

**OGC Report to the
Chancellor of the Exchequer**

**Increasing Competition and Improving Long-Term
Capacity Planning in the Government Market Place**

December 2003



Office of Government Commerce

ABOUT THIS REPORT

In the 2002 Pre-Budget Report, OGC was asked by the Chancellor to consider what further steps could be taken to increase competition and encourage better long-term capacity planning in markets where the Government has significant purchasing power.

This report documents the results of OGC's investigations. It provides a set of recommendations aimed at securing improvements in these areas, for the benefit of citizens and business alike.

The report was written by an OGC team that was led by Sir Christopher Kelly. The team worked to an Advisory Group comprising officials from HM Treasury, the Department of Trade and Industry and the Office of the Deputy Prime Minister. In developing the report, the team consulted a wide range of stakeholders in industry and departments.

The report was finalised in September 2003. The report and the accompanying action plan, which we developed in consultation with departments and industry in October and November, are part of a package of measures introduced with the 2003 Pre-Budget Report, which is aimed at further improving public procurement.

OGC would like to thank everyone in industry and government who contributed to this study. We look forward to working with you to implement the action plan and deliver the associated benefits.

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PART 1: SUMMARY AND RECOMMENDATIONS

1. We were asked to advise on what further steps can be taken to increase competition and encourage better long-term capacity planning in markets where the Government possesses significant purchasing power. Successful delivery of an ambitious programme of public sector reform, which requires investment in bought-in services, depends on markets being able to respond effectively and innovatively, and at an affordable price.
2. We have three main findings, from which all our recommendations flow.
3. First, and most importantly, if competition and capacity planning are to be significantly improved, we believe that the public sector needs to take a much more systematic and strategic approach to the **markets** in which it operates, and not just to focus on individual procurements. That requires much greater exchange of information between different departments and other parts of the public sector than generally happens at present, both about likely demands on industry capacity and about the performance of individual suppliers. It also requires a greater willingness to take a view about the market structures best suited to competition and security of supply, and a willingness to use legitimate ways of influencing those structures.
4. Secondly, there is a need for a stronger lead from the centre. That means a strengthening of the leadership provided in departments on procurement matters, not just to the parent department itself but also to the agencies, non-departmental public bodies (NDPBs) and other public sector bodies they sponsor. The need for such leadership is obviously greatest in those departments with the largest procurement expenditure, or in those with responsibilities for other bodies that are themselves significant purchasers of goods and services. Significant gains may also require a greater willingness in the centre to give directions to procuring authorities about the things which really matter for effectiveness and value for money.
5. Finally, greater focus on markets and stronger leadership will not be effective in improving competition and capacity planning unless the public sector continues to make progress in increasing its own capability as a client and puts into practice an unfailingly professional approach to business planning, programme/project management and procurement throughout the sector. Improving client capability is a key part of the delivery and reform agenda. Capable public sector clients know how to give private sector suppliers the information they need at the right time and in the right form. They understand the importance to successful delivery of early, open dialogue. They recognise that industry is looking for predictable demands and confidence that these demands will actually turn into real orders. They are good at making procurement opportunities accessible to a wide range of potential suppliers; and they have the expertise to understand the markets in which they operate and what those markets can do for them.
6. Capable public sector clients also understand that policy must be deliverable. Too often, major public sector procurement projects are over-ambitious in the sense that insufficient attention is given to implementability and to what the supply market can actually deliver. Suppliers sometimes make this worse by promising more than they can reasonably expect to achieve. Neither helps effective competition. Nor will the

private sector have the capacity to deliver what the public sector wants if it is not asked to do the right things.

7. A lot of this is about best practice in procurement. There is a wide understanding of what best practice is, or ought to be. But the public sector is characterised by widely varying states of capability and learning, and best practice is far from universally followed. If it is followed, it is not always implemented effectively. If best practice were applied intelligently throughout the public sector, and if, for their part, suppliers also wholeheartedly applied the principles of the published [Government Procurement Code of Good Practice for Customers and Suppliers](#)¹, competition and capacity planning would be considerably enhanced and the scope for value for money savings would in our view be substantial, possibly running into hundreds of millions of pounds.

