

Procurement Task and Finish Group

Meeting Venue: **Committee Room 3 - Senedd**

Meeting date: **Wednesday, 8 February 2012**

Meeting time: **09:34 - 11:42**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Concise Minutes:

Assembly Members:

Julie James (Chair)
Byron Davies
Eluned Parrott
David Rees
Leanne Wood

Witnesses:

Professor Kevin Morgan
Rhodri Jones, Chair of WCFA
Philip Avery, Operations Executive, National Federation of Builders Wales
Pete Fahy, Head of Strategic Commissioning, Coventry City Council
Ruth James, North Wales Construction Forum, Commercial Manager - Jones Bros Civil Engineering
Wyn Pritchard, Director, Construction Skills Wales
Clive Webb, South West Wales Construction Forum, Director - Boyes Rees
Robert Williams, South East Wales Construction Forum, Managing Director - WRW Construction Ltd

Committee Staff:

Lara Date (Clerk)
Robin Wilkinson (Researcher)
Gwyn Griffiths (Legal Advisor)

1. Introductions; Apologies and Substitutions

2. Inquiry into influencing the modernisation of European procurement policy : Evidence Session

The Chair welcomed Professor Kevin Morgan.

Professor Morgan gave the group an overview of his work within procurement which had specialised in the area of food procurement.

He noted the new directives supported transparency and simplification and should not be perceived as a barrier but as giving scope to introduce social and environmental policy into procurement.

The UK is a risk averse nation and there is a Treasury culture of obsessiveness about value for money. The Remedies Directive has inadvertently deepened this risk culture and making it easier for unsuccessful companies to challenge decisions that they did not agree with.

The issue of skills deficit in Wales was raised: in Wales this is more pronounced - if the 'McClelland benchmark' is applied - recommending 1 skilled procurement professional for every £15m of spend, then there should be 174 CIPS*-qualified professionals in Wales and currently there are 106.

The proposal to abolish Part B services was noted and Professor Morgan agreed that this was a concern. The debate in professional procurement circles is the extent to which aggregation of demand drives through aggregation of supply. He noted that the European Commission has many policy aims that are not internally consistent.

Comparison between how the procurement rules are applied in different Member States: in Italy they have more social and environmental clauses in food procurement contracts. Certainly the food culture in Italy was strong, people ate seasonally and there was a big focus on educational programmes to teach children about food. But the procurement system in Italy has weightings in the tender towards co-operatives and also towards organic food. Specifying local food in contracts is illegal but in Italy they specify local all but in the name e.g. specifying qualities of food such as organic, protected designations of origin, protected geographical indications, typical produce, freshness and time to market. These specifications put foreign companies off tendering for contracts. It is an example of creative procurement that fits their values and seeks to achieve "values for money" and shows how those who procure can have radically different practices even though they are working in the same European procurement system.

There is a need to build up the CIPS-qualified cohort in the public sector; all CIPS trained people need to be more creative; and also there needs to be a better sharing of best practise.

Best practise doesn't travel well within Wales - The Welsh Government and WLGA need to do more to promote best practise in procurement.

Collaboration between public bodies and sharing good practice: collaboration can only work where partners are embracing good practice but some public bodies haven't seen the benefits of collaboration yet and so are starting to recoil from this approach.

Professor Morgan noted that the way forward is to learn by doing and sharing best practice. Many procurement managers know they need to procure more sustainably but they don't know how to do it. Of all the barriers to good practice the two most important are firstly political and professional leadership in organisations and secondly

overcoming the knowledge deficit of skilled personnel who can then deploy skills creatively.

Role of Higher Education and Further Education in procurement:- there is a need to identify good procurement professionals and bring them together in fora where they can learn from each other.

The cultural status of procurement professionals must be raised. In the private sector over the past 25 years procurement has moved from a back room function to a boardroom function, but this has not happened in the public sector. The cultural status of procurement managers is a good place to start - raising the profile and showing that you can do well in the public sector by starting a career as a procurement professional.

