



## **SOLACE RESPONSE TO: Cabinet Office Consultation on Making Public Sector Procurement More Accessible To SMEs**

17 October 2013

### **1. Executive Summary**

SOLACE welcomes and expresses thanks for the opportunity to respond to the Cabinet Office's consultation into making public sector procurement more accessible to SMEs. SOLACE is the only representative body for all local authority chief executives and senior managers. As such, we are in a unique position to express the views of local authority professionals.

Local government has played a leading role in encouraging SMEs to bid for and win work from local authorities and other public bodies. Accountable to their local communities, authorities have a direct interest in helping their local SMEs to thrive, generating jobs and investment to benefit local people. We share the Government's desire to increase the amount of public sector work awarded to SMEs and local authorities have pioneered local and regional approaches to encouraging SMEs to win more work and can point to numerous successes.

SOLACE and other local government bodies have collaborated enthusiastically with a range of Cabinet Office initiatives on commissioning, sourcing and procurement. As a result, SOLACE is disappointed at the proposals being suggested in the consultation and does not support the imposition of yet more regulations on local government, not least because local government appears to have been far more successful than central government in awarding work to SMEs.

In summary, the proposals on which you are consulting:

- **Are anti-localist:** the Government is committed to localism - respecting the independence of local authorities and reducing regulation and interference. These proposals undermine that commitment.
- **Ignore local government's excellent record on working with SMEs:** reports suggest that local government has succeeded in awarding a far larger proportion of its business to SMEs than central government. This is no accident and these proposals put that hard work at risk.
- **Will not support SMEs, but instead benefit larger enterprises:** the proposals could produce perverse results, opening up local procurement opportunities to large, national and international enterprises.
- **Will add further unnecessary bureaucracy into public procurement:** while trying to simplify procurement, these proposals could result in adding unnecessary bureaucracy for small-scale procurement.
- **May undermine recent work to encourage spin-outs:** new spin-outs require shelter from competition in their early days and their ability to win additional, small local contracts would be undermined.

### **2. Background**

SOLACE has welcomed the positive approach of the Cabinet Office to engaging with our sector in commissioning, sourcing and procurement initiatives. In response, SOLACE and other local government bodies have:

- Played a leading role in the development of the Commissioning Academy, sharing best practice and learning together with other parts of the public sector.
- Promoted good practice, including featuring Cabinet Office advice (eg procurement mythbusting) in SOLACE's guidance to its members.
- Promoted effective commissioning through publications such as "When the Salami's Gone: the SOLACE guide to commissioning and sourcing" (with which the Cabinet Office collaborated) and through dedicated sessions at SOLACE's last two Annual Summits and through its 2012 Winter Conference which was devoted to commissioning.
- Invited the Secretary of State to address the 2012 Annual Summit on efficiency and procurement issues.
- Launched a new SOLACE Policy Network on Commissioning made up of representatives from councils across the country to spread learning and promote good practice.

Given local government's positive engagement with this agenda, SOLACE is surprised and disappointed that the Cabinet Office is envisaging extending new regulations to include local authorities. **SOLACE is opposed to the introduction of regulations to extend these proposals to local government.**

If, following consultation, the Cabinet Office is minded to pursue the proposals for public bodies in general, **we recommend that local authority bodies are exempted, given their independent status and success in procuring from SMEs.**

### **3. SOLACE's Overall Response**

The proposals contained in the consultation document fail to acknowledge the significant work that local authorities have already undertaken to support their local SME and third sector base. Local government does not require central rules in order to make it work with SMEs and local enterprises; it does so naturally already. Indeed, research suggests that local government has been far more successful than central government in making SMEs and the third sector part of our supply chain. With local government procurement spend worth £60 billion per annum, it is significant that 47% of that spend is already with SMEs (reported by the FSB - "Local Procurement – Making the most of small businesses, one year on"). In comparison, central government have spent just 12% (ibid).

It is precisely our local focus on our supply chain that has produced this success, supporting local businesses to compete for and secure local authority work, helping them to grow in confidence and reach. By 'nationalising' procurement in the way proposed, the Cabinet Office threatens the leading role that local authorities play in encouraging SMEs. Of course, local authorities need to ensure value for money and excellent quality standards, but they also understand keenly the importance of supporting their local economy in these difficult times.

SOLACE does agree that even more could be done across local government. That is why we are working with the Cabinet Office and other bodies such as CIPFA to promote good practice. We agree with you on many issues, eg that the days of over-elaborate PQQs should be numbered, but councils have been tackling this and have already achieved great success in encouraging SMEs to bid for and win work. The proliferation of procurement concordats between many local authorities and SMEs - such as in Tameside, Hampshire, Wakefield, Buckinghamshire, Portsmouth, St. Helens, Kirklees, Coventry and many more - clearly demonstrates our commitment and helps to explain our success.

