Case Study on the Reserved Contracts Procurement Process

Run by the Scottish Parliament for Supply of MSP Local Office Furniture in 2007 and awarded to Remploy Furniture

Background

Procurement Services at the Scottish Parliament has been developing a Responsible Purchasing Strategy, (which was officially launched in January 2008) that aims to bring together separate policies and initiatives that had been adopted previously. The intention is to integrate four broad themes into all procurement procedures:

- Professional standards for purchasing staff;
- Environmental impact;
- Ethical and social issues;
- Small & Medium sized Enterprises (SMEs) and Scottish suppliers.

As part of the Ethical and Social Issues section of the Responsible Purchasing Strategy, there is a commitment to the Social Economy, including Supported Business.

Supported Business

There are two options available to public sector organisations that are keen to involve supported businesses in tenders. The first is to utilise the Special Contracts Arrangements (SCAs) Scheme, which exists to assist eligible employers of severely disabled people within the European Union to compete for business with UK Government and its agencies, whilst taking account of the principle of accepting the most economically advantageous tender. The Scheme applies only to contracts below the EU threshold. Although not a Government Department or Agency, the Parliament supports the SCA Scheme.

The second option applies to contracts above the EU threshold, which can be ‘reserved’ so that only supported businesses can bid for the work. This provision is available under Article 19 of EU Public Procurement Directive 2004/18/EC and The Public Contracts (Scotland) Regulations 2006 (regulation 7). “These regulations . . . enable public contracts to be reserved to supported factories and businesses, or to economic

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1 The main feature of the scheme is the ‘offer back’ procedure for use when an eligible supplier’s tender is unacceptable on grounds of cost alone. This provides the supplier with the opportunity of matching the lower cost bid if they are able to do so.
operators which operate supported employment programmes where more than 50% of employees are people with disabilities." The contracting authority must indicate that this is the case in the OJEU notice.

**Contract for MSP Local Office Furniture**

In early 2007 the Scottish Parliament commenced a procurement exercise to replace the supply contract for MSP Local Office furniture which was due to expire in August 2007. The estimated contract value for MSP Local Office furniture was very close to the EU threshold so it was decided to follow the EU Procurement Directives. The Scottish Parliament procurement team recognised that this provision may be suitable to be tendered as a Reserved Contract.

By identifying a contract that could be reserved for supported business, the Scottish Parliament had met one of the action points of the Responsible Purchasing Strategy’s focus on the social economy before the official launch, i.e. to "identify appropriate contracts to potentially be reserved for supported business, then determine feasibility during production of individual strategy."

**The Process**

The initial phase of developing the individual procurement strategy included market research of supported businesses (including open discussions with Remploy as the UK’s largest employer of disabled people) that could supply, deliver and install the required office furniture. Key factors included whether supported businesses could supply furniture from sustainable timber sources i.e. FSC certification (or equivalent), whether items could be delivered ex-stock and importantly if any had previous experience of similar contracts with multi-site delivery locations, particularly including the Highlands and Islands.

Having identified Remploy Furniture and other supported businesses as potentially capable of delivering the contractual requirements, it was decided to reserve the contract and utilise the "Open" procedure to invite as much competition as possible. The tender was advertised in several publications in April 2007, including the European Journal, stating that, in line with Government policy, the requirement was offered as a Reserved Contract. Reserving the contract in the OJEU notice simply required

2 Supported Factories & Businesses – OGC guidance on reserved contracts in the new Procurement Regulations:
selecting the Reserved Contracts option at section III.2.4 under Conditions for Participation.

During the time between advertising the requirement and the final date for receipt of tenders, 20 suppliers downloaded the tender documents and many e-mailed to register notes of interest and request further information. Unfortunately only one supplier was a supported business despite having contacted 4 suppliers identified using the On-line Supported Business Directory. Following an explanation of the Reserved Contracts procedure and the definition of supported business, most interested suppliers accepted the decision, although a handful indicated a concern that the process may exclude some SMEs. No formal complaints were received.

Two tender submissions were received, one from Remploy Furniture, the other non-compliant as it was not a supported business. It was however agreed to continue with one submission as the provision was a re-let and we therefore had an existing contract to compare value for money savings and proposed benefits. The evaluation stage followed the standard Open Procedure. The evaluation criteria for the tender were:

- Technical 75%
- Financial 20%
- References 5%

Remploy Furniture scored well above the acceptable score for the technical evaluation, and the overall contract value offered a slight decrease when compared against the current contract prices for the predicted requirement. To assist the evaluation team in ensuring Remploy Furniture could fulfil the contractual requirements; references were sought from two existing customers. Both provided good references, highlighting excellent communication standards and customer service levels. The robust evaluation process results convinced the evaluation team that Remploy Furniture offered overall value for money in terms of quality and price.

Following the mandatory standstill period, Remploy Furniture was selected as the successful contractor. The contract award letter was issued on 20th July 2007 for a potential 4 year term and an estimated value of £70,500.

**Summary**

The reserved contracts route provides a useful framework for involving supported businesses in public sector tendering, however it does not in itself guarantee success.

It remains important that appropriate research is undertaken at the beginning of a project identified to be ‘reserved’ to ensure there is a healthy market of supported business able to meet the full extent of any requirements and that supported businesses are interested and/or capable of bidding for public tenders.
Supported businesses were contacted to highlight the opportunity, however only one submitted a tender proposal. Rod Turnbull, General Manager Remploy Furniture, said that the business was delighted to have been awarded its first reserved contract in the UK and paid tribute to the Scottish Parliament for its determination to introduce this reserved contract as part of its Responsible Purchasing Strategy. “This award should give encouragement to both supported businesses and public sector procurement professionals that the reserved contract process is workable and can help public sector organisations discharge their social responsibilities.”

From the Scottish Parliament’s perspective, Remploy Furniture submitted a credible proposal that met all the contractual requirements, and there were no sacrifices necessary to involve a supported business in its contract portfolio. In fact, the Scottish Parliament’s observation was that supported businesses, such as Remploy Furniture, should feel confident to compete in the open market.

The Scottish Parliament had been concerned that one of the reasons why supported businesses may be put off tendering for public sector contracts was the perceived resource and skill requirements of the tender process. However, Remploy Furniture expressed it had found the tender process leading to award very thorough and well supported by the Parliament’s procurement staff who were readily available to respond to queries. The deadlines were met on both sides, which led to a seamless contract award.

**Benefits**

- Met Responsible Purchasing Strategy objective for social economy to identify a suitable requirement to be reserved for supported businesses, and awarded the Parliament’s first reserved contract

- Provided Facilities Management with a range of office furniture for MSP Local Offices that is FSC certified, robust and fit for purpose, stock supported, compatible with Health & Safety guidelines and available for delivery throughout Scotland, including the Highlands and Islands.

- Balanced legal obligations under Public Procurement Regulations whilst delivering best value for public money, both qualitative and quantative

- Tested the process is no more onerous than a standard EU Procurement procedure

- Other Responsible Purchasing objectives were not compromised, for example, environmental impact