



HM Government

## **CONSULTATION DOCUMENT:**

# **Making public sector procurement more accessible to SMEs**

# SECTION 1 THE CONSULTATION

## Introduction

With an annual spend of £230bn, public sector procurement has the potential to create significant business and growth opportunities through increased participation for small and medium sized enterprises (SMEs<sup>1</sup>), as well as improving the public sector's access to SMEs' creativity and innovation.

SMEs are a crucial engine for growth: 99.9% of the UK's 4.8 million businesses are SMEs; they are responsible for over 14 million private sector jobs, and account for almost half of the net growth over that period in jobs. There are also many good examples of small suppliers delivering significant benefits to the public sector through their greater innovation and at a comparatively lower cost base than large, incumbent government contractors. Data from the Office of National Statistics' Annual Business Survey shows that, on average, SMEs create around £34 of gross value added to the UK economy for every £100 of turnover, while large companies create around £27.

Despite this, SMEs have historically been shut out of government business and have found bidding for public sector contracts excessively, and sometimes prohibitively, bureaucratic, time-consuming and expensive.

Since 2010 there has been considerable progress in central government and many other parts of the public sector in opening up the procurement process to SMEs. For example, burdensome Pre-Qualification Questionnaires (PQQs) have been removed for almost all central government contracts below £100,000, and the proportion of central government spend with SMEs on goods and services is increasing. Lean procurement methods have also stripped out unnecessary waste from the procurement process and reduced timescales delivering benefits to public authorities and the businesses that bid for and win contracts.

## A new "single market" for public procurement

Government intends to build on this best practice and ensure a simple and consistent approach to procurement across all public sector authorities so that SMEs can gain better and more direct access.

These reforms would act as a deregulatory measure to remove excessive burdens on small suppliers and make the procurement process faster, more transparent and less bureaucratic

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<sup>1</sup> <http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/>

In May 2013, the Prime Minister's advisor on enterprise and small business, Lord Young of Graffham, recommended developing a set of "single market" principles to be applied by all public bodies in their procurement.

Government has now committed to consult on the high level standards which all public bodies should be looking to achieve.

This consultation describes the single market principles which suppliers should expect when doing business with the public sector. These principles should simplify and standardise the advertising, bidding and payment of public contracts, and should remove the complexity, cost and inconsistency when trying to sell to more than one public sector body. They would apply to businesses as direct contractors with government and as sub-contractors or partners in a procurement supply chain.

### **Summary of reforms**

- **Pre-Qualification;** eliminating the use of PQQs for low value contracts, mandating a core PQQ with standard questions for high value contracts, and allowing suppliers to provide PQQ data only once.
- **Transparency:** ensuring all new contract opportunities and contract awards are advertised online and the public sector reports its performance on spend with SMEs and centrally negotiated deals.
- **Payment and finance:** ensuring contractors pay their suppliers on time; consideration of whether performance bonds can be an unnecessary barrier for SMEs, and encouraging the use of e-invoicing in the public sector.

### **Scope**

- This consultation applies to all contracting authorities covered by the Public Sector Contracts Regulations 2006.

### **Timing and responses**

This consultation runs for 4 weeks from 19<sup>th</sup> September 2013 to 17<sup>th</sup> October 2013. It includes:

- the relevant background and context for each reform;
- specific questions concerning the reform and its implementation; and
- instructions on how to respond.

This consultation document is issued directly to a number of known stakeholders and is also made publicly available on the GOV.UK website

## **Consultation**

The consultation complies with the Better Regulation Executive's Code of Practice on Consultation. As the issues set out in this consultation are not major policy changes, a 4 week consultation period was considered appropriate.

## **Process**

The Government welcomes input by 17th October 2013. Please direct responses, or any questions on the consultation to:

### By email:

servicedesk@cabinet-office.gsi.gov.uk

### By post:

Service desk, Cabinet Office

Rosebery Court

St Andrews Business Park

Norwich

NR7 0HS

## **Handling of information from individuals**

The information you send may need to be passed to colleagues within government departments, and may be published in full or in a summary of responses.

All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want your response to

remain confidential, you should explain why confidentiality is necessary and your request will be acceded to only if it is appropriate in the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Authority. Contributions to the consultation will be anonymised if they are quoted.

Individual contributions will not be acknowledged unless specifically requested.

