



Northern Ireland Policy Unit

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Committee for Finance and Personnel's Inquiry into Public Procurement Policy and Practice in Northern Ireland

The Federation of Small Businesses is Northern Ireland's largest business organisation with 8000 members, drawn from across all sectors of industry, and over 210,000 members throughout the UK.

The Federation lobbies decision makers to create a better business environment and welcomes this opportunity to input into the Committee for Finance and Personnel's Inquiry into Public Procurement Policy and Practice in Northern Ireland

This submission includes feedback from FSB members in Northern Ireland who have engaged or attempted to engage with public procurement processes, as well as information from FSB's national research. Those members who spoke to us did so on the condition that they would remain anonymous. We are also grateful for expert input by FSB NI member Lestas Consulting, a local Management Consultancy company specialising in supporting SMEs and SEEs to procure to the public sector and supporting the public sector to examine good procurement practice.

Our work on gathering our members' experience of the public procurement process with a view to identifying good practice as well as barriers, in order to make practical and realistic recommendations, is ongoing and we would welcome a further opportunity to comment if the timescale of this inquiry permits.



We trust that you will find our comments helpful and that they will be taken into consideration. The FSB is willing for this submission to be placed in the public domain. We would appreciate being kept apprised of further developments.

Regards

Wilfred Mitchell OBE
Northern Ireland Policy Chairman

FSB NI Submission Committee for Finance and Personnel's Inquiry into Public Procurement Policy and Practice in Northern Ireland

Executive Summary

The FSB was pleased to meet with the Committee in November 2008, and welcomes the Committee's decision to conduct an Inquiry with a view to increasing access to public procurement opportunities by small and medium-sized businesses and social economy enterprises.

The FSB welcomed the Programme for Government's emphasis on "growing a dynamic innovative economy". However, we noted that only one of the PSA objectives specifically mentions Small and Medium sized Enterprises, despite the recognition in the Programme for Government of the essential contribution of this sector in the economy. PSA 11, Objective 4 includes the proposed action to "increase access to public sector procurement opportunities for SMEs and Social Economy Enterprises", with the target of having "appropriate systems in place by 30 September 2008 to allow SMEs and SEEs to opportunities for doing business with public sector organisations."

In these difficult economic conditions, it is clearer than ever that SMEs are the backbone of the economy in Northern Ireland, and if supported, will form the basis of the recovery in the future. It is essential to maintain the dynamism and innovation of our small businesses at this time.

83 pence of every pound spent with a local business goes back into the local economy

Feedback from FSB members in Northern Ireland

This submission includes feedback from FSB members in Northern Ireland who have engaged or attempted to engage with public procurement processes, as well as information from FSB's national research. Those members who spoke to us did so on the condition that they would remain anonymous. We are also grateful for expert input by FSB NI member Lestas Consulting, a local Management Consultancy company specialising in supporting SMEs and SEEs to procure to the public sector and supporting the public sector to examine good procurement practice (*Annex 1*).

FSB Member Guidelines

The FSB provides guidance to its members on best practice for those seeking to explore business opportunities in the public procurement sector¹ (*Annex 2*).

¹ As part of the wider FSB Keep Trade Local campaign, the FSB has produced a 'Public Procurement – Helping Small Businesses Succeed' guide. This was published in October 2008, and focuses on member experiences throughout the United Kingdom.

The FSB believes there are significant barriers to the procurement process for SMEs, and is conducting further and ongoing work to identify the specifics of these barriers and the measures that could best address them, building on the work that the FSB is carrying out in Great Britain.

Definition of SMEs

In Northern Ireland, 95% of businesses employ fewer than 10 people, while those with fewer than 50 employees constitute 98% of all business, and employ nearly 50% of those in employment (March 2005)². Less than 1% of the private sector consists of large companies (250+ employees).

It is therefore important that the Committee clarifies its definition of an SME. Public Bodies in Northern Ireland may consider that they have 100% submission from the SME sector to its tender notices, and a 100% success rate of award of contracts to SMEs – given that the standard definition of an SME relates to all businesses employing up to 250. This definition makes it difficult to make a case for the identification of real barriers for the majority of our typical businesses. This paper calls on the committee to define SME as a company employing up to 25 people. For the purposes of this paper this is the definition of SME that will be used.

Interdependence with other strategies and policies

It will, of course, be important to consider public procurement in conjunction with the current Independent Review of Economic Policy, the draft Enterprise Strategy and the long anticipated review of the Regional Economic Strategy.