**Our responses to the individual questions in your consultation document are conditioned by our overall criticisms of these proposals. SOLACE believes that the proposals:**

**Are 'anti-localist':** the Government is committed to localism - respecting the independence of local authorities and reducing regulation and interference. These proposals undermine that commitment. Local authorities are very different entities from central government, with a greater need for a diverse range of procurement approaches compared to central government and its agencies. For example, district councils with smaller budgets may need to achieve a higher degree of risk transfer than central government would need, even for contracts of under £100k.

**Ignore local government's excellent record on working with SMEs:** local government's success in awarding work to SMEs is due to local authorities' ability to work flexibly at a micro-level to support and encourage SMEs and voluntary sector organisations. Two local authority case studies further support this statement:

- **Lambeth:**
  - Lambeth's approach is based on cooperative commissioning; a more sophisticated approach than a traditional value for money stance, requiring a deeper understanding of what value means for the community and citizens of Lambeth.
  - 23 services (including the transition of youth centres, adventure playgrounds and "stay and play" services to new community providers) were awarded primarily to local community groups and third sector organisations, all of which needed support from the local authority through the tender process.
  - Lambeth have created a Young Lambeth Cooperative; a new youth services trust owned by the community that has taken control of the Council's multi-million-pound youth services budget.
  - Through local flexibility, local authorities are allowed to develop the relationships and build on assets within the community.
  - Lambeth prioritises a local focus, through capacity building workshops for SMEs and voluntary and community organisations as well as "Meet the Buyer" events where local businesses can meet Lambeth's purchasers.
  - Lambeth has already built into its larger contracts requirements for support for local businesses.
- **Wakefield:**
  - The concept of offering suppliers further down the supply chain the same payment terms that public bodies offer prime contractors has already been implemented in Wakefield and is an important requirement for SMEs where cash-flow can make or break a business.

- Councils across Yorkshire and Humber are already developing a joint approach to ensuring that procurement staff have the right skills to do the job properly.
- Wakefield publishes all tenders and quotations on the Yorkshire and Humber regional portal (YORtender). It is totally free of charge for suppliers to register on the system and gives them access to opportunities across the region.
- 70% of Wakefield Council's third party spend goes to SMEs and nearly 90% of its suppliers are SMEs.

SOLACE argues that the Cabinet Office should not derail local government's successes by introducing the compulsory changes proposed within this consultation.

**Will not support SMEs, but instead benefit larger enterprises:** SOLACE feels that the compulsory changes being proposed may produce perverse results and not achieve the desired results. Advertising every small contract nationally is likely to play into the hands of large, national and international enterprises who can afford to employ teams of bid-writers and will not benefit the majority of SMEs that only possess the resources and budgets to operate at a local level.

**Will add further unnecessary bureaucracy into public procurement:** the proposals will add even more bureaucracy into a cluttered procurement system. For small contracts, local authorities tend to avoid expensive open procurement exercises, instead inviting bids from select lists of local suppliers. The proposals would undermine this and add further hoops for local government to jump through at a time when government - both centrally and locally - should be focusing its efforts on streamlining and efficient thinking.

**Will undermine recent work to encourage spin-outs:** SOLACE recognises that the government has already achieved success in lobbying for a 'shelter' for mutual spin-outs from EU procurement rules, recognising that in their early years they need protection from the full rigour of competition. The consultation proposals may serve to hamper local, fledgling mutuals to win additional work, particularly as the shelter appears to have such a low ceiling.

SOLACE would welcome the opportunity to engage in constructive dialogue with the Cabinet Office - in particular to help central government and other public bodies foster local supply chains that would stimulate SMEs - and work towards a set of proposals that would inspire the full support and backing of local government.

#### **4. SOLACE's Response to Consultation Questions: Responses And Comments**

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

Local government needs no mechanisms or incentives. SOLACE would encourage central government to trust local authorities, with their knowledge of the local market, to make decisions instead of introducing new, homogenised, hoop-jumping exercises nationally. SOLACE are already championing a localised approach through the provision of advice and training for local authorities and stresses the importance of a streamlined approach.