### **Contact for comments or complaints about the process**

Your opinions are valuable. Thank you for taking the time to read this document and respond. If you have comments or complaints about the consultation process itself, please contact

Karen West

Cabinet Office

Better Regulation Unit

Rosebury Court

Norwich

NR70HS

Email:

[Karen.west@cabinet-office.gsi.gov.uk](mailto:Karen.west@cabinet-office.gsi.gov.uk)

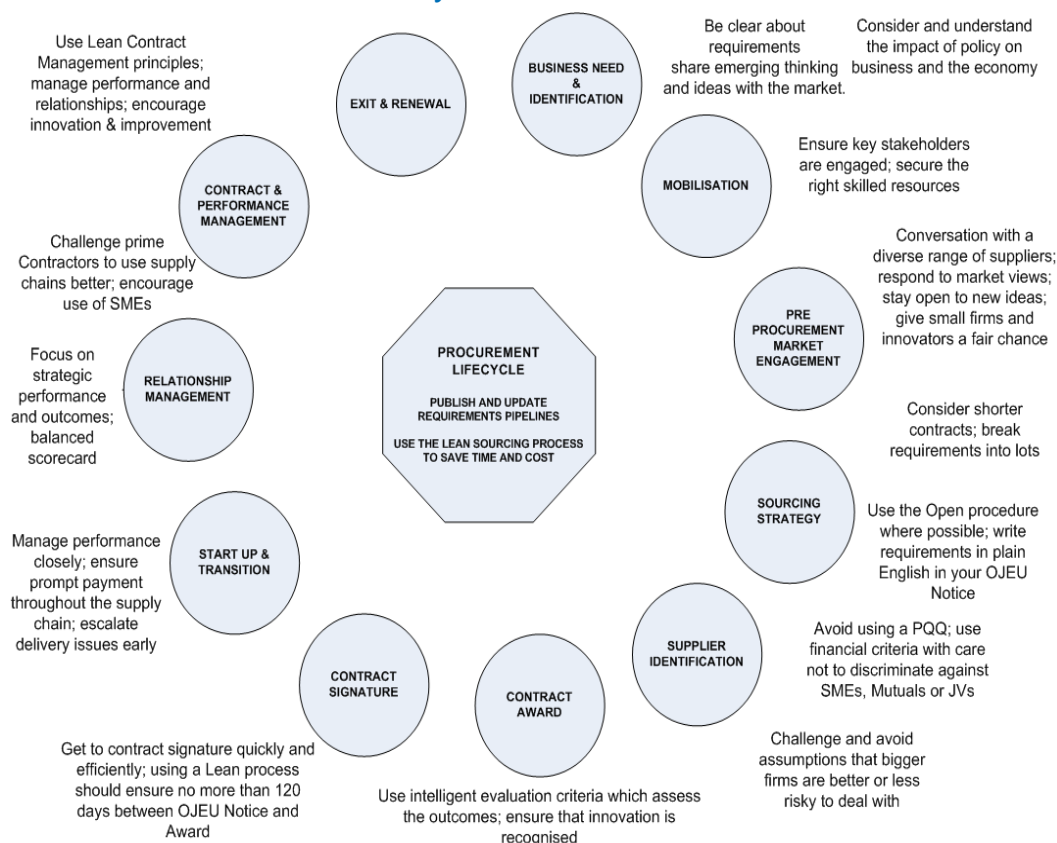
## SECTION 2 THE CASE FOR REFORM - PROCUREMENT FOR GROWTH

### Public procurement and smaller businesses

The public sector in the UK spends £230 billion a year on the goods, services and works it needs to deliver public services. Therefore it is essential that the highest professional standards are applied when public bodies spend this money on behalf of taxpayers to ensure they get a good deal.

By ensuring open and fair competition for public sector contracts, while minimising burdens on potential and successful bidders, government can help SMEs directly but also save money for the taxpayer. SMEs play a vital role in supplying goods and services and the increased competition and innovation they bring helps to ensure that the public sector can deliver world-class public services that are value for money.

### A Procurement Lifecycle for Growth



*This diagram<sup>2</sup> shows the procurement lifecycle and highlights the key stages where the application of good practice and lean techniques can reduce cost and time and deliver value*

<sup>2</sup> <https://www.gov.uk/government/publications/procurement-for-growth>

Although there is much good practice across the public sector, small businesses still face substantial hurdles to competing with larger firms for public sector contracts. This means that they often lose out on new business and the public sector misses out on the opportunities for growth and innovation, in addition to the better value for money small firms can provide.

## **Reports by Lord Young and Lord Heseltine**

Lord Young's second report, '[Growing Your Business](#)', was published in May 2013. This recommended removing complexity, cost and inconsistency for SMEs in bidding for public contracts by simplifying and standardising the procurement process. The report stated:

“Chief amongst the criticisms from SMEs about public sector procurement is the complexity, cost and inconsistency when trying to sell to more than one authority. An obvious example is the disparity between central government's removal of PQQs for small value procurements and their continued use by the wider public sector, usually with different thresholds and often requiring burdensome details and the “gold plating” of training, health and safety policies and wider objectives of the contracting authority. SMEs want procedures in place to make contracts quicker to award, and more certainty about the likely success of a tender.”

Lord Young's review also found concerns in the areas of enforcement and accountability. SME suppliers not only reported problems in their direct relationship with public procurers but also in their engagement through public procurement supply chains. The public sector is now legally required to pay undisputed invoices within 30 days. However, a prime contractor can often take much longer before they pay their sub contractors. Small suppliers want confidence that they will be treated fairly and in accordance with the conditions of their contract.

