

QUALITY-ONLY COMPETITION

- 5.01** There has never been any question as to the power of local authorities to take quality into account in tender evaluation, and this power was stressed by statutory guidance even during CCT. This guidance did however repeatedly assert that the quality criteria needed to be objective, and if possible objectively measurable. This was unconstructive, because most objectively measurable criteria are uniformly banal.
- 5.02** Public sector clients, particularly those in local government, must expect to be pressed to disclose the reasons why given tenderers have been preferred, or rejected. This is of course hard to do, and often invidious, if as usual the criteria were subjective.
- 5.03** Public sector practitioners therefore enjoy far less client discretion than their private sector counterparts. The more often they are required to justify judgements in tenderer selection and tender evaluation, the more attracted they will be to less contentious criteria. The least contentious of all is of course price. In local government, contractors comment surprisingly often that, whatever contract documentation says about quality, most contracts are awarded to the lowest tenderer.
- 5.04** One way to break this mould, and focus minds on quality, is to hold quality-only competitions (in which the quality-price ratio is 100-0). For these competitions, authorities have to pre-state the price, and invite tenderers to submit method statements describing the quality which they are prepared to offer for it.
- 5.05** The main difficulty with quality-only competition is the difficulty of getting tenderers to define quality well enough in method statements for performance to be enforced. This is no easier for tenderers than clients. Not of course that anybody wants to enforce quality, but unless it is definite enough to be enforced, it is not definite enough for its due performance to be assumed in tender evaluation.
- 5.06** Research into the innumerable factors which represent quality to the many different classes of service users and end users, and into how these factors might be unambiguously defined, would be immensely valuable to local government. In its absence, practitioners have to work on first principles. For quality, these suggest definition by all available means, including inputs, processes, and both subjective and objective outcomes.
- 5.07** A legal difficulty for quality-only competitions is sometimes raised when the EU directives apply - these provide for tenders, but is a tender still a tender if it says nothing about money ? Is it not then more like an entry in a design contest ? Opinions differ about all this. Authorities can however remove any doubts by setting the quality-price ratio at 99-01 rather than 100-0; and by stating the budget available rather than a fixed price. Most tenderers still tender the pre-stated budget figure, but any who want to tender less are free to do so. All tenders then contain a price.