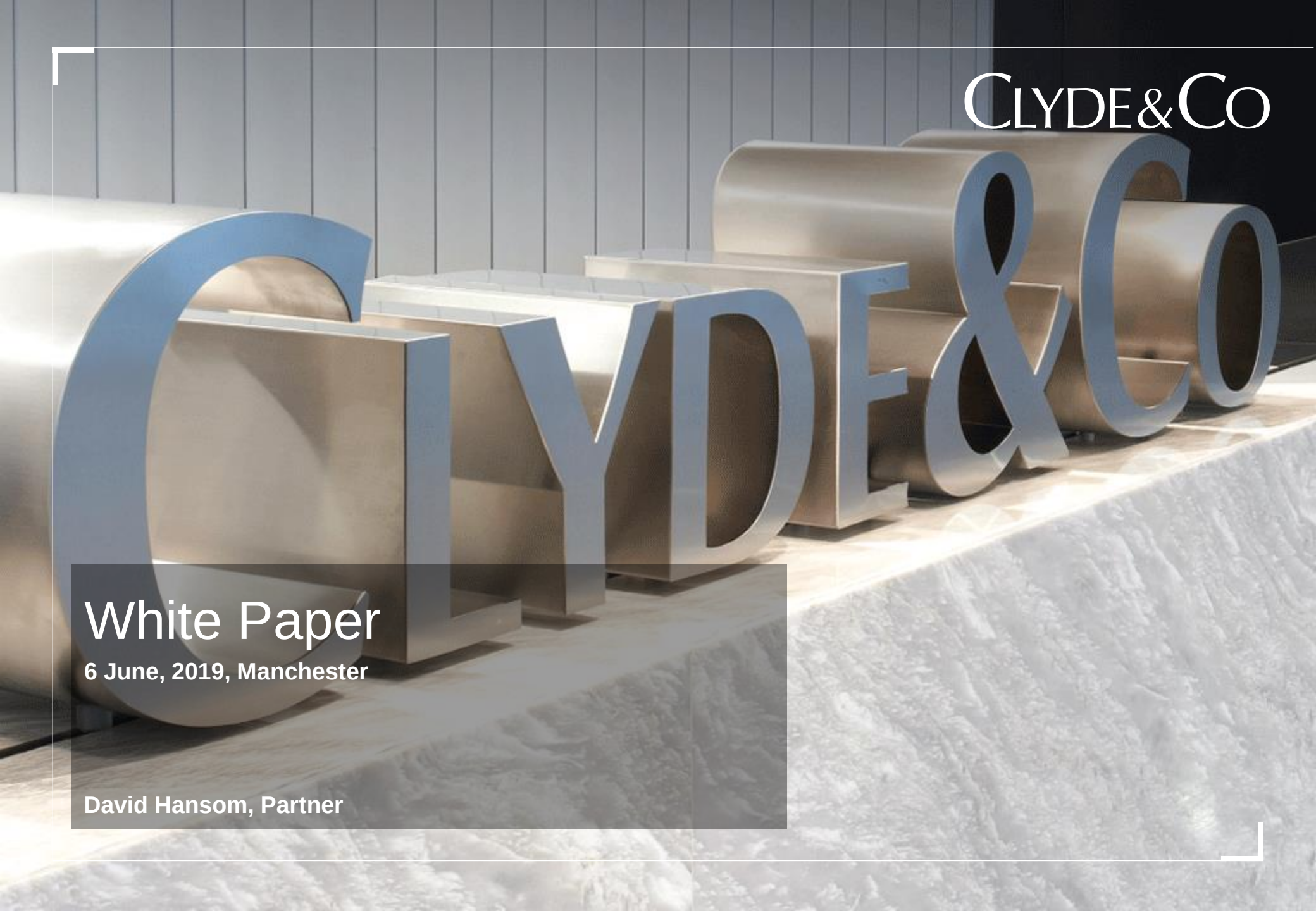


CLYDE&CO

White Paper

6 June, 2019, Manchester

David Hansom, Partner

Getting the price right

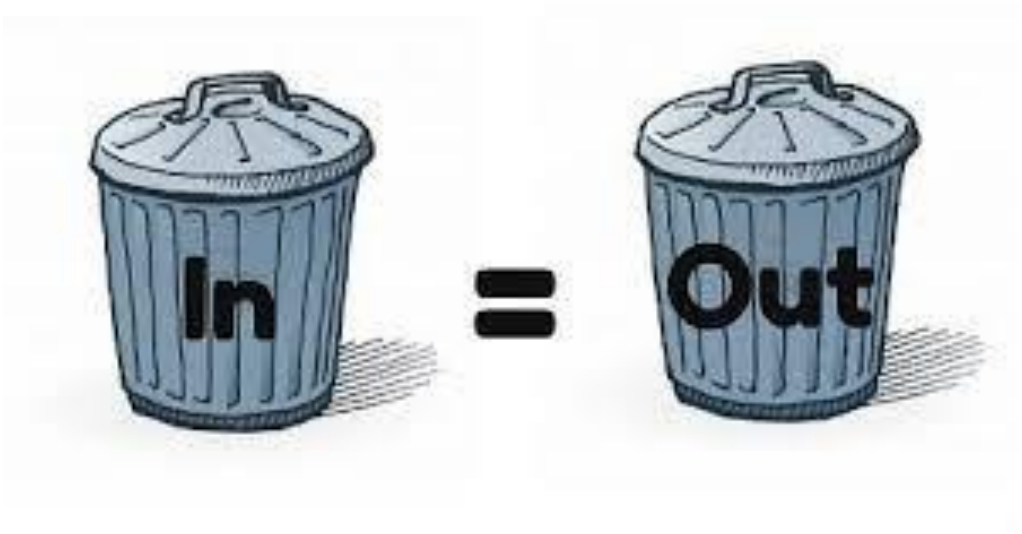
- What creative models exist to go beyond traditional price/quality formulae and scoring methodologies?

- What are the issues with some of these models?

Coverage

- **The law:** MEAT; price only evaluation; and the case law
- **What works and what doesn't:** the problems with standard differential, and alternative models
- **Practical strategies** to design a model which works for your tenders

The golden rule



https://cubebites.wordpress.com/2014/07/24/rubbish-in-rubbish-out/

A lot of flexibility

Must ensure

Treat all operators equally, without discrimination and act in a transparent and proportionate manner

The design of the procurement shall not be made with the intention …. of artificially narrowing competition

Regulation 18 PCR 2015

Regulation 8 CCR 2016

A lot of flexibility

Must ensure

Award to Most Economically Advantageous Tender

Evaluation on basis of the price or cost, using a cost-effectiveness approach, such as life-cycle costing

May include the best price-quality ratio

Assessed on the basis of criteria linked to the subject-matter

Regulation 67 PCR2015

Note in CCR2016 – not MEAT but "*economic advantage*" to CA

A lot of flexibility

So can evaluate
On price and quality

- Price only (if base specification is set by you and beware ALTs)
- Quality only (if price/budget is set by you)

- Case law has focused on transparency issues

- “Relative” and “absolute” scoring models

Models to avoid

Awards not to the MEAT bidder

- Bidders should not be able to ‘game’ responses to score highly on core price offering and load up operational costs
- Ensure that splits between different elements of price don’t allow most expensive overall bidder to win

Bidder	Price (core services) (70% of Price marks)	Price (support services) (20% of Price marks)	Price (optional services) (10% of Price marks)	Total Price
1	550,000	750,000	0	1,300,000.00
2	650,000	350,000	50,000	1,050,000.00
3	350,000	1,200,000	10,000	1,560,000.00

Models to avoid

But which bidder wins on Price?