In addition to reacting to the current economic climate, this is an opportunity to put measures in place to be introduced under the RPA.

Independent Review

Not wishing to delay any measures that the Committee might wish to recommend as a result of this Inquiry, we would welcome an independent review of the public procurement process in Northern Ireland, such as that conducted by Anne Glover in GB (and following the precedent of DEL's decision to review Employment Dispute Resolution procedures following the Gibbons Review in GB, taking a specifically Northern Ireland focus and taking account of our uniqueness as a small business economy.

Recommendations

- The FSB has recommended that the UK government should set a target of awarding 30% of low value public procurement contracts to micro businesses. The Department of Finance and Personnel should consider this as a target in

² Small And Medium Enterprises In Northern Ireland, DETI, 4/12/06



Northern Ireland in order to stimulate the indigenous small business base and increase productivity.

- The FSB NI calls on the Committee to initiate a review into SME access to information on public procurement opportunities, including those provided by public bodies outside central government, such as local councils, and address weaknesses where they are found. Tender opportunities are advertised in a plethora of media, including the three main daily newspapers, trade journals, and websites. Small and micro-businesses do not have the human resources to identify and monitor all of these sources on a weekly basis.
- Small businesses should be actively encouraged to enter tendering process. In relation to lower value contracts for which it is not a requirement to advertise, every effort should be made to identify as wide as possible a pool of potential tenderers, and to ensure that all have the opportunity to tender.
- On a national basis, the FSB calls for the introduction of an universal pre-qualification questionnaire that could be used for low value contracts and would only have to be filled in once and then logged for future bids. The time it takes to resubmit a full pre-qualification questionnaire for each new bid uses time the small business does not have. Pre-qualification paperwork should be simplified and in Plain English. Requirements should be clear and relevant.
- The FSB recommends an examination of the feasibility, as part of wider package to boost small businesses during current difficulties, of breaking large contracts into smaller ones to enable smaller businesses to tender.
- If large contractors are used, they should in turn be required to advertise for their subcontractors, and to select from them on a Value-for-Money basis.
- The concept of Value for Money as a principle which requires consideration of much wider criteria than cost – embracing quality, project completion times, ease of communication and project flexibility – must be promoted and public service contract managers thoroughly trained. Such training should include the benefits of using smaller companies.
- Debriefing should be automatically offered to all unsuccessful bidders and should be delivered by someone who was actively involved with the award process. Feedback should be provided in the format requested by the bidders, whether face to face meetings, telephone or written advice and explanations.
- The number and value of contracts awarded to small businesses, by size of business, should be monitored and regularly reviewed. This information should be included in the DFP's Annual Report to the Procurement Board.

Introduction

Public procurement is an underused tool when it comes to supporting the indigenous small business sector. By using local suppliers, contractors can expect better value for money, better quality of service and a more innovative and punctual completion of the contract.

The public sector in Northern Ireland spends over £2bn a year on public procurement, nearly 25% of the Executive's budget, yet BERR estimates that only 16% of the total value of public contracts is awarded to SMEs, and only 33% of SMEs who bid every time they find an appropriate opportunity are successful in winning the contract. This is set against EU data which states that SMEs secured 42% of the value of contracts above the thresholds fixed by the EU directives on public procurement which is £140,000³.

Survey Results⁴

Evidence from a recent survey of FSB members suggests that SMEs experience significant barriers in tendering for government contracts.⁵ Small businesses are not always given a fair chance to compete against larger businesses, and also are not always aware of ways in which they can maximise their chance of winning public sector contracts.

On average, SMEs find the private sector easier to sell to than the public sector – their rate of success in winning private sector contracts is double their rate of success in winning public sector contracts.

Over 50% of SMEs find it significantly more difficult to deliver to government agencies than the private sector, predominantly because of the additional requirements of public sector clients. This is largely due to a greater amount of formality, a lack of responsiveness and unrealistic timescales.

Three quarters of SMEs lack awareness of where to find information about public procurement opportunities.

Two thirds also lack the time required to look for opportunities.

Just under two thirds of SMEs are not sure of which information sources to use when looking for opportunities.

³ BERR

⁴ The FSB in Northern Ireland conducted additional research to that used in the FSB/CBI/BVCA report in order to ensure sufficient qualitative local responses. On the basis of past survey work and consultation, the quantitative research can be satisfactorily related to a Northern Ireland perspective.

⁵ The study was carried out by Fresh Minds Research for the Scorecard Working Party in the autumn of 2008. The Scorecard working party is made up of the BVCA, FSB and CBI.

