



SCAPE Response to CMA Civil Engineering Market Study — Interim Report

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SCAPE is a public-sector owned procurement organisation operating civil engineering, construction and consultancy frameworks across the UK. Our response draws on practical experience of supporting public authorities and supply chains in the delivery of civil engineering and infrastructure projects, with a focus on collaboration, value for money and delivery certainty. The comments below reflect delivery-led insight into how procurement practices, pipeline visibility and risk allocation influence market outcomes in practice.

Question 1: Do you consider that we should be more concerned with barriers to firms expanding rather than barriers to firms entering the civil engineering market in the first place? Are there other forms of barrier not mentioned in our analysis so far which are significant?

SCAPE considers that barriers to firms entering the civil engineering market and barriers to firms expanding within it are closely linked and should be considered with equal importance.

In practice, the ability of firms to expand is driven primarily by the visibility, certainty and continuity of future pipelines. Where firms have confidence in a stable and credible pipeline, they are more likely to invest in skills, innovation, equipment and capacity. Conversely, where pipeline visibility is uncertain or subject to delay, firms are understandably cautious, which can constrain growth and, in some cases, lead to contraction rather than expansion.

In our experience, improving the quality, credibility and forward visibility of infrastructure pipelines would have a greater impact on market outcomes than focusing solely on barriers to initial market entry.

Question 2: To what extent do you agree supply chain fragmentation contributes to poor outcomes? Besides pipeline uncertainty, what other factors drive civil engineering firms' preference to use contractors rather than building their in-house capacity?

Supply chain fragmentation is a well-established and, in many cases, effective delivery model within civil engineering. In SCAPE's experience, fragmentation in itself does not lead to poor outcomes; rather, poor outcomes arise where projects are inadequately scoped, risks are misallocated, or supply chain packages are structured inappropriately.

Issues such as incomplete project briefs, unrealistic budgets, inappropriate risk transfer and weak client-side decision making are more significant drivers of poor performance than fragmentation alone.

The use of specialist supply chain organisations also reflects practical realities. It is neither efficient nor viable for contractors to retain large fleets of specialist plant or niche capabilities that may only be required intermittently. Specialist suppliers are often better placed to manage utilisation, expertise and flexibility, which can support better value for money when projects are correctly set up.

Question 3: Are there specific procurement, policy or regulatory barriers that reduce innovation and/or scaling opportunities in the civil engineering market? What would make the most difference to firms' incentives to innovate, and public authorities' incentive and ability to encourage innovation?

Procurement barriers include rigid or overly specified requirements that promote status quo solutions and limit a bidder's ability to promote innovative technologies or designs. This can be driven by risk averse behaviours or an over-reliance on lowest-price making, which can discourage innovation .

A lack of technical expertise within some public authority procurers can also limit confidence in assessing innovative solutions. Greater use of pre-market engagement, as mandated by the Procurement Act 2023, can help procurers better understand emerging technologies and approaches before formal procurement begins.

Regulatory barriers may include the introduction of additional or unnecessary requirements beyond legislative intent (gold plating), which can increase compliance costs and deter innovation.

There can also be a disconnect between policy ambitions for innovation and the way procurements are ultimately structured and evaluated, resulting in strategic objectives being diluted during delivery.

Greater alignment between policy intent, procurement design and evaluation criteria would make the most difference in improving incentives to innovate and scale.

Question 4: For what type of projects is there greatest scope for the accuracy of upfront scoping and planning to be improved, to aid delivery on time and on budget? What would help to make upfront scoping and planning more accurate?

Accurate upfront scoping and planning is fundamental to successful project delivery across all project types. Where scope is incomplete or unclear at the outset, projects are likely to encounter cost, programme and delivery challenges regardless of size or complexity.

In practice, the approach to achieving accurate scope should be proportionate to the nature, scale and complexity of the project. There is no single solution, but early collaboration and clarity of objectives are consistently critical factors.

SCAPE's operating model includes a formal project launch stage, bringing together the client, contractor and relevant consultants to align on objectives, constraints, risks and requirements at the outset. This collaborative approach helps establish a shared understanding and provides a stronger foundation for delivery.

Question 5: To what extent do you agree early contractor involvement could be used more effectively, and how can this be facilitated?

SCAPE strongly agrees that early contractor involvement (ECI) could be used more effectively and remains underutilised relative to best practice.