Bidder	Total Price	Total score for price (based on a Standard Differential Methodology)
1	£1,300,000	63.8%
2	£1,050,000	57.7%
3	£1,560,000	70%

Models to avoid

Average pricing

Taking the average of all bidders' prices and awarding the bidder nearest to the average with 100%

Bidder	Tender price	Winner
1	£1000	
2	£1500	£1500
3	£3000	
4	£1250	
Average price	**£1,687.50**	

- Not MEAT
- Depends on other bidders pricing

Models to avoid

Marking schemes that ignore the actual difference in price e.g

- "Cheapest bidder scores 100 marks, most expensive scores 0"
- *Case 15PA02953 Commune de Lognes "Systems where the score differences translate into a ranking classification that ignores real (price) differences*"

Bidder	Price	Mark awarded
1	£942,000	100
2	£950,000	50
3	£950,001	0

Relative marking - “Standard differential”

Price score depends on other bidders’ prices

Many models in use in the public sector award full marks for cheapest bid, and then relatively lower marks for each more expensive bid

$$\frac{\text{Lowest priced tender}}{\text{Tender being scored}} \times \text{Weighting for Price}$$

BUT

“Standard differential”

Bidder	Price	Weighing	Score for Price
1	£1000	70%	35/70
2	£750	70%	46/70
3	£500	70%	70/70

What is wrong with standard differential?

Is it really MEAT?

The middle priced bidder has not scored half way between the winner and cheapest bid

How do the bidders know where they will end up relative to others?

Breach of equal treatment?

Is this really testing what you want to test?

ALTs

Absolute scoring models

What is it?

Where the price score does not depend on other bidders' prices

The authority sets the maximum price it is willing to pay and the minimum quality it is willing to accept

Furthest away from maximum price scores full marks

Bidder	Maximum price	Bidder price	Price ranking and score
1	£100,000	£90,000	2nd – 75% of marks
2	£100,000	£80,000	1st – full marks
3	£100,000	£101,000	Disqualified

Absolute scoring models

Other practical ideas

Set a maximum price and then price score is bidder's weighted % of the maximum price

Bidder	Maximum price	Price weighting	Bidder price	Weighted score for Price
1	£120,000	30%	£91,000	**24%** less than target Weighted price score is 24% of 30 i.e **7.2%**
2	£120,000	30%	£82,000	**32%** less than target Weighted price score is 32% of 30 i.e **9.6%**
3	£120,000	30%	£101,000	**0 marks (disqualified)**

Price/quality “ratios”

Regulation 67(1) PCR 2015

Evaluation “may include the best price-quality ratio”

Most public sector methodologies total up quality scores and then add to price scores

How much does each quality point cost?

Price submitted by bidder (£) ex VAT

Quality score of that bidder

Price/quality “ratios”

Bidder	Price	Quality score (100)	Cost (£) per quality mark	Outcome
1	£120,000	85	£1,412	2
2	£132,000	95	£1,389.50	1
3	£79,000	52	£1,518	3

Risk ratios

What is it?

Assessing the risk of the bidder's proposal and reducing price (and quality) marks

Bidder	Tender price	Quality marks	Risk assessment	Risk assessed quality score
1	£1000	75	:2	32.5
2	£1500	75	:1	75
3	£3000	90	:1.25	72
4	£1250	70	:1.5	35

Whole lifecycle costing

Looking beyond lowest price

"A cost-effectiveness approach, such as life-cycle costing in accordance with regulation 68"

Part or all of the following costs over the life cycle of a product, service or works:

Costs, borne by the contracting authority or other users, such as **acquisition**, **costs of use**, such as consumption of **energy** and other resources, **maintenance** costs, **end of life** costs, such as collection and recycling costs"

The answer

- Flexibility to adopt models that generate what you actually want
- Models must work, and be fair when they do
- Relative pricing is not the only game in town
- Bidders can (and do) call out defective evaluation criteria

Your next steps?

- Ask your stakeholders what they want:
  - Cheapest?
  - Highest quality for a set budget?
  - Something else?

- Test your evaluation criteria using dummy models before you go out
- Model likely answers
- Try innovation on lower value/risk contracts first
- Get feedback from suppliers and evaluators afterwards

Q & A

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415
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