



SUSTAINABLE COMMUNITIES AND PUBLIC PROCUREMENT

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Housing, the economy and society (1)

Common themes

- Our chronic shortage of good quality affordable homes to serve the needs of our society
- The crucial importance of the construction industry to our national economy
- The potential of housing design and construction to drive skills development and job creation
- The potential housing design and construction industry to drive innovation in the areas of decentralised energy supply, low carbon living, working and transportation

Housing, the economy and society (2)

Related theme

- The potential for innovative housing and community development to promote new civic values, around local and participatory democracy, and cooperative ownership of assets and infrastructure.

The public mission of the RSL Sector

- Public subsidy which enables an RSL to meet its objectives
- Statutory duty to cooperate with local authorities
- The governmental function of provision of subsidised housing
- These qualities establish *sufficient public flavour to make the provision of social housing a function of a public nature*



The economic importance of public purchasing (1)

The public sector remains a major purchaser of goods works and services

Approaches to procurement policy can influence economic development

Frequent calls for *Buy Local, Buy British*

But the European single market has been a fact of business life for 25 years

The economic importance of public purchasing (2)

The argument: environmentally sustainable economic development requires

- A different balance between manufacturing, services and finance
- A recognition of the power of public purchasing policy in housing to change the dynamic between local government, citizens groups, major utilities, SMEs and the financial sector
- New, smart procurement and contracting methods

The economic importance of public purchasing (3)

In the US, community development corporations, credit unions, public utilities and, above all, cooperatives are the strongest models for establishing decentralised generation agencies. . . . they create an appropriate decentralised, bottom up approach to utilising the new energy regime that can serve as a foundation for many other economic, social and cultural institutions

Jeremy Rifkin The Hydrogen Economy (2002)

Public Contracts Regulations 2006 - specific provisions

Regulation 35 – Subsidised housing scheme works contracts

- (1) For the purpose of seeking offers in relation to a subsidised housing scheme works contract to which the circumstances of paragraph (2) apply, a contracting authority may, except as indicated in the following paragraphs, depart from the provisions of these Regulations insofar as it is necessary to do so to select the contractor which is most suitable for integration into the team referred to in paragraph (2).*

- (2) The circumstances referred to in paragraph (1) are where the size and complexity of the scheme and the estimated duration of the works involved require that the planning of the scheme be based from the outset on a close collaboration of a team comprising representatives of the contracting authority, experts and the contractor.*

Public Contracts Regulations 2006 - specific provisions Regulation 35 – Subsidised housing scheme works contracts

cont

- (3) *The contracting authority shall comply with the provisions of—*
- (a) regulations 4(3), 11, 31, 32, 42 and 44; and*
 - (b) the time limits referred to in regulations 15, 16, 17 and 18.*
- (4) *The contracting authority shall include in the contract notice a job description which is as accurate as possible so as to enable contractors to form a valid idea of the scheme and of the minimum standards relating to the business or professional status, the economic and financial standing, the technical ability and any quality assurance standards which the contractor awarded the contract will be expected to fulfil . .*

Public Contracts Regulations 2006 - specific provisions

4.— Economic operators

- (1) *In these Regulations, an "economic operator" means a contractor, a supplier or a services provider.*
- (2) *When these Regulations apply, a contracting authority shall not treat a person who is not a national of a relevant State and established in a relevant State more favourably than one who is.*
- (3) *A contracting authority shall (in accordance with Article 2 of the Public Sector Directive)—*
 - (a) *treat economic operators equally and in a non-discriminatory way; and*
 - (b) *act in a transparent way.*

Public Contracts Regulations 2006 - specific provisions

Regulation 39 – Conditions for performance of contracts

- (1) *A contracting authority may stipulate conditions relating to the performance of a public contract, provided that those conditions are compatible with EU law and are indicated in –*
- (a) *the contract notice and the contract documents; or*
 - (b) *the contract documents.*
- (2) *The conditions referred to in paragraph (1) may, in particular, include social and environmental considerations*

Public Contracts Regulations 2006 - the pitfalls – Roanne & Osbalwick



“COUNCIL chiefs say York’s controversial Derwenthorpe model village can finally go ahead following a crucial ruling by the European Commission. The 540-home development at Osbalwick has been stalled while the Commission investigated a City of York Council decision to sell the site to the Joseph Rowntree Housing Trust without going out to open tender. The Commission said yesterday the deal had not complied with EU public procurement rules, meaning certain companies might have been denied the possibility to bid for the contract – but it decided not to refer the case to the European Courts. In return, the trust will go out to tender to allow companies across the EU to bid to construct homes in four phases. The trust had originally intended to self-build the properties.”

Conclusions

- How do these concessionary arrangements affect the RSL and housing sector in practice?
- Can they help deliver decarbonised communities, green infrastructure and green energy?
- The competition *is not* necessarily between rival building contractors offering roughly the same solutions and competing on price.
- The competition *may be* between:
 - different design solutions and technologies which bring different benefits and outcomes to an area
and
 - different alliances of design houses, utilities and supply chains, community groups offering different modes of stakeholder participation
- Partnerships which are large scale, long term, and require strong leadership.



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