Introduction

Over the last number of years, the Midlands Branch of the Construction Industry Federation has held multiple events, including seminars, workshops and talks by key procurement professionals, yet there is growing frustration that nothing changes.

In an effort to bring greater clarity, it was agreed to proceed one step further and enable an event where full and open discussion by all parties may highlight some of the challenges and encourage change to existing procedures.

The event was formalised for round table discussions on the barriers to SMEs participation in public procurement competitions, and what can be done to address them.

Each discussion had a Chairman and Rapporteur and consisted of CIF and non-CIF members as well as a representative from a public procurement authority. Additionally, each group debated a specific aspect of public procurement, i.e. Bundling, Below Cost Tendering, Turnover; and at the close of event each group identified the difficulties and put forward proposals for overcoming them. This detail follows and is now being submitted by the Midlands Branch of the CIF to drive a specific policy of procurement.

We look forward to the forthcoming policy

Midlands Branch of the CIF
Agenda

- Opening with Speakers
- Dominic Doheny, CIF President,
- David O’Brien, Office of Government Procurement
- Philip Crampton, Chairman, CIF Procurement, Tendering & Contractual Matters Subcommittee
- Minister Patrick O’Donovan, TD
- Gillian Murtagh, Midland Branch Chairman
- Commence round table discussions
- Summary of findings and presented to all
- Closing by CIF Director General, Tom Parlon

Chairperson

<table>
<thead>
<tr>
<th>Table</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 1</td>
<td>Pat Lucey</td>
</tr>
<tr>
<td>Table 2</td>
<td>John Carroll</td>
</tr>
<tr>
<td>Table 3</td>
<td>Tara Flynn</td>
</tr>
<tr>
<td>Table 4</td>
<td>Bernard O’Donnell</td>
</tr>
<tr>
<td>Table 5</td>
<td>Mark Cronin</td>
</tr>
<tr>
<td>Table 6</td>
<td>Seamus Duggan</td>
</tr>
</tbody>
</table>

Rapporteur

<table>
<thead>
<tr>
<th>Table</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 1</td>
<td>Denise Kennedy</td>
</tr>
<tr>
<td>Table 2</td>
<td>Alan Duffy</td>
</tr>
<tr>
<td>Table 3</td>
<td>Colm McGrath</td>
</tr>
<tr>
<td>Table 4</td>
<td>John Hanahoe</td>
</tr>
<tr>
<td>Table 5</td>
<td>Martin Taggart</td>
</tr>
<tr>
<td>Table 6</td>
<td>William Brown</td>
</tr>
</tbody>
</table>
Speakers
Welcome to the CIF’s Midland Branch’s Colloquium on SME involvement in Public Sector Procurement. This event is actually a follow-up to an event that we ran here about four years on public procurement. I think there’s been progress on public sector procurement. It has been a long hard road travelled by our PTCM policy committee to bring about amendments to the public sector contract/procurement and they are to be commended for this effort.

When you look at the level of SME participation in public sector procurement, there is a lot more to do. Also, when you hear of the numbers of contractors going to the wall this year, you see the journey that we the industry and Government have to travel to get public sector procurement right.

I personally believe that a modern public sector procurement system will not only deliver high quality, safe, and value add construction for the taxpayer; it will also:

• build a sustainable construction industry
• allow construction companies to invest in their business and people,
• support construction SMEs in the region
• generate strong regional employment
• deliver the balanced regional development envisaged in the National Planning Framework

Over the past few weeks, I’ve been horrified by the media reports on the recent schools issue. Whatever the material facts of the case, these sorts of issues are very often a manifestation of public sector procurement that rewards the lowest price for contracts. This system will always reward the tender most likely to be problematic in general. As we have seen, nobody benefits from such a system. Not the contractor, certainly not the other contractors in the sector who are unable to secure any public sector work. Not the state, nor the citizen who now has to pay on the double for remedial work.

And on today’s topic, the current procurement system militates against SME involvement in public sector contracts. Very often regional SMEs have the relevant experience, track record and local relationship to deliver the optimum for contracting authorities. However, unrealistic and unnecessarily restrictive prequals and bundling rule them out of public sector projects to their detriment and that of the contracting authority.

So today, we’re here to discuss a number of topics with a view to increasing SME involvement in public sector procurement. In truth, this discussion has been going on for decades, however, now more than ever we need an answer. Gillian Murtagh has pulled together an excellent format to help conversations flow and to synthesise some of the best expertise and experience on the public sector side and on that of industry. Each table here today will dissect one topic over a couple of hours. Then each table will report on their findings. These will be discussed and then synthesised into a proceedings document to be incorporated into the policy agenda of the CIF and presented to Government in the coming weeks.

