were also previously reviewed:
  - Update the policy and policy commitments to make RP more accessible and provide greater clarity for implementation while maintaining the integrity of the current RP Policy.
  - Amend the RP weighting to an overall score in line with central government and our peers in London.
  - Uplift the 10% RP weighting to 15% in April 2023.

### **Current Position**

3. Regulation 18 of the UK's Public Contracts Regulations 2015 states we shall treat suppliers 'equally and without discrimination and [we] shall act in a transparent and proportionate manner' and 'competition shall be considered to be artificially narrowed where the design of the procurement is made with the intention of unduly favouring or disadvantaging certain economic operators.' We open ourselves up to potential challenge, if our procurement processes are perceived as being unequal. The risk of challenge is an important one as it could potentially lead to delays in delivering key programmes or activity, increased costs and significant reputational damage.
4. Additionally, a possible unintended consequence could be that SME suppliers who have invested in their responsible procurement offerings, are actually put at a disadvantage to suppliers who have been given a higher weighting.
5. Use of a 'two-tiered' approach or a different weighting for large and SME suppliers may also reduce competition due to bidder's perceived unfairness or anticipation of challenge to any contract award.

6. Lastly, whilst the evaluation weighting is an important tool in delivering our RP Policy, there are other important activities that arguably have a more significant impact on the ability of small businesses to successfully compete. The refreshed Policy aims to simplify our approach to specifically help small businesses to more easily engage in the process. Our RP questions are designed so that different sized organisations, and organisations without bid writers, can answer the question fairly. We often use a menu system, provide guidance on what we are looking for and set the weighted aspect of questions to focus on delivery and impact rather than the size/amount of the offering.

### **Supporting small businesses to compete**

7. The Policy sets out a clear Corporation commitment and approach to delivering added-value through our procurement spend. We will communicate to buyers and category boards, that the higher minimum RP weighting is to be achieved by September 2022 for most categories of spend and, in particular, in scenarios where market engagement indicates that only large suppliers will bid or the market indication shows the relevant RP offering is mature.
8. Officers are encouraged to look for opportunities to ring-fence or identify contracts which could be reserved for SMEs. This should be considered at the business planning and procurement options stages.
9. Commercial Services will use the additional seven months (for those categories where further development is required) to ensure we are proactively engaging with the market, seeking feedback on further improvements to our processes and, that we ensure resources are available online to make it clear what the City Corporation is looking for and what 'good' looks like. This should help suppliers that do not have the same bid writing capacity as some of the large suppliers.

### **Corporate & Strategic Implications**

10. Strategic implications – The recommendations in the paper support the Corporate Plan and the City Corporation's aspirations to be leaders in responsible business. The timeframes set out in the report, allows the Corporation to undertake market engagement and provide guidance to the SME community to facilitate and encourage their inclusion in our tendering processes.
11. Financial implications – The RP policy is designed to deliver added-value. The proposals, as recommended, will allow us to work with the SME community which we anticipate will allow for more competition and better value overall.
12. Resource implications – No change to the implications outlined in the original paper.
13. Legal implications – Commercial Services consulted with the Chief Solicitor in Contracts Team of the Comptroller's Department and other than those illustrated in this paper, there are no particular issues of concern.

14. Risk implications – Additional risk implications are outlined in this paper.
15. Equalities implications – No change to the implications outlined in the original paper.
16. Climate implications – No change to the implications outlined in the original paper.
17. Security implications – None

## **Conclusion**

18. Members are asked to approve the recommendations as outlined in this paper. Officers will take away the actions outlined in this paper and further guidance will be communicated through the category boards that the higher RP weighing is to be employed sooner where appropriate.

### Background Papers

9 June 2022 – Policy & Resources Committee Paper – Responsible Procurement Policy Update

### **Lisa Moore**

Responsible Procurement Manager

T: 02073323273 E: [lisa.moore@cityoflondon.gov.uk](mailto:lisa.moore@cityoflondon.gov.uk)