

EARLY MARKET ENGAGEMENT

PRINCIPLES AND EXAMPLES OF GOOD PRACTICE



This Guidance is for anyone involved in setting procurement policy and/or conducting procurement exercises in the public sector. It provides an introduction to a number of techniques for successful early market engagement. Illustrated with case studies, it demonstrates how a variety of public sector organisations have benefited from this activity. The final section provides a useful reference to more detailed guidance on these topics.

The OGC's Kelly Programme Team have produced this Guidance, as part of their work on improving two-way communications within industry.

MARKET SOUNDING AND MARKET CREATION

These two techniques have already been discussed in detail in Guidance 11a. However, they also have applications at a project or programme level. You may face the need for market creation at a project/programme level, not only because of a lack of market interest, but also where there is an incumbent supplier, or if you have a novel requirement.

Engaging with the supply side:

- Engage early and widely with the supply side: give them an opportunity to shape the requirement.
- Work with the supply side on an equal basis: ensure openness of access to staff and information.
- Establish good communication channels and keep bidders informed.
- Maintain genuine competition throughout the process – do not leave bidders in the competition if you do not believe they are capable of winning.

- Be transparent about the procedures and top-level criteria for evaluation of bids.
- Maintain the commercial confidentiality of information received from suppliers.
- Be willing to consider commissioning pilots, paid studies, Proof of Concept exercises, Design and Build exercises, etc.

Framing the requirement:

- Be open to novel approaches.
- Focus on the desired outcomes.
- Be willing to reconsider the requirement and scope, and the packaging of the requirement for procurement.
- Be willing to consider a range of commercial/contractual options, eg multiple suppliers, geographical split.
- Consider what the position will be in the event of retendering – frame the requirement in a way that will help to avoid lock-in of the supplier.

Commitment and organisation:

- Ensure you have the commitment and support of senior management in dealing with the marketplace.
- Have a good understanding of the risks involved for both sides.
- Apply rigorous project management procedures to any procurement exercise, and make these visible to the supply side.
- Ensure that all the necessary skills are available to the procurement project team.

CASE STUDY – DORSET COUNTY COUNCIL STREET LIGHTING PFI PROJECT – MARKET CONSULTATION

In 2004 Dorset County Council developed a business case for its long-term street lighting PFI project. Soon after this was approved, they organised a market consultation event in which they planned to meet with suppliers who would be interested in taking on the project. The event was advertised on a nationwide scale, with adverts being placed in nationally distributed media and the technical press.

The one-day event was held in London and was focused on promoting the Council as a good procurer. In order to do this in an effective way, Dorset collaborated with the local government procurement experts, 4ps, and also invited a representative from the Department for Transport to present at the event. Between 20 and 30 of the leading players in the industry attended the event, which was opened by a Cabinet Member.

The day consisted of presentations that outlined both the strategic intent, as well as the technical aspects of the project. This was followed by a series of discussions and questions relating to the project that enabled Dorset to gain feedback on their intended approach. Attendees also had the option to submit feedback via correspondence after the event if there were issues they did not want to discuss in front of their competitors.

In addition to promoting themselves to industry, through this event Dorset County Council gained a greater focus and knowledge about the market, and were able to gauge the interest of the supply base in the project. They also received useful feedback from the potential suppliers that enabled them to further define and develop their strategic approach.

PRIOR INDICATIVE NOTICE (PIN)

If a specification is unrealistic or needs to be adjusted after the Invitation to Tender (ITT) stage, it can be difficult to make major changes to a requirement without potentially breaking EU procurement regulations, or at the very least creating unnecessary work and incurring unacceptable costs, both for your organisation and the bidders. By publishing a Prior Indicative Notice (PIN) and seeking supplier feedback pre-ITT, you can be better informed and so can write more realistic and suitable specifications.

The EU Directives allow you to publish annual PINs in the OJEU (Official Journal of the European Union), for procurement in each service or supply category above a certain monetary threshold (for central government, these thresholds for the period 2005-06 are £93,738 for goods and services and £3,611,319 for works). Do this as soon as possible after the budgetary year begins (with the exception of works categories, where PINs should be published once the go-ahead for the procurement has been given in principle).

This is an important method of alerting the market to your upcoming procurement needs prior to the advertisement of individual contract notices. Suppliers will have the chance to respond to your PIN by expressing an interest in bidding for the contract. You can then seek supplier feedback at this stage and the information can be used to inform your specification as well as the selection process prior to the ITT stage.