Consequently, this is a very important event and a live exercise, where you the participant will actively influence national policy for the betterment of the industry and the thousands of SMEs operating in the sector over the coming decades.
Minister Patrick O'Donovan,
Minister of State at the Department of Public Expenditure & Reform with special responsibility for public procurement, open government and eGovernment
SME Participation in Public Works Procurement.

Introduction

Good morning, I’m delighted to be with you here in Tullamore for the CIF Western & Midland Region Procurement Colloquium. I would also like to congratulate you for taking time out of your busy schedules to attend today. Events such as these are an opportunity to get a better understanding of public procurement practice and provide you with the tools to compete for the large range of public works projects put out to tender every week throughout the country.

Government recognises the importance of SMEs who are the lifeblood of our economy and through my position as chair of the SME Advisory Group I hear at first hand the concerns of SME Sector. The Programme for Partnership Government has committed to refining procurement structures and to make adjustments according to best international practice in conjunction with Irish business.

Approximately €12bn per annum is spent currently on goods, services and works by the State, a figure that is set to rise substantially over the next 10 years as investment in the National Development Plan ramps up.

The Exchequer voted element of the NDP is set to double over the next 10 years from the €5.8bn to be spent this year to projected expenditure of €11.6bn in 2027. The non-Exchequer element, that spent by bodies such as commercial semi-states is estimated to provide an additional €2.4bn per annum of State backed investment into the sector.

With this increased expenditure we must be mindful of the capacity of both the industry and the public service to deliver what will be a challenging programme of works. In this regard, it is important to underline the role that SMEs have to play in the roll out of the NDP either as main contractors or sub-contractors on the larger projects.

It is worth reflecting on the long-standing policy which means that Ireland has one of the most open tendering regimes in Europe. All contracts in excess of €50,000 must be advertised on the national tendering portal – eTenders this gives exceptional visibility to the range of public contracts to all suppliers. I urge all in the room who are not registered on eTenders to do so without delay.

Data analysed by the Office of Government Procurement shows that well over 50% of contract notices published on eTenders for works are for projects with a value less than €1m. Projects of this scale are well within the reach of most small construction companies.

A recent change to the threshold for the short public works contract increases the range of projects on which this contract may be used. Previously limited to contracts up to €500,000, in August the threshold was doubled to €1m thus simplifying the procurement and contract administration stages on projects up to €1m. This change recognises the potential that SMEs have to play in the delivery of the NDP and will encourage smaller contractors familiar with this form of contract to consider higher value contracts.

Medium Term Strategy

The performance of the public works contracts was reviewed in 2014 and set out a number of recommendations including a range of interim amendments and the development of a medium term strategy for the procurement of public works projects. The interim amendments have been adopted since 2016 and engagement on the medium term strategy has commenced. This will see a comprehensive review of the manner in which public works projects are procured and significant changes will be introduced in a phased manner once the engagement is complete.
One of my areas of responsibilities is eGovernment. So I support the move towards digitalisation of the procurement process. In the coming months, we will move to the implementation of the Electronic European Single Procurement Document. This should have significant benefits for businesses by reducing the administrative burden of participating in competitions and by supporting businesses to compete more easily across the whole of the European Single Market.

At the other end of the procurement process, 2019 will see the implementation of the eInvoicing Directive and from that time all Public Sector Bodies must be able to receive invoices in electronic format. To support us in meeting that obligation, in January I signed an agreement with André Hoddevik, Secretary General of OpenPEPPOL officially confirming Ireland’s status as a PEPPOL authority member. The OGP will operate the PEPPOL authority function on behalf of the Government and will facilitate public sector bodies in meeting their eInvoicing obligation by providing a framework of commercially available solutions.

In November last year, I set out the Government’s strategy for the increased use of digital technology in the delivery of key public works projects that are funded through the public capital programme. The strategy will see public bodies establishing requirements for the use of Building Information Modelling (BIM) in the design, construction and operation of public buildings and infrastructure on a phased basis, commencing with the larger, more complex projects, where those operating at that scale are already working through BIM. Better modelling should drive greater efficiencies in delivering construction projects and should also assist in much more effective maintenance of structures post-completion. Taken together, these three innovations represent significant steps in the path to a more unified approach to eProcurement. They should make doing business with Government a much more straightforward process with a lower administrative burden. But we have to support business in making the most of these opportunities through guidance and advice and your network of connections will have a vital role to play in that.

