

ANALYSIS OF RESPONSES TO THE CONSULTATION ON MAKING PUBLIC SECTOR PROCUREMENT MORE ACCESSIBLE TO SMALL AND MEDIUM SIZED ENTERPRISES

Introduction

In May 2013, the Prime Minister's advisor on enterprise and small business, Lord Young of Graffham, recommended in his report, "Growing your Business", that government develop a set of "single market" principles to be applied by all public bodies in their procurement. This would ensure a simple and consistent approach across all public sector authorities, so that SMEs can gain better and more direct access.

The Government accepted Lord Young's recommendations and committed to consult on the high level standards which all public bodies should be looking to achieve.

A consultation paper was published by the Government on 19 September 2013. The consultation ran for four weeks to 17 October 2013. The consultation document was issued directly to a number of known stakeholders and was also made publicly available on the [GOV.UK website](http://www.gov.uk).

Responses were received from 155 organisations representing a broad range of suppliers, industry bodies and procuring authorities.

- Suppliers / businesses (50)
- Trade bodies (22)
- Local authorities (36)
- Health organisations and NHS Trusts (8)
- Fire and rescue authority (4)
- Police (5)
- Other public bodies (9)
- Universities (2)
- Individual procurers (11)
- Other (7)

We are grateful to all those stakeholders who responded to the consultation paper and/or participated in one of the consultation meetings that were organised.

This document summarises the results of the consultation. It describes the overall results of the consultation and summarises the key points raised by stakeholders.

Next steps

Next steps on the key reforms were announced within the Government's commitment, "Small Business: GREAT Ambition", published on 7 December at <https://www.gov.uk/bis>.

They are as follows:

We will use legislation to:

- Cut down on process by abolishing Pre-Qualification Questionnaires (PQs) for low-value contracts

- Mandate the use of a standard core PQQ for high-value contracts and ensure small business needs are taken into account in the design of procurement processes.
- Make contract opportunities easier to find by making them all accessible on a single online portal.
- Make sure small firms get treated fairly by mandating prompt payment terms all the way down a public procurement supply chain.

To make sure that small businesses see the benefit of these reforms, we will:

- Require all public bodies to report their procurement spend and prompt payment performance with small businesses/VCSEs.

Further announcements on the detailed measures will follow in due course.

Analysis of responses

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

43% of respondents expressed support for eliminating Pre-Qualification Questionnaires (PQQs) below the EU threshold; 31% were opposed, and 26% neutral..

Those respondents which supported the measure considered PQQs to be unnecessary and burdensome for lower value procurements. Many of those contracting authorities which responded said they had already stopped using PQQs for contracts below the EU threshold.

Some public procurers did not support this reform because of a concern that without a mechanism to create a shorter list of suppliers to invite to tender there would be a significantly higher number of tenders to evaluate, adding to resource pressures.

A small number of businesses, and some industry bodies were concerned about the cost of preparing a tender response when there was potentially a reduced chance of winning the contract in a larger field of competitors.

There was some support for system a whereby tenderers self certify that they meet the minimum qualification levels, and then due diligence checks are only carried out on the winning tender. Many believed that better guidance and training would prevent unnecessary questions re-emerging elsewhere in the process.

Q2. Should the core PQQ currently used in central government be adopted as standard across the public sector?

64% of respondents agreed that there should be a standard core PQQ across the whole of the public sector. 15% were opposed, and 21% were neutral, or didn't know.

There was a strong view that better guidance would help prevent procuring authorities from asking disproportionate or irrelevant questions.

Some procurers expressed a desire to retain local core PQQs, rather than adopt central government's standard.

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)?

Some respondents advocated retention of the construction PAS 91 standard for construction related contracts. There were also requests for a menu of optional, non core questions (e.g. quality / diversity / health and safety / sustainability) which could be added to the core on a case by case basis depending on the nature of the procurement.

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)?

52% of respondents supported the concept of a single online platform; 23% were against, and 25% were neutral or didn't know. However almost 100% said suppliers should not pay a fee to use a system.

Some respondents suggested that having a core standard PQQ which requires suppliers to submit the same standard information every time, removed the need for an online portal. Others stated that a central system would only hold basic data so questions would still need to be asked outside the system which might reduce any associated benefit. Some were concerned that this would add to the proliferation of existing systems and portals, thus adding to complexity.

Q5. Do you agree that all public procurement opportunities over £10,000 should be accessible from Contracts Finder¹? 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?

65% were in favour for publishing opportunities, and 61% for award notices. 18% opposed both these reforms, and, for those who were neutral, the figures were 17% (opportunities) and 21% (award notices). Some respondents stated that there was a need to make improvements to the contracts finder system as it will have to cope with significantly more traffic. A number of procuring authorities preferred the option of continuing to place adverts on local portals – which would require data feeds to the contracts finder system.

There was evidence of existing good practice with many authorities routinely publishing their new opportunities and award notices on-line.

There was a consensus in favour of raising the threshold above £10K so that, for very low value procurements, authorities would retain the flexibility to carry an informal, less process driven procurement, thereby reducing costs and bureaucracy.

Q7. Do you agree that all public bodies should publish data on their procurement spend with SMEs in one place? How could 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?

59% supported this reform, with 6% opposed and 35% neutral. There was evidence that a large number of authorities are already publishing similar data locally. The concern about £10,000 being a low threshold was raised again in the responses, and some respondents believed that this new reporting obligation would add to resourcing pressures. Many commented on the need to ensure that SMEs could be easily identified. Some respondents identified the need to ensure alignment with the new transparency code and advocated the use of open data standards to avoid integration problems between portals and local websites.

¹ This could be achieved by publishing direct on Contracts Finder or through a feed from an existing system.

There were proposals from the voluntary sector to broaden the scope of this reform to include reporting on spend with voluntary organisations or charities.

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 could this be achieved simply and effectively?

49% supported this reform, with 29% opposed and 24% in the neutral / “don’t know” category. Many respondents said that, whilst they supported the objective for greater transparency on pricing, this obligation would be bureaucratic and cumbersome.

A number of respondents commented on difficulties associated with comparing pricing information in respect of non standard requirements, and some questioned how this reform could be enforced.

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

84% were in favour, 3 % opposed, and 13% neutral or didn’t know.

The responses also highlighted the need to ensure that these new terms are enforced.

Many respondents stated that this could be achieved through legislation and a standard clause which public bodies would need to ensure was replicated down the supply chain.

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

65% supported this with 16% opposed and 19% neutral or didn’t know. Many respondents noted that a high percentage of procuring authorities are already required to publish their performance on payment on invoices. There were a range of useful suggestions on how this reform could be implemented and enforced. For example, data could be stripped off existing finance systems, or this information could be published as a key performance indicator on an annual basis.

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?

46% agreed with 25% not agreed and 29% neutral / didn’t know.

A number of respondents commented that performance bonds should only be considered for very high value complex procurements. Some respondents believed that better guidance on the use of financial guarantees that advocated a more risk based approach would be a sensible way of addressing the topic.

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?

The consultation identified widespread use of e-invoicing across the board, although a few smaller businesses are still using a paper based approach.

Many believed that better integration between finance and procurements systems would increase take up further.

The forthcoming EU Directive on e-invoicing will require all procuring authorities to accept e-invoicing once it is transposed into law.