COMPETITION OF IDEAS

You may wish to approach suppliers directly to seek new and innovative solutions to current areas of concern in order to identify priority areas for further research and development and (potentially) procurement. You can do this through a 'competition of ideas' which essentially involves disseminating problems or issues to the market and seeking proposals. To be successful, you need a clear idea of what the issues are and adequate expertise and time in-house to analyse responses.

Any procurement of resulting ideas cannot be seen to be prejudiced through early engagement with a representative group of suppliers. So, when writing your specification, focus on the outcomes you wish to achieve, rather than on specific technologies or products.

You may find it useful to think through the following points before deciding on this route:

- Have I identified a clear need for innovative solutions? It would be frustrating for all concerned if the exercise were carried out with no clear aim.
- Is the demand related to a business case or strategy? Approval must be sought from senior management before making requirements public.
- Do I have a budget for the exercise or for the eventual outcomes?
- Does my team have the expertise and resource capacity available to carry out the publication of requirements and eventual analysis of potential solutions?
- Have I the capability to understand and test the 'innovative solutions' suggested?
- Have I established a defined format and selection procedure for responses to aid analysis?
- What communication channels should I use to ensure I get the best responses possible to my requirements?
- Is there a well-established and cooperative supply base at which to direct my request? You could work initially with known suppliers before seeking wider input.
- Have I ensured the exercise is transparent and accessible, such that there can be no question of potential respondents being unwittingly excluded from the exercise?

CASE STUDY – HEALTH AND SAFETY EXECUTIVE – COMPETITION OF IDEAS

Each year the HSE publishes its Strategic Research Outlook (SRO) detailing the key issues being considered by the HSE requiring Science & Technology input. The SRO is more detailed than a strategy, making public more articulated requirements. It is an important element in ensuring evenhanded treatment of all suppliers. It is published on the HSE's website and a copy is sent out to all suppliers on their database.

This database holds current and potential suppliers and is used to update potential tenderer lists. In the Competition of Ideas initiative, HSE specialists identify and specify problems to be addressed, asking for innovative solutions from suppliers. These issues are published in the appendix of the SRO, usually in February.

Suppliers are requested to send in a 3-page dossier, outlining their proposed solutions. A panel of HSE specialists review these proposals and determine which are worth taking forward. Whilst there is no guarantee of work at the proposal stage, those selected are worked up to a full specification in discussion with the supplier and contracted where a priority business outcome, value for money and scientific quality can be achieved.

The market responded well to this process, but to some extent it was a victim of its own success and it was put under a moratorium for some time, although there have been discussions regarding its relaunch.

There were several reasons for the moratorium:

- 1) *Scale:* publishing everything at once created a huge bottleneck in the workload in the planning year. To overcome this issue, the plan is to publish smaller groups of issues, throughout the year, thereby spreading the workload.
- 2) *Scope:* the previous organisation of the HSE meant that specialists would often include topics that were not necessarily business priorities.
- 3) *Complexity:* it could take a long time for large, complex projects to get off the ground and so in starting this up again, there is a need to try and reduce timescales and resource requirements.
- 4) *Openness:* HSE specialists often had their idea of the solution, creating a blinkered view. This is being tackled by ensuring proposals are evaluated more objectively by a panel of those with knowledge of HSE's business.

CONCEPT VIABILITY

Concept Viability is one of a suite of Senior IT Forum products designed to maximise the benefits from the customer-supplier relationship and support good project governance. The service is provided by Intellect, a leading trade body for the ICT industry, and is available at no charge. The service allows IT-enabled projects to test the 'do-ability' of their ideas at an early stage by taking a market sounding. A workshop with suppliers is arranged to explore a project brief that outlines the business need. Following the workshop a summary report is collated which captures the views of suppliers into a 'market view'.

What are the benefits?:

- It is quick and provides useful insights into possible solutions.
- It is anonymous, so suppliers tend to be more open with ideas.
- Concepts that are technically unfeasible, flawed or high risk can be identified at an early stage.
- It helps ensure analysis of risks and implementation options has taken place.
- It informs any subsequent work on feasibility or proof of concept, but is not intended to replace these activities.

The aim is to support and improve success rates in IT-enabled projects. Feedback from departments and suppliers, who have engaged in this process, showed that they value Concept Viability as a useful tool to assist them in the early stages of projects and programmes.