Closing Remarks

Before finishing I would like to raise the issue of payment practices in the sector in light of recent insolvencies. I would urge all involved in the industry, whether main contractor or subcontractor, to familiarise themselves with a key piece of legislation aimed at regulating payments under construction contracts. The Construction Contracts Act applies to all construction contracts entered into after 25 July 2016 and sets minimum payment requirements whether contracts are written or oral. These include:

- a maximum payment interval of 30 days and a requirement to honour payment requests within 30 days for sub-contractors or for main contractors where no payment terms are specified;
- a right to suspension for non-payment; and
- a right to refer a payment dispute to adjudication

The Act does not cut across the normal rules for company liquidation/receivership and so where this arises there is no avenue for recovery. However, the magnitude of the exposure that many currently face upon insolvency would not arise if the payment provisions provided for in the Act were insisted upon and the remedies available were exercised where payment is not forthcoming.

Finally, I would like to thank the CIF Western & Midland Region for the invitation to speak at this event. I trust you will find the event informative and I look forward to receiving a summary of the day’s findings in due course.
Discussion Groups

CIF Western & Midland Region Procurement Colloquium
SME Participation in Public Sector Procurement
CIF Western & Midland Region Procurement Colloquium
SME Participation in Public Sector Procurement

Discussion Group 1 – Bundling, PPPs & Frameworks

Discussion Group 2 – Joint Ventures

Discussion Group 3 – Pre-Qualification Criteria & Administrative Burden

Discussion Group 4 – Tendering Issues

Discussion Group 5 – Accessing Pre-Qualification Documentation

Discussion Group 6 – Evaluation of Tenders
Discussion Group 1

Bundling, PPPs & Frameworks
1. Impact on SMEs

- PQQ process is both time consuming and costly, and oftentimes SME members cannot meet the minimum criteria alone, so their only option is a JV. This brings more cost, and the risk of being swallowed up by your JV partner, if SMEs give them an introduction to their market.
- Evaluation of tenders is inconsistent between Contracting Authorities.
- Abnormally low tendering is still rampant and those who choose to ‘buy’ a job seem to get away with it.
- The award criteria are often disproportionate to the scale of the project, particularly turnover requirements which can exclude SME contractors who have the technical and financial capability to deliver.
- The GCCC Conditions of Contract impose unlimited liability on contractors which is inequitable.
- Retention levels can be up to 10%, placing a huge cashflow burden on SME contractors.
- The standard GCCC Form of Bond wording is too onerous, requiring a AAA Bondsman to provide the surety, again placing a disproportionate financial burden on SME contractors.

2. Are Frameworks/Bundling/PPPs being used appropriately?
   
   **Answer: Sometimes!**

   The Contracting Authority representative noted that often these procurement routes are used because of:
   - The need for “off-balance sheet” public infrastructure, such as roads projects and the Schools Bundle PPPs, which served to stimulate the post-recession economy.
   - Reduced time and cost involved in procuring consultants for a framework over separate appointments for individual projects. Lack of available sites when projects such as school need to be delivered. These were delivered via PPP under the NDFA managements with sites provided by NAMA.
   - Projects that are bundled or delivered by PPP Consortia exclude regional contractors, although they do provide some limited opportunities for regional sub-contractors. Some projects that have been procured in this way, such as social housing and Primary care Centres could be delivered as individual projects by SME contractors who are excluded by the PPP process. Regional contractors tend to have their own local pool of sub-contractors which larger contracting firms may not have. There have been experiences on PPP projects of sub-contractors experiencing difficulties resourcing projects across multiple sites, which could be avoided if the projects were delivered by local SME contractors.

3. Do they offer value for money?

- The Contracting Authority representative at our table offered the opinion that PPPs do not offer good value for money because any economy of scale is countered by the higher overhead costs associated with larger contracting firms.
- Frameworks do offer value for money because of the reduce costs of procuring consultants.
### Possible Solutions

- Provide more in-house technical expertise to Contracting Authorities including basic public procurement training, so those setting award criteria understand what criteria are relevant and appropriate for the given project.
- Provide awareness training to SMEs on JVs and guidance on the “dos and don’ts” when entering JV arrangements. The CIF could possibly offer mediation services where disputes arise under a JV.
- Establish standardised CIF forms for JV Agreements so SMEs can avoid the costs of seeking legal advice.
- Replace turnover as an assessment criterion on PPQs with a financial robustness test of some kind.
- Contracting Authorities to address abnormally low tendering so this practice is eradicated.
- Avoid bundling projects that can be delivered as individual projects by the SME Sector or where this cannot be avoided, provide more effective means to encourage local contractor engagement (acknowledging that this is already done to a certain degree under most PPP Agreements).
Discussion Group 2