8. Our first four recommendations are those which we think could have the greatest impact on competition and capacity planning in the sense that there is the most ground to make up in the majority of departments. We suggest that Ministers mandate these requirements, not only for departments but also for the public sector organisations for which the departments have sponsorship responsibility.

(i) All departments should be required to think innovatively about how best they can provide clear information on their future needs commensurate with industry lead times, engage early with key suppliers throughout the supply chain and take suppliers' needs into account in their business planning.

Public sector procurers should also be as clear and open as possible about the potential risks of projects being delayed or cancelled and should understand the consequences for suppliers should that happen. When needs change, public procurers should communicate that, and the reasons for it, in a similarly clear and timely fashion. One piece of emerging best practice for departments to consider relates to the use of bid conferences, which some organisations are using to explain their requirements to industry and to receive industry feedback before procurement starts. The scope of a bid conference can usefully include the department's procurement approach as well as the requirement itself. At the very least, all departments should be expected to have procurement areas on their websites listing forthcoming major requirements and contact points, as well as details of recently awarded contracts, so that small and medium sized enterprises (SMEs) would know whom to talk to about sub-contracting possibilities. For departments to derive most benefit from making this information public, it would need to be forward-looking enough to embrace industry lead times.

(ii) Departments should systematically pool market intelligence and share strategic information about future programmes and current projects, with a view to better understanding the totality of the public sector's likely demands on industry and the nature of the market necessary to meet those demands.

This is particularly important where there are questions about the volume or quality of available industry capacity. With information available on the totality

¹ http://www.ogc.gov.uk/sdtoolkit/reference/ogc_library/codeofpractice/codeofcusprac.pdf

of the public sector's future demands on industry, and a corresponding understanding of available industry capacity, the public sector can adjust its pattern of demand or can seek to influence the shape and size of the supply market, in order to avoid bottlenecks and manage associated delivery risks. Government could make this information available to industry to enable better planning for changes in capacity. The benefits of a more coordinated approach would be greatest if it encompassed the whole public sector, not just central government. The OGC would need to work with the relevant central bodies and sponsor departments to bring this about.

(iii) In addition to improving performance on individual procurements, both individual departments and the public sector as a whole should take a much more systematic and strategic approach to the major markets in which they operate.

This implies Government being prepared both to take a view about things such as the number and nature of suppliers necessary for effective competition or security of supply, and to use whatever legitimate means it has at its disposal to shape markets accordingly. It might also imply a willingness to adjust demand and / or stimulate supply where there are concerns that demand might risk outstripping supply. In appropriate circumstances, there may be a case for the involvement of the Office of Fair Trading (OFT) in investigating particular markets where competition is deemed inadequate.

(iv) All relevant departments should be tasked with giving a stronger lead on procurement issues to the agencies, NDPBs and other wider public sector organisations they sponsor, including on the market creation and management issues at (i) to (iii).

This is not intended to cut across existing governance responsibilities, nor the thrust towards greater delegation in the public sector. However, the current arrangements mean that, in many cases, responsibility for procurement expenditure of significant size and impact is in the hands of organisations of unproven capability and individuals for whom project and procurement activity is not core business. There is a gap in delivering improvement in strategic procurement performance and understanding markets across parts of the wider public sector, which needs to be addressed. Relevant departments should be charged with achieving higher standards based on the adoption of best practice in procurement generally, an insistence that strategic procurement is done by experts, and the fulfilment of the market creation and management recommendations above in particular. In doing so, they would need the support, in appropriate cases, of central bodies such as the [Strategic Partnering Taskforce](#)² and the [Local Government Procurement Forum](#)³. Account would need to be taken of the best practice already in operation.

² The Strategic Partnering Taskforce was set up in 2001 to help local government improve services by working with other organisations -

http://www.odpm.gov.uk/stellent/groups/odpm_localgov/documents/page/odpm_locgov_605708.hcsp

³ <http://www.lga.gov.uk/OurWork.asp?lsection=59&ccat=398>

9. Our next three recommendations are only less important in the sense that they refer to things that are already on the agenda. However, we would like to see acceleration in the pace of improvement, backed up by challenging targets.

