

The New Public Procurement Regulations



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Since the Public Sector Directive (2014/24/EU) was published, strong emphasis has been placed on the need for inclusion and accessibility for SMEs and wider ranges of tenderers, as well as creating opportunities for Contract Authorities to negotiate procedures. This theory was two-fold, to create a more dynamic procurement process without opening the floodgates and overwhelming Contracting Authorities.

Under the new Regulations, the Competitive Procedure with Negotiation was introduced.

In September 2015, Quigg Golden successfully awarded a public contract on behalf of its housing association client using the new competitive procedure with negotiation. The contract sees AECOM provide multi-discipline professional services to Woodvale & Shankill Community Housing Association for the next four years in relation to the latter's planned maintenance and capital expenditure programmes.

This is the first successful running of the Competitive Procedure with Negotiation in the UK under the Regulations that we are aware of.

This competitive procedure with negotiation was created by the Public Contracts Regulations 2015 which has now been around nearly a year. In essence, this procedure allows contracting authorities to negotiate with bidders after submission of their initial tenders so as to improve their content – adhering always to the principles of equal-treatment, non-discrimination, mutual recognition, proportionality and transparency. This process of tender-negotiation can be repeated as often as required with progressive reduction in the number of bidders possible too.

The new procedure was utilised for this procurement as the needs of the contracting authority couldn't be met "without adaption of readily available solutions" and they were likely to include "design or innovative solutions" (as per regulation 26 of the Regulations). A big part of going down this route was to allow bidders a second, more refined 'bite of the cherry'.

In our extensive experience in public procurements, of all shapes and sizes, the recurring theme in all of them is that suppliers wish there was a post tender opportunity to refine quality responses and price, taking into account the feedback from the first submission.

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This is exactly what can be facilitated via this new process. By providing feedback on their initial tenders – including the range of prices – it is hoped that tenders will improve in terms of quality, but most importantly, in their ability to describe how the service required by the buyer will actually be delivered.

In this instance there was an average uplift of 45% in tenderers' quality submission marks between initial and final tenders as well as a move towards the mean in terms of prices. Sarah Swain, Operations Manager for Woodvale & Shankill Community Housing Association says they have been very satisfied with the process:

“We have had some poor experiences with consultant teams in the past and so the opportunity afforded by this competition to have a very close look at proposals on a number of occasions, including meeting the proposed project team, has been invaluable to us.”

The competition has broken new ground with AECOM too, being the first time they have taken part in such an exercise. Jody Wilkinson from AECOM's Belfast office and project lead says that:

“It was an interesting process to be a part of and, although time-consuming, has proven to be a helpful learning exercise. We very much see the benefits in the procedure and look forward to engaging with one again in the future.”

With one under its belt already, Quigg Golden is set to take the lessons learned from this procedure as it helps public sector organisations procure the goods, works and services that are right for them. Quigg Golden's ability to combine commercial acumen with unrivalled knowledge of the legal framework of public procurement make them a first choice for many contracting authorities in Northern Ireland.



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