

SPOTLIGHT ON PROCUREMENT



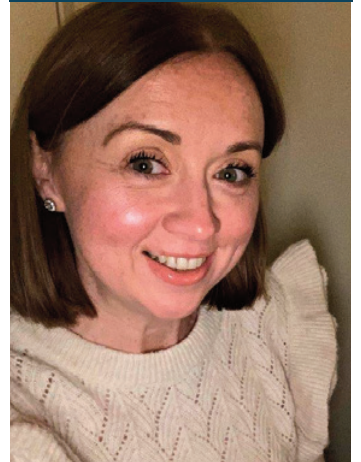
At last week's State Opening of Parliament, the Queen announced that laws to simplify public procurement would soon be introduced across the public sector. With confirmation that public procurement is now firmly on the government's current legislative agenda, we evaluate on one of the proposed changes set out in the Cabinet Office's Green Paper "Transforming Public Procurement".

The Green Paper proposed the introduction of framework agreements that would be closed for a fixed duration of four years and open framework agreements with a term of up to eight years, with an initial (up to) three-year closed period. The Green Paper explains that this "would allow any supplier to submit a bid to join the framework at predetermined points. If the commercial team wishes to have a framework with a duration of longer than four years, the framework must be opened at least once after the third year for new entrants to join. The contracting authority would need to advertise the re-opening of the framework in a notice and assess new applicants by applying the same requirements and evaluation criteria as applied when the framework agreement was originally awarded".

The Green Paper continues by proposing that "Commercial teams could open the framework up as many

times as they wish during its term, as long as this is stated in the call for competition. Suppliers already on the framework should be given the option of remaining on the framework based on their original bid or submitting an updated bid. This will allow them the opportunity to update pricing etc. so they are not disadvantaged as regards suppliers bidding at a later point. If they decide to submit an updated bid, they risk not being re-appointed to the framework, as their bid will be evaluated alongside new suppliers' bids. Commercial teams can limit the number of suppliers on a framework at any one time but if they do so then they will need to re-evaluate the bids of suppliers already on the framework (if those suppliers decide not to submit an updated bid) to determine which suppliers the available places are awarded to and avoid the original suppliers 'blocking' access to new suppliers".

by CLARE TETLOW



Clare Tetlow is Senior Procurement Manager at Procure Plus. Clare joined Procure Plus in 2012 and leads the company's procurement team. Clare is responsible for delivering procurement that supports customers in the construction, maintenance and repair of their properties. Clare is passionate about using procurement as a means to create positive change for social housing and improving the experience of bidders who participate in tender processes. Clare is a strong supporter of new entrants to the public procurement profession and has a keen interest in continued professional development. With a keen interest in procurement legislation, Clare regularly advises customers on matters associated with public procurement. Clare has a background in public sector procurement management, having previously worked within central government, health and local authority sectors.



Continued overleaf

SPOTLIGHT ON PROCUREMENT review

When this idea is applied to the entire framework it seems that it would be easier to simply re-procure the framework agreement. There is little, if any, practical difference in re-opening and re-procuring the framework, especially on larger agreements. A fresh procurement exercise brings fresh benefits, especially where contracting authorities are evolving their strategy for the particular purchase as the framework agreement ages, such that the evaluation criteria has shifted since the original procurement.

Many framework agreements are procured across the public sector, and each require investment from companies in compiling and submitting their tender.

The introduction of open framework agreements brings a new category of tender opportunity which on its face seems like positive news for the market.

Care does need to be taken to ensure that the changes made in this particular area of the law does not result in increased further cost for bidders.

The difference in the value of potential business to be awarded

under a framework agreement as indicated in the contract notice, versus the actual amount awarded can be vast. It will be important for contracting authorities to estimate demand realistically both in terms of value and the maximum number of companies to be appointed. Inaccuracy could lead to framework fatigue and a reduced confidence in the likelihood of seeing a return on the investment in tendering.

The idea of admitting new companies during the term of a framework agreement definitely has merit. For instance, it might be useful to have the option to re-open the framework on a lot-by-lot basis on a closed framework agreement

with specific justification, for example to appoint companies to replace those that have ceased trading during the term of the framework agreement. Contracting authorities who approach the market with a strategy in respect of the number of companies that they wish to work with during the term have an option to appoint new companies to keep the original strategy intact. A further example of where the ability to re-open on a lot-by-lot basis would be useful is



where a lot within a framework agreement sees increased demand over the term but did not originally attract sufficient bidders to meet the current demand, for example, construction work in a particular geography. In these circumstances, a part of the framework could be re-opened to positive effect with less work than re-tendering the entire agreement.

If you would like to chat about this or any other procurement issue, I am available at clare.tetlow@procure-plus.com