Early engagement allows public authorities to access contractor expertise at a stage where it can meaningfully influence buildability, programme, cost certainty, risk management and social value outcomes. SCAPE frameworks support this approach through the use of NEC contracts, including secondary option X22, which provides a compliant mechanism for early engagement and pre-construction services.

For ECI to be effective, it must be undertaken with a clear and credible route from pre-construction (Stage 1) to construction (Stage 2). Approaches that seek to secure early contractor input without any commitment to proceed undermine collaboration and reduce supplier willingness to invest time and expertise.

Where implemented properly, two-stage and collaborative delivery models have been shown to improve predictability, value for money and client satisfaction, aligning with the principles of early collaboration and fair risk allocation promoted through SCAPE's Charter for Change.

Question 6: To what extent do you agree that the design and use of procurement frameworks could be improved?

SCAPE considers procurement frameworks to be an effective and valuable mechanism for public authorities, particularly where in-house commercial or technical capacity is limited.

There remains scope to improve clarity and consistency in how frameworks are established and used. In particular, greater transparency around governance, contracting authority status and fee structures would support better informed decision making by both clients and suppliers.

Frameworks should operate in a manner that is consistent with public sector principles of transparency, proportionality and value for money. Where frameworks are used, evaluation models should clearly demonstrate how value for money is assessed, recognising that this should not be equated solely with lowest price.

The Procurement Act 2023 provides an opportunity to reinforce value-based outcomes and improve confidence in framework use, provided it is applied consistently in practice.

Question 7: How could open competition be made less resource intensive as a method of procurement?

To respond to this question, it is necessary to understand several key points. Firstly, less resource intensive for whom, client, contractor, supply chain or all of them. Secondly, what is meant by open competition in the context of a procurement method. Thirdly, at what point in the procurement process is open competition carried out and finally how many organisations are being asked to tender.

Procurement carried out by a client will necessarily involve resources to prepare tender for example, a procurement process carried out by the public authority itself in the form of a mini competition. Alternatively, it could be carried out as a specific stage in the procurement process under a framework.

In SCAPE's experience, open competition becomes resource intensive primarily where tender documentation is unclear, incomplete or issued to unrealistic timescales.

Improving the quality of project briefs, adopting proportionate assurance requirements and limiting the number of bidders invited to tender where appropriate would reduce unnecessary bidding costs while maintaining competitive tension. The focus should be on using the right level of resource to achieve robust outcomes, rather than minimising resource at the expense of quality.

Question 8: Where is there greatest scope to improve the evaluation of non-price aspects of bids, such as quality? How can this be better supported and enabled?

There is significant scope to improve the consistency and confidence with which non-price factors such as quality, delivery approach and social value are evaluated.

While procurement regulations require feedback to bidders, evaluation of qualitative criteria can be undermined by inconsistent scoring approaches, limited benchmarking and concerns about legal challenge. This can result in an over-reliance on price as a perceived "safer" differentiator.

Clearer guidance, better use of benchmarking and improved feedback loops would support more meaningful evaluation of quality and encourage stronger, more innovative bids over time.

Question 9: What factors are most likely to cause significant risks to be misallocated between the procuring body and supply chain, and within the supply chain? How could this be addressed?

In SCAPE's experience, misallocation of risk is a significant contributor to poor outcomes and increased costs. Common examples include disproportionate insurance requirements, excessive use of retention, performance bonds applied without clear justification, and contractual terms that transfer risk to parties least able to manage it.

While risk management is essential, overly risk-averse approaches can reduce competition, increase tender prices and deter capable suppliers from bidding.

Risks should be allocated to the parties best placed to manage and control them. More balanced and proportionate risk allocation would support better value for money, improve delivery confidence and reduce adversarial behaviours across the supply chain.

Question 10: What are the areas of regulation which are preventing opportunities for innovation and effective competition?

SCAPE is not in a position to comment on this question.

Question 11: What are the areas of regulation which are preventing smaller suppliers from competing effectively (or from scaling up to be able to compete effectively)?

SCAPE is not in a position to comment on this question.

Question 12: To what extent do you agree there is excessive risk aversion in public authority decision making? Where risk aversion is too high, what would help move it to more appropriate levels?

SCAPE observes a high degree of risk aversion in some public authority decision making, often driven by fear of challenge or audit scrutiny.