Joint Ventures
### Table 2 - Joint Ventures

#### 1. Are they a realistic option for smaller Contractors

**Examples**

**Not attractive to SMEs**

- High cost to set up.
- Risks in JVs, little protection for either party.
- Lack of trust.
- Ability to find partners.
- Turnover only seriously affects SMEs.
- Large companies only using JVs to access supply chains (partner with small firms).
- Self-Assessment Questionnaires (SAQs) are too rigid.
- SME's have no significant experience of JVs.

**Alternative to JVs**

- Break up projects to avoid turnover barriers.
- Provide more stringent guidelines to contracting authorities on SAQ examples.

**Impact on SMEs**

**Barriers / Obstacles**

- Bonding is unclear
- Insurance, particularly CAR
- Payments are difficult to identify which party has entitlement
- Disparate nature of contracting authorities
- JVs very much linked to SAQs
- Significant overhead in procurement for SMEs
- Circular 10/14

#### 2. How can they be supported and encouraged?

**Examples**

**JVs should be promoted to**

- Achieve specialisms
- To access an alternative supply chain.

**CIF could**

- Promote networks where SMEs could engage to proceed with JVs
- Provide guidance on how to structure a JV

**OGP could**

- Reduce turnover requirements and other SAQ criteria
- Provide distilled guidelines to SMEs on JVs
- Look at alternative to JVs

**Impact on SMEs**

- Review a possible mechanism to protect parties, particularly around payments.
- Review the possibility to allow “Finance Only” JV partners, but this would mean reducing turnover thresholds.
- Look at alternative JV structures where a large supporting sub-contractor could be partnered into a project, to boost turnover, but not signing into a JV.
- Possible turnkey – Distilled guidelines for SMEs on JVs to be provided by the OGP.
- CIF to promote a network or forum to allow SMEs find JV partners
Discussion Group 3

Pre-Qualification Criteria & Administrative Burden
### Table 3 – Pre-Qualification Criteria & Administrative Burden

<table>
<thead>
<tr>
<th>1. Financial, Insurance, Bond Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Examples</strong></td>
</tr>
<tr>
<td>• Financial criteria based on turnover can exclude projects where contractors have capability.</td>
</tr>
<tr>
<td>• Insurance is not an issue.</td>
</tr>
<tr>
<td>• Bonds</td>
</tr>
<tr>
<td>- Could be utilised to mitigate below cost tendering</td>
</tr>
<tr>
<td>- Set higher requirements for bonds, i.e. rated, etc.</td>
</tr>
</tbody>
</table>

**Achievable solutions**
- Public procurement – Assess more detailed financials of contractors.
- Correct assessment at right stage – precontract stage.

<table>
<thead>
<tr>
<th>2. Previous experience, Technical ability &amp; Employee qualifications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Examples</strong></td>
</tr>
<tr>
<td><strong>Experience</strong></td>
</tr>
<tr>
<td>• Excessive</td>
</tr>
<tr>
<td>• Non-Related</td>
</tr>
<tr>
<td>• Hard to demonstrate previous experience if outside timelines required</td>
</tr>
</tbody>
</table>

**Impact on SMEs**
- Can exclude contractors if excessive criteria

**Achievable Solutions**
- Directed by regulations

<table>
<thead>
<tr>
<th>3. Is Information sought at Pre-qualification excessive?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Examples</strong></td>
</tr>
<tr>
<td>• It can be time consuming and repetitive</td>
</tr>
<tr>
<td>• Supplements can be repetitive and unnecessary</td>
</tr>
</tbody>
</table>

**Impact on SMEs**
- Repetitive
- Supplement documentation repetitive and unnecessary

**Achievable Solutions**
- Remove duplication of documentation.
- eProcurement the answer.
4. Can repetitive nature of information sought be reduced?