(v) All departments should continue to give high priority to the existing drive to improve client capability.

The focus for improvement needs to be not just on the professionalism of procurement project teams, but also on the leadership provided and the culture created by senior officials. Further attention needs to be paid to the way in which senior civil servants are recruited, trained, rewarded and motivated, to reflect the importance of effective leadership of procurement projects to the reform and delivery agenda. There is a related imperative on departments to ensure they have the right number of appropriately skilled people available when they embark on important projects. Improving client capability is an important aspect of the drive to deepen the delivery culture across departments.

(vi) All departments should continue to give high priority to making procurement timetables more predictable and to reducing delays in the bidding process.

Suppliers have complained repeatedly about the problems that unpredictable and protracted bidding timescales cause them and about the adverse effects on industry capacity. The OGC is already working with departments to achieve, over a three-year period, a target of speeding up the most problematic projects by an average of 25% between advertisement and award. Further challenging targets should be set for the next spending review period.

(vii) All departments should give priority to reducing red tape in procurement and improving the attractiveness of the Government marketplace to all suppliers, including taking actions in line with the Government's response to the May 2003 Better Regulation Task Force and Small Business Council report 'Government: Supporter and Customer?'⁴.

10. The recommendations in 8 and 9 are primarily directed at Government departments. We suspect, however, that they are for the most part also applicable to the wider public sector. For some departments, the recommendations imply carrying on with work already in hand, but with increased urgency. Others have further to go.

11. Responsibility for implementation must, of course, rest with individual departments. In central civil Government, the OGC with its Supervisory Board will need to continue with their leadership role, to foster the take-up of best practice, to facilitate a coordinated approach to markets where necessary, in order to manage delivery risks and improve government's interactions with industry, and to monitor progress. In the wider public sector, we are recommending that sponsoring departments and central bodies should play a central role in bringing about change within their respective domains. Some coordination across the wider public sector will be beneficial. For example, we have already signalled that the approach to markets

⁴ See Annex C, paragraph C10

recommended in 8 will deliver most benefits if it applies across the public sector as a whole. Together, departments, OGC, HMT and the Delivery Unit need to be able to understand what industry capacity will allow in regard to delivery and how it might affect price.

12. We recommend that the Chancellor direct OGC to undertake the following, intended primarily to support our other recommendations:

(viii) The OGC should explore three or four of the more obvious case studies of market creation - stimulating a competitive supply response to novel service requirements where a healthily competitive supply market does not already exist - with the departments or other public sector bodies involved.

The outcome should be best practice guidance, which departments would be expected to embed.

(ix) The OGC should draw up guidelines on the factors that can be taken into account in reaching decisions which reduce the risk of adverse consequences arising from over-dependency, for example where a supplier may be so over-stretched by existing demand as to raise doubts about its financial capacity to deliver, or where a supplier's share of the Government business is such that it may be deterring other potential bidders.

The guidelines must, of course, be consistent with rules and the principle of awarding contracts based on value for money. They should also address measures that departments can take to obviate over-dependency on an individual supplier in the first place.

(x) The OGC should research the wider applicability of Achieving Excellence principles on the make-up and management of the supply chain and draw on this and other experience to articulate and embed best practice guidance in supply chain management.

The purpose should be to foster competition, and in particular to help SMEs to compete on a level playing field below prime contractor level.

13. These recommendations all relate to areas of work that are not yet, or not yet completely, in the OGC's existing work plan. There is a lot of other activity already in the work plan which we think would also help the implementation of our recommendations. This activity includes, for example, the forthcoming development of best practice guidance on how to engage in early dialogue with suppliers while adhering to the principles of open competition and work on better ways of sharing information between departments about the performance of individual suppliers.