Therefore a key recommendation in Lord Young's report was the creation of “single market” principles to provide a simple and consistent approach to procurement across all public sector agencies, where SMEs can gain better and more direct access to contract opportunities:

“To make it happen, I have asked the Government to lead a consultation with public bodies to consider their appetite to adopt these single market principles and then embed these principles into procurement practice through a legal requirement. This should take account of good procurement practice across the whole of the public sector and the ability of public bodies to respond flexibly to local or sector-based needs.

But above all, I want the simplification of PQQs and other procurement practice to be recognised as a deregulatory measure that increases business and growth

opportunities for small firms in local areas and the sectors in which they do business.”

Lord Heseltine’s report [‘No Stone Unturned’](#) published in March 2013 similarly advocated that a general duty should be placed on all public bodies, to ensure they adhere to procurement standards:

“It is important to ensure a consistent approach to procurement across the public sector to make the process as accessible as possible for the business community, particularly our smaller businesses. All public bodies must be transparent about their procurement activities and simplify their processes if we are to be confident that value for money is being delivered.”

Lord Heseltine also argued that it is important that best practice is shared and used among all public bodies. He supported the work of Lord Young to champion small businesses and highlight the improvements needed in procurement – particularly better and more consistent use of pre-qualification questionnaires.

Following these reports, the Government committed to consult on the high level standards to which all public bodies should be looking to achieve in procurement.

### **Central Government reforms**

In recognition of the essential role that SMEs can play in supporting growth, central government has set an aspiration that 25% of central government spend, by value, flows to SMEs directly and through the supply chain by 2015. To achieve this, procurement processes have been made simpler, more open and less bureaucratic – so all businesses, no matter what their size have a chance of success.

There is now much greater visibility of opportunities for SMEs via the Contracts Finder website – a single place to view what is on offer. There is also more accountability. The Cabinet Office’s Mystery Shopper service investigates cases of poor procurement practice by contracting authorities across the public sector and makes recommendations for improvements. The adoption of Lean procurement methods has led to more standardisation in the process and reduced timescales.

Overall, central government has increased its direct spend with SMEs from 6.5% in 2009/10 to 10.5% in 2012/13. Figures from government’s largest suppliers have also identified £4bn (9.4%) of indirect spend flowing to SMEs through the supply chain in 2012/13, up from £2.9bn (6.6%) in 2011/12. But as Lord Young recognised, the largest opportunities for SMEs exist in the wider public sector (including local government, the NHS, police forces, etc).



## **Progress in the wider public sector**

There has also been very positive progress beyond central government. A report by the Federation of Small Businesses, 'Local Procurement: making the most of Small Businesses' found good practice across the country. The report highlights that in excess of 90 per cent of local authorities are taking action to assist local SMEs. Processes have been simplified and contracts have been broken into lots. This suggests that they are targeting priority areas for SMEs.

In local government, a range of best practice was celebrated through the "Best Councils to do Business With" competition organised by Lord Young and the Department for Communities and Local Government. There were more than 60 entries and, in May 2013, the ten winning councils that demonstrated the strongest all round commitment to opening up procurement for small businesses, were announced.

The Department of Health has announced an ambitious NHS Procurement Development Programme focusing on four initiatives to support the delivery of £1.5bn of savings. This includes proposals on delivering immediate efficiencies and productivity gains, and improvements in transparency and procurement capability.

Some case studies are below.

### **Halton Borough council**

Halton Council now directs 86% of its spend towards SMEs. What has really made a difference in Halton is the removal of PQQs for below EU threshold procurements, as they have developed a risk based process which is simple and proportionate to the value of spend. They have also committed to advertising all trading opportunities via 'The Chest' e-portal system for spend over £1,000.

### **Norfolk County Council**

Norfolk County Council has taken a number of positive steps to engage with businesses effectively, and be fully transparent. They advertise every consultation and tender on a dedicated procurement Twitter account, and tweet local opportunities advertised by others. They have a forward pipeline of new opportunities for several categories on Contracts Finder and are adding other pipelines. They organise an annual 'meet the buyer' event with the local Chamber of Commerce, involving buyers from prime contractors, districts, health and the private sector.

### **Manchester University NHS Foundation Trust**

Central Manchester University Hospitals NHS Foundation Trust has an £850m turnover including £300m spent on non-pay goods and services. The Foundation Trust Governors' Corporate Citizenship Group has strongly encouraged the Trust Procurement Team to recognise the importance of the Trust's spend in the local community and especially with SMEs. The Trust has taken a number of actions to encourage SME entry into the Trust including:

- The Trust has increased its SME spend from 12% in 2011/12 to 17% in 2012/13 through better analysis and targeting.
- A well-publicised Supplier Access Policy
- Named contacts within the Procurement Team
- Presentations and attendance at SME events and business community forums
- A strong payment performance including 82% of all SME invoices paid within 5 days
- Close links with other public purchasers through strategy sharing with the City Council and University

### **Next steps – to consult**

The Government now wants to build on the progress made in many parts of the public sector by taking forward the recommendations in Lord Young's report and consulting on a package of measures with the ultimate aim that:

- the whole public sector grasps the Prime Minister's aspiration of more government business going to SMEs;
- the taxpayer gets better value through procurement processes which are simpler, less burdensome, and open to all suppliers regardless of size;
- small business can grow through greater access to the £230bn of public procurement opportunities in local government, health, education and the police sector.

