



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Public Procurement Update: EC Proposals

12 September 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Daithí McKay (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mr Roy Beggs
Mrs Judith Cochrane
Mr Leslie Cree
Miss Megan Fearon
Mr Paul Girvan
Mr William Humphrey
Mr Mitchel McLaughlin

Witnesses:

Mr Des Armstrong	Department of Finance and Personnel
Mr Stewart Heaney	Department of Finance and Personnel

The Chairperson: Des, perhaps you could succinctly outline the three new directives and what they do.

Mr Des Armstrong (Department of Finance and Personnel): Yes. The European Commission is looking at putting in place three European procurement directives. One is on public contracts, another on utilities and a third on concession contracts. Negotiations are under way on the public contracts for supplies, services and works construction. We anticipate that the negotiations on the utilities directive will start shortly and those on the concession contracts directive will follow.

The directives that we have in place are transposed into legislation as a set of regulations that cover England, Wales and Northern Ireland. Scotland made its own but similar regulations. The proposal before you today is that we continue with that type of approach. England, Wales and Northern Ireland will have a set of regulations that reflect the new directives, and Scotland intends to do its own.

A point I would like to make is that, in the directives that have to be transposed into legislation, there will be little scope for change because they are to be applied throughout Europe. The Commission is keen to ensure that the public procurement directives support a single market across Europe, so the detail that we will be allowed to change or consider will be on the margins of procedure and matters such as that, rather than significant changes to the directives.

Negotiations on the directives are being taken forward by the Cabinet Office because it represents the member state.

The Chairperson: I was going to raise the question of the Scottish example. How similar are the Scottish regulations to the directive?

Mr Armstrong: They are similar. The Scottish regulations are changed on the margins, because the regulations have to reflect the directive. They cannot depart too far from the directive, or that would leave the Scottish regulations open to legal challenge and they could not be defended.

The Chairperson: The correspondence states that there will be some additional resource to help to co-ordinate the views of key stakeholders who will be commenting on the numerous drafts of the regulations. Has that been compared with the resource implications of drawing up our own legislation?

Mr Armstrong: Obviously, if we are joined with Wales and England, we can use the resources of the Cabinet Office to do a lot of the hard work. We have a regular set of negotiations and discussions with the Cabinet Office in Wales to look at the detail to make sure that the Northern Ireland perspective is well understood.

If we were to make our own regulations, we would need to set up a separate team. The Central Procurement Directorate does not have the resource to do that. We would also probably find ourselves outside a lot of the ongoing discussion with the Cabinet Office. For example, if we make our own regulations, it will put us in a slightly different position. We have good access to information from the Cabinet Office, and we have regular information coming from it.

Mr Cree: Recently, for the first time, I read in a government document that there would be no gold-plating with this. How certain are we that there will not be gold-plating on this latest rendition from Europe?

Mr Armstrong: The Cabinet Office is determined that there will not be gold-plating.

Mr Cree: Can you keep a straight face?

Mr Armstrong: In the discussions, we have had a difference of view with the Cabinet Office on the regulations. From our perspective in Northern Ireland, we are coming pretty much from the viewpoint of small and medium-sized enterprise (SME) access, opening up contracts, trying to break down barriers for SMEs and trying to remove the linkage with the subject bit of the contract so that we have more scope for bringing in social clauses and what have you.

The Chairperson: A decision needs to be made on this today.

The Committee Clerk: At tab 5, there is a letter from 29 August, in which the Department asks for the Committee's views on the approach proposed.

The Chairperson: Are members content that we piggyback on, or dovetail into, that approach?

Members indicated assent.

The Chairperson: Des, thanks very much.

Mr Armstrong: Thank you.