14. The OGC's role within central civil Government has evolved considerably since it was first set up. If these recommendations are accepted, it may evolve still further. Ministers may therefore wish to look again at the OGC's formal remit in the 2004 spending review. First, there is a strong case for accelerating the existing improvement programme, upon which the main capacity and competition recommendations are dependent. Secondly, OGC is the natural home for central

leadership in driving forward these new recommendations and in bringing about the suggested coordination. On both these points, there are options to be considered regarding the style of leadership that is most likely to produce results. There may also be a requirement to strengthen capability in some departments.

15. We believe that the public sector and industry can help each other to bring about improvement by wholeheartedly applying the principles of the recently published Government Procurement Code of Good Practice for Customers and Suppliers.

16. The rest of this report is structured as follows. Part 2 sets the scene and provides some essential background. Part 3 considers the first set of what we see as the major issues affecting both capacity planning and competition – we regard the two issues as being closely linked. Part 4 looks at those issues that relate to the Government’s approach to major markets as opposed to individual procurements within them. Part 5 picks up some more specific issues relating to competition. Finally, Part 6 proffers some brief comments on leadership on procurement matters. There are also a number of annexes.

PART 2: BACKGROUND

Introduction

17. The Pre-Budget Report of 27 November 2002 said:

“The Government has welcomed the Competition Commission’s recent recommendations to improve competition in procurement and has asked the Office of Government Commerce (OGC) to consider what further steps can be taken to increase competition and encourage better long-term capacity planning in markets where the Government possesses significant purchasing power” (*Steering a steady course*, paragraph 3.31).

18. The work was carried out between April and September 2003. The project team is grateful to all those who contributed their time and expertise, particularly the members of the Advisory Group set up to help steer the work. Members of the project team and Advisory Group are listed in Annex A. A list of those who were interviewed or contributed in other ways is attached as Annex B.

19. The OGC’s formal remit is confined to civil government, that is to central government departments excluding the Ministry of Defence. However, the largest of the markets in which central government procures goods and services – construction, IT and business services – are also important for defence, for the NHS, for local government and for the rest of the public sector. Not surprisingly, many of the issues raised by both procurers and suppliers are common to all parts of the public sector. Some of the recommendations we make therefore extend beyond central government.

20. We have concentrated on the most important markets for Government procurement. However, we have no reason to think that most of the lessons learnt do not apply more widely.

21. We have not attempted to address the issue of whether there **is** sufficient capacity to respond to all the demands the public sector is making on the private sector as the result of the public services investment programme. Our focus has been on how to make best use of what capacity exists, and on the influence Government has on industry decisions which affect capacity.

Work already under way

22. A good deal of work bearing on this project is already under way across Government. We have listed some of the main areas in which the OGC has a role in Annex C, to avoid too many footnotes. The National Strategy for Local Government Procurement is also highly relevant. We believe that nothing said here is inconsistent with that. Our report is intended to complement it.

Why it matters

23. The Government is committed to an ambitious programme of public service reform. Much of it involves investment in bought-in services. Successful delivery of the programme therefore depends on the market being able to respond effectively and innovatively, and at an affordable price. If products and services are not available in the right quality and quantity, the results are likely to include poor performance, inadequate innovation, higher prices, loss of business to overseas and, ultimately, failure to deliver effectively on commitments.

24. On the other hand, effective harnessing of the supply market is likely to mean more up to date products and services and much better value for money. So there is a high premium on getting these issues right.

25. Government actions can either help or hinder the ability of suppliers to undertake effective capacity planning and, in areas where public sector business accounts for a sizeable chunk of overall demand, can have a significant impact on the market's shape. For effective delivery, demands need to be managed in tune with labour and product market realities. In particular, inadequate attention to supplier lead times can make it impossible for labour markets to deliver or for companies to develop innovative products or services; while unpredictable flows of orders, or unexpected changes in published plans, will not give industry the confidence to gear up by investing in new staff or skills. Continuous improvement will also be more difficult when project teams are unable to be kept together to provide continuity. These effects will be felt at second and lower tiers of the supply market, as well as by prime contractors.