### **Exemptions from scope**

#### Commissioning clinical services

The Department for Health recently introduced regulations under the Health and Social Care Act 2012 which set out a sector-specific framework for the procurement of clinical services. Commissioners are required to secure services from the provider best able to improve the quality and efficiency of services for patients. The regulations also include requirements on transparency such as advertising and publishing the details of contracts, and the need to be proportionate and non-discriminatory in all aspects of the procurement process. Accordingly, the proposed

reforms in this consultation should not apply to the procurement of clinical services by commissioners.

The sector regulator for health services, Monitor, has responsibility to enforce the regulations and has powers to take action where complaints have been raised that procurement is disproportionate. In addition, clear guidance will be published by NHS England for commissioners which will include the need for them to act proportionately when undertaking procurement, for example PQQs for high value contracts. This will help to ensure that the key aims of the reforms are also met in this sector.

### Schools and academies

For the education sector, the reporting obligations in the proposed reforms will only be applied to the regional buying organisations that purchase on behalf of schools and academies, as this accounts for the majority of spend in that sector. This will limit unnecessary reporting and administrative burdens.

## SECTION 3 CONSULTATION QUESTIONS

This section of the consultation document seeks feedback on specific questions in each area of reform.

### **PQQs: Use of PQQs in public contracts**

Pre-Qualification Questionnaires (PQQs) are issued by some procuring authorities, as an interim selection stage of the tender process to help them determine whether suppliers are suitable to be invited to bid. In complex high value procurements, they can offer a more structured means of capturing the key information procurers require. PQQs normally include questions around a supplier's legal status, financial standing and capacity to undertake the requirements.

But the use of PQQs for lower value procurements creates unnecessary barriers for SMEs applying for public contracts and substantially increases the time and costs of tendering. Instead of simply being used to weed out unsuitable suppliers, PQQs are used by some authorities as a device to artificially reduce the number of tenders that authorities need to evaluate, meaning that perfectly capable suppliers have not had their solutions considered.

Since the Mystery Shopper service started in February 2011, 110 cases submitted by suppliers have identified PQQs as a problem area. In many cases, Mystery Shopper found poor practice related to onerous, excessive or disproportionate requirements, for example, in the areas of financial strength or experience. In almost 90% of these cases, Mystery Shopper made recommendations for improving future procurements, and in 20%, changes were made to live procurements to rectify the problem.

In central government departments (including their Executive Agencies and Non Departmental Bodies), PQQs have been eliminated for most procurements under the EU threshold (approximately £100,000) since 2011. This experience has demonstrated that procurers can manage procurement efficiently without adding additional burden on suppliers. It has removed complexity and reduced costs for all suppliers bidding for government contracts, and it has resulted in a simplified, more consistent approach to public procurement.

The Government proposes to legislate to extend this approach to the whole of the public sector and eliminate the use of PQQs for almost all goods, services and works procurements under £173,934 (the current EU threshold for goods and services in the wider public sector).

The Government recognises that unnecessary questions can still be asked at other stages in the procurement process and seeks views on what could be done to prevent this from happening. Government also acknowledges that there may be particular complexities, for example in construction, defence or security contracts, which would need to be considered and seeks views on how these challenges could be overcome when a PQQ is not used.

*Q1. What mechanisms and incentives would prevent contracting authorities from asking unnecessary and burdensome questions during the procurement process?*

### **PQQs: Standard core PQQ**

Where a PQQ is appropriate, the use of non-standard or onerous and lengthy question sets remains a major hurdle for SMEs.

Central government departments are now required to use a standard core PQQ in relevant high value procurements (in addition to acceptable project-specific questions). This has reduced complexity, inconsistency and cost in the bidding process by removing the burden on suppliers of having to respond to multiple, different PQQs.

The Government proposes to legislate to extend this approach to the whole of the public sector and require all public bodies to use a standard core PQQ.

Central government's core PQQ is attached as an annex to this consultation paper. The Government proposes using this as the standard core PQQ for the whole of the public sector. The Government recognises there may need to be a limited number of additional (optional but standard) questions which are particularly relevant to certain sectors.

*Q2. Should the core PQQ currently used in central government (attached at Annex B) be adopted as standard across the public sector?*

*Q3. Which, if any, questions could be removed from the core PQQ? Are there any additional questions or relevant standards that should be included because they are essential to a specific sector (and please explain why they are essential)?*

### **PQQs: Providing PQQ information on a 'once for the public sector' basis**

Lord Young also recommended that the public sector adopts a 'supplier passport' system so that suppliers only have to enter their PQQ data once.

The measures to eliminate the use of PQQs for low value contracts and require the use of a standard core PQQ in all other relevant procurements should remove or significantly reduce the burdens and costs associated with PQQs.

