

# Procurement Policy Note – Use of Pre Qualification Questionnaires

Action Note 01/12      10 February 2012

## Issue

1. The standard Pre Qualification Questionnaire (PQQ) core questions, which are mandated for use by all Central Government departments, their Executive Agencies and Non Departmental Bodies in procurements where a PQQ is deemed appropriate, have been revised and should be adopted forthwith.
2. This Procurement Policy Note (PPN) also provides clarity on:
  - a. When the use of PQQ is not permitted; and
  - b. The use of performance bonds in framework agreements.

## Dissemination

3. Please circulate this PPN within your organisation, its Executive Agencies and Non Departmental Public Bodies and to all Contracting Authorities for which you are responsible, drawing it to the attention of those with a purchasing role.

## Contact

4. Enquiries about this PPN should be addressed to the ERG Service Desk at [servicedesk@cabinet-office.gsi.gov.uk](mailto:servicedesk@cabinet-office.gsi.gov.uk).

## Scope of this PPN

5. The contents of this PPN are mandatory within all Central Government Departments including their Executive Agencies and Non Departmental Public Bodies. All other Contracting Authorities are strongly encouraged to apply these requirements.

## Background

6. On 11 February 2011, the Prime Minister and the Minister for the Cabinet Office announced a series of measures to make it easier for SMEs to compete for government contracts, including:
  - a. the elimination of the use of PQQs for all Central Government procurements under the EU threshold;
  - b. the standardisation of the PQQ, with the objective of ensuring cross-Government adoption of a shortened/less onerous PQQ template.

## What the elimination of the use of PQQs under the EU threshold means

7. Those Contracting Authorities covered by the scope of this PPN (see paragraph 5) should not use a PQQ, or any other pre-tender selection process to pre-qualify suppliers to be invited to tender, when procuring goods or services with a monetary value of less than the EU Procurement threshold.
8. Contracting Authorities may, however, apply the 'pass/fail' mandatory and discretionary criteria as set out in Clause 23 of the Public Contracts Regulations 2006 (see Annex A, Forms B and C) as part of their Invitation to Tender (ITT).
9. The award decision should be solely based on a supplier's response to the Contracting Authority's ITT. Where the capability of an individual is essential to the delivery of the contract, for example, the provision of consultancy, CV's may be requested to assure the credibility of delivery as part of assessing quality at the award/ITT stage. Contracting Authorities should not impose arbitrary minimum requirements which may have the unintended effect of barring new businesses from bidding.
10. Contracting Authorities may wish, but are not required, to undertake a financial check as part of the supplier evaluation process but, in the spirit of encouraging supplier growth, should not rule out a supplier unless there is clear evidence that the supplier's financial position places public money or services at unacceptable risk.

## Revised standard PQQ for above EU threshold requirements

11. The standard PQQ core questions for goods and services have been revised to take into account recent changes to the criteria for the rejection of economic operators in regulation 23, including changes to reflect implementation of the Bribery Act 2011. Contracting Authorities should adopt the new standard (Annex A) forthwith whenever a supplier selection process is being undertaken. (PAS91 should continue to be used for construction procurements.)
12. **The mandatory and discretionary sections of the PQQ, forms B to C, must always be applied. All other selection criteria are discretionary.** It is important to note that it is a legal requirement that any minimum levels of economic and financial standing, or technical and/or professional ability levels set by Contracting Authorities must be related and proportionate to the subject matter of the contract. Contracting Authorities must, therefore, avoid setting unnecessarily high requirements. Use of over-restrictive criteria may come about unintentionally from a practice of treating criteria and capacity levels in a standard way (e.g. "cutting and pasting" requirements from other tender documents). Contracting Authorities must also avoid using a mechanistic approach to financial appraisal, such as applying arbitrary turnover limits, which may either rule out SMEs who are financially sound, or not provide SMEs with the opportunity to grow their business on the back of Government contracts.<sup>1</sup>

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<sup>1</sup> (Guidance on supplier financial appraisal can be found at <http://www.cabinetoffice.gov.uk/sites/default/files/resources/financial-appraisal-guidance.pdf>)

## Framework Agreements and the use of Performance Bonds

13. SMEs have brought to our attention the high cost associated with being required to obtain a bank performance bond as a condition of being awarded a framework agreement (even though a framework agreement does not guarantee any business). Where in exceptional circumstances the financial risks are such that a Contracting Authority requires a performance bond, bonds should be a condition of the award of the first contract under the framework agreement and not a condition of being awarded the framework agreement.

## Mystery Shopper Scheme to identify and tackle poor procurement practice

14. As part of the SME announcements made on February 11<sup>th</sup>, Francis Maude, Minister for the Cabinet Office, introduced a 'Mystery Shopper' scheme<sup>2</sup> whereby suppliers can raise concerns about poor procurement practice in any area of the public sector, which the Cabinet Office will investigate.

15. From the cases received since February, the pre qualification process remains the biggest single issue preventing SMEs from competing for public sector business, accounting for 49% of all cases. Furthermore:

- Over 80% of pre qualification complaints related to the wider public sector.
- 60% of pre qualification cases related to inappropriate financial standing requirements of which the majority related to Contracting Authorities seeking unnecessarily high financial turnover requirements.

**16. This analysis highlights that Contracting Authorities need to ensure that, where pre qualification is permitted in accordance with current policy and applied, pre qualification requirements are appropriate to the nature of the requirement and do not create unnecessary barriers which prevent SMEs from competing for public sector business.**

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<sup>2</sup> <http://www.cabinetoffice.gov.uk/content/crown-representative-smes-stephen-allott>