26. There is potentially a wider economic aspect to this. Better capacity planning on the back of Government contracts, and more effective competition for such contracts, will not just provide better value for money for the UK taxpayer. It ought also to put UK-based companies in a better position to win orders elsewhere.

Costs and benefits

27. Some of our recommendations relate to work that is already in existing work plans. Others will involve additional expenditure, including in some cases further investment in skills. While difficult to quantify, we are confident that any such costs will be significantly exceeded by the benefits arising from:

- Market structures better suited to the public sector's needs.
- More effective competition for public sector business.
- A more stable environment for industry to plan its future capacity.
- Public sector demands better informed by market place realities and so more likely to be satisfactorily met.
- Industry able to offer the public sector better value for money and more innovative solutions.
- Better public services to citizens and businesses.

28. In particular, we are confident that the value for money gains from taking a more strategic approach to supply markets could be substantial, the more so if the recommendations in this report are applied beyond central government.

Key sectors in which Government has significant purchasing power

29. The OGC now has extensive historic information about spending by Government departments on the main categories of procurement. But there is surprisingly little information about the total procurement spend of the public sector as a whole. The best data available are shown in Table 1. The areas where the public sector has the most significant impact quantitatively are IT (services and systems), construction (in both of which the public sector accounts for a considerable proportion of total demand) and professional and other business services. It is on these areas that the project team has concentrated.

Table1
Major areas of public sector procurement 2001-02*

Market	Overall spend in UK £Billion	Total public sector spend £Billion	Share of overall spend Per cent	
IT	22.6	12.4	55.0	*
Highways	3.0	3.0	98.0	
Construction	81.8	25.4	31.1	Note 1
Professional Services	4.7	0.6	12.8	Note 2

Notes

* IT figures are projections for 2003-04

Note 1: Central Civil Government (CCG) and public sector spend on construction does not include all PFI funded projects. Actual percentage of overall spend likely to be higher

Note 2: despite the relatively low percentage, the public sector is the second largest user of professional services

Sources

- a. IT overall spend: Ovum Holway Report - Holway@Ovum: Industry trends 2002
- b. IT public sector spend: Kable - UK Public sector ICT spend October 2002
- c. Highways: Department for Transport website
- d. Construction: Keynote Construction Industry report February 2003
- e. Professional Services: NAO - Purchasing Professional Services - April 2001 and Management Services Association report April 2003

How the Government affects capacity planning and competition

30. Government cannot directly improve industry's long-term capacity planning. But departments' actions can significantly influence it. The public sector can help to make sure enough capacity is available to meet its needs and to provide a healthy level of competition by:

- Taking account in its planning horizons of suppliers' own planning and delivery timescales.
- Communicating well with suppliers about its future requirements.
- Avoiding unnecessarily sporadic demand.
- Removing barriers and discouragements to doing business with the public sector.
- Designing its requirements to facilitate competition.

31. Conversely, manifestations of problems with capacity planning or insufficient competition might (and do) include:

- Industry, particularly UK-based industry, being unable to cope with public sector demands.
- Adverse effects on price, quality and innovation (tender prices for public sector construction (non-housing) rose by 5.4% in 2002).
- Unpredictable demand.
- A propensity to pull the plug late in the procurement process.
- Failure to attract enough high quality bidders for key contracts.
- Over-dependency on particular suppliers, and associated problems with re-competition when existing contracts expire.
- Make-up and management of the supply chain largely left to chance, often associated with insufficient use of SMEs; poor visibility of second and third tier supply capability.
- Contracts which aggregate demand and are awarded to a single prime contractor which pay insufficient attention to the implications for continuing competition and the availability of alternative suppliers on whom to call in the event of underperformance.
- Poor design of framework contracts, which lock out some suppliers from public sector opportunities.
- Negative supplier experiences.

32. As far as price is concerned, there is still a widespread supplier perception that many public sector procurers continue to over-emphasise lowest cost at the expense of other factors. Departments sometimes claim that they cannot afford to do anything else. If true, the implication is either that those willing the ends are not providing the means or that the departments concerned are trying to do too much.

