

**ACTION PLAN FOR REMOVING BARRIERS TO BUSINESS FOR SMALL AND  
MEDIUM ENTERPRISES (SMEs)**

**1 Purpose**

To consult on a draft “Code of Conduct” and “Model Questionnaire” created following Ministerial endorsement of an action plan to help remove barriers to business for SMEs.

**2 Background**

The Scottish Executive is committed to ensuring that SMEs have the opportunity to compete fairly for public contracts. Last year, following discussions with a number of key business organisations (Federation of Small Businesses, Scottish Chambers of Commerce, Institute of Directors and Confederation of British Industry) a forum was established to identify the main issues which were regarded as hindering SME participation in public procurement and to make recommendations as to how these might be addressed. A number of workshops involving representation from local government, education, health, Scottish Enterprise, the Scottish Executive and SMEs and their representative bodies were held to consider the issues.

The main barriers to business were summarised as follows:

- SMEs often find it difficult to identify and access public sector procurement opportunities;
- SMEs often face excessive and costly bureaucracy in procurement processes, in particular lengthy and non-standard pre-qualification and bidding processes;
- SMEs are often hindered by a lack of transparency of procurement processes (they find it difficult to understand the process and/or the authority’s requirements); and
- Debriefing of unsuccessful bidders is often inadequate, in the sense that it does not help the bidder to understand how they can do better next time they compete.

The forum recommended a number of measures to try and address these barriers. This note is intended to consult the wider public procurement community on two of them;

- i. a Code of Conduct between public purchasers and SMEs and
- ii. greater standardisation of pre-qualification procedures.

**3 Code of Conduct**

The forum recommended that the Executive should promote a Code of Conduct (a similar initiative has been adopted at a UK level), the aim of which is to address some of the barriers

to business by requiring those purchasing organisations adopting it to give a public commitment to:

- working to simplify procurement procedures;
- advertising contracts widely; and
- debrief unsuccessful contractors on request.

In return, businesses/SMEs would be expected to support public sector initiatives and to recognise, in particular, legal constraints to public sector procurement. Forum members are keen that the Code should be adopted widely by both the public sector and other business organisations.

**Action: A draft Code of Conduct is attached for your consideration (Annex A). Please provide any comments or feedback on the draft by no later than 17<sup>th</sup> June 2005. It is the Executive's intention, following consultation, to make adoption of the Code a requirement of the Scottish Public Finance Manual. For those organisations subject to the Manual, its adoption will therefore be mandatory.**

#### **4 Model Pre-Qualification Questionnaire**

Businesses participating in the SME forum and workshops were critical of the bureaucracy they perceived as being involved in public sector tendering, such as providing very similar pre-qualification information in a wide variety of formats demanded by public bodies. To tackle this, the forum recommended that a model pre-qualification questionnaire be developed for use across the Scottish public sector.

It was proposed that businesses should complete and maintain the questionnaire and hold it for use as a business "CV", to be submitted to public bodies as part of the supplier assessment process. Suppliers will hold the "CV" so they can update and tailor information for specific contract opportunities.

It was also proposed that a register for responses from suppliers would not be held centrally. However, the Executive is aware of initiatives elsewhere in the UK to collect and maintain core pre-qualification data centrally and would welcome views as to whether purchasers would prefer this approach to be considered in Scotland.

Use of a model questionnaire would, of course, help standardise procurement processes and should therefore encourage competition.

Annex B contains a draft of a Model Questionnaire that we envisage would be used for pre-qualification. Scottish Executive terminology has been used for electronic tendering and Freedom of Information guidance, but other parts of the document have been drawn from a variety of sources.

**Action: Please provide comments and feedback on the Model Questionnaire (Annex B) and views as to whether the information might usefully be held in a central database by 17th June 2005.**

## **5 Feedback**

Please send responses on these documents to:

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Scottish Procurement Directorate

31 May 2005

### Code of Conduct

[Draft] Joint statement between the Public Sector Procurement and Business Organisations to facilitate access to public sector procurement opportunities.