Over three quarters of SMEs feel they lack awareness of the government procurement opportunities available to them. The majority of these do not know where to look for opportunities, and believe it is too time consuming to try and find out about them.

Over half of SMEs find the tendering process too costly/time consuming and half of SMEs feel their lack of awareness of appropriate contracts prevents them from bidding.

Many SMEs do not bid because they feel they are unable to compete with larger suppliers. One in five SMEs believes they are unsuccessful in a bid because they are unable to offer better value for money than other suppliers.

SMEs believe that in general, public sector organisations require a greater number of formalities, can be indecisive and unresponsive.

Over half of SMEs feel the process of tendering for government contracts requires more time and resources than their business can allow.

There is a suggestion that further breakdown shows medium sized businesses tend to perform better than small and micro businesses.

Survey Comments

As part of this submission, the FSB contacted members to ascertain their views and experiences relating to public sector procurement in Northern Ireland.

A common thread amongst respondents was whilst they recognise and welcome the pro-active approach taken by the Northern Ireland Executive towards approving capital projects to help stimulate the economy; much of this positivity is endangered by a concern that due to current procurement procedures in place, *how long will it take for these to get off the ground?*

Snapshot comments are expressed below to illustrate the wider responses received;

Micro-businesses

I have no experience regarding public sector contracts. As a micro business I have shied away from the laborious and time consuming procedures involved in the application process.

Office of Government Commerce

Multi-national companies represented in Northern Ireland are getting contracts through the OGC (government buying solutions) whereas Northern Ireland based companies are placed at a disadvantage that unless they have cover the whole of the UK and have a certain turnover value they cannot get on the OGC...the OGC allows Northern Ireland government departments to issue contracts to those



companies with OGC without tendering...the system seems to make ConstructionLine registration useless...most government departments use OGC as an easy way out so that they do not have to tender (thus saving cost of tender). If the Assembly had a similar system then the argument would be negated and more local companies would be getting work.

Public Liability Insurance

Many public sector contracts specify a minimum of £10million Public Liability Insurance, whereas in the private sector, my experience suggests that £2million is normally sufficient.

Tendering Notifications & Qualification

There is no efficient tendering notification system, even commercial fee based services do not seem to cover all tender opportunities, particularly those smaller ones often issued by local councils.

I understand that every project with a construction cost of over £30,000 is advertised. Then a detailed pre-qualification questionnaire is completed by each member of the team, including evidence of health and safety policies, accredited management systems and references for assessment to get on the shortlist. This is before a more detailed questionnaire is then to be completed.

Contractor/Sub-Contractor Payments

“My business is experiencing increasing difficulties due to the trend towards Measured Term Contracts (MTCs). Whilst the main contractors are receiving prompt payment from the public sector contractor, the main contractor is not prompt in passing the payments down to its sub-contractors. The Government recently said it would ‘stamp’ on this practice but we see no evidence of this in reality, in fact the opposite is becoming the case”

Relationship Management

“In the past we would work directly to those who understood the issues but this is being replaced by centrally driven civil servants with no industry specialisms, we do our best to highlight the weaknesses in advance but this clearly not always taken on board. In fact we feel the current process often hinders procurement, rather than facilitate it”

“Administration has grown considerably in delivering public sector contracts as we have many more masters to serve...end user, auditors, various internal departments, purchasing team, etc etc. This has negative effect on cost and project delivery timescales”

Framework Agreements

There have been repeated concerns expressed in relation to the issue of Framework Agreements. Since these were introduced in Northern Ireland, there is a very strong perception amongst many business owners that the outcome has been to exclude the indigenous SME sector in favour of larger [inter]national competitors, the irony being that once the latter have been successful in winning the contract, much of the work is often then sub-contracted to indigenous SMEs.

The announcement by the Finance Minister, Nigel Dodds, in December 2008 that approximately £115 million of construction-related projects previously earmarked for delivery through the Framework process would now be released for tender instead, is a welcome move, albeit forced by other circumstances. This demonstrates that when required there can be flexibility in the system and the FSB would like to see this built upon to benefit indigenous small businesses, particularly during these difficult economic times. However, we urge caution in relation to the Accelerated procurement process, as this is likely to significantly disadvantage small businesses without the resources to devote to preparing complex bids very quickly.

