

Strategic Supplier Relationship Management

Purpose

For update and discussion.

Summary

Following agreement from the Improvement and Innovation Board in March 2018 and in light of the fall-out from the collapse of Carillion, we have been working with a number of key suppliers to local government to see if we can work together to develop a more strategic relationship. This report seeks to update the Improvement and Innovation Board on work to date.

The report also provides further information in relation to procurement matters for councils following Brexit.

Recommendation

Members are asked to consider the report and to ask for a further update on Brexit matters at the meeting.

Actions

Officers to initiate any required action.

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Strategic Supplier Relationship Management

1. Members will recall a report to the Improvement and Innovation Board in March 2018 where we discussed the fall-out from the collapse of Carillion. One of the areas highlighted was the proposal being considered at the time by Cabinet Office to appoint a 'Crown Representative' for local government. IIB were not supportive of this at the time. Members expressed some concerns and questioned how this might work, particularly in areas where government departments do not have contracts with suppliers to local councils. Earlier this year the Cabinet Office appointed Mervyn Greer, previously a director at Kier Group (now retired) to this role. MHCLG have also appointed Andy Hobart as commercial director and he is leading on strategic supplier management. Both have indicated that they are willing to help LGA.
2. As part of our productivity programme, the LGA has been helping councils to become more efficient and effective with their procurement processes. In July 2018 we launched an updated national procurement strategy for local government (NPS) in 2018. We are also updating our Councillor Guide to Procurement which will be available in Spring 2019.
3. The NPS 2018 has a number of themes. Within the 'Leadership' theme one of the key areas is 'Engaging Strategic Suppliers'. Effective strategic supplier relationship management (SSRM) can deliver a range of benefits including improved outcomes for the public, added social value, reduced cost, reduced risk and innovation. A number of councils are engaging with us on work relating to the following key suppliers:
 - 3.1 Bupa – Care Homes and Home Care
 - 3.2 Capita – business outsourcing
 - 3.3 Microsoft – software licensing
 - 3.4 Amey – highways
 - 3.5 Cambian - children's services
 - 3.6 Allied Healthcare – home care (through working with ADASS and the CHIP Team).
 - 3.7 We are working with Cabinet Office to monitor progress with Interserve's deleveraging plan. Cabinet Office have advised that councils should continue to trade with Interserve as normal.
 - 3.8 A supplementary summary report on key suppliers will be available at the meeting.
4. Members of the Improvement and Innovation Board expressed an interest in understanding their role in SSRM. Members asked for more information about ongoing due diligence of the financial situation of key suppliers. Central government have recently issued detailed guidance on this to departments which can be used by councils. This can be found here
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/780065/20190220_AssessingMonitoringEconomicFinancialStandingGuidanceNote.pdf

5. The government guidance outlines a number of indicators that might signal financial distress of a supplier:

	Financial	Non-Financial
<i>Business performance / Operating efficiency</i>	<ul style="list-style-type: none"> • Adverse changes in the market / market structure • Declining revenues • Declining profit margins • Declining return on Capital Employed • Declining cash conversion • Public profit warnings • Increases in creditor days / Delayed payments to suppliers • Decreases in debtor days • Declining stock turnover 	<ul style="list-style-type: none"> • Unexpected resignations of key management / High employee turnover • Weak management or overly controlling CEO • Delayed filing of statutory accounts / late provision of management information • Competitor gossip / market intelligence • Regulatory action • Declining share price / Sudden share price falls / Significant shorting of shares • Major adverse announcements (e.g. major litigation, large contract losses, etc)
<i>Liquidity / Solvency</i>	<ul style="list-style-type: none"> • High / Rising net debt to EBITDA • Declining interest cover • High / Rising gearing • Deteriorating liquidity / Declining headroom • Lending covenant breaches • Increasing reliance on short-term or uncommitted debt • Use of non-standard financing markets • Going concern qualifications in published accounts • Requests for payments in advance • Invoice discounting / Factoring / Other means of raising short-term cash 	<ul style="list-style-type: none"> • Poor or deteriorating relationship with Lenders • Withdrawal of coverage of a supplier's debts by credit insurers • Falls in or withdrawal of credit ratings (or announcements of credit watch with negative implications) by major credit agencies • Company Watch H score falling below 25 / Dun and Bradstreet score falling below 10.

	<ul style="list-style-type: none"> • Rising pension deficits • Rising contingent liabilities • Cuts in / Cancelled dividends 	
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6. The Councillor Guide, mentioned above, will include a number of key questions for councillors to ask in relation to their organisation's key suppliers both at tender and ongoing contract management stages

Brexit

7. Following a request from the Improvement and Innovation Board for an update on the potential changes for councils in managing procurement processes we can advise as follows: (although this is still subject to change following continued Parliamentary activity on Brexit).
8. It is important to understand that the Public Contracts Regulations 2015, commonly referred to as EU Rules, are in fact UK enacted legislation. They are derived from EU Directives but are not EU law. The EU Directives themselves reflect the Government Procurement Agreement (GPA) of which the UK is now a signatory in its own right.
9. **If there is a 'deal'** the Procurement Regulations will remain in place during the 'implementation period' (also known as the transition period). This is set to last from Exit Day (currently 11pm on 29 March 2019) until 31 December 2020. In practice this means that it will be business as usual for the implementation period at least.
10. **If there is 'no deal'** As the Procurement Regulations are UK law, if we leave the EU without a deal they will continue in force in the same way as other UK legislation. Some minor technical changes outlined below are being put in place now to deal with this scenario:
- 10.1. There will be some changes to the 'grounds for exclusion' of bidders - a new standard selection questionnaire (SQ) will become available to cover these.
- 10.2. Councils will no longer need to publish tenders or contracts OJEU. Procurement notices will need to be published on a UK e-notification service instead. We are working with Cabinet Office on the new UK e-notification service and are disseminating advice as this becomes available.
- 10.3. The requirement to advertise tenders over £25,000 on Contracts Finder will remain in place.
- 10.4. There will be no requirement for UK authorities to accept the European Single Procurement Document (ESPD) or have recourse to e-Certis.

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- 10.5. The duty owed by UK Authorities including councils under the Procurement Regulations will continue to apply to suppliers from the UK and Gibraltar. However, the duty of UK authorities under the Procurement Regulations will also apply to suppliers from countries that are signatory to the GPA (including EU member states), so long as the procurement concerned is covered by the terms of the GPA (some services such as health and legal services are excluded).
- 10.6. UK suppliers who want to access contract opportunities from the EU can continue to do so via OJEU. However, they will only benefit from the rights and remedies afforded to the UK under the GPA.
11. In the event of a no deal, the Procurement Regulations are due to be amended by the Exit Regulations. The Exit Regulations should come into force on Exit Day. The Exit Regulations will amend very little of the existing Procurement Regulations. The main changes relate to the removal of EU related terms and references.

Financial Implications

12. There are no financial implications arising from this report.

Implications for Wales

13. There are no implications for Wales. MHCLG grant is for England only. In Wales improvement work is provided directly by the WLGA.