To date, several departments have used the Concept Viability service, including Land Registry, DWP, ONS, DCA, Home Office, DWP and DfES.

For further information email: concept@intellectuk.org

CASE STUDY – DEPARTMENT FOR CONSTITUTIONAL AFFAIRS – DISC PROGRAMME

Concept Viability is a way to help new programmes take market soundings and test the 'do-ability' of their ideas as early as possible. Concept Viability was used to assist the DCA DISC Programme in addressing its 'Packaging and Procurement Strategy'.

The process allowed a number of options to be explored. It enabled the programme team to gain a better understanding of the achievability of their ideas and engaged suppliers at an early stage.

The process followed is outlined below:

- Stage 1 The programme provided a short, written description of the business need.
- Stage 2 Intellect circulated the proposal to a selection of companies and invited them to comment on the feasibility.
- Stage 3 A workshop was held with the programme team and suppliers, facilitated by Intellect.
- Stage 4 A report was produced from written comments of workshop attendees, which was collated by Intellect.

WEBSITE AND PUBLICATIONS

How information is communicated is an important part of any procurement strategy, particularly one that has an integrated approach to supplier engagement. There are a number of ways in which you can share information.

DEPARTMENT AND PROCUREMENT WEBSITES

A number of public sector organisations already have a procurement section on their website, and some even have procurement portals. A procurement page/section could contain, at the very least, an introduction to the procurement function of your organisation and contact details for suppliers wishing to make enquiries.

It is important to ensure that any procurement section is easy to access from your organisation's main homepage, site map, A to Z listing and search engines.

Below are some useful guidelines on what further content you might consider including on your procurement section/portal, particularly in terms of promoting avenues of early market engagement:

- Advertisement of trade days/meet the buyer events.
- Announcement of upcoming Concept Viability exercises and publication of Concept Viability assessments.
- In the case of research funding, publication of details of key topics to be addressed and invitations to interested parties to send in expressions of interest, proposing more specific research projects.
- As a communications tool in market sounding exercises.
- Publication of early draft specifications prior to tender, for comment or information.
- Publication of Prior Indicative Notices.
- Publication of strategy documents that could be useful to industry in terms of planning capacity.
- Details of the procurement function and details of any procurement initiatives/toolkits.
- Lists of awarded contracts, dates of expiry and details of who they have been awarded to, ie prime contractors, as this could be of use to potential subcontractors. This includes contact details of whom the supplier subcontractor should write to for information.
- Subcontracting opportunities and details of key suppliers.

There is also some general information that would be useful to suppliers, including:

- A section on selling to the organisation.
- Contact details of the procurement team.
- Guidance on how to tender.
- Project-specific events/workshops.
- Standard forms used by the organisation, including sample terms and conditions of contract.
- Online prequalification questionnaire – for sub-OJEU opportunities, this should be based on the OGC standard:

http://www.ogc.gov.uk/sdtoolkit/deliveryteam/briefings/procurement/supplierassessment/pqq_belowethreshold.html

ADVERTISEMENT OF OPPORTUNITIES

The DTI's Small Business Service and OGC have launched a national procurement portal. As a buyer you will be able to use the portal to publicise your lower-value (sub-OJEU) contract opportunities and attract businesses that can deliver innovation, choice and increased value; so benefiting you and your local economy. The portal is free to register on and is available at: www.supply2.gov.uk

PUBLICATION OF DEMAND INFORMATION

Dependent on the size and type of your organisation, you might choose to publish forward-looking demand plans to allow suppliers to consider how they might wish to approach bidding for work. Such publications may include procurement opportunities, as well as currently let contracts and details of when these are due for renewal.

Whilst some larger organisations, such as the MoD, have specialist publications in which to communicate requirements to suppliers (see case study below), your organisation may

not have the resources to undertake such activities. A good alternative is to advertise opportunities, PINs, trade days, etc, in specialist trade journals, as well as on your website.

CASE STUDY – PUBLICATIONS – MOD DEFENCE CONTRACTS BULLETIN

MoD Defence Contracts Bulletin contains details of prime and sub-contract opportunities arising from the MoD's larger-value requirements. It is published fortnightly and is available on subscription (£210 pa). Every year the Ministry of Defence spends around £15 billion on equipment, works and miscellaneous stores and services. Contracts are grouped into value bandings, making it easier for suppliers to find the right opportunities.

