The Scottish Parliament  
Edinburgh  
EH99 1SP  

FAO Mr Peter McGrath (Clerk to Local Government and Communities Committee)  

Dear Mr McGrath  

Further to the Committee on 1st May and your subsequent letter of 2nd May on behalf of Scotland Excel I’m pleased to provide a follow up response to the evidence discussed regarding existing EU Procurement rules.  

In the evidence session the Committee heard there have been occasions where local authorities have been restricted in decisions relating to Procurement. Whilst acknowledging this could be the case we don’t have any specific examples where these restrictions have applied and in our view such occasions are more likely to be historic and/or anecdotal examples that pre-date the introduction of changes to Public Contract Regulations in 2015/16.  

Two key objectives of the last reform of the regulations (leading to the latest regulations) were to:  

- Simplify the rules for bidders and contracting authorities and make them more flexible  
- Enable ‘strategic’ use of public procurement (delivering social and environmental objectives, supporting SMEs, stimulating innovation)  

Within the latest regulations minimum time limits for procurement procedures have been reduced, and as the procurement phase is now clearer/shorter, effort can be focused on the value-adding parts of the process. Historically the importance of ‘procurement’ in the narrow sense (the stage between the contract notice and contract award) has often been overstated. Overall, the real keys to commercial success (striking a good deal and making sure it is delivered) are pre-procurement planning (including being clear about the outcomes), good contract design and specification, effective market engagement and robust contract and supplier management. In this regard, Scotland Excel continues to work with Councils to ensure they can focus their efforts in the right places and keep the tendering process itself as open and simple as possible.  

The old EU rules were sometimes seen to hamper implementation of community benefits policy, however social and environmental issues can now be considered at many points in a procurement procedure. This stops short of allowing preferential treatment of ‘local’ suppliers within the authority’s boundary. However, it represents a positive step forward and as a centre of procurement expertise, working collaboratively with our members, Scotland Excel has routinely incorporated innovative approaches to procurement (including social value) into procurement strategies. Community benefits have been embedded into our frameworks since early 2015 and fair work practices, including payment of the real living wage are now considered in all our frameworks.
In overall terms - reflecting on our own experience and through stakeholder engagement - we have observed that the profile of issues such as local economic growth, SME engagement, community benefits and fair work practices have been raised and are now viewed as fundamental deliverables of sustainable procurement.

We recognise that Councils are facing an unprecedented set of challenges and Scotland Excel is fully supportive of the drive to provide better outcomes for citizens in key public services and to promote local economic growth.

Yours sincerely

Julie Welsh
Director