

27 February 2009

Mr Mitchel McLaughlin MLA
Chairman
Northern Ireland Assembly Committee for Finance and Personnel
Room 419
Parliament Building
BELFAST
BT4 3XX

Dear Mr McLaughlin

Re: Inquiry into Public Procurement Policy and Practice in Northern Ireland

The Royal Institution of Chartered Surveyors (RICS) Northern Ireland is the principal body representing professionals employed in the land, property and construction sectors and represents some 3,000 members. Our members practice in land, property and construction markets and are employed in private practice, in central, regional and local government, in public agencies, in academic institutions, in business organisations and in non-governmental organisations.

As part of its Royal charter, the Institution has a commitment to provide advice to the Government of the day and, in doing so, has an obligation to bear in mind the public interest as well as the development of the profession.

In relation to private consultant and contracting firms, the RICS construction membership represents large multi-national organisations, local SMEs and sole practitioners working in the fields of quantity surveying, building surveying and project management. This broad representation allows RICS to provide a balanced opinion and impartial advice on the current status of the Northern Ireland construction industry.

RICS welcomes this opportunity to provide written evidence to the Committee for Finance and Personnel in relation to the public procurement policy and practice in Northern Ireland. We have responded to four of the key terms of reference under the following headings.

1. Examine the experience of SMEs and SEEs in tendering for and delivering public contracts

RICS members representing the interests of SMEs working within the Northern Ireland construction industry have experienced difficulties in tendering for public sector contracts that use a framework procurement strategy.

RICS recognises the benefits of using a framework procurement strategy, such as, reduced administration costs to clients and the industry, improved long term relations between client and supplier and greater long term efficiency savings. On the downside our members are also very aware that frameworks exclude unsuccessful firms from a particular area of work for up to four years, thus reducing the opportunity to improve wider skills and experience within industry. Frameworks also restrict the overall choice of suppliers and expertise and increase the risk of excluding smaller firms from the bidding process.

In Northern Ireland frameworks have come under scrutiny as they are perceived to unfairly disadvantage the mainly SME market. Many SMEs have delivered on similar schemes in the past and have the potential to deliver on frameworks, but are excluded due to excessively high selection criteria. For example, insurance and company turnover set at levels beyond the capacity of most SMEs and disproportionate to the size and nature of the anticipated workflow.

Two very large frameworks in Northern Ireland failed to get off the ground due to successful legal challenges. In contrast, some frameworks in Northern Ireland such as those managed by DHSSPS, Health Estates have operated successfully for many years. RICS believes it is the 'one size fits all' approach to frameworks that has failed in these instances and not frameworks as a potential procurement strategy.

To ensure the success of future frameworks that represent fairness, transparency, BVFM and promote competition, RICS recommends:

- ***Smaller frameworks (in value) to encourage a higher level of competition and experience within the market;***
- ***Selection criteria such as insurance levels and company turnover should not discriminate against SMEs but be in proportion to the size and nature of the anticipated workflow;***
- ***The number of teams should reflect the total value of work on the framework and the number and size of projects to be let;***
- ***Criteria should accurately define the technical ability and experience required by bidders to distinguish successful bidding potential at an early stage. This will reduce costs to both industry and clients; and***
- ***Where possible frameworks should be geographically based.***

Frameworks appear to be the preferred procurement strategy by many government departments. However, it is important that government departments are aware that frameworks are not the only procurement strategy available to them.

Despite the current disorder of public procurement, the downturn of the construction industry, and the urgent need to get work to the market, ***RICS would under no circumstances wish to see a return to lowest cost tendering.***

2. Consider the nature, extent and application of social clauses within public contracts.

The provision of social clauses is currently being incorporated into the procurement processes in some government departments such as the Department of Education. In principle, RICS Northern Ireland welcomes this; however, in the current economic climate with increasing redundancies it may become more difficult to comply.

Unemployment levels vary across Northern Ireland and as such RICS recommends that where permitting, social clauses reflect this regional variation on a project basis taking into consideration the location of a projects and local community need.

3. Identify issues to be addressed and which are within the remit of Department Finance and Personnel;

Workflow

In 2007 the Northern Ireland construction industry readied itself in anticipation of the Investment Strategy for Northern Ireland 2008 -2018. Since its publication the anticipated workflow has not been realised.

Findings from the RICS Construction Market Survey Q3, 2008, indicated that Northern Ireland had experienced the sharpest decline in workloads in the UK across all sectors and the lowest levels since the survey began in 1994. Expectations in workload, employment and profits also recorded the lowest levels since the survey question was first asked in 1998.

This is mainly due to delays in the publication of the second Investment Strategy for Northern Ireland (ISNI2) delivery strategies for education and health estates and the recent legal challenges to the Department of Education and Central Procurement Directorate frameworks. The impact of the economic recession on house building and other private sector construction projects is also having a major affect on the stability of the construction industry.

A steady flow of public sector construction projects has traditionally offset any decline in private sector work and provided certainty within the industry. As it stands the continuing uncertainty of public work makes it difficult for contractors and consultants to plan ahead and maintain staff levels.

Skills

Job losses amongst highly mobile construction professionals will have a significant impact on the availability of skills for future projects as they seek employment elsewhere. RICS has experienced difficulty in placing third year university students with consultants and contracting firms due to increased levels of redundancy within the industry. Construction apprenticeships have also been hit by the downturn in the market with few construction firms taking on new apprentices and many existing apprenticeships being ended early. In summary, the level of skills within the Northern Ireland construction market is reducing which may lead to skills shortages in the years ahead.