**Examples**
- Take out supplements
- Would welcome a procurement online system which should reduce repetitive nature of company information

**Impact on SMEs**
- Time consuming and costly
- Resources

5. How can cost of pre-qualification & tendering be reduced?

**Examples**
- eProcurement would be a big help.
- Reducing repetitive nature
- Reduce hard copy tenders – costly and lengthy

**Impact on SMEs**
- eProcurement will reduce repetition
- Take out supplements
Discussion Group 4

Tendering Issues
### Table 4 – Tendering Issues

#### 1. Quality of Documentation at Tender Stage

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>I.</td>
<td>Are drawings, specifications &amp; bill of quantities complete</td>
</tr>
<tr>
<td>II.</td>
<td>Are there inconsistencies between drawings, specifications &amp; BoQs</td>
</tr>
</tbody>
</table>

#### Examples

- Information overload – Printed 400 drawings for 40 houses. Have previously built 80 – 90 houses with 20 drawings.
- Pricing houses, insulation detailed on plans, also 5 different types of insulation across documentation description.
- All piping in one measurement, wavin drainage in with house drawings, different materials, and different depths of excavation, all banded together. Bad cut and paste.
- Generic specifications that do not match drawings.
- Simple basic mistakes.
- 21 days to price.
- Problem worse since 2016, maybe inadequate design fees or incompetent design teams.
- Since status of BoQs changed can claim through contract now.
- Documents not in accordance with ARM.
- House building in Mayo – less than 20 houses, local builders told they are not competent. Outside Contractor comes in and subs out the work to local contractors.
- Turnover criteria are key issue. Consider using JV – rarely seen.
- Minor capital works for acute hospitals turnover €200k
- JV doesn’t disqualify can lower previous experience and turnover.
- Both organisations must fill out prequals.
- Need to know the paperwork, including guidance and prequal.
- Hire the expertise to go through the paperwork.
- Guidance notes = policy
- JVs or Partnerships
- Why not JVs – Trust- Giving competitive knowledge to competition.
- Not much out to tender in mid-west region.
- Companies still have the pre 2008 people + expertise but not the recent turnover.
- Area of work determined by travel distance.
- eTenders under OGP all public must tender together.
- Kerry County Council contracting lead for minor capital works.
- Tender for non-acute hospitals must be put out by Kerry County Council. Can’t qualify this tender.

#### Impact on SMEs

- People price different things, not a level playing field, possible claims against contracting organisation.
- Price goes up to cover higher risk of unclear information, what is the correct price?
- Contractors who under price may get into negotiating positions with contracting authorities.
- Information not available in time, decisions e.g. on brick too late. Brick not decided until 5 weeks after the superstructure was started then delivery of 3 weeks
Available Solutions

- Who is responsible for quality of documentation? Client / Design Team!
- Time / Fee Pressure – Project must not proceed
- Project review by contracting authority or client’s performance design team
- Design team fees – lump sum vs %
- Mistakes in documentation
- Construction drawings no different to tender drawings
- Contractor then does as built
- How do we make sure drawings are correct? Quality management system at design stage.
- Check list of design documentation.
- Proper timing, time frames too short, needs to be extended, told you had job at lunchtime, documents at 2:00 sign by 5:00 on site then.
- Local political pressure on local authorities to see progress.
- 4 jobs totalling €12m tendered by Christmas in one local area.
- Design teams on poor fees!! Peaks and troughs of work, peak at year end.
- Gap in experience in the work force of 10 / 12 years in age 23 – 35 on both sides of spectrum.
- Review after project competition, difficult for contractors to criticise client / design team. Worry it may impact on future contracts.
- Cost of tender!! Rebate of cost for legitimate tenders means contractors can invest in good quality surveyors.

2. Quality of Investigative Reports regarding unknown works

Examples

- Need more and better investigative reports.
- Need to get everything together. HSE have a checklist (adding in bat surveys + Japanese Knotweed)
- Should be more opening up on refurbishment projects.
- Do trial holes on green field sites but not brown field.
- More history of the site, local knowledge crucial, local authority database?
- Issues with site investigation reports, some don’t even recognise topsoil which may be crucial for a housing development.
- Have rates agreed for say lean mix.
- Using too high value for foundation probe pressures.
- Information needs to be relevant. What is needed for Intel / not suitable for housing.
## Impact on SMEs

