

Employment and skills requirements - legal, policy and process issues

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Overview

- Legal Framework and “secondary” issues
- Procurement process
- Contract development and monitoring
- Planning policy



Legal Framework

- **European level** – general principles apply to local authorities
- **National level** - Public Contracts Regulations 2006
- **Local level**
 - Internal procurement rules and policies
 - Guidance from HM Treasury, OGC and Department of Communities & Local Government
 - Standing Orders



“Secondary” issues

- In procurement process to extent that:
 - relevant to subject matter of contract
 - proportionate to value of the contract
 - do not discriminate in favour of certain contractors
- primary policy is to open up common market



EU Procurement

- “Contracting Authorities”
- Thresholds
- Incorrect tender procedures may result in challenge from aggrieved contractors
- New remedies under Remedies Directive



Process

- Initial project review
- OJEU notification
- Selection
- Tender process and award
- Contract development
- Implementation and monitoring



Initial Project Review

- Is the project or framework suitable for an Employment and Skills Strategy?
- Benchmarks:
 - 12 employment and skills areas
 - various contract value bands



OJEU notification

- EU wide advertisement
- Make clear intention to include employment and skills requirements

Selection

- Respond to OJEU Notice with a Pre-Qualification Questionnaire
- Short list for tendering
- Request indication as to previous experience
- Method Statement



Tender process

- Invitation to Tender
- Minimum employment and skills requirements should be set out in bid process
- Confirm commitment
- Complete an Employment and Skills Plan
- Method Statement



Contracts

- PPC2000
- NEC3
- JCT
- Framework Agreements
- Section 106 Agreements

- Consulted with OGC



Contract development

- Employment and Skills Plan & Method Statement included in contracts
- No opportunity to negotiate under Open or Restricted EU procedures
- Two-stage procedure adds flexibility
- Competitive dialogue enables flexibility



Monitoring

- Project Manager reviews against Employment and Skills Plan and Method Statement
- Key performance indicators
- Monthly reporting requirements
- Post-project review



Planning Policy

- Town and Country Planning Act 1990
- “Material consideration”
- Planning policies:
 - Current Development Plan
 - Local Development Framework
- Planning Permission Condition
- Section 106 Agreement
- “Local” employment



Thank you

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