

Procurement Task and Finish Group

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

Meeting date: **Thursday, 23 February 2012**

Meeting time: **13:20 - 14:56**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Concise Minutes:

Assembly Members:

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

Witnesses:

Iestyn Davies, Federation of Small Business
Debbie Scott, Groundsolve Ltd
Howard Allaway, Higher Education Purchasing Consortium Wales HEPCW
Rhidian Morgan, South West Wales Higher Education Procurement Partnership (SWWHEPP)
Mark Barrow, Birmingham City Council

Committee Staff:

Lara Date (Clerk)
Sarah Bartlett (Deputy Clerk)
Robin Wilkinson (Researcher)

1. Introductions; Apologies and Substitutions

1.1 There were no apologies.

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

The Chair welcomed Iestyn Davies, FSB Wales, Debbie Scott, Groundsolve Ltd, Howard Allaway, HEPCW and Rhidian Morgan, South West Wales Higher Education Procurement Partnership (SWWHEPP).

The FSB was broadly supportive of the principles behind the simplification measures in the EU proposals. It wanted to see the proposals on dividing contracts into lots strengthened even further to require authorities to demonstrate why there are exceptional circumstances not to use lots and create a presumption that lotting was best practice. Stopping late payments to sub-contractors was also important to help SME's with cash flow. The FSB welcomed the chance to have more negotiation in the procurement process.

The issues for procurement in Wales were cultural. Public money needed to be spent for the public good, but there was the question of what the public good looked like on the ground – it was about sustainable communities and sustainable businesses and value for money as part of that. There were some examples of good procurement practice in Wales and the FSB was urging the Welsh Government to celebrate those and ensure they were shared across the procurement community.

The pre-qualification questionnaire stage was an issue for SME's. There was a tendency for the PPQ process to become more complex over time as people added to the requirements. SQuID was welcomed, but in the construction sector there was already a requirement to pay to register information on Constructionline, so there were concerns about duplication and cost of different measures to store supplier data. The HE sector noted that the risk-based approach of SQuID could have real benefits for helping contracting authorities to focus on what they were procuring and to ask suppliers for the appropriate amount of information and undertake an appropriate level of financial scrutiny.

The SQuID system should be tailored to be appropriate to legal requirements for the size of the business concerned, for example in terms of the health and safety requirements, so that smaller businesses did not 'de-qualify' themselves by not appearing to have met all the rules. Support was being given to microbusinesses on submitting tenders, but training also needed to be given to those assessing bids to ensure they understood the legal requirements were different for smaller businesses. The level of insurance required in specifications was also a restriction for micro-businesses and local authorities should look at whether the level of insurance they were requiring was appropriate to the risk or unreasonably high.

The approach taken in the Higher Education sector was dependent on the size and type of contract and although SMEs were encouraged to bid they would be excluded from some larger framework agreements for very big contracts. There were a lot of collaborative agreements in place for the HE sector and for those outside Wales they would have an input into the strategy and how the contract can be structured but not how it is managed overall, and breaking down into lots for Wales is not always feasible for bigger national agreements.

A 'perverse' example was given of a small company losing out on a contract on the basis of turnover/capacity, only to win the business as a sub-contractor of the larger contractor winning the contract, but supplying the service at a higher cost than if the contracting authority had procured directly from the company locally. Public sector organisations could end up paying more for services in this way, but choose this route because the administrative costs required were lower than those for managing multiple suppliers.

FSB noted the impact of late payments to SMEs providing goods and services as sub-contractors – improvements were needed in this area. The HE sector could pay more attention to supply chain arrangements.

The Welsh HE sector was taking ‘whole life’ costing into account in determining value for money and increasingly bringing community benefits policy into procurement specifications, but it was not clear how far this was applied across the UK HE sector in English-led agreements. Social and environmental clauses were considered more appropriate to apply to estates and construction-type projects in HE procurement. For example Cardiff Metropolitan was a market leader in sustainable food procurement for the Welsh HE sector – if procurement was done under the HEPCW banner through Cardiff Met. then all institutions would be using the same agreements.