MoD Defence Contracts Bulletin contains four main sections:

- 1) *Possible Future Purchases*: provides companies with advance warning of potential forthcoming MoD tenders or contracts.
- 2) *Tenders Invited*: identifies those organisations that have been invited to tender for Possible Future Purchases, enabling prospective sub-contractors to contact tenderers directly to offer their services.
- 3) *Contracts Awarded*: provides notification of the award of competitive and single-source contracts.
- 4) *Sub-Contract Opportunities*: allows MoD's prime contractors to advertise sub-contract opportunities valued in excess of £250,000 and arising from their prime contracts with the MoD.

The advantage of this approach is that at every stage of the procurement process, large and small companies are able to decide where and when to pitch their interest in bidding for defence work, either directly as a potential prime contractor or indirectly as a potential sub-contractor.

BIDDER CONFERENCES

Once your requirement and specification have been finalised and put out to tender, another successful approach to supplier engagement is to hold a bidder conference.

Typically, you would invite all your key bidders to seek views on the commercial and technical aspects and risks of your procurement, as well as to give potential suppliers an opportunity to learn more about the detail.

Bidder conferences can be useful, but suppliers tend to be reluctant to ask questions with their competitors present. Providing bidders with a list of questions that will be asked and answered at the conference should help to generate useful discussion though. Document the questions and answers and make this information freely available, following the event, in order to maintain a level playing field.

ONGOING ENGAGEMENT

Engagement of suppliers does not need to stop once a contract has been let. Through continually engaging with your suppliers throughout your supply chains, you can seek their strategic input into long-term policy, service delivery, market capacity, new technology, etc. This will prove highly beneficial in continuously improving your service or programme. It will also help to inform your re-competition strategy and/or similar new procurements.

MAINTAINING STRATEGIC RELATIONSHIPS

Once you have identified your key suppliers, you may wish to consider setting up regular meetings to measure and review performance and to seek input into project and strategic issues. This approach has been proven to build confidence in the marketplace and is effective in gaining advance warning of any problems.

Further information on maintaining strategic relationships can be found at:

<http://www.ogc.gov.uk/sdtoolkit/deliveryteam/briefings/procurement/supplierassessment/workrelationship.html>

CASE STUDY – JOBCENTRE PLUS AND THE STRATEGIC 5 SUPPLIERS FORUM

Jobcentre Plus London has instigated a forum with five providers who deliver the largest percentage of client facing contracted services in London. From the outset it was made clear to the providers that the focus of the meetings was to look at ways of achieving improved performance from their contracts, through more effective and consistent service delivery. The providers also agreed that they would share commercially sensitive information at the meetings with each other in order to develop the partnership working with themselves and Jobcentre Plus.

The meetings need to be carefully managed to ensure there is no perception of preferential treatment for these providers; whilst at the same time consulting them and gaining views on agreed policy changes, or ways of working. The meetings are lively and participative. They have proved a very useful forum for sharing performance issues and looking at how quality and value for money could be improved.

FURTHER READING

The links below provide more detailed information on tools and techniques discussed in this Guidance.

KELLY PROGRAMME

<http://www.ogc.gov.uk/index.asp?docid=1002157>

CONCEPT VIABILITY

http://www.intellektuk.org/sectors/government/senior_it_forum/concept_viability.asp

EARLY MARKET ENGAGEMENT

<http://www.ogc.gov.uk/sdtoolkit/deliveryteam/briefings/procurement/supplierassessment/earlymarket.html>

EFFECTIVE PARTNERING

http://www.ogc.gov.uk/embedded_object.asp?docid=1001495

GOVERNMENT PROCUREMENT CODE OF GOOD PRACTICE

http://www.ogc.gov.uk/embedded_object.asp?docid=1003118

HORIZON SCANNING

<http://www.hse.gov.uk/horizons/>
www.escience.defra.gov.uk/horizonsscanning

MARKET CREATION

http://www.ogc.gov.uk/sdtkdev/new_content/market_creation/operationalguidance.html

MARKET SOUNDING

<http://www.ogc.gov.uk/sdtoolkit/deliveryteam/briefings/procurement/supplierassessment/marketsounding.html>

MAINTAINING STRATEGIC RELATIONSHIPS

<http://www.ogc.gov.uk/sdtoolkit/deliveryteam/briefings/procurement/supplierassessment/workrelationship.html>