This can manifest in excessive assurance requirements, lowest-price decision making and disproportionate risk transfer. Greater confidence in collaborative contracting models, clearer guidance and stronger commercial capability within procuring authorities would help move risk management to more appropriate and proportionate levels.

Question 13: How would you rank the relative importance of our proposed measures?

SCAPE would rank the four measures as follows with the most important at the top:

- pipeline uncertainty
- procurement authority capacity constraints;
- procurement policy and approaches; and
- regulatory barriers.

Pipeline certainty is ranked as the most important measure, as it underpins confidence across the entire market. Without credible, long-term visibility of future work, firms are less able to invest in skills, innovation, equipment and capacity, regardless of improvements made elsewhere in the system.

Procurement authority capacity constraints are ranked second, as the ability of public authorities to scope projects effectively, make informed commercial decisions and manage risk proportionately is critical to translating pipeline visibility into successful delivery outcomes.

Procurement policy and approaches are ranked third, as well-designed processes can support better behaviours, but are ultimately constrained by capacity and capability within procuring authorities.

Regulatory barriers are ranked fourth, not because they are unimportant, but because addressing them in isolation is unlikely to deliver meaningful improvement without first resolving pipeline certainty and procurement capability challenges.

Question 14: Are there alternative important measures that we do not mention?

SCAPE is not in a position to comment on this question.

Question 15: What would be the feasibility and impact of extending multi-year capital funding to public authorities currently operating on year-ahead budgets only?

SCAPE is not in a position to comment on this question.

Question 16: What information not currently available in published infrastructure pipelines would be most helpful for firms? How would this information change business decisions on resource allocation and/or investment?

SCAPE is not in a position to comment on this question.

Question 17: How could the commercial and engineering capabilities within procuring authorities be better utilised? What could be done to better support procuring authorities to develop, recruit and retain these specialist skills, expertise and leadership capacity?

SCAPE is not in a position to comment on this question.

Question 18: To what extent do you agree that it would be beneficial for public authorities, such as groups of nearby local authorities, to: (i) jointly develop and share engineering expertise and commercial capabilities; (ii) to coordinate or jointly conduct procurement; and (iii) enact comprehensive, standardised sharing of cost and performance data? How could this best be achieved?

SCAPE believes that it makes logical sense and merit in driving efficiencies, standardisation and economies of scale through a more collaborative procurement approach across multiple organisations. However, whilst this may be an attractive proposition the natural consequence of this is that it starts to restrict the supply chain available for such a proposition. In so doing this may not represent value for money, assuming that a suitable definition of value for money can be determined and carries a risk that it may operate contrary to the objectives of the public procurement regulations around engagement with and promoting of SME's.

Any such approaches should be designed carefully to avoid unintentionally restricting SME participation or reducing market diversity.

Question 19: What is preventing widespread adoption of procurement best practice? How could these barriers to adoption be overcome?

SCAPE is not in a position to comment on this question.

Question 20: To what extent, and in what ways, is there scope for procurement processes to be made i) less complex and ii) more standardised across public authorities?

There is a clear scope for procurement processes to be made both less complex and more proportionate, while retaining appropriate flexibility across different types of public authority and contract.

The Procurement Act 2023 has already made progress in reducing the number of procurement processes and requires authorities to design processes are proportionate to the works and services being procured. This should enable a move away from rigid, multi-stage tenders towards more flexible competitive processes, tailored to the complexity of individual contracts.

Further opportunities include streamlining or removing unnecessary pre-qualification stages (PQQs), particularly to lower the barrier for entry for SMEs.

Earlier engagement with potential suppliers can also help define requirements more clearly, reducing the need to lengthy clarification stages later in the process.

Using supplier segmentation, where suppliers are treated differently based on risk and impact, can enable faster and more simplified processes for low-risk or routine procurements.

Question 21: How and where can the regulatory approvals process for new products/ techniques/ technologies in civil engineering be made more streamlined?

SCAPE is not in a position to comment on this question.

Question 22: Which types of supplier accreditation currently experience significant levels of duplication?

Build UK developed the Common Assessment Standard in response to the need to consolidate the growing number of accreditations. The standard was developed with the construction sector in mind and is recognised across the industry. It is also accepted by the Cabinet Office and approved for use in public procurement.