

<b>CONTRACTING AUTHORITY COMPLAINT AGAINST</b>	<b>ISSUE WITH PROCUREMENT</b>	<b>DESCRIPTION OF COMPLAINT</b>	<b>OUTCOME OF CASE / RECOMMENDATIONS</b>
North Tyneside Council	Tender for supply of vehicle parts	A supplier of motor parts was disqualified from a tender process because their bid was not submitted using the council's specified format. The form of the tender documents had been changed (contrary to the council's instructions). The supplier felt their disqualification was unfair and had changed documents because of the use of references to manufacturers' recommended retail price (MRRP) which did not apply to the parts he supplied. The council abandoned the procurement process because of a lack of appropriate tenders.	The mystery shopper team worked with officials in CLG to arrange a meeting between the supplier and the council. The team discussed the council's approach to this procurement with council officers in depth. The council has revised their approach as a result of re-assessing what the market can deliver and is now re-tendering. They have removed references to MRRP in this subsequent procurement to enable greater clarity.
The University Catering Organisation	Too much detail required by pre-qualification questionnaire (PQQ)	A small coffee roasting business considered that TUCO's PQQ was too lengthy and they did not have the resources to respond and could not afford the annual cost of some of the ISO standards that were requested.	TUCO have agreed to review and shorten their PQQ, along the lines of the Cabinet Office model PQQ. They confirmed they do accept equivalents to ISO standards. They are sharing the model PQQ with other consortia in their sector.
Department for International Development	Following the introduction of a new PQQ a long standing supplier was no longer getting shortlisted.	An SME had worked successfully with DFID and its predecessors over 30 years but since the introduction of a new PQQ in 2010 had failed to achieve sufficient marks to be shortlisted. They had asked for feedback from DFID but had not received any.	The mystery shopper team brokered a meeting between the SME and DFID. DFID invited the SME to be part of their consultation with SMEs on procurement. The SME is happy with this result.

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Thurrock Council	Financial appraisal and previous experience of similar work.	A supplier of homecare services raised concerns after they did not progress through the PQQ stage of procurement. They questioned the weighting given to their previous experience and were concerned that the fact that the contract value would be more than 25% of their turnover would be a disadvantage.	The mystery shopper team pointed them towards our Supplier Financial Appraisal guidance. After receiving this advice the supplier decided to take up the case with Thurrock directly.
Teign/West Country Housing	Financial appraisal – minimum turnover	A SME complained that they had been excluded at PQQ stage because their turnover was less than the £4 million level required to pre-qualify. They had supplied heating system and gas repair services to West Country Housing for 15 years	West Country explained they had formed an agreement with Teign Housing (a neighbouring housing association) for the joint procurement of these services. The new contract was approximately double the size of the supplier's contract with West Country. We pointed West Country/Teign towards our Supplier Financial Appraisal guidance. They agreed to adopt the approach set out in the guide, including treating turnover as an indicator and looking at a wider range of financial measures. They commented that, in this case, adopting that approach would have led to a similar result.
Birmingham Children's Hospitals NHS Foundation Trust	Complexity of PQQ	We received a complaint from a trade association concerning a PQQ for a pathology services procurement.	The mystery shopper team queried the use of the competitive dialogue procedure in this case and the PQQ which was used. We recommended the Trust use the new Cabinet Office model PQQ. The Trust undertook to base future PQQs on the model.

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The Royal Wolverhampton Hospitals NHS Trust	Complexity of PQQ	We received a complaint from a trade association concerning a PQQ for a pathology services procurement.	The mystery shopper team queried the length of the contract awarded (7 years plus the possibility of extending for a further 7 years) and the level of turnover required for the contract (at least £5 million). The Trust accepted our recommendations to base future PQQs on the Cabinet Office model and adopt the approach in the Supplier Financial Appraisal guide. They stated they will continue to carefully consider the length of contracts.
Birmingham Community Healthcare NHS Trust	Bidding for Lots	In a Non Emergency Patient transport tender a supplier of transport services decided to bid for Lot 2 (non emergency ambulances). Lot 1 related to patient taxi services. Following an initial evaluation of bids the Trust decided to only invite suppliers who bid for both lots to the next stage because no supplier who had bid for Lot 1 only was successful.	The mystery shopper team contacted the Department of Health on the supplier's behalf. They spoke to the Trust, who decided to invite all successful bidders (including those who had only bid for Lot 2) to the next stage.

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Anchor Housing Trust	Complexity of PQQ	An SME raised concerns about the complexity of Anchor Housing's PQQ.	The mystery shopper team examined the PQQ. We raised concerns about the arrangements for supplier financial appraisal and insurances, which we recommend should be covered as a contractual condition. We also raised concerns about questions concerning environmental, quality control, equal opportunities and training and development policies and delivery capability where there is a danger of mixing selection and award criteria. Anchor are addressing the points we made, especially on requiring audited accounts from small companies who are not required to provide them to Companies House, and on potentially mixing selection and award criteria.
Sunderland City Council	Publishing award scores that reveal a supplier's pricing structure	A small business was successful in tendering for a framework agreement. They were concerned that the award notice enabled competitors to work out their pricing structure.	The mystery shopper team explained that there is a legal requirement to inform bidders of the winning scores for public contracts. We contacted Sunderland who acknowledged the issue and undertook where possible to present future winning scores in a way that does not allow prices to be identified in the contract notice, however it should be noted that the Government's transparency agenda promotes the release of contractual information for the wider benefit of suppliers and taxpayers.

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Doncaster Council	Arrangements between the council and Doncaster Community and Voluntary Services	We received feedback concerning the arrangements under which the council had extended arrangements with Doncaster CVS without going through an open tendering process.	The mystery shopper team contacted the council about arrangements to continue to fund services supplied by Doncaster CVS, which had previously been funded by funds from central government. The council confirmed that the arrangements were on a grant funded basis using powers under local government legislation. We recommended that in future the council follows guidance by the National Audit Office which sets out test that commissioners should apply when deciding whether grant funding or a procurement route would deliver the best value for money. The council agreed to use the NAO guidance in future.
NHS London Procurement Programme	Preferred supplier selection process	We received feedback from a small supplier of temporary staff that LPP's preferred supplier selection process, which they had developed for use by NHS bodies in London when accessing staff via a Government Procurement Service framework agreement, was not transparent.	Temporary staff contracts are not subject to the full rigour of the EU procurement rules. The mystery shopper team investigated the case but found that the arrangements were sound.
NHS Surrey	Financial guarantees	In a tender for health services, NHS Surrey required suppliers to performance bond of £9 million in place. A mutual provider complained that this requirement would disadvantage SMEs and mutuals.	The mystery shopper team recommended that the playing field should be levelled as the requirement for a £9 million bond could disadvantage smaller suppliers. The NHS agreed to allow for an equivalent financial test.

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Office of Rail Regulation	Use of Contracts Finder	The Office used the Contracts Finder procurement portal to show consultancy contracts that only pre-selected suppliers could bid for. A small supplier complained that these opportunities were not open to him, and did not include details of selected suppliers who he might approach for possible sub-contracting opportunities.	OfRR said they were looking for consultants with rail expertise and very few companies could offer this. The mystery shopper team recommended that appropriate approach is to clearly specify the experience and skills required and allow suppliers to decide if they could meet the requirement. OfRR undertook to change their process.