Professor Morgan noted that the 3 most important things to tackle the culture of risk aversion were firstly political leadership, secondly to address the knowledge deficit in skill provision in the public sector and thirdly to raise the cultural status of procurement.

*Chartered Institute of Purchasing and Supply

3. Inquiry into influencing the modernisation of European procurement policy : Evidence Session

The Chair welcomed Rhodri Jones, Chair of WCFA, Richard Jenkins, Director of the Federation of Master Builders Wales, Philip Avery, Operations Executive of the National Federation of Builders Wales, Wyn Pritchard, Director of ConstructionSkills Wales, Ruth James, North Wales Construction Forum and Commercial Manager of Jones Bros Civil Engineering, Clive Webb, South West Wales Construction Forum and Director of Boyes Rees Architects and Robert Williams, South East Wales Construction Forum and Managing Director of WRW Construction Ltd.

The witnesses noted that the process of procurement is a problem – in feedback from their tender submissions they are told that authorities know they can do the job on the ground but it hasn't been demonstrated on paper. More emphasis should be placed on work experience and key performance indicators rather than how bidders fill in the forms.

Larger companies from outside Wales are winning contracts as they have specialist bid writers to complete the forms. There is a huge expense attached to this resource that smaller companies can't afford.

There is good work being done by the Welsh Government from helping companies develop to offering practical experience and support for completing tendering applications and PQQ's.

There needs to be more a consistent approach across a number of public and private partners: in the responses that companies get a company may be second on a tendering list in one local authority and 18th in another.

Many larger companies are trying to buy their way into the Welsh market but all the work is being fed back to London or elsewhere. They have satellite offices in Wales just to have a foothold but the work isn't staying in Wales.

The feedback that SME's are getting on their quality of written submission is that they are doing the job but the bigger companies are doing it better. There is less work around so they are finding that larger companies are now targeting smaller contracts.

SQuID focuses on documentation so doesn't give the opportunity for companies to demonstrate what they can offer and the quality of their work, for example for architects to demonstrate their work visually. Also the system doesn't offer companies the ability to input the data once, 'answering the same questions every time'. SQuID needs to have 'teeth', to be supported by an IT system, and be an overarching system used across the board. This is an approach Scotland is trying to take.

There is also an issue around the interpretation of information in the system by procurement officers. Interpretation of the procurement regulations by buyers focused more on the administrative aspects of tendering than the ability to deliver the actual goods or services themselves.

Framework Contracts and 'bundling':- The bundling together of contracts to form one big project was a 'massive issue' for Welsh SMEs trying to access the market. Because there are no tier 1 companies in Wales with sufficient turnover their ability to take on those projects is severely curtailed. Lack of capacity in local authority procurement operations led to the temptation to outsource project management to a major company to sub-contract the work. There was anecdotal evidence of 'sub-contractor bashing' where the smaller sub-contractors then have extreme pricing pressure put on them, curtailing their ability to grow and develop. The only way to avoid this is to either increase the project management resources and expertise of individual local authorities or to have a regional procurement facility to bring resources together for project management.

An example was given of a highways framework in Wales that allowed up to 18 SMEs to be involved but the award process only led to six SME's being involved at the lower echelons of the contract. There is not enough realisation of the impact on the local economy of not supporting more contractors in this framework-type approach.

There is concern that Welsh companies are missing out as they are unable to compete with the larger companies and are competing on an uneven playing field. Particular concern was expressed that this could get worse with the creation of a single environmental body in Wales using framework agreements which Welsh companies were not involved in. Guidance is needed from the Welsh Government about the implications of public authorities piggybacking on to England-based frameworks that do not include Welsh companies.

Value Wales needs the back up of legislation or a stronger mandate. The appointment of a government 'construction tsar' in England was noted to have meant better pooling of expertise and perhaps a better infrastructure to move things forward. The Welsh Government could benefit from having a 'procurement tsar' to take a strategic overview on procurement.

