



Chartered Institute of Architectural Technologists

Transforming Public Procurement Green Paper Consultation Response

Chartered Architectural Technologists, MCIAT, are qualified to offer design services and manage projects from inception to completion. They lead the technological design of a project; forming the link between concept, innovation and realisation. Chartered Architectural Technologists are obliged to maintain currency of their qualification through CPD and abide by CIAT's Code of Conduct; including the requirement to obtain and maintain adequate professional indemnity insurance if they are providing services directly to clients.¹ Chartered Architectural Technologists who offer and provide services to clients must register their practice and once registered are permitted to describe their practice as a CIAT Chartered Practice.

Chartered Architectural Technologist is also a protected title and CIAT is the only body which is allowed to award the title of Chartered Architectural Technologist. We are afforded these rights under Royal Charter issued under Royal seal by the Privy Council.

We have read and considered the points within the *Transforming Public Procurement Green Paper* with a view to the impact on procurement in the built environment, and in particular, Architectural Technologists and their work within public procurement. Whilst not all questions and points were relevant to the CIAT membership we do consider the following points and answers to be of importance.

Q1. Do you agree with the proposed legal principles of public procurement?

We agree with the proposed legal principles of public procurement. We would support a more efficient process to deliver public projects by improving transparency, reducing bureaucracy and amalgamating numerous existing legislation. However, we would caution that the basic principles, as outlined, are not devalued, standards lost, or fair competition obstructed.

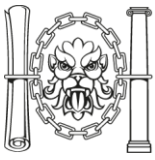
Q2. Do you agree there should be a new unit to oversee public procurement with new powers to review and, if necessary, intervene to improve the commercial capability of contracting authorities?

CIAT would support the introduction of a new unit to oversee public procurement. The unit should be developed so that any challenge brought by suppliers is not complicated by a difficult or costly process. The unit should operate within time limits so that challenges can be resolved swiftly without detriment to either the supplier or contracting authority. The unit would need to operate with total transparency and members of the panel should have no bias or conflict of interest in the outcome of any challenge brought.

Q4. Do you agree with consolidating the current regulations into a single, uniform framework?

The Institute would support a more efficient and simpler system provided the current regulations, as outlined, are not devalued, standards lost or fair competition obstructed. If the current regulations were consolidated into a single, uniform framework it would be of critical importance that any change in legislation did not result in any unintended consequences, with any devaluing of the principles outlined.

¹ <https://architecturaltechnology.com/about/what-is-a-chartered-architectural-technologist.html>



Q5. Are there any sector-specific features of the UCR, CCR or DSPCR that you believe should be retained?

Whilst not particularly sector specific, it is imperative that the issue of non-discrimination is not restricted solely to domestic suppliers, but also to any competent professionals being given equal opportunities. We would be particularly keen to see the absolute obligation to use “generic” descriptors. As an example, using functions rather than using “titles” for services where there may be more than one professional competent to provide them would be a simple method to ensure that none are excluded. In the existing legislation, the general clauses require:

“(1) Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.

(2) The design of the procurement shall not be made with the intention of excluding it from the scope of this Part or of artificially narrowing competition.

(3) For that purpose, competition shall be considered to be artificially narrowed where the design of the procurement is made with the intention of unduly favouring or disadvantaging certain economic operators.”

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

As above, we would support the notion of consolidation and streamlining processes, retaining the basic principles and making them easy to understand.

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

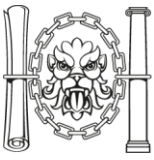
We would support the intention to enable more effective innovation in procurement by ensuring the process is open to all suppliers with a focus on supporting SMEs. There should be a concentrated effort to engage with SMEs as they are often able to offer innovative solutions but can find it difficult to engage in the process. Consideration must be given to the fact that ‘public procurement’ does not just relate to large projects and infrastructure and any reforms must reflect all of those who are competent to engage in the process.

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?

CIAT Members have experienced breaches of existing procurement legislation where titles have been used instead of functions on the design team selection. This results in the unintended consequence of one economic operator given an unfair advantage over any others. We would be keen to see this message clearly and succinctly embedded into the new legislation, with no room for ambiguity. The requirement to outline the skills and competences required instead of specific professionals would be one way to achieve this. Reference to PAS91 on the selection of professionals under CDM Regulations is a method of operation which would appear to work.

Q11. What further measures relating to pre-procurement processes should the Government consider to enable public procurement to be used as a tool to drive innovation in the UK?

The Institute would recommend that, throughout the pre-procurement process, there is a clear understanding of what is to be achieved and an understanding of how this would be delivered. By being clear and transparent from the outset it allows for suppliers to provide the most innovative solutions.



Q13. Do you agree that the award of a contract should be based on the “most advantageous tender” rather than “most economically advantageous tender”?

The Institute encourages procurement protocols to be developed to make the most efficient use of public funds without compromise of quality or design, realising that the most efficient use of public funds does not necessarily equate to the least expensive option. It should be achieved through the utilisation of innovative products, works and services to benefit and improve economic, environmental, and societal issues. The most efficient use of public funds should benefit both the contracting authority and the users, with holistic consideration given to the longevity and sustainability of the project over time.

Q14. Do you agree with retaining the basic requirement that award criteria must be linked to the subject matter of the contract but amending it to allow specific exceptions set by the Government?

The Institute would be in agreement, provided that this does not allow any relaxation of the principles relating to fair competition.

Q21. Do you agree with the proposal for a centrally managed debarment list?

A centrally managed debarment list would be advantageous for contracting authorities but there should be clear guidelines around the criteria to be included on a debarment list. There should be a simple and clear dispute resolution process in place for those who feel they have been added to the debarment list unfairly.

Q22. Do you agree with the proposal to make past performance easier to consider?

CIAT would be in support of this measure as it could potentially drive up standards. However, we believe there should be clear guidelines for what information could be provided and there should be a clear and simple opportunity for dispute resolution in relation to the information being available to contracting authorities.

Q27. Do you agree that transparency should be embedded throughout the commercial lifecycle from planning through procurement, contract award, performance and completion?

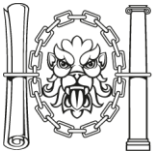
CIAT is in agreement that transparency should be embedded throughout the commercial lifecycle. The procurement process should be clear and transparent with the process clearly documented from the outset. All documentation created for the project including awards' weighting and criteria should not be altered or open to negotiation throughout the process to prevent distortion of competition. In instances where preliminary market consultation must take place to prepare procurement documents, CIAT advocates that this process must not have the effect of distorting competition or making any part of the process inscrutable.

Q31. Do you believe that a process of independent contracting authority review would be a useful addition to the review system?

The Institute agrees this would be a useful addition to the system.

Q32. Do you believe that we should investigate the possibility of using an existing tribunal to deal with low value claims and issues relating to ongoing competitions?

The Institute agrees that the possibility of using an existing tribunal to deal with low value claims and issue should be investigated.



Q40. Do you agree with the proposed changes to amending contracts?

The consequences of any alterations must be considered carefully, with no ability to put the service provider in an unfair position of disproportionate transfer of liability. Not only would it be difficult for them to obtain insurance to cover unreasonable clauses, but could render the contract untenable. A measured decision should be made on this issue, taking into account the circumstances of the provider as well as the contracting authority.

Q41. Do you agree that contract amendment notices (other than certain exemptions) must be published?

The Institute is in agreement that any amendments to contract notices must be highlighted and published to maintain transparency of the process.