

## **Chartered Institution of Highways & Transportation submission to the Cabinet Office's consultation: Transforming Public Procurement (March 2021).**

### **Chartered Institution of Highways and Transportation (CIHT) email: [technical@ciht.org.uk](mailto:technical@ciht.org.uk)**

CIHT is a charity, learned society and membership body with over 14,000 members spread across 12 UK regions and four international groups. We represent and qualify professionals who plan, design, build, manage and operate transport and infrastructure networks. Our vision is for world-class transportation infrastructure and services. Our values are to be Professional, Inclusive, Collaborative and Progressive.

#### **Q6. Do you agree with the proposed changes to the procurement procedures?**

1. The Government's goal to speed up and simplify procurement processes, and to place value for money at the heart of those processes, is a welcomed step forward as is the change in some of the language being used to emphasise a redefining of 'value' beyond cost. To support the transformation of procurement the Government needs to support the sector's skills and capabilities to deliver this, as the highways and transportation sector can be risk adverse, driven by the need to deliver cost certainty and ongoing efficiency in delivery. There needs to be support from the Government to drive actual change on the ground.
2. CIHT's Improving Local Highways report<sup>1</sup> highlighted how the local road network in England has great social value and with the right approach to funding and maintaining this network it can deliver even greater value to the public and help support national policies. CIHT hopes that the changes proposed in the Green Paper will be part of delivering the changes needed to get the local road network into a state where it will support key government objectives of achieving Net Zero, levelling-up, supporting the economy and improving public health.
3. The Green Paper has set out some boundaries and introduced how social value can be unlocked, but there is a strong feeling that it needs to go further in terms of commitment. The Highways and Transportation Sector is progressing on accepting social value as a norm and gaining an appreciation of how to deliver social value legacies.
4. The implementation of a single platform within the new framework for supplier data, is a big step forward and the intent within the proposals is welcomed. It is hoped that the good examples of existing templates will be utilised, rather than starting this work from scratch.

#### **Q8. Are there areas where our proposed reforms could go further to foster more effective innovation in procurement?**

5. The proposed framework should allow businesses to be more ambitious and innovative by encouraging more advantageous tenders rather than those that are simply 'economically advantageous'. As clients are being encouraged to look for quality over quantity, there needs to be a compatible approach to how social value will be measured which includes the processes that underpin the activities.
6. The biggest problem with innovation is public procurement rules which stop authorities specifying specific innovative products or techniques from single or patented suppliers. Procurement should not stifle innovation or the ability to change approaches as circumstances change. Whilst efficiency of procurement and delivery is key, effectiveness of delivery of the right service and products should be the overall aim of any procurement.
7. There are many positives being anticipated with the proposed procurement processes and framework, including provision of stability and confidence for those working in the industry to really focus on driving innovative solutions to delivering social value. However, questions are raised as to whether they go far enough with regards to social value. There needs to be standard metrics and consistency with everyone using the same tools for any results to be used for comparing project to project. This recognized standardization would also help to drive the behaviours within the industry that will lead to producing a good social value legacy.

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<sup>1</sup> <https://www.ciht.org.uk/knowledge-resource-centre/resources/improving-local-highways/>

8. An area for consideration which will have a significant impact is the level of awareness of social value. The understanding and skill in delivering social value that is held within or is available to industries such as Highways and Transportation, is a matter of concern. The more questions being asked of social value and mentions within tenders is welcomed to increase the learning and appreciation of the long-term value.
9. The availability of training and formalization of social value as a career choice is currently lacking and needs to be addressed; helping professionals to identify appropriate procurement strategies that are most likely to result in the required client outcomes. There is also a need to improve the skills, capability, and capacity of the public and private sector to enable them to incorporate social value into procurement and delivery.
10. The COVID pandemic has highlighted the importance of infrastructure for local and national economies. By prioritizing delivering social value and committing more resources to it, the industry will not just be contributing to the economic recovery from the pandemic but will also be helping to support the government's levelling-up agenda.

**Q9. Are there specific issues you have faced when interacting with contracting authorities that have not been raised here and which inhibit the potential for innovative solutions or ideas?**

11. A lack of robust policy and strategy for how social value targets will be achieved and measured against, raises questions which need to be answered. Different projects will carry different social value targets and there will be differences on regional versus national scale projects. SMEs' contribution to social value can also go un-recognised; social value can be a natural outcome from their work but ways in which it is recognised need to be highlighted. Consideration will need to be given to how equal reporting of targets will work.
12. Other factors include:
  - Short-term contracting arrangement restricting the opportunity develop innovative approaches
  - Companies wanting to retain Intellectual Property Rights ownership to preserve competitive advantage.
  - Concern about suggesting innovative ideas if they may be shared with competitors.
  - How to demonstrate during a procurement process that proposed innovation will work.
  - Lengthy governance procedures around innovation decisions and timescales involved in changing standards.

**Q10. How can government more effectively utilise and share data (where appropriate) to foster more effective innovation in procurement?**

13. The most relevant data to support improved procurement would appear to be cost and performance data. It would clearly be more beneficial for Government Departments, including ALBs, to work more collaboratively and to share data.
14. The communication of cost data is often restricted on the basis of commercial confidentiality, but the Government ought to be able to share information on key unit rates, etc. across its Departments (and at the very least within the same Department and its Arm's Length Bodies) to support benchmarking and the delivery of better value to the taxpayer.
15. In relation to performance data, the Cabinet Office or a new unit could have a role in using data to identify best practice and for lessons learnt to be shared across Government and contracting authorities.

**Q26. Do you agree with the proposals for the Open and Closed Frameworks?**

16. For Capital contracts, the four-year maximum duration is too short. For such contracts, Frameworks with a duration of up to eight years have the benefit of developing long-term relationships which allow invested knowledge to be retained and to achieve added value through continuous improvement. In the construction sector typical durations of projects mean that a four-year maximum duration of the framework severely restricts the number of contracts that can be awarded to a supplier and constrains the ability to develop long-term relationships.

17. There is a concern about the proposal that, if a contracting authority 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. Requiring existing suppliers to decide whether or not to submit an updated bid as part of the mid-framework refresh (para 153 of the Green Paper) would raise problems. Framework suppliers who are performing well and delivering good value for money may decide not to tender and could be undercut by low unsustainable prices submitted by new tenderers who would not offer as good value for money. If an existing good performing supplier does decide to submit a refreshed tender, the new commercial position may result in its performance suffering.
18. Accordingly, for capital procurements, a closed framework should have a life of up to eight years, as currently provided for in the Utilities Contracts Regulations, to strengthen working relationships and encourage innovation in these longer-term arrangements. For supplies contracts and possibly services as well, a four-year maximum duration is appropriate.