The Government could go further and implement a single online system for verification and display of PQQ data. In effect, each time a contracting authority went out to tender, the standard PQQ information would already be available; suppliers would be responsible for updating their data at regular intervals. There are examples of such systems in particular sectors – for example suppliers can pay a fee (minimum approximately £100) to register and have their PQQ data verified in an online system used in construction procurements.

The Government is seeking views on whether such an approach would still be necessary in addition to the PQQ reforms already described, and whether suppliers would be prepared to pay a small fee to reduce the cost and time involved in completing and submitting PQQ responses. The Government would want to ensure that suppliers could still manually submit a PQQ without incurring a charge should they not want to use such a system.

*Q4. How would a single online platform for managing, submitting and verifying PQQ responses provide advantages to bidders and contracting authorities over and above the PQQ reforms already described? Would suppliers be prepared to pay a small fee for using this system (assuming the option of manually submitting a PQQ without any charge is also still available)?*

### **Transparency: Accessing all contract opportunities through Contracts Finder**

Since its inception, over 6000 low value opportunities in central government have been advertised on Contracts Finder, an online platform which provides access to public sector procurement related information and documentation free of charge. This has opened up new opportunities to all suppliers and is providing government with a more robust picture of the amount of contracts won by SMEs. Contracts Finder is available to all public bodies to advertise their procurements.

To expand this and harness the benefits across the whole public sector, government proposes to require that all new contract opportunities, above a threshold of £10,000 should be accessible from Contracts Finder. Subsequent contract award notices, which state the winning contractor's details and contract value should also be accessible from Contracts Finder.

This will lead to a more standardised and transparent procurement process. It will allow businesses to see what government is buying, and what is in the pipeline in one place.

*Q5. Do you agree that all public procurement opportunities over £10,000 should be accessible from Contracts Finder<sup>3</sup>? How can this be achieved simply and effectively? If you do not agree, why not?*

*Q6. Do you agree that all award notices for public contracts over £10,000 should be accessible from Contracts Finder? How can this be achieved simply and effectively? If you do not agree, why not?*

### **Transparency: Reporting on procurement spend with SMEs**

To achieve greater focus on the benefits of increased use of SMEs in public procurement, government proposes requiring all contracting authorities to publish data on their procurement spend with SMEs.

This should support a like-for-like comparison of SME spend performance across the whole of the public sector. It should enable small firms and their champions to have confidence about where expenditure on SMEs occurs and to challenge areas of the public sector where procurement with SMEs is not happening.

Reporting this spend, together with spot checks of poor procurement practice in the public sector, by the Mystery Shopper service, will drive better accountability and ensure that contracting authorities are embedding SME friendly practices into their procurement.

*Q7. Do you agree that all public bodies should publish data on their procurement spend with SMES in one place? How can this be achieved simply and effectively?*

*Q8. For Local Authorities, how can this work integrate with existing open data practices, such as the Code of Transparency, whilst minimising data reporting burdens? Are there similar issues in other sectors?*

### **Transparency: Reporting on use of centrally negotiated deals**

Acting collaboratively is an important driver for value for money and is particularly relevant in spend on common goods and services. Aggregation of demand leads to greater leverage with suppliers, more commonality of specification and a reduction in administrative costs – all creating efficiencies.

The Government is taking steps to ensure its centrally negotiated deals are available to the whole of the public sector and encourage access to a wide range of SMEs. For example the G-Cloud framework has over 700 suppliers offering cloud-based

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<sup>3</sup> This could be achieved by publishing direct on Contracts Finder or through a feed from an existing system.

solutions on a pay-as-you-go-basis with a maximum 12 months contract – 83% of these suppliers are SMEs.

The Government is seeking views on how public bodies could be required to report when they have not used a centrally negotiated, SME-friendly deal together with any available information on pricing.

This could be achieved through a 'comply or explain' approach with public bodies reporting when they have used alternative procurement routes in the award notice facility on Contracts Finder.

This could help to drive authorities to the best SME-friendly deals available in the public sector. It could also facilitate a comparison of pricing performance across public sector bodies so they are more accountable in demonstrating value for money. The Government acknowledges there are complexities in comparing pricing data and seeks views on how these challenges could be overcome.

*Q9. Do you agree that public bodies should publish data on their use of centrally negotiated deals, together with pricing data, to demonstrate value for money? How can this be achieved simply and effectively?*

### **Prompt Payment: Standard payment terms through the supply chain**

Late payment down the supply chain is a key area of concern for smaller businesses. Prompt payment is crucial to smaller companies where access to cash is critical.

Central government has a good record on paying undisputed invoices quickly and expects its suppliers to do the same and pay sub-contractors on time. In addition central government is rolling out the use of Project Bank Accounts in construction and facilities management contracts; £2 billion of work has now been awarded using this mechanism. There has also been recent legislation in this area (implementing the Late Payment Directive) which now requires all public bodies to pay prime contractors within 30 days.

Government wants the same standard terms that public bodies offer prime contractors to be passed all the way down the supply chain. For example this could be underpinned through contractual clauses so that all sub-contractors, regardless of their position in the supply chain, would be paid promptly and not disadvantaged. And the Mystery Shopper service will adopt a more stringent and active role, through spot checks, to ensure that poor prompt payment performance is corrected and that appropriate contract clauses are adhered to.