Both public sector procurement and business organisations accept that effective procurement practices are an important factor in ensuring a varied and competitive marketplace and creating opportunities for Small and Medium Enterprises (SMEs), as well as ensuring Value for Money for the public sector. We recognise the need, where practical, to simplify and standardise processes and to ensure consistency in order to provide a fair and open approach to tendering. With these aims in mind:-

- Public Sector procurement organisations will:-
  - Consult widely with the business community in seeking to identify and reduce barriers to business;
  - Ensure that public sector procurement policy and legislation is understood by relevant stakeholders;
  - Ensure that the approach to individual contracts, including large contracts and framework agreements etc., is supported by a sound business case;
  - Keep the tender process as simple as possible, but consistent with achieving value for money, in order to help minimise costs to suppliers;
  - Unless there are compelling business reasons to the contrary, ensure that “adequate publicity” is given to contract opportunities that fall below the OJEU threshold limits or are otherwise exempt from the public procurement directives. In addition, where the opportunity has an estimated value in excess of £50,000, publish that opportunity on the procurement organisation’s website;
  - Commit to using the core pre-qualification questionnaire with limited bespoke additions for each contract opportunity;
  - Offer meaningful feedback to suppliers on the evaluation of their proposal at the end of the tendering process;
  - Publish guidance for the business community in terms of how to tender for opportunities;
  - Support training for procurement staff to ensure consistency in the use of best practice procurement activity.
  
- Business Organisations will:
  - Provide feedback from suppliers and their respective associations, on tender processes and perceived barriers to business;
  - Recognise duties under EU and UK law surrounding public procurement activity;
  - Encourage members of business organisations to adhere to this Code of Conduct;
  - Support public sector websites as a means of accessing contract opportunities;
  - Support the use of the core pre-qualification questionnaire in the tendering process;
  - Encourage understanding of the principles of good business practice by appropriate means e.g. dissemination of information and awareness raising seminars.

## Guidance Notes for Completion of Pre-Qualification Questionnaire

### Questionnaire Purpose

The purpose of this questionnaire is to enable *[Authority name]* to identify a number of suitably qualified and experienced companies who will be invited to submit a tender for *[state requirement]*.

### Questionnaire Layout

The questionnaire is split into 4 distinct parts:

- i. Part A seeks details of your organisation;
- ii. Part B requests details concerning the financial standing of the organisation;
- iii. Part C relates to business probity and
- iv. Part D relates to operation and quality issues.

All information requested should be provided in the order and format of the Sections. Tenderers may submit a questionnaire using their own text creation facilities

### Questionnaire Responses

Completed questionnaires may be submitted either:

- a) via an Electronic Tender Service (ETS), (*where applicable*) or
- b) in hard copy format via the postal system or delivered by hand etc.

Respondents are advised that their responses may be reproduced by *[Authority name]* and that no further indication or request will be made.

Only information provided as a direct response to the questionnaire will be evaluated. Information and detail which forms part of general company literature or promotional brochures etc. will not form part of the evaluation process.

Supplementary documentation may be attached to the questionnaire where applicants have been directed to do so in the questionnaire. Such material must be clearly marked with the name of the organisation and the question to which it relates. All questions must be answered.

Please note that we may require clarification of the answers provided or ask for additional information.

The response to this questionnaire should be submitted by an individual of the organisation, company or partnership who has authority to answer on behalf of that organisation, company or partnership.

If applying on behalf of a **consortium**, please list the names and addresses of all other members of the consortium. Please note that the questionnaire will be evaluated on the basis of the details supplied in the questionnaire and, if shortlisted, an Invitation to Tender will be issued to the nominated lead organisation only. Any contract will be entered into with the nominated lead organisation and all members of the consortium, who will in these

circumstances each be required to execute the contract together with all ancillary documentation, evidencing their joint and several liability in respect of the obligations and liabilities of the contract. It will be for members of the consortium to sort out their respective duties and liabilities amongst each other. For administrative purposes, any associated documentation prior to and in regards to contract award will be made to the nominated lead organisation.

**Either:**

In respect of an expression of interest which includes consortia or sub-contractors, it is the lead organisation that completes the entire questionnaire and, in addition, arranges for each named organisation to complete Parts A, B and C and attach them to the completed questionnaire. Part D relates to issues affecting the quality of service to be delivered by the applicant.

**Or**

In respect of an expression of interest which includes consortia or sub-contractors, it is the lead organisation that completes the entire questionnaire. However, the *[Authority name]* reserves the right to request further information in respect of the lead organisation and/or partnering organisations should it be deemed necessary for evaluation purposes.

**Freedom of Information**

All information submitted to the *[Authority's name]* may need to be disclosed and/or published by *[Authority's name]*. Without prejudice to the foregoing generality *[Authority's name]* may disclose information in compliance with the Freedom of Information (Scotland) Act 2002, (the decisions of *[Authority's name]* in the interpretation thereof shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms), any other law, or, as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure.

