

Doing the Right Thing:  
How to Reduce the Risk of Challenges and  
Delays to your Public Procurement

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## Pre-procurement planning

- ▶ “A stitch in time...”
- ▶ What do you want to procure?
- ▶ Which rules, if any, bind you?
- ▶ Which process is appropriate?
- ▶ Audit trail

## Early Market Engagement

- ▶ Engagement with (some) of the market
- ▶ Information transparency
- ▶ Site visits/bidder days
- ▶ How to level the playing field?
- ▶ Managing business as usual/relationships

## OJEU

- ▶ What do you want to procure?
- ▶ Consider whether/how to value the project
- ▶ Draft widely and describe contract broadly

## PQQ

- ▶ What are the key attributes of a good bidder?
- ▶ Consider (mandatory and discretionary) grounds for exclusion
- ▶ Dealing with prior poor performance
- ▶ Keep PQQ and ITT issues separate
- ▶ Marking and records

## ITT

- ▶ What attributes should a good bid have?
- ▶ Identify the right criteria and weightings
- ▶ Disclose criteria and weightings
- ▶ Clarification questions: disclosure
- ▶ Marking, evaluation panel and records
- ▶ Presentations and interviews?

## Making changes

- ▶ In a perfect world... there would be none
- ▶ Rely on the previous work (OJEU/Process/PQQ/ITT)
- ▶ Changes before the bids come in
- ▶ Negotiating with the preferred bidder?
- ▶ Post-contract changes

## Standstill Letter

- ▶ Allow plenty of time
- ▶ Records of evaluation team
- ▶ Compare and contrasts tender against winning tender under each criterion/sub-criterion
- ▶ Avoid vague, generic and/or emotive language
- ▶ Check the maths...
- ▶ Debriefs?

## Challenges

- ▶ Investigate early: records and team
- ▶ Watch for FOIA requests/ other routes of information seeking
- ▶ Get time running: disclose information early
- ▶ Decide on strategy
  - ▶ Sign contracts?
  - ▶ Does it make a difference to the result?
  - ▶ Manage risk, time out or re-run?

# Doing the Right Thing in Public Procurement

- ▶ Preparation, preparation and preparation...
- ▶ If a challenge, then rapidly
  - ▶ Investigate
  - ▶ Decide

# Doing the Right Thing in Public Procurement

▶ Questions?