*Q10. How can we ensure that standard payment terms are passed down through the supply chain for all public contracts?*



*Q11. Should public authorities and their supply chains publish performance data on their prompt payment to suppliers? How can this be achieved simply and effectively?*

### **Finance: Performance bonds**

There is some evidence that the requirement, at the selection stage of procurements, for a performance bond to provide contracting authorities with a financial guarantee in the event of contractual problems, is excessive and often not proportionate to contract values and risk.

It also may discriminate against smaller businesses. Larger businesses which have access to substantial capital and assets, or other sources of finance, find it much easier to provide such bonds. But for SMEs, such bonds may only be obtained at the expense of overdraft facilities. This can prevent them from bidding. Government wants to understand more clearly the scale of this issue and whether it is a significant barrier to SMEs bidding for public contracts

*Q12. Do you consider that requirements for performance bonds are disproportionate and creating barriers for SMES aiming to win public contracts? How is this happening and what reforms could help alleviate this?*

### **Finance: Encouraging the use of electronic invoicing**

The use of digital and internet technology is becoming essential for those businesses wishing to improve their productivity and speed up payment. The Government has increased its use of e-invoicing in its procurement processes which has allowed resource to switch to more value added activities and delivered efficiencies. E-invoicing should also make payment easier for suppliers once they have won contracts. Central government aims to move towards using electronic invoicing for all transactions, and wishes to see greater use of e-invoicing by the wider public sector to build on this success.

*Q13. How can government increase the take-up of electronic invoicing in public procurement to maximise the opportunities it affords and create a more enabling environment for SMEs?*

## Annex A: The consultation questions

Q1. *What mechanisms and incentives would prevent contracting authorities from asking unnecessary and burdensome questions during the procurement process?*

Q2. *Should the core PQQ currently used in central government (attached at Annex B) be adopted as standard across the public sector?*

Q3. *Which, if any, questions could be removed from the core PQQ? Are there any additional questions or relevant standards that should be included because they are essential to a specific sector (and please explain why they are essential)?*

Q4. *How would a single online platform for managing, submitting and verifying PQQ responses provide advantages to bidders and contracting authorities over and above the PQQ reforms already described? Would suppliers be prepared to pay a small fee for using this system (assuming the option of manually submitting a PQQ without any charge is also still available)?*

Q5. *Do you agree that all public procurement opportunities over £10,000 should be accessible from Contracts Finder<sup>4</sup>? How can this be achieved simply and effectively? If you do not agree, why not?*

Q6. *Do you agree that all award notices for public contracts over £10,000 should be accessible from Contracts Finder? How can this be achieved simply and effectively? If you do not agree, why not?*

Q7. *Do you agree that all public bodies should publish data on their procurement spend with SMES in one place? How can this be achieved simply and effectively?*

Q8. *For Local Authorities, how can this work integrate with existing open data practices, such as the Code of Transparency, whilst minimising data reporting burdens? Are there similar issues in other sectors?*

Q9. *Do you agree that public bodies should publish data on their use of centrally negotiated deals, together with pricing data, to demonstrate value for money? How can this be achieved simply and effectively?*

Q10. *How can we ensure that standard payment terms are passed down through the supply chain for all public contracts?*

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Q12. *Do you consider that requirements for performance bonds are disproportionate and creating barriers for SMES aiming to win public contracts? How is this happening and what reforms could help alleviate this?*

Q13. *How can government increase the take-up of electronic invoicing in public procurement to maximise the opportunities it affords and create a more enabling environment for SMEs?*

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<sup>4</sup> This could be achieved by publishing direct on Contracts Finder or through a feed from an existing system.



## Pre-Qualification Questionnaire Core Questions

This Pre-Qualification Questionnaire (“PQQ”) has been issued by the Authority in connection with a competitive procurement conducted in accordance with the Restricted Procedure under the Public Contract Regulations 2006 (“the Regulations”). *[Note to Authority: Please see and delete as applicable references to the Regulations, depending on whether this is for above or below threshold procurements]*

### **Notes for completion:**

Please answer every question. Many procurements generate a great deal of interest from potential suppliers, so please ensure that you complete the questionnaire as requested. Failure to do so may result in your application being disqualified. If the question does not apply to you please write N/A; if you don’t know the answer please write N/K.

“Authority” means the purchasing organisation that is seeking to award a contract.

“You”/ “Your” or “Potential Provider” means the business or company which is completing this PQQ.

Please return this form to:

[Name].....

[Organisation].....

[Address].....

Not later than: ..... [time and date]

We will contact you again by: ..... [date] to let you know whether you have been successful. If so, you will then be invited to tender for the contract.

### **Verification of Information Provided:**

The higher the risk of the procurement, the higher the level of verification is likely to be required. Not all questions require supporting documents up front at this stage (for example certificates, statements with this questionnaire.) **However, the purchasing organisation may ask to see these documents at a later stage, so it is advisable you ensure they can be made available upon request.** You may also be asked to clarify your answers or provide more details about certain issues.

