

**TRANSPORT INFRASTRUCTURE CLIENT STANDARDS STEERING GROUP - COMMENTS ON
CMA INTERIM REPORT – CIVIL ENGINEERING MARKET STUDY, 17TH DECEMBER 25**

NOTE: This response is provided on behalf of the Transport Infrastructure Client Standards (TICS) Steering Group, which is developing the business case for the establishment of common standards that will apply across the main UK transport client organisations. The group includes representatives from National Highways, Network Rail, Transport for London, UK Tram and Rail Safety & Standards Board.

<p>General points</p>	<p>1. The term “regulatory standards” risks conflating standards with regulations; it would be better to talk about “technical standards”. Regulations are statutory, and deviation from regulations is not permissible except as provided for by the regulations.</p> <p>Technical standards includes a spectrum of different types of document:</p> <ul style="list-style-type: none"> • A few standards are pseudo-regulatory e.g. BS7671 (IET Wiring Regulations) and in effect mandatory • Company standards are generally mandated by contracts but deviation is acceptable with appropriate justification and permission - except for a small subset of requirements that are deemed to be fixed • Non-mandatory standards and codes of practice (“comply or explain”)- including codes of practice and guidance that support regulations and standards • Technical specifications/product standards (non-mandatory). <p>The following page gives a good overview of different types of standards: https://www.rssb.co.uk/standards/types-of-standards-and-how-they-work</p> <p>2. Measure no.14 on page 69 refers to “<i>advocating for or requiring the adoption of the least burdensome approach</i>”. This is far too simplistic. While there are undoubtedly differences of expression between technical standards across organisations, and there is certainly benefit to be had from removing these differences, there are also a significant number of areas where technical differences exist for good reason, and the approach proposed here would be unsuitable and in some cases unsafe.</p>
<p>Question 1:</p> <p>a) 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?</p> <p>b) Are there other forms of barrier not mentioned in our analysis so far which are significant?</p>	<p>a) We agree. A firm seeking to enter the civil engineering market for the first time would need to develop generic construction management competence on simpler projects or as a sub-contractor, prior to seeking to develop the domain-specific competence required for road and/or rail (including understanding of the relevant standards).</p> <p>b) UK road and rail clients typically have their own mandatory technical standards. Differences in these company standards do present a barrier to firms seeking to work for</p>

	<p>multiple clients. In some cases there is good reason for the standards to be different (e.g. London Underground has smaller tunnels than Network Rail) but in other cases, small differences in technical requirement for a similar scenario do create barriers to entry and make collective procurement more difficult.</p> <p>The Transport Infrastructure Client Standards (TICS) Steering Group is developing the business case to enable the establishment of common standards that will apply across the main transport client organisations, where there is no good reason for the standards to be different.</p> <p>We would be interested in informing the next phase of your work.</p>
<p>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?</p>	<p>The TICS Steering Group does not have a view on this.</p>
<p>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?</p>	<p>There is currently inconsistency within the UK's transport infrastructure clients on the level of prescription within standards. Where alignment of standards across organisations is achieved as part of the TICS initiative, this will tend to result in technical standards becoming more outcome-focused and less prescriptive. There will be exceptions where prescription is entirely appropriate (e.g. distance between rails on a railway track), but even in these cases TICS will seek to remove unnecessary differences as far as possible.</p> <p>Unnecessary prescription (specifying a particular technology or solution) does exist within some existing standards and TICS will seek to remove this where aligned standards are developed.</p>
<p>Question 4:</p> <p>a) 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?</p> <p>b) What would help to make upfront scoping and planning more accurate?</p>	<p>a) The TICS Steering Group does not have a view on this</p> <p>b) Where a scenario is repeatable, the requirements for that scenario should be captured as far as practicable within technical standards, so that successive projects do not waste time "reinventing the wheel". The TICS initiative will help to ensure that learning is shared between the organisations and reflected into future projects.</p>