The sharing of best practice and ideas across the border with England was discussed. It was also noted that in France a much higher proportion of local materials and labour were being used in wind energy (80%) than in the UK (20%) - it was important to look at how those differences arise and what can be learnt from it. Scotland and Ireland seem to employ local people and companies to deliver public sector contracts, so it was

questioned why Wales could not do it – the sector was told by the Welsh Government that such an approach was anti-competitive. There was a lack of consistent interpretation of the rules across local authorities in Wales and definitive advice, leadership and support was required from the Welsh Government.

Community benefits:- Wales was quite fortunate in that the construction industry still has the strongest base with regard taking on apprenticeships. Currently in England and Scotland, displaced apprentices are about 50% in construction, this figure is only 10% in Wales.

It is not enough to have community benefits clauses in contracts – they need to be part of the scoring process – an example was cited of clauses being included which companies evidenced in bids that there not then scored by the local authority before the contract was awarded.

Community benefits should not be about buying football shirts for local schoolchildren – it must leave a tangible long-term legacy e.g. in terms of employment opportunities. There needs to be a broader strategic assessment of the effect of any particular project on the community – the ‘wellbeing’ aspect of the duty on local authorities.

4. Inquiry into influencing the modernisation of European procurement policy : Evidence Session (Via video conference)

The Chair welcomed Peter Fahy Head of Strategic Commissioning at Coventry City Council.

A service manager from Coventry City Council described a new direction of travel in directly commissioning homelessness services provided by the voluntary sector via a consortium arrangement. This approach was in the context of budgetary constraints on local authorities and the provisions of the Localism Act 2011 to increase engagement with the third sector.

The voluntary sector in Coventry understands that to survive it needs to change - a consortium called ‘Here to Help’ has been set up which includes 30 local voluntary organisations and is registered as a charity. The idea is that, through the consortium, organisations will work together and the council will be able to commission from that consortium, using procurement rules where appropriate. The cabinet has agreed to run the homeless services through this consortium via a grant agreement on an 18 month trial basis.

The council understands the possible risks attached to this process but hopes that what they are doing will demonstrate the gains that can be made from direct commissioning through a consortia to drive out unnecessary cost and improve outcomes. The voluntary sector organisations also lever in funding to the consortium from other sources such as the Big Lottery Fund.

Approximately 5 years ago grants to many voluntary sector organisations ceased and they were put on to a contractual footing using COMPACT arrangements. Although this created clarity on deliverables and expectations it reduced some of space and flexibility in the sector to respond to service demands. The grant approach proposed through the consortium gives the ability to respond to those needs on a more flexible

way than operating through contract conditions. The organisations in the consortia have to organise themselves in an efficient way to deliver the services the council requires.

It was thought that the shared management and infrastructure overhead costs of the consortium could provide a breeding ground for smaller organisations and mutuals to gain a foothold, rather than driving them out.

In terms of risk management and mitigation, memoranda of understanding had been agreed with the organisations concerning provisions on not seeking judicial review – the local sector understood that there will be some winners and losers in the new arrangement, but they understand the process that they have been through and have been engaged in that process so understand the risks. It is also understood that if the new way of working does not deliver benefits the Council could go back to procuring through traditional routes i.e. open tender. , A voluntary ex-ante transparency notice in the Official Journal of the EU will be placed to signify to the market that the Council is intending to commission from one organisation. Financial controls will be built in with open-book accounting and claw-back conditions if there is under-delivery or money is not spent. The Remedies Directive kicks in when contract regulations are breached, whereas the consortium operates under a grant agreement.

Importantly the approach has strong strategic leadership from the Chief Executive down through the Finance Director and Legal Services, and there had been political engagement at the highest level.

It was too early to evaluate the delivery model, but if it can be proven to drive forward efficiencies and benefits then there could be potential for adopting a similar approach with other services, such as accommodation for victims of domestic violence, information and advice services and housing related support, all traditionally delivered by third sector organisations. It would also be interesting to see how it could apply to other types of provision that are procured and delivered by a combination of voluntary sector and private businesses.