<table>
<thead>
<tr>
<th>Achievable solutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Better knowledge of the procedures, consultants / experts to help?</td>
</tr>
<tr>
<td>Turning out drawings repeatedly, e.g. housing project with 400 drawings for 40 houses. Have previously built 80 – 90 houses with 20 drawings.</td>
</tr>
<tr>
<td>Emails too big to open.</td>
</tr>
<tr>
<td>Information overload (put plenty in).</td>
</tr>
<tr>
<td>Justifying the fee, too much irrelevant information + too much documentation.</td>
</tr>
<tr>
<td>Puts small contractors off.</td>
</tr>
<tr>
<td>SME keeps bigger contractor honest.</td>
</tr>
<tr>
<td>Need to see what the issues are for Architects, Engineers &amp; QS.</td>
</tr>
<tr>
<td>Clients expect design team to do the job.</td>
</tr>
<tr>
<td>Standardisation of documentation across different awarding bodies (checklist).</td>
</tr>
<tr>
<td>Turnover requirements vary dramatically from county to county, e.g. housing projects.</td>
</tr>
<tr>
<td>CIF needs to give more focus to SMEs.</td>
</tr>
<tr>
<td>Must know the GCCC documents.</td>
</tr>
<tr>
<td>Some great information in the GCCC documents.</td>
</tr>
<tr>
<td>So, the CIF needs to challenge those varying turnovers.</td>
</tr>
<tr>
<td>Possibility of advance viewing of draft documentation by use of digital or eTenders.</td>
</tr>
<tr>
<td>Early contractor involvement.</td>
</tr>
<tr>
<td>Lots of useful tools on the OGP procurement website.</td>
</tr>
<tr>
<td>More discussion within CIF on procurement procedures.</td>
</tr>
<tr>
<td>Problems ripple down to “subbie” who normally is less able to deal with the risk</td>
</tr>
</tbody>
</table>
Discussion Group 5

Accessing Pre-Qualification Documentation
Table 5 – Accessing Pre-Qualification Documentation

<table>
<thead>
<tr>
<th>Examples</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Local Development Funding Applications – very small projects.</td>
<td></td>
</tr>
<tr>
<td>There is a lack of knowledge of procurement and judgement of documentation. Those often have to recourse to advisors such as architects for advice. Leader funding auditing is draconian and put considerable pressure on people with very limited experience.</td>
<td></td>
</tr>
<tr>
<td>2. On LDF projects adjudication panel members have single strand expertise and have large focus on pet subjects.</td>
<td></td>
</tr>
<tr>
<td>3. Assessors are experts on technical matters, but typically not procurement.</td>
<td></td>
</tr>
<tr>
<td>4. Local authorities are tending to be expert in technical matters, OPW more specialists in procurement.</td>
<td></td>
</tr>
<tr>
<td>5. Possible issues if procurement experts developed, they may lack focus on technical matters.</td>
<td></td>
</tr>
<tr>
<td>6. A balance to be struck – technical knowledge needed but not total. Also, procurement expertise needed.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subjectivity</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Inconsistency rather than subjectivity is issue. Similar submissions receive totally variable marks where similar information is submitted for several projects.</td>
<td></td>
</tr>
<tr>
<td>2. Would more prescriptive firms help?</td>
<td></td>
</tr>
<tr>
<td>3. Subjectivity should not exist.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Impact on SMEs</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Thresholds are a major issue; it is a way of excluding SMEs. Lot of difficulty in growing and moving into large thresholds.</td>
<td></td>
</tr>
<tr>
<td>2. Threshold size should be proportionate to job in hand.</td>
<td></td>
</tr>
<tr>
<td>3. Range of turnover requirements is too rigid – flexibility in how it is assessed is not often considered.</td>
<td></td>
</tr>
<tr>
<td>4. Rigidity unfair and arbitrary in how thresholds are assessed.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Achievable solutions</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do not want to start a new industry of procurement advisors.</td>
<td></td>
</tr>
<tr>
<td>2. Someone on evaluation panel should advise on technical issues, whilst technical people adjudicate technical matters.</td>
<td></td>
</tr>
<tr>
<td>3. Someone must sign off and / or advise if submission is valid. A single person with knowledge and training should advise on correct decision.</td>
<td></td>
</tr>
<tr>
<td>4. Wording in requests for information was open ended, and post evaluation found marks lost, could have submitted evidence if it was clear.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Next Steps</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Many assessments are carried out by technical people. This should remain the approach on technical matters, but some oversight is needed in terms of procurement expertise.</td>
<td></td>
</tr>
<tr>
<td>• We see no need for a procurement industry to be created. We just need a level of expertise involved in signing off that procurement approach is open and transparent, and marking has been fairly applied.</td>
<td></td>
</tr>
</tbody>
</table>
### 2. Can we reduce subjectivity in the assessing of submissions?