Further, *[Authority's name]* may also disclose all information submitted to them to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents. When disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that *[Authority's name]* shall, if they see fit disclose such information but are unable to impose any restrictions upon the information that they provide to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; such disclosure shall not be treated as a breach of this agreement.

Accordingly, if you consider that any of the information included in your Pre-Qualification Questionnaire is commercially confidential please identify it and explain (in broad terms) what harm might result from disclosure and/or publication. It should be noted though, that, even where you have indicated that information is commercially sensitive, *[Authority's name]* may disclose this information where they see fit. Receipt by *[Authority's name]* of any material marked "confidential" or equivalent should not be taken to mean that *[Authority's name]* accept any duty of confidence by virtue of that marking.

*[Authority's name]* may publish, on its website, the names and contact details of companies who have been issued with a Pre-Qualification Questionnaire

*For Use of eTendering*

*Questionnaire responses submitted via the ETS must be received in full prior to the closing time. The date and time of receipt of your lodged questionnaire is the date and time shown on the ETS receipt. Immediately prior to submitting a questionnaire response electronically, you will check the electronic files making up the questionnaire response for viruses using current virus checking software, and will remove any viruses from the files.*

*Lodgement of large electronic files may take time, so candidates should allow sufficient time to fully transmit the questionnaire response prior to the closing time. The speed with which questionnaire submissions are made is dependent upon the file size of the document in question. The inclusion of graphics, logos, photographs etc. increases the size of electronic files and should therefore be minimised. Electronic signatures are not required where questionnaires are submitted electronically.*

*The [Authority name] will not be liable for the loss, damage, destruction of files submitted via the ETS, howsoever caused. Corruption or unreadability of files submitted via the ETS may not be discovered by the [Authority name] until after the closing time.*

## PRE-QUALIFICATION QUESTIONNAIRE

Application To Be Included On The Tender List For

**[Contract Title, Reference Number]**

Timetable

**Return of Pre-Qualification Document (QUESTIONNAIRE) *[insert date]***  
(Questionnaires received by *[Authority Name]* after this date may not be considered)

**Issue of Tender Documents *[insert date]***

**Return of Tender Documents *[insert date]***

### **Overview of the Requirement**

*[Introduction*

*Details of awarding Authority*

*Brief description of scope of project*

*Details of contract duration including options to extend]*

### **Contact details**

*[Include, name, address, telephone, fax number and e-mail address]*

## PART A - BACKGROUND INFORMATION

1.	<b>Name of Organisation</b>	
2.	<b>Address for all correspondence</b>	
3.	<b>Contact Name</b>	
4.	<b>Contact Position</b>	
5.	<b>Telephone Number</b>	
6.	<b>Fax Number</b>	
7.	<b>E-mail address</b>	
8.	<b>Website address (if applicable)</b>	
9.	<b>If applicable, address of Registered Office</b>	
10.	<b>Nature of Organisation</b> (e.g. Plc, Partnership etc).	
11.	<b>Number of Employees</b>	
12.	<b>Names of the Directors or Partners</b>	
13.	<b>Group</b> If the Organisation is a Member of a Group of Companies, please give the name and address of the ultimate parent company.	
14.	<b>Company Registration Number</b> (or alternative EU registration number).	
15.	<b>VAT Registration Number</b> (or alternative EU registration number).	
16.	<b>Employer's Compulsory Liability Insurance (ECLI)</b> Please advise the level of ECLI that your company holds	
17.	<b>Consortia Details (if applicable)</b> a. Name and address  b. Name and address  c. Name and address	

	Identify which part of the service each consortia member will deliver	
18.	<b>Sub Contractor Details (if applicable)</b> a. Name and address  b. Name and address  c. Name and address  Identify which part of the service each sub contractor will deliver	

## PART B - FINANCIAL STATUS

19.	<b>Name of Bank:</b> (from which a financial reference may be sought).	
20.	<b>Address:</b>	
21.	<b>Telephone Number:</b>	
22.	<b>Suitable contact name:</b>	
23.	<b>Telephone Number:</b> (if different)	
24.	<b>Please attach one copy of your organisation's audited accounts (or equivalent) and the accounts of your group (if any) for the last 2 years in English and in UK Sterling together with details of any significant changes since the last year end. Copies of the accounts should be signed and dated by Directors and auditors (preferably scanned, if being submitted electronically) or marked as draft</b>	
25.	<b>Provide details of the Annual Turnover (in £ Sterling) for:</b>	
	Latest Year	
	One year previous	