### **Sub Contracting Arrangements**

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<sup>5</sup> Note: this questionnaire is subject to revision to reflect changes in central government policy.

Where a sub-contracting approach is proposed, all information requested should be given in respect of the prime contractor.

Where sub-contractors will play a significant role in the delivery of the services or products under any ensuing contract, please indicate in a separate annex (by inserting the relevant company/organisation name) the composition of the supply chain, indicating which member of the supply chain will be responsible for the elements of the requirement.

It is recognised that arrangements in relation to sub-contracting may be subject to future change. However, Potential Providers should be aware that where sub-contractors are to play a significant role, any changes to those sub-contracting arrangements may constitute a material change and therefore may affect the ability of the Potential Provider to proceed with the procurement process or to provide the goods and/or services.

### **Consortia Arrangements**

If the Potential Provider bidding for a requirement is a consortium, the following information must be provided:

- full details of the consortium; and
- the information sought in this PQQ in respect of each of the consortium's constituent members as part of a single composite response.

Potential Providers should provide details of the actual or proposed percentage shareholding of the constituent members within the consortium in a separate Annex. If a consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided in the Annex. However, please note the Authority reserves the right to require a successful consortium to form a single legal entity in accordance with regulation 28 of the Public Contracts Regulations 2006.

The Authority recognises that arrangements in relation to consortia may (within limits) be subject to future change. Potential Providers should therefore respond in the light of the arrangements as currently envisaged. Potential Providers are reminded that any future proposed change in relation to consortia must be notified to the Authority so that it can make a further assessment by applying the selection criteria to the new information provided.

### **Contents**

Topic
Details of your Organisation
Mandatory and Discretionary Exclusion
Economic and Financial Standing
Technical and Professional Ability
Signature

## FORM A: Organisation and Contact Details

Full name of organisation tendering (or of organisation acting as lead contact where a consortium bid is being submitted)		
<b>Organisation Details</b>		
Registered office address	Company or charity registration number	
	VAT registration number	
	Name of immediate parent company	
	Name of ultimate parent company	
Type of organisation	i) a public limited co.	
	ii) a limited company	
	iii) a limited liability partnership	
	iii) other partnership	
	iv) sole trader	
	v) other (please specify)	

<b>Contact details</b>	
Contact details for enquiries about this PQQ	
Name	
Address	
Post Code	
Country	
Phone	
Mobile	
Email	

Consortia and Sub-Contracting	a) Your organisation is bidding to provide the services required itself	
	b) Your organisation is bidding in the role of Prime Contractor and intends to use third parties to provide some services	
	c) The Potential Provider is a consortium	
<p>If your answer is (b) or (c) please indicate in a separate annex (by inserting the relevant company/organisation name) the composition of the supply chain, indicating which member of the supply chain (which may include the Potential Provider solely or together with other providers) will be responsible for the elements of the requirement.</p>		

QUESTIONS 1.1 and 1.2 FOR COMPLETION BY NON-UK BUSINESSES ONLY		
1.1	<p>Registration with professional body</p> <p>Is your business registered with the appropriate trade or professional register(s) in the EU member state where it is established (as set out in <b>Annexes IX A-C of Directive 2004/18/EC</b>) under the conditions laid down by that member state).</p>	
1.2	<p>Is it a legal requirement in the State where you are established for you to be licensed or a member of a relevant organisation in order to provide the requirement in this procurement? If yes, please provide details of what is required and confirm that you have complied with this.</p>	

## FORM B - Grounds for mandatory rejection

### **Important Notice:**

**In some circumstances the Authority is required by law to exclude you from participating further in a procurement. If you cannot answer ‘no’ to every question in this section it is very unlikely that your application will be accepted, and you should contact us for advice before completing this form.**

Please state ‘Yes’ or ‘No’ to each question.

<b>Has your organisation or any directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?</b>	<b>Answer</b>
(a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;	
(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906; where the offence relates to active corruption;	
(c) the offence of bribery, where the offence relates to active corruption;	
(ca) bribery within the meaning of section 1 or 6 of the Bribery Act 2010;	
d) fraud, where the offence relates to fraud affecting the European Communities’ financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities, within the meaning of:	
(i) the offence of cheating the Revenue;	
(ii) the offence of conspiracy to defraud;	
(iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;	
(iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;	
(v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;	
(vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;	



(vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;	
(viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or	
(ix) making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of the Fraud Act 2006;	
(e) money laundering within the meaning of section 340(11) of the Proceeds of Crime Act 2002;	
(ea) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996; or	
(eb) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or	
(f) any other offence within the meaning of Article 45(1) of Directive 2004/18/EC as defined by the national law of any relevant State.	