33. Lowest price does not, of course, necessarily mean best value for money. The public sector may be buying wrong or inadequate things. Low initial prices may be followed by substantial bills for post-contract variations. Ill thought through over-specification may discourage innovation and result in unnecessarily expensive designs. We have also been given several examples in confidence of the public sector being exploited by single suppliers on whom they have become dependent.

34. Other symptoms of a less than ideal situation include the following:

- There is a much quoted example of a planning hiatus around the time of rail privatisation leading to problems for UK-based companies in relation to the procurement of rolling stock and signalling equipment.

- There have been numerous examples of poor quality delivery of major IT contracts. The e-Government programme has brought into focus the extent to which capacity and capability issues, not all on the Government side, have been contributing to IT project failures.
- A number of the relatively few global IT service companies capable of delivering major contracts have been fairly inactive in the UK public sector market (Table 2). On the other hand, one of those suppliers occupies a particularly prominent position in the Government marketplace.

Table 2
Comparative ranking of major IT service companies in global and UK markets 2002-03

Rank	Company	Share of global IT services market %	Share of UK IT services market %	Rank in UK central civil government market for IT services	Share of central civil government IT services market %
1	IBM	7.0	11.2	14	Less than 1 *
2	EDS	3.1	12.6	1	54
3	Accenture	2.0	6.3	6	2
4	HP	1.8	4.2	N/A	N/A
5	CSC	1.7	5.3	10	1
6	CGE&Y	1.2	4.0	N/A	N/A
7	Getronics	0.6	0.6	N/A	N/A
8	Atos Origin	0.4	0.8	N/A	N/A
9	Fujitsu Services	0.3	5.5	2	13
10	LogicaCMG	0.2	3.6	5	2

* The figures for IBM do not take account of the company's acquisition in October 2002 of PWC Consulting

Sources

- Ovum, Software Magazine, Business Week and company annual reports.
- The Kable Guide to UK Public Sector outsourcing.

- There are concerns about the number of bidders coming forward in response to some construction requirements, despite assurances from the UK construction industry that they have the capacity to cope. The constraint seems to be around the bidding process itself, rather than actual construction capacity. The major contractors have told us that there are a finite number of competent bidding teams, or a finite number they are prepared to finance, and that the longer they are tied up with any one bid the less they have capacity to participate in others. One major contractor claimed that the bidding process was now completely silted up.
- There is a widely held view that insufficient use is being made of SMEs in public sector procurement, with consequent effects on innovation and competition (though much SME involvement, as sub-contractors, may be invisible). There is also a suspicion that not all public sector purchasers are as open to innovation as they might be, or profess to be, because of cultural attitudes to certain types of risk and poor risk management skills.
- There is no doubt about the negative experiences many suppliers (and not just SMEs) have of dealing with the public sector, generally associated with what appears to them to be excessive bureaucracy, over-long bidding timetables, low rates of return and a general tendency to pay insufficient attention to

suppliers' planning needs. Some departments do not seem to appreciate just how unattractive the public sector can be to companies with strong order books elsewhere. Other suppliers complain of unfair competition from public sector bodies, or from recently privatised bodies.

The role of suppliers

35. Suppliers can help the taxpayer to benefit from the actions Government takes to stimulate competition and facilitate capacity planning. Good supplier practices include:

- Proactively engaging with departments to understand their needs.
- Being realistic about their capacity and capability and neither over-promising nor bidding in hopeless circumstances.
- Being open to the creation of consortia, the use of SMEs in the supply chain, and alternative means of working with other suppliers to provide the public sector with the most effective services and products.
- Competing fairly – in particular, not under-bidding and then exploiting contract variations to recoup losses.
- Being honest and open with departments when they spot weaknesses in procurement projects.

36. The recently published Government Procurement Code of Good Practice for Customers and Suppliers sets out more fully core values and behaviours for all parts of the supply chain. The challenge is to achieve wholehearted and universal application of these principles.

37. The OGC acts as a conduit for two-way communication between industry and Government. Through its contacts with the CBI and other industry bodies, the OGC should be able to obtain industry's views to track progress on the issues raised in this report.