Member Comment – Framework Agreements

“My organisation has, up until now, been appointed to a number of governmental projects. We are a highly experienced company and it is these projects that allow us [to get] on to shortlists for future project opportunities. If frameworks are designed to last for 4-5 years, we will be excluded from the next round of frameworks as we will not have experience of similar projects of a similar size (usually criteria is to look for the last 5 years experience of similar projects). This framework has created sufficient interest for the large UK/Irish consultancies to establish offices in Northern Ireland. Rather than create new job opportunities this has displaced jobs from local SMEs and concentrated the potential income generation to a few larger organisations”.

Recommendations

- The FSB has recommended that the UK government should set a target of awarding 30% of low value public procurement contracts to micro businesses. The Department of Finance and Personnel should consider this as a target in Northern Ireland in order to stimulate the indigenous small business base and increase productivity.
- The FSB NI calls on the Committee to initiate a review into SME access to information on public procurement opportunities, including those provided by public bodies outside central government, such as local councils, and address weaknesses where they are found. Tender opportunities are advertised in a plethora of media, including the three main daily newspapers, trade journals, and websites. Small and micro-businesses do not have the human resources to identify and monitor all of these sources on a weekly basis.
- Small businesses should be actively encouraged to enter tendering process. In relation to lower value contracts for which it is not a requirement to



advertise, every effort should be made to identify as wide as possible a pool of potential tenderers, and to ensure that all have the opportunity to tender.

- On a national basis, the FSB calls for the introduction of an universal pre-qualification questionnaire that could be used for low value contracts and would only have to be filled in once and then logged for future bids. The time it takes to resubmit a full pre-qualification questionnaire for each new bid uses time the small business does not have. Pre-qualification paperwork should be simplified and in Plain English. Requirements should be clear and relevant.

All councils in Sussex have now agreed to adopt a standard self-assessment PQQ based on the OGC model, but reduced down to only 9 pages. This means that businesses in Sussex now only have to complete the same standard form for any non-EU tender. Questions will always be the same and in the same order, and they don't need to provide supporting documents.⁶

- The FSB recommends an examination of the feasibility, as part of wider package to boost small businesses during current difficulties, of breaking large contracts into smaller ones to enable smaller businesses to tender.
- If large contractors are used, they should in turn be required to advertise for their subcontractors, and to select from them on a Value-for-Money basis.
- The concept of Value for Money as a principle which requires consideration of much wider criteria than cost – embracing quality, project completion times, ease of communication and project flexibility – must be promoted and public service contract managers thoroughly trained. Such training should include the benefits of using smaller companies.
- Debriefing should be automatically offered to all unsuccessful bidders and should be delivered by someone who was actively involved with the award process. Feedback should be provided in the format requested by the bidders, whether face to face meetings, telephone or written advice and explanations.
- The number and value of contracts awarded to small businesses, by size of business, should be monitored and regularly reviewed. This information should be included in the DFP's Annual Report to the Procurement Board.

Conclusions

Many small businesses have benefitted from public sector procurement in Northern Ireland over many years, but many believe it is becoming a more and more inaccessible marketplace.

⁶ 'Public Sector Procurement: the Small Business Perspective', FSB South East Policy Unit, July 2008.

There is recognition that value-for-money is a critical criteria, however this is also a feeling the process has become unnecessarily bureaucratic and unwieldy, which in itself deters many small businesses, who do not have the in-house expertise or manpower to make it commercially viable.

Nationally, the FSB has welcomed confirmation that the Government intends to adopt all eighteen recommendations made by the Glover Review. As part of this process, the FSB has been invited by BERR/OGC to sit on the Glover Implementation Stakeholder Committee to feed into the implementation process.

It would be beneficial for those charged with delivering effective public procurement to closely monitor this Committee's work and adapt relevant good practice to Northern Ireland.

The FSB report – 'Evaluating SME Experiences of Government Procurement' is a comprehensive document which would be useful for reading as part of this inquiry. A copy has been attached as part of this submission.⁷

⁷ 'Evaluating SME Experiences of Government Procurement' was published in October 2008 jointly by the FSB, CBI and BVCA. It is a 66 page report, which details extensively the public procurement throughout the United Kingdom, including valid case studies.

