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Purchasing UK public sector property and construction professional services: competition v quality

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Abstract

The procurement of UK public services has seen considerable changes during the final 20 years of the millennium. Successive governments have legislated to impose firstly compulsion to compete on price, followed by a duty to achieve best value. Property and construction professional consultants were under an obligation to their professional bodies not to compete on price less than 20 years ago. The first part of this paper chronicles the main stages in this period of great change. Many commentators in the public and private sectors have predicted a decline in service quality as firms have been forced to cut costs in order to survive in highly competitive markets. The second part of the paper reports an empirical study that has investigated whether there is any substance to these predictions. One hundred and eighty nine public sector clients have assessed private sector consultants with a view to establishing whether those consultants appointed by competitive fee tendering perform less well than those appointed by other methods. The development of SURVEYQUAL, a 25 item service quality assessment scale is described briefly. Service quality is not significantly lower for those consultants appointed by competition. However the data suggest that public service clients can positively influence service quality by taking great care with the pre-selection of tenderers. © 2001 Elsevier Science Ltd. All rights reserved.

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1. Introduction

When Leonidas' 300 Spartans died defying the vast numerical superiority of the Persian Empire, it was a defeat of quality by quantity, of expensive military experts by comparative, if anachronistic cannon fodder. Most marketplaces from time to time must suffer from the Thermopylae factor and that appears to be increasingly the case in the competitively tendered world of real estate. Those genuinely able to provide a service lose out on a value for money calculation to somebody who does not really understand what that service is.

This rather jaundiced view of competitive fee tendering is provided by a UK property professional (Whitehead, 1999), who appears to have been on the wrong end of the value for money calculation recently! Yet the majority of property and construction professional services carried out by the private sector for the UK public sector are now let on a fee tendered basis. Following the abolition

of professional institution mandatory fee scales for such work less than 20 years ago, there has been unrelenting pressure from successive UK governments for competition to prevail. This paper charts this development and then attempts to answer the question implied by the final sentence of Whitehead's statement — has fee tendering led to lower standards of service quality in the provision of public sector professional services in the property and construction field?

2. The background to competition

The current economic climate in which construction professionals operate is highly competitive with commissions of any size rarely being awarded without some form of fee tendering exercise. Yet it is only 17 years since the R.I.C.S. amended Bye-law 24 from:

No member shall with the object of securing instructions or supplanting another member of the surveying profession, knowingly attempt to compete on the basis of fees and commissions.

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to

.... no Member shall ... quote a fee for professional services without having received information to enable the Member to assess the nature and scope of the services required.

(R.I.C.S., 1990, p. 4)

At about this time all of the institutions representing construction professionals were capitulating to the Conservative Government's pressure for competitive forces to prevail. This pressure intensified in the early 1990s as compulsory competitive tendering (CCT) was introduced for a range of local and central government services. This up-beat message was communicated in a White Paper in 1991:

Competition is the best guarantee of quality and value for money. In the 1980s, the Government's policy of increasing competition gave a new dynamism to the British economy. We mean to extend these policies in the 1990s. We will expand the frontiers of competition outwards, bringing new benefits to all those who use or work in public services.

(HM Treasury, 1991, p.1)

The White Paper, entitled *Competing for Quality* proposed legislation (under the Local Government Act 1988) to expand competition in the provision of services by Central Government Departments, the National Health Service and Local Authorities. In, 1992 the Secretary of State for the Environment announced that compulsory competitive tendering (CCT) was to be extended to a range of local authority professional and corporate services. In February 1994 proposals for the implementation of CCT for professional construction-related and property services were announced (DOE, 1994). The initial timetable for metropolitan districts and London boroughs was to implement CCT for 35% of these services on 1 October 1995 rising to 65% from 1 April 1996. Shire Counties and districts subject to possible unitary authority re-organisation were exempted from these requirements until after the re-organisation review has been completed. The latest government guidance on CCT for professional services required only 55% of an authority's construction and property services to be exposed to competition (DETR, 1997).

The UK stood alone in Europe as the only country to introduce compulsion to tender (Pottinger, 1995, p. 25) and CCT has had many critics, including Sir Michael Latham:

I do not like compulsory competitive fee bidding as a route for selecting consultants. I agree with a very large and experienced private sector retail client, with an annual spend of umpteen million pounds, who told

me that he would never dream of selecting a consultant on such a basis, and always used negotiation. He did not pay what the contractor asked for, still less contemplate a scale fee, but he did not believe in a sacrificial fee either. He wanted the best service, and expected to pay for it. If he did not get it, he looked elsewhere next time.

(Latham, 1997, p. 58)

The Labour Government announced within weeks of being elected that it would eventually replace CCT with a duty of best value (DOE, 1997). CCT was seen as discouraging local ownership and responsibility, neglecting service quality and inflexible in practice (DETR, 1998, p. 5). Other criticisms included the fact that all too often the process of competition became an end in itself (DETR, 1998, p. 6) and in many cases the lack of any interest in an external competition (DETR, 1998, p. 20). This reflected the mixed response from the private sector:

Many private sector firms were reluctant to become involved because of the complexity of the CCT process and its often adversarial nature. Some firms had a policy of not bidding if there was an in-house bid.

(R.I.C.S., 1997)

The principal concern in the public sector was over the possible loss of jobs and the extensive reorganisation necessary to separate client and supply functions.

The duty of best value was enacted in the Local Government Act 1999 and the main provisions of the legislation are:

- All CCT legislation was repealed on 2 January 2000.
- Authorities to publish best value performance plans by 31 March 2000 and external auditors to report on them by 30 June 2000. These plans to set out a programme of best value reviews, including an assessment of previous performance in 1999–2000 and set measurable targets for the years ahead.
- The duty of best value was imposed from 1 April 2000 when the process of 5 year review cycles commenced. These were supported by an external audit and inspection regime.
- The Secretary of State has powers to intervene where an authority is failing to provide best value.

(DETR, 1999a)

The reviews are central to best value and must include demanding performance targets to ensure continuous improvement. The government suggests that the reviews should incorporate the “4Cs”:

- *challenge* why and how the service is being provided;
- *secure comparison* with the performance of others across a range of relevant indicators, taking into ac-

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