WEBSITES

At the time of going to print, below are some examples of well laid out procurement sections on public sector websites:

<http://www.scotland.gov.uk/Topics/Government/SPD>

<http://www.dca.gov.uk/procurement/index.htm>

<http://www.environment-agency.gov.uk/business/444217/444285/317943/>

<http://www.buckscc.gov/procurement/Index.htm>

Some examples of well laid out procurement portals are available at:

<http://www.winningourbusiness.wales.gov.uk/>

<http://www.contracts.mod.uk/>

<http://www.procurementportal.odpm.gov.uk/index.htm>

THE SUPPLIER ROUTE TO GOVERNMENT NATIONAL OPPORTUNITIES PORTAL

www.supply2.gov.uk

OGC PUBLICATIONS

<http://www.ogc.gov.uk/publications>

OGC CASE STUDIES

<http://www.ogc.gov.uk/casestudies>

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PASS – HELPING YOU MEET KEY OBJECTIVES

The key objective of public procurement professionals is to ensure that the most suitable supplier is selected to provide goods and services on terms which are likely to offer the best value for money. The PASS service helps you meet this requirement and deliver contracts that offer best value-for-money terms with suppliers who will execute them efficiently.

PASS CONSULTANCY

BiP's Procurement Advice and Support Service (PASS) provides organisations with access to experts in public procurement practices and procedures, thus helping you develop and deliver effective and efficient procurement. Our team offers a range of services to meet your specific needs. Whichever area you wish evaluated and improved, we have the experts to help.

The PASS consultancy's mission is to help you deliver the best in government procurement through:

- Practical solutions to improve procurement performance
- Innovative approaches to knowledge transfer within government
- Joined-up government
- Improved performance indicators
- Strategic direction and performance
- Opportunities offered by e-government
- Capacity to deliver change to meet identified needs
- Continuous improvement of services and challenging poor performance
- Sustainable development within decision-making processes and delivery of services
- EU-compliant processes
- Best practice procurement training

PASS TRAINING

Our consultants can provide you with bespoke training packages to suit your needs. Consultancy and training is available for the following: environmental purchasing, partnering, evaluation, e-government, supplier debriefing, UK legal processes and precedents, contract management, EU-compliant tendering and much more.

PASS ONLINE GUIDANCE

The PASS service provides online guidances on all aspects of the public procurement process and legal requirements: www.bipsolutions.com/html/briefing.php

PASS – EFFECTIVE DISPUTE MANAGEMENT

Contractual and procurement-related disputes are time-consuming, expensive and unpleasant. They can destroy client/contractor relationships, can add substantially to the cost of the contract, and can nullify some or all of its benefits or advantages. They can also have an impact on value for money. It is therefore in everyone's interest to work at avoiding disputes in the first place. Inevitably, however, disputes do occur and when they do the importance of a fast, efficient and cost-effective Alternative Dispute Resolution (ADR) procedure cannot be overstated. If a dispute arises, it is important to manage it actively and positively and at the right level in order to encourage early and effective settlement. Unnecessary delays and inefficiency can lead to rapid deterioration in relations and entrenchment of opinions. ADR through PADRE mediation involves the use of a trusted expert third party and is an effective alternative to litigation. PADRE mediation is provided by experts in contracting and public procurement. If you would like more details on how PADRE can help your organisation and become your mediation service of choice, telephone the PASS team on 0845 270 7055 or email pass@bipsolutions.com.

PASS HEALTH CHECK

The PASS service can help your organisation examine its current procurement organisational structures, strategies, processes, practices and related strengths and weaknesses. It delivers a detailed PASS Mark Health Check Outcome Highlight Report (OHR) that outlines areas of strength as well as those requiring further attention, and provides an outline Project Initiation Document (PID) designed to deliver a more effective and efficient tendering process that will help you achieve optimum performance and better value-for-money procurement.

PASS IN-HOUSE PRESENTATIONS

PASS consultancy can provide you with in-house presentations directed to buyer or supplier. Each presentation will be bespoke to your requirements, whether they be with regards to improving your tendering practices or your procurement strategy or processes. Contact: pass@bipsolutions.com



The PASS Mark Health Check is a process-based evaluation technique that helps identify how your company can develop more effective processes when tendering for public sector contracts.

For further information on the PASS service, contact our PASS Team on 0845 270 7055, email pass@bipsolutions.com or visit www.bipsolutions.com/pass/