**PART C - BUSINESS PROBITY**

<b>26.</b>	<b>Please confirm whether any of the following criteria applies to your organisation:</b>
<b>Is the organisation bankrupt or being wound up, having its affairs administered by the court, or have you entered into an arrangement with creditors, suspended business activities or any analogous situation arising from a similar proceedings under national laws or regulations?</b>	
<b>Is the organisation the subject of proceedings for a declaration of bankruptcy, for compulsory winding-up or administration by the court or for an arrangement with creditors or of any other similar proceedings under national laws or regulations?</b>	
<b>Has any employee whom you would propose to use to deliver this service been convicted of an offence concerning his professional conduct by a judgement which has the force of res judicata?</b>	
<b>Has any employee whom you would propose to use to deliver this service been guilty of misrepresentation in supplying or failing to supply the information that may be required in this Section?</b>	
<b>Has any employee whom you would propose to use to deliver this service been guilty of grave professional misconduct?</b>	
<b>Has the organisation not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the United Kingdom or the country in which it is established?</b>	

**Has the organisation not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the United Kingdom or the country in which it is established?**

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Note: Failure to disclose information relevant to this section may result in your exclusion from this and/or other competitions.

**PART D – SERVICE OPERATION AND QUALITY**

27.	<p><b>What are the principal business activities of your organisation?</b>          (Please include Common Procurement Vocabulary, CPV codes)</p>
28.	<p><b>State your organisation’s experience in delivering the same or similar service to that described under <i>[Subject Details]</i></b></p>
29.	<p><b>Provide contact details for 2 referees for work within the last two years that is similar or the same to that required by this requirement. Note that contact will be made with referees without further reference to you.</b></p>
	<p>a. Referee Organisation          Contact Name and Title          Address</p> <p>Service Provided          Period of Contract          Approximate value</p> <p>b. Referee Organisation          Contact Name and Title          Address</p> <p>Service Provided          Period of Contract          Approximate value</p>

## OPTIONAL QUESTIONS FOR INCLUSION IN PART D

<b>a</b>	<b>QUALITY ASSURANCE</b>	
<b>a.1</b>	<b>Does your organisation hold a recognised quality assurance accreditation e.g. BS/EN/ISO 9000 or equivalent</b>	<b>Yes/No</b>
<b>a.2</b>	<b>If not, does your organisation have a quality assurance system?</b>	<b>Yes/No</b>
<b>a.3</b>	<b>If you do not have quality accreditation or system, please give reasons</b>	

<b>b</b>	<b>HEALTH &amp; SAFETY</b>	
<b>b.1</b>	<b>Does your organisation have a health and safety at work policy*?</b>	<b>Yes/No</b>
<b>b.2</b>	<b>Does your organisation have a health and safety at work system*?</b>	<b>Yes/No</b>
<b>b.3</b>	<b>If “no”, to either of the above, please give reasons</b>	

### Notes on Health & Safety Policies:

\*"System" means processes and procedures to ensure that the subject is properly managed. This includes making sure that legal requirements are met.

Any business employing **five** or more people has, by law, to prepare and bring to the attention of employees a written Health & Safety Policy Statement.

A Health & Safety Policy usually consists of three distinct sessions namely:

**General Policy Statement** - a short statement outlining the company's commitment to Health and safety, signed and dated by the senior official (e.g. the Managing Director).

**Organisation** - how the business is organised for health and safety; lines of communication; and any specific duties/responsibilities assigned within the organisation - this should be relatively straightforward for smaller businesses.

**Arrangements** - the systems and procedures in place for ensuring employees' health and safety at work.

<b>c</b>	<b>EQUAL OPPORTUNITIES</b>	
	<b>Does your organisation have an equal opportunities policy, to avoid discrimination?</b>	<b>Yes/No</b>

<b>d</b>	<b>ENVIRONMENTAL MANAGEMENT</b>	
	<b>Does your organisation have an environmental management system?</b>	<b>Yes/No</b>

<b>e</b>	<b>TECHNICAL CAPACITY</b>
<b>e.1</b>	<b>Provide management/project leader education and professional qualifications for those responsible for providing the services required</b>
<b>e.2</b>	<b>Provide details of plant and technical equipment available for providing this service</b>

## EXPRESSION OF INTEREST

..... [name of organisation/lead organisation] **wish to register interest and apply to be considered for short listing to receive Invitation to Tender documentation for provision of [contract title]. I confirm that the answers given on this questionnaire are true, complete, accurate and not misleading.**

**Signed** :.....  
**Print Name** :.....  
**Title** :.....  
**Date** :.....