Groundsolve noted that larger companies winning contracts who were required to employ local labour and use local companies would often use ‘meet the buyer’ events to meet this condition of the contract. This could involve SME’s in a lot of travelling with no guarantee of winning local work, particularly in North Wales, and SME’s were losing interest in this approach. There was scope for public bodies to share good practice and learning across local authority boundaries to prevent ‘tick box’ approaches and see local authorities and other public sector bodies having more sustainable long-term relationships with suppliers and a sense of ownership for the growth and sustainability of local businesses. An example was given of Ystrad Mynach hospital being built without using any supplies from local brick manufacturer.

The focus should be more on leveraging in value for local communities and less on risk-averse concerns that there were no complaints about local companies winning business.

The principles applied to procurement across the HE sector in Wales were the same, even though the exact policies and procedures, and thresholds applied might not be exactly the same: smaller organisations would apply lower thresholds.

The FSB noted that whilst procurement in general sat within the Finance Minister’s portfolio, responsibility for using it as a lever for economic growth was with the Enterprise Minister and this could lead to legislating twice on the same issue, for example over placing onerous health and safety requirements on small businesses. It showed that the balance was leaning more towards due diligence and financial accountability rather than realising the potential for procurement.

The HEPCW representative noted that if lotting of a contract was done in a way that was appropriate to each particular contract it should not be an undue burden on the purchaser. It would have an opportunity to input into agreements on commodity groups to ensure the contracts satisfied what was needed.

FSB said that the meeting of minds between the culture of small businesses to have money spent with them, and the culture of the public sector as stewards of public money, should be that spending money locally leads to a sustainable business community and education sector and healthy economy. That could only be done by engaging procurers with small businesses; “it cannot be done as a tick-box exercise over a congealed bacon sandwich in a hotel.”

Following the meeting ConstructionSkills Wales provided more information on the CBI's response to the draft Directives and to an EU legislative proposal on third country access to the single market.

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

The Chair welcomed Mark Barrow from Birmingham City Council.

The Strategic Director of Development at Birmingham City Council described the Council's approach to using public procurement to invest in the local economy. Birmingham faces 'huge challenges' in tackling the level of local unemployment. The council is involved with other authorities and partners in the West Midlands Economic Inclusion Panel and has focused on what be done collectively through procurement influence to support growth in the local economy and the development of local supply chains, within the scope of the law.

The work is about using the public sector powers of stewardship to support local development while maintaining competition and a healthy local procurement framework.

A firm of legal specialists was commissioned to devise a framework within which to start to condition how much the people who supply goods and services draw on the local economy – over £5 billion worth of spending has gone through the framework. It also ties in with planning permissions to encourage developers to employ local long-term unemployed.

Alongside the framework, a toolkit available online gives specific practical guidance on how to include social clauses into contracts. It has been robustly tested at EU level, with the State Aid unit, and is supported by the European Commission.

Alongside that an 'e-Bay for businesses' has been developed, called FindItInBirmingham.Com to support local SME's by advertising opportunities for local businesses to apply to be part of a supply chain. In 18 months about £3.7 billion of private sector deals has gone through the online portal, with about 10,000 companies registered.

The building of a network of microbusinesses operating within a supported environment has the benefit of allowing the council to create opportunities and use its influence to move them forward economically, and to build its understanding and knowledge of what works and what doesn't, and the areas of growth within the local economy.

Birmingham is the largest council in the country and is providing an element of regional leadership, providing a framework that is open intellectual property and on a scale that smaller councils can use, so that everyone can benefit".

The network that brings the 33 West Midlands councils together put their weight behind the approach and championed its use, embedding it in procurement practice and financial regulations in those authorities. Chief Executives of the Primary Care Trusts were also involved. Once there was mass support the authorities who had not taken it on board stood out, and politicians would provide challenge as to why they were not involved.

Public bodies including health bodies, the police and the fire brigades have also adopted it, as well as some universities. It is being used to reach a target for 60 per cent of local suppliers being involved in the £1.5 billion building project for a new hospital in the region. Government agencies including the Department for Work and Pensions and Jobcentre Plus were also involved in the Panel's work.

The construction industry was very supportive of the construction framework as it understood the importance of using it as a way of building local capacity in construction skills.

The framework had been in place fully for about 18 months, and the work would be reviewed and evaluated after two years, including benchmarking data, but initial headline data was encouraging. It was thought that it could be adopted by other councils, including Welsh councils. The council was also open to sharing its experience more widely and mentoring similar work elsewhere in the UK.

Having fit-for-purpose risk management processes in place enabled the organisation to be more risk-tolerant and confident in how it manages risk.