#### Examples
1. SMEs will not challenge formally.
2. Paperwork is too intense and tends to rule out core factors, more impacts for quality needed.
3. Quality scores tend to be clustered across submissions in a way cost is not. This limits its impact on overall results.
4. Questions should be wider ranging to draw out quality attributes.
5. Asked for jobs for last five years, but not accepting work for past 12 months and knocking them defects certificates not issued. This was challenged and stipulation removed.
6. I rang up as everyone had same score on 70/30 cost / quality judgement. Everyone had same Quality score and said “you were all good” so all got good mark. Said no feedback needed if people are up on same score or above

#### Impact on SMEs
1. Lack of common approach to presentation and templating. Often last minute clarification can dramatically alter document.
2. Scale of work examples is rigid, contractors penalised for putting in very valid project examples which were said to be too big – punished for success.
3. Substantially complete projects not being accepted as valid as no defects certification.
4. Examples of very low threshold, contractor queried that, authority said guidelines are just that, GUIDELINES, and they can go outside guidelines, suggests bringing it down to suit local interests.
5. The inconsistency of approach from various parties appears to be an issue of great concern.
6. Lost job by 65%, was 2nd of 4, vague requests. “Just want relevant examples of project experience” Did not state how many, was moved down as “Did not submit enough projects” even though those submitted were excellent.
7. Do not get much satisfaction back from de-briefing.
8. Legal challenges were found, often sorted out by more extensive de-brief. Not much ends up in court, authority knows unlikely to end up in court.

#### Achievable solutions
1. A sweet spot between mono answer questions and including some wider essay type questions to tease out what value added is and allow wider differentiation.
2. Similar impact on size of project examples, some amount of flexibility needed, often rigidity is found.

#### Next Steps
- Many questions are open ended and imprecise and invite subjectivity. Wording of questions should be precise and very clear in terms of information that is sought.
- Open ended essay type questions invite subjectivity.
- Precise wording of questions invite consistency.
- Marking of similar submissions of information often receives very variable marks. Consistency in approach is needed and some guidelines on how that can be achieved are needed.
### 3. Are CAs adhering to National and European guidelines to encourage SME participation in public procurement?

#### Examples
1. Too much irrelevant documentation. Massive focus on health and safety. Blank documents often 30 pages before you type a word.
2. Some authorities with limited needs / limited tenders tend to cut and paste from other documents.
3. Use of frameworks is excluding local SME talent, normally regional / national contractors.
4. Social inclusion clauses – meet the buyer events.

#### Impact on SMEs
1. Massive duplication of effort in producing large numbers of verities of same information.
2. Contracting authorities have same knowledge of guidelines. SMEs are not really familiar as not day to day job.
3. Setting up collective frameworks rules out smaller companies due to size requirements. Lot of good local people not getting across as not on frameworks. Frameworks are used to avoid procurement, mostly regional / national contractors.

#### Achievable Solutions
1. Want to see a centralised means of uploading documents in a standardised way.
2. Safety Cert – If you have it why need for massive number of supplementary questions?
3. Standardise system by – cost of Achilles too expensive – could centralised Government system be used?
4. Achilles – a legal issue by forcing people down that route, making them joint a “private” organisation
5. Dummies guide to procurement – A lot of procurement is fair, so if it looks poor then it is poor. A 5 /10 page guide for SMEs key points would be good.

#### Next Steps
- In many cases guidelines are not fully adhered to. They are guidelines and can be applied in various ways to be inclusive or exclusive.
- In many cases technical planning takes precedence over procurement matters. Procurement documentation often “thrown together” at last minute and is often poor.
- A general familiarity is found in terms of knowledge in both contracting authorities and contractors alike, level of knowledge is variable.
- We suggest the need for a simple “Dummies” guide to procurement for SMEs, 10 pages giving basic details.
Discussion Group 6

Evaluation of Tenders
### Table 6 – Evaluation of Tenders

#### How do we deal with below cost tendering?

- Quality of design team / procurer
- Poor documents, leaving ambiguity for procurers
- Procurers not understanding the issues – leading to ambiguity
- Enforcing compliance
  - Better training for ER
  - Getting records from supply chain
  - Investigating what is behind the certificates
  - Continuous site presence
- Independent vetting process to check tender documents before eTenders.
  - Training & capability of buyers
- Off the shelf award criteria gets off the shelf answers that do not identify the MEAT
- Pricing strategy is the same for MEAT and lowest price. It’s just a case of not go for lowest price.
- A lot of the problem is programme. Documents are rushed through. Procurement is rushed.
- No continuity of documents (between specs, drawings etc)
- Stop letting people get away with it.
- KPI systems against MEAT criteria and specification

#### Summary

Skills, knowledge, experience. To get better quality documents. This avoids ambiguity and results in price normalisation. Then use MEAT criteria to choose from the best.

