

EU Procurement Policies

Date: April 2010

Summary of Paper

While the public procurement rules are intended to promote fair competition across the EU, they are having unintended negative effects on the development of badly-needed social housing.

Introduction

The Northern Ireland Federation of Housing Associations (NIFHA) represents registered and non-registered housing associations in Northern Ireland. Collectively, our members provide 30,000 good quality, affordable homes for renting or equity sharing. Further information is available at www.nifha.org

Background

Northern Ireland is seriously affected by the procurement rules issue and (paradoxically) only the recession is saving us from a disastrous reduction in output. In 2009-10, the problem meant replacements had to be found for 500 of the 1,750 homes planned in the Social Housing Development Programme because 'Design and Build' schemes were held to contravene public procurement rules.

In Britain the provision of an even bigger proportion of social housing (in the form of Developer Contributions under section 106 of the English and Welsh planning legislation and its equivalent in Scotland) is threatened for the same reason. This could be another issue when the Developer Contribution system is introduced to Northern Ireland.

Further Information

NIFHA is a founder member of CECODHAS-Housing Europe, the European Liaison Committee for Social Housing. The organisation is co-ordinating research and lobbying on the public procurement problems of its members.

We agree that public procurement in the EU should be fair and open but believe the rules are being inappropriately interpreted and applied in relation to certain aspects of social housing development across Europe.

For example, in Northern Ireland the procurement method known as 'Design and Build' was a very practical way of providing homes that met the government's design standards at a price representing good value for money. It was particularly important during the days when land values were rising rapidly and owners preferred to deal with private developers. In this instance associations were able to approach contractors who owned land in areas of housing need and negotiate deals in which good-quality social rented homes were built to the association's standard.

The EU believes this does not provide fair competition since other contractors do not have the opportunity to make alternative offers. But this is an impractical approach – what contractor who owns land is going to allow another contractor to build on the land? And two major problems would arise if associations publicly invite expressions of interest from developers with land in the relevant district: the EU rules mean that

the housing association cannot lay down detailed design requirements and it would be extremely difficult to objectively evaluate a variety of offers involving different sites.

Future

This is an issue throughout the EU. Each country has unique ways of funding / subsidising social housing so each one is affected differently, however affected. For example in Holland a third of homes are social. The impact of the rules is such that the Dutch now have to change their laws to restrict the scope of social housing provision to the relatively disadvantaged. The Dutch government would prefer social housing organisations to continue housing anyone who comes to them for a home. They argue this maximises social integration and the enforced change will have detrimental social effects.

Rudy de Jong (Chief Executive of a Dutch housing association) delivered a presentation in the European Parliament on Wednesday 27 January 2010 about these issues. The outcomes of the presentation can be summarised as follows:

1. MEPs were very interested to hear the views of CECODHAS – Housing Europe because they were based on concrete examples
2. The European Parliament will ask the European Commission to adapt the current rules so that public procurement rules are easier to apply to social housing development.

The EU Parliament and Commission are encouraging us to explain the issues. It may take many years to reach a satisfactory conclusion but we cannot afford to give up because the provision of badly needed social housing is being impeded.

Asks

- That our EU representatives put pressure on the Parliament and Commission to:
 - Adapt the EU's procurement rules to the particular characteristics of social housing – a precedent was set several years ago when social housing was exempted from the requirement to notify (and get EU approval for) state aid for its projects.
 - Certain minor changes (e.g. increasing the financial threshold beyond which projects have to be advertised in the Official Journal of the European Union) would make the system more workable.

Chris Williamson
Chief Executive

T: 028 9023 0446 E: cwilliamson@nifha.org

W: www.nifha.org A: 6c Citylink Business Park, Albert Street, Belfast, BT12 4 HB