<p>Question 5: To what extent do you agree early contractor involvement could be used more effectively, and how can this be facilitated?</p>	<p>The tendering process incentivises bidders to submit compliant solutions; suppliers are typically not incentivised to spend time and effort developing solutions that don't comply with technical standards. Early contractor engagement can help to identify areas where existing technical standards may present an unnecessary barrier to innovative solutions.</p>
<p>Question 6: To what extent do you agree that the design and use of procurement frameworks could be improved?</p>	<p>Difference of technical requirements between organisations presents a barrier to collective procurement. Therefore any initiative such as TICS that reduces the level of difference between the technical requirements, will make collective procurement more feasible. The TICS work on technical standards would ideally need to be supported by work to align technical Works Information requirements.</p>
<p>Question 7: How could open competition be made less resource intensive as a method of procurement?</p>	<p>Where technical standards and works information can be aligned (which will not be in all areas), suppliers will become familiar with the technical requirements</p>
<p>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?</p>	<p>Once aligned technical standards are in place, it may be possible to favour suppliers that can demonstrate previous successful experience of delivering to those standards.</p>
<p>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?</p>	<p>The TICS Steering Group does not have a view on this</p>
<p>Question 10: What are the areas of regulation which are preventing opportunities for innovation and effective competition?</p>	<p>Innovation becomes more challenging either a) where there are unnecessary differences in technical standards, or b) where the technical standards are unnecessarily prescriptive. Where standards are aligned under TICS they will generally become more outcome-focused.</p>
<p>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)?</p>	<p>Differences in technical standards and Works Information make it harder for a small supplier to demonstrate competence when seeking to work for another client for the first time. If technical requirements were aligned it would be easier for clients to assess any gaps in capability.</p>
<p>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?</p>	<p>The TICS Steering Group does not have a view on this.</p>
<p>Question 13: How would you rank the relative importance of our proposed measures?</p>	<p>The TICS Steering Group does not have a view on this</p>

<p>Question 14: Are there alternative important measures that we do not mention?</p>	<p>As well as aligning requirements (both technical standards and Works Information) there would be value in developing a suite of common Reference Designs (non-mandatory). Whilst design liability would need to be clear in each case (does the client take design liability or is the supplier accountable for validating the suitability of that design for their purpose), such an approach would facilitate greater standardisation, which in turn enables continuous improvement and economies of scale. It is also questionable whether the tendering process and technical standards collectively provide sufficient incentive for suppliers to offer solutions with the lowest whole life costs and whole life carbon.</p>
<p>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?</p>	<p>The TICS Steering Group does not have a view on this</p>
<p>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?</p>	<p>The TICS Steering Group does not have a view on this</p>
<p>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?</p>	<p>The proposed governance arrangements for TICS envisages creating of Asset Groups that would have representation from multiple organisations, in order to oversee the publication and development of common standards. In combination with wide consultation, these groups would facilitate consensus across the organisations adopting the standard.</p>
<p>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?</p>	<p>See responses to questions 6 and 17. Where alignment of standards is possible, this would facilitate collective procurement. It is intended that TICS standards would be available to all UK client bodies procuring transport infrastructure, including local authorities.</p>
<p>Question 19: What is preventing widespread adoption of procurement best practice? How could these barriers to adoption be overcome?</p>	<p>The TICS Steering Group does not have a view on this</p>

<p>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?</p>	<p>The TICS Steering Group does not have a view on this</p>
<p>Question 21: How and where can the regulatory approvals process for new products/ techniques/ technologies in civil engineering be made more streamlined?</p>	<p>Where standards can be aligned under TICS this should reduce barriers to “cross-acceptance” of products/techniques/technologies. The tendency towards reducing the level of prescription within standards will also help.</p>
<p>Question 22: Which types of supplier accreditation currently experience significant levels of duplication?</p>	<p>The TICS Steering Group does not have a view on this</p>

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Please send any queries on this response to [REDACTED]