Competition Culture in Europe: Voices

Project Compass CIC
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Public architecture can only be acquired through established competition regulations.¹

However, is this limiting us? Should these regulations be the only possible route to acquiring public design services? Might the regulations for public design commissioning be reformed and opened up to allow other possible ways?

Other routes to design commissioning exist but are frequently overlooked in the public sector, due to a lack of compliance. However, by constructively addressing these alternatives – so they may also be considered as fair, transparent and legal – more capacity and creative resources could be marshalled.

Deficiencies of the current competition regulations are demonstrated by two recent high profile projects in London – the Garden Bridge and the Rotherhithe Bridge. Both are light traffic bridges crossing the river Thames and both are for the same experienced public-procuring authority.²

The Garden Bridge in central London was based on a speculative design conceived by Heatherwick Studio and proposed to the then Mayor (figure 20.1). Because Heatherwick studio was not on the authorities’ procurement framework there was apparently no legitimate way to carry forward this specific project, secure the designer’s intent through to construction or do so within a suitable timeframe. The designers, political supporters and the authority’s faced a crucial conundrum. Their efforts to find a way around the legislation unfortunately triggered many subsequent and well-reported examples of inappropriate, unfair and scandalous governance practices, a lack of transparency and procurement rigging.³

This project, with a cost estimate then exceeding £200m, was finally cancelled in August 2017, wasting roughly £46m. Many fundamental questions over its value and purpose remain unanswered. Furthermore its competition procedures importantly did not comply: “conclusively the matters raised … regarding the probity and transparency … require addressing” “both the assessments for [two contracts]
were neither transparent nor fair, and did not comply with the required principles” and “that an independent investigation would be appropriate” as discussed in the Project Compass ‘Thames Garden Bridge: Procurement Issues’ report, February 2016.4

At its outset the problem with this project was that there was perceived to be no legitimately proscribed procurement process to enable Heatherwick’s speculative proposal to be openly considered, fairly evaluated and advanced.5

How much better it might have been if at its outset this project could have been public, and advanced against peer and stakeholder review, testing and scrutiny, openly and through a robust governance process, with the designers’ potential employability secure. Although the result may well have been the same, none of this happened.

The Rotherhithe Bridge connecting to Canary Wharf by reForm Architects and engineers Elliot Wood is a registered design for a bascule bridge (figure 20.2, 20.3). This self-initiated design was developed over five years and has been well documented online.6 The public were consulted and support won from stakeholders and the local community. As a result the city’s strategic planning policy was aligned to the principle of a light traffic crossing in this location. Then in 2017, as a first stage, the authority commissioned a consultant from its framework, by a call-off, to carry out a feasibility study and a technical scoping.

The original design team was not on the authority’s framework and was therefore excluded from the evaluation. Further, without any consultation with the original designers the feasibility report excluded a bascule bridge from the preferred technical options, recommending instead a swing or lift bridge.

On the basis of these recommendations the authority then procured another consultant from its framework, again by a call-off, to undertake a second stage of its development.

Both lead consultants from these two framework call-offs independently sub-contracted the same bridge design practice to work for them. At the time of writing (March 2018) questions are being raised about the fairness of this process which has apparently precluded equal consideration of the original design on a fair and level playing field, and further because the regulated process has nevertheless allowed consideration of only one designer.7

The design merits, or otherwise, of both schemes for the Garden Bridge and Rotherhithe Bridge are not being explored here. What is relevant is that both were self-initiated projects that
figure 20.1
Rendering of the proposed Garden Bridge in central London. Image: Arup

figure 20.2
Rendering of the proposed Rotherhithe Bridge by reForm Architects and engineers Elliot Wood
were not precipitated by a competition call nor a brief defined by a public authority. Because they are not therefore covered by procurement regulations the authorities have no mechanism to deal with them, and both have been troubled.

Generally, architectural competitions as we now know them are quite recent. They started to become internationally proscribed under World Trade Organisation (WTO) principles as a way to standardise European practices in the 1990s. Underpinned by the WTO and European treaty principles (TEU & TFEU), a standard legal structure emerged for acquiring all service, supplies and works across the European public sector. This structure was informed by political and market orthodoxies of the time, and some imposed requirements on value that were defined only as measurable and monetarised. Previous national competition formats in essence also informed new practices, for example an ‘approved list’ became what is now known as a ‘framework’. Design Contests, still included specifically for architectural and planning services, have been around unchanged for longer, unlike other competition procedures.

This system of market standardisation is now deeply embedded. In the UK particularly this has led to competition practices which have intensified the value given to financial risk. The ongoing result – that increasingly contracts are awarded to only the largest operators is discussed and explored at length in Public construction procurement trends published in 2014. This relatively new system has long been in need of reform.

Both examples above illustrate the inadequacy of current public service competition regulations when dealing with self-initiated or speculative projects; put simply any governance or system for evaluation and assessment is absent. In the private sector, which is open to all forms of acquisition, there is no such similar issue. The competition regulations can therefore be seen to impose limitations. But with better regulations that reduced constraints on self-initiated projects, significant opportunities might be realised. For example this might encourage more viable design innovation while, similar to Vancouver, but as a public policy approach, unlocking significant potential, particularly from many smaller suburban sites.

Surely a speculative design proposal should be welcomed? A pro-active, engaged and entrepreneurial architectural profession must be more beneficial to the public than a solely reactive one. Is it beyond the capability of governance procedures to be able to evaluate and determine deliverable values – rather than, under current regulations, simply ignoring projects that have not been previously decided upon/commissioned?

This raises principle issues about balance, fairness and how public governance can serve the population better – and why, in a market economy,
an idea that’s instigated only by a public competition call should have a different value from one that’s self-initiated. The two examples discussed here also highlight the need to further clarify issues of ethics and probity.

Reform of the regulations to allow consideration of self-initiated projects could yield enormous benefit by offering architects a procurement route that allows a more direct public relationship. It is likely this would also support a more active and engaged built environment culture. A simple method of assessment applied at different stages, including for example peer review, could easily be included within a well-defined European governance framework.

Enabling other routes, encouraging design professionals to contribute to regeneration by more direct public engagement, might also be more economically efficient. In the UK public services have become enfeebled, public procurement lacks skills and resources, briefs are frequently inadequate and there is a lack of capacity to address all but the largest developments. The economic cost of procurement with its time-consuming and burdensome procedures is very high.

We would surely all agree that there should be positive ways to encourage those who are highly motivated, skilful and proactive.
“Both examples ...illustrate the inadequacy of current public service competition regulations when dealing with self-initiated projects; put simply any governance or system for evaluation and assessment is absent. In the private sector, which is open to all forms of acquisition, there is no such similar issue”

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8 The Uruguay round of the WTO General Procurement agreement negotiations. www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm (accessed: 12-04-2018)