PART 3: KEY ISSUES ABOUT CAPACITY PLANNING AND COMPETITION

38. The key issues raised with us that affect capacity planning and competition are:

- Client capability.
- Policies or targets set within departments without taking sufficient account of implementability or marketplace considerations.
- Poor communication with suppliers and insufficient engagement with them about departments' future intentions.
- Insufficient encouragement of R&D and innovation.
- An uncoordinated approach to government demands on the marketplace.
- Insufficient attention to the development of an effective supply market.
- High dependency on key suppliers in the IT sector.

We deal with each of these issues in turn in this and the next part of the report.

Client capability

39. Complicated procurements, if they are to be competed for effectively, require a high level of client capability. In particular, they need:

- Policy decisions which are properly informed by an understanding of how they will be implemented, with implementation plans based on an intelligent appreciation of what can be delivered both by the market and by the department itself.
- Senior officials who set the tone and culture for successful delivery, pinning down stakeholders (including ministers), making trade-offs and resolving conflicting requirements, ensuring enough horsepower in the project team and so on.
- Professional programme/project **and** commercial teams.
- Organised processes, which can be used as a basis for continuing improvement in the light of experience, rather than ad hoc project teams re-inventing the wheel each time.
- The discipline not to bite off more projects or risks than the department can chew.

40. There is clear evidence from Gateway reviews, from the Cabinet Office work on delivery of programmes, from NAO reports and from complaints by suppliers of persistent problems in all these areas. For successful projects, departments' aspirations need to match both their capacity and their capability to deliver. Taking too much on is a recipe for disappointment and frustration for both sides. Being over-ambitious in relation to risks and complexities can be even more damaging. Suppliers have told us of their perception that the public sector is often more prepared to take the very large business risks involved in going for large big bang procurements than it is to take smaller and more manageable risks in relation to, for example, innovative ways of doing things. Getting capability issues right is likely to make some of the other problems that arise in relation to competition and capacity planning significantly easier to handle.

41. This is not a novel insight. A considerable amount of work on client capability is already under way within Government. This work includes:

- The Gateway process, the requirement now placed on departments to introduce Centres of Excellence in programme/project management as the basis for continuous improvement.
- Key actions agreed by the Cabinet at the end of 2002 to tackle areas of weakness in the delivery of IT-enabled programmes and projects.
- The programme of [Achieving Excellence in Construction](#) flowing from the work of Sir John Egan's group⁵.
- The Successful Delivery Skills Framework and Toolkit.
- Training for the Senior Civil Service such as the CMPS Delivery Skills Seminars.

42. The evidence shows there is still a long way to go. A fundamental requirement for improving competition and long-term capacity planning is therefore that **all departments should continue to give high priority to the existing drive to improve client capability**. The focus for improvement needs to be not just the professionalism of procurement project teams, but also the leadership provided and the culture created by senior officials. There is a related imperative on departments to ensure they have the right number of appropriately skilled staff available when they embark on important projects.

Implementability

43. An essential part of client capability is to ensure that sufficient attention is paid to implementability and to what the supply market can deliver when policy is formulated and targets are set. There is considerable evidence from Gateway reviews that this is not yet sufficiently firmly embedded within departments' psyches. Suppliers can often make this worse by promising more than they can reasonably expect to achieve. Officials do not want to be left looking less ambitious about public sector reform than the private sector. Neither helps effective competition. Moreover, failure to ensure that policy is implementable may appear as an industry capacity problem when in reality it is a problem with the way in which the requirement is formulated. The level of understanding and expertise deployable by senior policy officials is critical.

44. The need for policy formulation and target setting to be based on credible implementation plans is now widely recognised, particularly in IT. The requirement is for best practice to be clearly articulated and firmly embedded in departments, and for improvement in and more effective harnessing of, departments' market knowledge. Policy formulation and the procurement decisions that stem from it should always be based on a robust understanding both of what suppliers are capable of doing **and** of the department's capacity to make the necessary changes to its own organisation. The private sector will not have the capacity to deliver what the public sector wants if it is not asked to do the right things.