ANNEX 1

The following points have been brought to our attention by an FSB NI member specialising in supporting SMEs and SEEs to procure to the public sector and in supporting the public sector to examine good procurement practice:

- 1.1 The cost of Public sector tendering to SMEs** – This has not been examined in detail yet. However initial indicators are that it is often a very expensive process, involving extensive input from senior staff and owner/managers. Estimates are that it can be up to 35% of annual turnover depending on the size of the company and its dependency on the public sector.
- 1.2 Public Body Frameworks** – The documentation and process involved in the primary stage of frameworks is lengthy, cumbersome and expensive for small businesses. Experiences to date indicate that the primary process for frameworks does not in any way lessen the documentation required for the secondary process. SMEs still need to complete a tender response in the secondary process in the same way as any other open competitive tendering process. Frameworks at present mean double the tendering work for an SME. This paper calls on the Committee to examine Frameworks.
- 1.3 Success Rate for SMEs in Government Frameworks** – Central government needs to provide statistics on how successful small companies are on getting onto the framework but more importantly, how successful small companies are at securing contracts from the framework. Initial indicators are that the success rate for companies on the framework (and who have therefore proved their capacity and capability to deliver government contracts) to secure contracts is a very staggeringly low figure and certainly below 20%.
- 1.4 Contract Management Skills by Managers in the Civil Service** - It seems that one of the biggest barriers to small companies securing contracts through the frameworks is the lack of belief by the project managers in the capacity and capability of the smaller businesses to deliver on a contract. This is in direct contrast to the fact that the company has been placed on the frameworks and has therefore proved their capacity and capability. This paper calls on the Committee to examine an educational process for contract managers into the potential advantages of using an SME for contract delivery.
- 1.5 The use of the Accelerated process in an economic downturn** – In order to assist the current economic crises for the business sector, the EU is calling on government bodies to increase the use of the accelerated process in the restricted process. This means that when procuring public contracts, the response time is reduced to 10 days from issue of tender notice to tender submission dates. Although this is positive in

one sense it also has the potential to create another barrier for a small company - the shorter response time is unlikely to allow small companies enough time to prepare their tender documents.

- 1.6 Contracts below the EU Thresholds** – Most small companies in Northern Ireland procuring to the public sector are working on contracts below the EU thresholds. However, most public bodies procuring contracts below the thresholds are not taking the care and direction of good and similar practice as set out in the EU Directives. The processes used for these contracts and the Terms of Reference documentation produced is often of poor quality, that does not adhere to an open, transparent and objective procurement process. For example, decisions are made on contract award without clear understanding of evaluation of award criteria. Award criteria and sub criteria are not published in terms of reference so SMEs are unclear of the emphasis required in their tender response or how the award decision was reached.
- 1.7 The Debriefing Process** – There is a complete lack of consistency across public bodies on the debriefing process from central government through to local authorities. Small companies must be encouraged to use the debriefing process in its entirety as a business development tool and civil servants need to appreciate the importance of this process for SMEs. FSB members highlight the significant barriers to them receiving any useful information in the debriefing process. The OGC provide extensive guidelines to public bodies in the UK of which there is little reference by public bodies in Northern Ireland. Public bodies still do not take the debriefing process seriously even with all the guidelines highlighting the importance of this part of the procurement process. In a number of cases public bodies “hand over” the debriefing process to a junior member of staff who has not been involved in the procurement process. Importantly, this lack of consistency and priority of the debriefing process appears to be increasing the use of the FOI act by SMEs when a more structured debriefing process would have been satisfactory.
- 1.8 Freedom of Information** – There is a complete lack of consistency across public bodies on what information can be disclosed from a procurement process under the Act. Small companies highlight many instances where one public body does disclose information and another does not. Public bodies need to agree and have a consistent approach to enable SMEs to effectively use this process.

ANNEX 2

SMEs – A role to play

There are practical steps that SMEs themselves can take to increase their chances of winning government contracts. This guidance should form the basis of proposed official guidance;

- The first step to winning a public sector contract is to identify suitable opportunities for your business. Opportunity gateways are one of the more efficient ways of searching but it's important to make sure the proposed bidder is investing time wisely in identifying the most useful opportunity gateways.
- Once you're looking in the right place for public sector opportunities, it's important that you're selective about those opportunities you're investing time and resources into bidding for.
- Bidding for smaller contracts initially can help establish a foothold, gain valuable experience in delivering to public sector clients and can reassure procurement professionals of your business capability. It can also be easier to deliver smaller contracts, as they often have no, or much lower, tendering requirements.
- Developing personal relationships with suppliers will strengthen any bids you make, and may help you to become aware of opportunities before they are advertised. You should seek to actively develop relationships with targeted public organisations/offices through the use of mail shots, networking events, phone and email campaigns, etc. And ensure that old clients are contacted on a regular basis to encourage re-purchasing and/or referral.
- An effective marketing campaign can help to raise the profile of the SME with both procurement teams and potential end-users.
- Consider working together with other SMEs to create an offer that is competitive to attractive to public agencies. As well as considering consortiums, you may want to examine working as a subcontractor for a larger company.