- Stop letting them get away with it.
- Get the right people drafting the spec / assembling procurement documents
- Ask the right quality questions
- Weight them correctly
- Get the right people evaluating the tender
- Use the ALT mechanism under Reg 69 effectively
- Get the right people to administer the contract
- Use KPIs etc against MEAT criteria and contract performance (this is difficult to administer
### Is there too much of an emphasis on the tender price and not enough on the MEAT?

- **DAA always MEAT**
  - Analyse against pre-tender estimates
  - Always ask the question “are you happy to stand over price”
- Would rather go for MEAT instead of lowest price
- Bar is too low for pre-qual. Just a tick box.
- Award criteria / selection has to be fit for purpose and bespoke to the project
- Contracting authorities are “chalk and cheese”. Massive disparity across the country.
- Every SAQ should be a declaration
- MEAT criteria deters certain contracts (on smaller value) as it is not worth the effort
- MEAT only reasonable on large value
- What MEAT criteria to contractors want to see?
  - Execution plan
  - Approach
  - Programme
  - Calibre of people
  - Org chart
- Why not specify?
- Better auditing of contract management
- Must be focused on exact job
- The guys on the ground need to be part of it
- Interviews should be used as part of evaluation (but it is recognised that it is dangerous)
- General fear in public sector of “getting it wrong” re-evaluations and fear of litigation

### Are contracting authorities offering debrief interviews / is quality of feedback sufficient?

- **DAA always hold in person debriefs**
- They have had experience where this has avoided what would have otherwise been a challenge
- Kerry County Council only written debriefs
- The quality

### Summary

No. Quality is not sufficient. More effort needs to go into the Reg 6 letter. Meetings should not be necessary if the letter is sufficient.
Summary

The colloquium was beneficial, bringing many for the first time in front of both the public and private sectors, allowing open discussion on the issues impacting on SME participation in public sector procurement. It gave everyone the opportunity to see the issues from each other’s perspectives, thus making it a little easier to come up with possible solutions to the issues raised.

The colloquium benefited from the large number of very experienced participants in attendance, as well as the high-profile guest speakers, including Minister of State, Patrick O’Donovan TD and the CIF President, Dominic Doheny.

Dividing the participants into six groups, with each group debating a specific aspect of public procurement afforded the colloquium the best opportunity to address the issues in the time that was available.

Key deliverables focused around training and education on both the public and private sectors in nearly all areas. There was also a considerate request to review and assess what criteria and its documentation is really necessary. Technology going forward also has an ability to assist on greater clarity, to remove repetition and aid to better evaluate.

It was unique in its approach in debating the issues around SME participation in public sector procurement. The findings of each group discussion will hopefully pave the way for a new public procurement policy in the CIF and will assist to reform the public procurement process and be beneficial to all involved in delivering future state projects. It may also form the template for future debates on this and other matters.

We thank all the participants, Chairs, rapporteurs and speakers but we must now ensure that the findings from this colloquium are disseminated to all involved in public procurement, and that its findings help to influence the policy makers to open the barriers to SMEs thus building growth through all sectors and regions.
Testimonials

"The colloquium provided an unique opportunity for the sharing of experiences and gathering of propositions on improvement from those most affected by issues in public procurement."

Alan Duffy
Department of Mechanical, Civil and Polymer Engineering and Trades Faculty of Engineering Athlone Institute of Technology

"Thanks for the invite and opportunity to attend the CIF Western & Midlands Region recent event to inform CIF policy on Public Procurement.

The event was excellently organised with great turn out from SME contractors from the regions and members from various public sector organisations who are all involved in Construction Procurement.

The six topics discussed at the event (1) Bundling, PPP’s & Frameworks, (2) Joint Ventures, (3) Pre-Qualification Criteria & Administrative Burden, (4) Tendering Issues (5) Accessing Prequalification Documentation (6) Evaluation of Tenders were excellently chosen covering the full breath of construction procurement.

There was good honest open discussions on each topic with rich exchange of experiences and views in all these areas.

It was a true Collaborative opportunity for both buyers and suppliers to discuss the challenges and opportunities both face in Construction Procurement."

Bernard Pierce
HSE Estates ICT Project

"The CIF Procurement Colloquium was the first time both public sector contracting authority representatives and contractors sat down together to identify the issues, and to make recommendations that would help to improve the procurement process for public sector construction contracts"

Tara Flynn
Director of Flynn Construction