Whilst SOLACE agrees that some pre-qualification questionnaires (PQQs) are still too onerous, simple PQQs can serve a purpose for low value opportunities. Ruling out PQQs for lower value contracts would incur additional work for SMEs with a reduced opportunity to win contracts, contrary to intentions. Considering an example of a building refurbishment with an estimated cost of £100,000, interested parties will be asked to complete a Pre-Qualification Questionnaire, taking around 30-45 minutes. Increasingly, submission of supporting documentation and detailed accounts is not required. A high proportion of suppliers tend to be local SMEs. If five companies are then selected to submit bids, they each have an average 1 in 5 chance of winning the contract. Without the use of a Pre-Qualification Questionnaire to shortlist five companies to bid, an authority could receive, say, 30 bids from across the country. This would mean that 30 companies would have to spend hours, if not days, preparing and costing a full bid, only to have an average 1 in 30 chance of winning the contract. Would this really help SMEs, especially when such a high proportion of contracts already goes to SMEs in the local government sector?

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

Imposing a standard approach in this way would be unnecessary and inflexible. Whilst SOLACE recognises the benefits of consistency within PQQs, we would suggest their use does not become homogenised or mandatory across the public sector. We will happily cooperate with the Cabinet Office to refine and promote a standard core PQQ as best practice, ie not as a rigid, mandatory document.

*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)?*

Imposing a standard approach in this way would be unnecessary and inflexible. Please see above.

*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)?*

Whilst an online platform might, in theory, help central government to track what is in/out of the procurement system, at a local level, and from experience, another new IT system would add bureaucracy, take time to develop and incur additional costs which neither local or central government need at the current time. At a time when local government budgets are severely reduced one would have to question whether this is the best use of public money.

A number of regions already use collaborative procurement portals and are continually developing these portals to simplify procurement processes and support SMEs. This proposal would introduce duplication and may confuse suppliers. Furthermore, whilst a small fee may be a negligible cost for larger companies, it would be a disincentive for the small companies that we are trying to engage with. National government must reflect on and support the role that local authorities can play. There needs to be more flexibility in its approach rather than introducing a single system – diversity locally is a strength.

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

We do not agree. A mandatory requirement to advertise nationally would undermine the work to promote and support our local SMEs. Local authorities, such as Wakefield Council, have a set of Contract Procedure Rules which requires quotations rather than tenders for contracts valued under £75,000 which local SMEs are encouraged to respond to. Many councils operate in a similar manner.

Locating all opportunities in one central contract portal would allow larger national enterprises to sweep up and cherry pick the most lucrative ones or even to engage in predatory pricing. Local authorities prefer to use regionally based portals to promote opportunities for local businesses.

Advertising every small contract nationally is likely to play into the hands of larger enterprises who can afford to employ teams of bid-writers and will not benefit the majority of SMEs that only possess the resources and budgets to operate at a local level. The flexibility should be retained to either access national markets or draw on and stimulate local markets.

As suggested in our response to question 1 above, this suggestion takes no account of the volume and nature of low value opportunities and is likely to lead to increased bureaucracy with little gain.

*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?*

No, as we would not support the compulsory use of Contracts Finder. This would introduce a new bureaucratic burden.

*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?*

Many local authorities have historically provided such information and to introduce a new reporting burden is unreasonable given the current financial pressures facing local government.

*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?*

SOLACE believes local authorities already endeavour to do this and aim to operate in the spirit of transparency. All expenditure over £500 is already published.

*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?*

No. Local authorities have made widespread use of collective procurement and framework contracts, but since SMEs often struggle to compete for such larger contracts, we fail to understand how this is relevant to boosting SMEs' success.

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

Standardised payment terms for public contracts would be a positive measure but no regulations are required for local authorities, who are already committed to very quick payments to suppliers and will be happy to ensure that these requirements are embedded in contracts with prime contractors.

*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?*

Most local authorities do so already, reporting this on a regular basis. This is not an area that requires regulation.

*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?*

SOLACE agrees that performance bonds are seldom necessary for smaller contracts. Local procurement specialists need to be free to take a risk based approach that takes into account the nature of the contract, the likely level of loss involved in a contract failure and the size of the organisation's budget. It is also worth considering the size of some district councils' budgets with regard to this proposal. With some district councils having annual expenditure of less than £10 million, a contract failure, even for contracts worth less than £100k, could have a disproportionate effect.

*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?*

Electronic invoicing is rapidly becoming the norm and this does not require any further intervention.

## **Notes**

The Society of Local Authority Chief Executives and Senior Managers (SOLACE) is the professional body representing Chief Executives and Senior Managers in UK local authorities and other public sector organisations.

SOLACE is committed to promoting public sector excellence and seeks to influence debate around the future of public services to ensure that policy and legislation are informed by the experience and expertise of our members.

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