## FORM C - Grounds for discretionary rejection

### **Important Notice.**

The Authority is entitled to exclude you from consideration if any of the following apply but may decide to allow you to proceed further. If you cannot answer 'no' to every question it is possible that your application might not be accepted. In the event that any of the following do apply, please set out (in a separate Annex) full details of the relevant incident and any remedial action taken subsequently. The information provided will be taken into account by the Authority in considering whether or not you will be able to proceed any further in respect of this procurement exercise.

The Authority is also entitled to exclude you in the event you are guilty of serious misrepresentation in providing any information referred to within regulation 23, 24, 25, 26 or 27 of the Public Contracts Regulations 2006 or you fail to provide any such information requested by us.

Please state 'Yes' or 'No' to each question.

Is any of the following true of your organisation?	
(a) being an individual is a person in respect of whom a debt relief order has been made or is bankrupt or has had a receiving order or administration order or bankruptcy restrictions order or a debt relief restrictions order made against him or has made any composition or arrangement with or for the benefit of his creditors or has made any conveyance or assignment for the benefit of his creditors or appears unable to pay, or to have no reasonable prospect of being able to pay, a debt within the meaning of section 268 of the Insolvency Act 1986, or article 242 of the Insolvency (Northern Ireland) Order 1989, or in Scotland has granted a trust deed for creditors or become otherwise apparently insolvent, or is the subject of a petition presented for sequestration of his estate, or is the subject of any similar procedure under the law of any other state;	
(b) <u>being a partnership constituted under Scots law</u> , has granted a trust deed or become otherwise apparently insolvent, or is the subject of a petition presented for sequestration of its estate; or	
(c) <u>being a company or any other entity within the meaning of section 255 of the Enterprise Act 2002</u> has passed a resolution or is the subject of an order by the court for the company's winding up otherwise than for the purpose of bona fide reconstruction or amalgamation, or had a receiver, manager or administrator on behalf of a creditor appointed in respect of the company's business or any part thereof or is the subject of similar procedures under the law of any other state?	
<b>Has your organisation</b>	
(a) been convicted of a criminal offence relating to the conduct of your business or profession;	
(b) committed an act of grave misconduct in the course of your business or	

profession;	
(c) failed to fulfil obligations relating to the payment of social security contributions under the law of any part of the United Kingdom or of the relevant State in which you are established; or	
(d) failed to fulfil obligations relating to the payment of taxes under the law of any part of the United Kingdom or of the relevant State in which you are established?	

<i>[Note to Authority: Please insert any specific criminal offences or misconduct which may be appropriate to draw Potential Providers attention to having regard to the specific sector or circumstances of this procurement. (i.e. any offences or misconduct particularly relevant to or prevalent in the sector)]</i>	
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## FORM D - Economic and Financial Standing Regulation 24

<b>2</b>	<b>FINANCIAL INFORMATION</b>	
2.1	<p>[Note to purchaser – choose out of the two options below, depending on the level of verification you require up front]</p> <p>Please provide <b>one</b> of the following set out below:-</p> <p>OR</p> <p>Please indicate which <b>one</b> of the following you would be willing to provide:-  <b>(please indicate which one by ticking the relevant box)</b></p>	
	<i>A copy of your audited accounts for the most recent two years</i>	
	<i>A statement of your turnover, profit &amp; loss account and cash flow for the most recent year of trading</i>	
	<i>A statement of your cash flow forecast for the current year and a bank letter outlining the current cash and credit position</i>	
	<i>Alternative means of demonstrating financial status if trading for less than a year</i>	

## FORM E - Technical and Professional Ability Regulation 25

(Where the Potential Provider is a special purpose vehicle and not intending to be the main provider of the goods or services, the information requested should be provided in respect of the principal intended provider of the goods or services.)

<b>3</b>		<b>EXPERIENCE AND CONTRACT EXAMPLES</b>		
<p>Please provide details of up to three contracts from either or both the public or private sector, that are relevant to the Authority's requirement. Contracts for the supply of goods or services should have been performed during the past <u>three</u> years. Works contracts may be from the past <u>five</u> years. (The customer contact should be prepared to speak to the purchasing organisation to confirm the accuracy of the information provided below if we wish to contact them).</p>				
		Contract 1	Contract 2	Contract 3
3.1	Customer Organisation (name):			
3.2	Customer contact name, phone number and email			
3.3	Contract start date Contract completion date Contract Value			
3.4	Brief description of contract (max 150 words) including evidence as to your technical capability in this market.			
<p>If you cannot provide at least one example, please briefly explain why (100 words max)</p>				

<p><b>4.</b></p>	<p>I declare that to the best of my knowledge the answers submitted in this PQQ are correct. I understand that the information will be used in the process to assess my organisation's suitability to be invited to tender for the Authority's requirement and I am signing on behalf of my organisation. I understand that the Contracting Authority may reject this PQQ if there is a failure to answer all relevant questions fully or if I provide false/misleading information</p>	
<p><b>FORM COMPLETED BY</b></p>		
<p>4.1</p>	<p>Name:</p>	
<p>4.2</p>	<p>Date:</p>	
<p>4.3</p>	<p>Signature:</p>	

## **Annex C: Consultation Guidelines**

These can be accessed through the attached link:

<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>