The construction industry remains ready and waiting for public sector work; however, projects appear to be tied up in process and bureaucracy. ***The Northern Ireland construction industry requires clear guidance from the Executive on when work will be released.***

Communication with the industry

The Strategic Investment Board (SIB) announced at an RICS procurement workshop in November 2008 that they were committed to launching the Delivery Tracking System (DTS) in early 2009. This tool would provide greater certainty to the industry in understanding where projects are within the government system. However, more recently, RICS have been informed that the DTS is currently undergoing a number of tests and will not be ready for at least another few months.

RICS recommends that the Delivery Tracking System (DTS) goes live as a matter of urgency and has commitment by all Centres of Procurement Expertise (COPEs) to be updated with current and accurate data on a regular basis.

In the absence of the DTS the industry must be kept informed of the progress of new construction opportunities through the development of a clear communication strategy. A starting point would be the regular publication of the CIFNI Procurement Task Group Project List on the DFP website.

Future workloads

RICS welcomed the announcement by the Department of Finance and Personnel in December 2008 to bring forward construction projects worth £115million to proceed to tender on a project by project basis by March 2009. These projects were originally scheduled under the delayed Department of Education and Central Procurement Directorate (CPD) frameworks.

Despite the commitment from the Department the process of delivering these projects to the market is too slow and many will not be ready for tender by the end of the financial year. Once a project is put out to tender it can take 3-4 months before it is awarded and becomes revenue earning; even longer for contractors where design development is applicable.

Our members are concerned that CPD does not have the necessary resources to deliver this work to the market in the timeframe proposed. They are also concerned that there is very little planned work coming out of the system in the twelve months ahead.

RICS recommends that CPD is provided with the necessary resources required to deliver these overdue projects.

The Northern Ireland Executive should re-examine the public works construction programme and bring forward future planned projects into years 2009 -2010 to ensure continued workflow.

The release of this new work must be managed in a timely and consistent manner.

It is essential that Government departments are efficient in their procurement activities. Where there is inaction and budgets are not being spent, funds should be transferred to departments that can use the resources to bring planned work forward to the market place.

Principles of procurement

RICS Northern Ireland supports the twelve guiding principles which govern the administration of public procurement and ***recommend that they be revisited by all COPEs to ensure they are understood and applied in what are increasingly complex circumstances.***

Transparency and objectivity in procurement processes is of particular importance and necessary at this time to rebuild industry confidence.

Standardisation of procurement practice

RICS members have experienced inconsistency across all government departments in tender documentation, the application of evaluation and assessment criteria, and the value and effectiveness of debriefs.

RICS recommends the development of a unified procurement strategy that ensures the consistent application of evaluation and assessment criteria, tender documentation and constructive debriefs across all COPEs.

4. Make recommendations to DFP for improvements to public procurement policies and processes, aimed at increasing access to opportunities for SMEs and SEEs and maximising the economic and social benefits for the local community, whilst taking account of the principles governing government procurement.

In summary, outlined below are the recommendations highlighted under the previous headings:

1. To ensure the success of future frameworks that represent fairness, transparency, BVFM and promote competition, RICS recommends:
 - a. Smaller frameworks (in value) to encourage a higher level of competition and experience within the market;
 - b. Selection criteria such as insurance levels and company turnover should not discriminate against SMEs but be in proportion to the size and nature of the anticipated workflow;
 - c. The number of teams should reflect the total value of work on the framework and the number and size of projects to be let;
 - d. Criteria should accurately define the technical ability and experience required by bidders to distinguish successful bidding potential at an early stage. This will reduce costs to both industry and clients; and
 - e. Where possible frameworks should be geographically based.
2. RICS would under no circumstances wish to see a return to lowest cost tendering.
3. Unemployment levels vary across Northern Ireland and as such RICS recommends that where permitting, social clauses reflect this regional variation on a project basis taking into consideration the location of a project and local community need.
4. The Northern Ireland construction industry requires clear guidance from the Executive on when work will be released.
5. RICS recommends that the Delivery Tracking System (DTS) goes live as a matter of urgency and has commitment by all COPEs to be updated with current and accurate data on a regular basis.
6. In the absence of the DTS the industry must be kept informed of the progress of new construction opportunities through the development of a clear communication strategy. A starting point would be the regular publication of the CIFNI Procurement Task Group Project List on the DFP website.

7. RICS recommends that CPD is provided with the necessary resources required to deliver the £115million worth overdue projects.
8. The Northern Ireland Executive should re-examine the public works construction programme and bring forward future planned projects into years 2009 -2010 to ensure continued workflow.
9. The release of new work must be managed in a timely and consistent manner.
10. It is essential that Government departments are efficient in their procurement activities. Where there is inaction and budgets are not being spent, funds should be transferred to departments that can use the resources to bring planned work forward to the market place.
11. RICS Northern Ireland supports the twelve guiding principles which govern the administration of public procurement and recommend that they be revisited by all Centres of Procurement Expertise (COPEs) to ensure they are understood and applied in practice in what are increasingly complex circumstances.
12. Transparency and objectivity in procurement processes is of particular importance and necessary at this time to rebuild industry confidence.

RICS Northern Ireland looks forward with interest to the outcome of this inquiry and would welcome the opportunity to meet the Committee to discuss the issues raised in our response.

Yours sincerely

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