⁵ <http://www.ogc.gov.uk/sdtoolkit/reference/achieving/achievin.html>

Culture and Leadership

45. In almost all departments, there is more to be done to embed good practice into culture and leadership, in particular in relation to:

- Opening career paths for people with commercial and programme / project expertise into the senior civil service.
- Training senior civil servants to ensure they have enough knowledge of delivery/commercial issues to provide effective leadership.
- Giving weight to delivery skills in the way jobs are evaluated.
- Incentivising senior officials to give priority to delivery.

46. There may also be scope to take up a suggestion made by the CBI Public Services Panel for more use of secondments to suppliers to give officials in departments greater insight into the experience suppliers have of bidding for public sector contracts. The [Whitehall and Industry Group](#)⁶ runs attachment and secondment schemes.

47. We have not gone into these issues in detail. But it is clear that the way in which senior civil servants are recruited, trained, rewarded and motivated is key to effective management of procurement, including in the areas with which we are concerned, and hence is key to the reform and delivery agenda. Our impression is that not all departments have yet fully taken this on board, though not for lack of encouragement.

Availability of information to suppliers

48. To get the best out of industry capacity, departments need to put effort into helping suppliers understand their thinking and needs before the procurement process starts. The sooner industry knows about a requirement – or more usefully the business problem to be addressed – the more chance suppliers have both to ensure that they have adequate capacity **and** to influence the procurement and proffer an innovative solution which provides good value for money.

49. If suppliers are to be ready at the right times with the right products, services and teams to implement public sector requirements, they need to have a clear idea of what procurements are likely to be coming forward, how they might be packaged, what the public sector is hoping to achieve from them and how that fits into wider departmental or Government objectives. It follows that public sector organisations need to provide as clear information on their future needs as possible, to a timetable commensurate with industry lead times. Industry is looking for predictable demands and confidence that these will result in genuine orders. Good practice may be complicated by factors such as the political or planning processes, which makes effective communication with suppliers even more important.

50. A good example of a situation that may benefit from early supplier engagement is the furniture industry for the education sector. This sector is small, diverse and needs time to tool up for new products. If the contracts for the large-scale renewal of secondary schools are let first, the prime contractors are unlikely to have time to source new furniture and prices are likely to go up or ambitions to fail. The

⁶ <http://www.wig.co.uk/main.html>

Department for Education and Skills has tried to stimulate the market by organising the school furniture design competition, working with the Design Council. This approach can be developed further by running more design competitions, buying the Intellectual Property Rights (IPR) and patents, and then awarding licences to manufacture to a range of suppliers, but not to oblige PFI contractors to purchase, simply to meet or better the standard.

51. Suppliers continue to complain about being given inadequate information. Some of these complaints may pay insufficient recognition to the difficulties some departments face in sharing information in sensitive areas, particularly since fair and open competition requires an even-handed approach to all potential suppliers. However, there can be little doubt that many departments could do a great deal more than they do already to engage in a much more intensive and open dialogue with suppliers at all stages of the procurement. We recommend that with the help of the OGC, **all departments should be asked to think innovatively about how best they can provide clear information on their future needs commensurate with industry lead times, engage early with key suppliers throughout the supply chain while keeping within EU rules, and take supplier needs into account in their business planning.** Public sector procurers should also be as clear and open as possible about the potential risks of projects being delayed or cancelled and should understand the consequences for suppliers should that, unavoidably, happen. When needs change, they should communicate that, and the reasons for it, in a similarly clear and timely fashion.

52. One piece of emerging best practice for departments to consider is bid conferences, which some organisations are using to explain their requirements to industry and to receive industry feedback before procurement starts. The scope of a bid conference can usefully include the department's procurement approach as well as the requirement itself.

53. Some departments appear to feel inhibited about talking to suppliers based on their interpretation of the EU procurement rules or the requirements of fair and open competition. Others do not feel constrained in quite the same way, adopting a less cautious interpretation of the rules and adapting their procedures accordingly. To address this issue the OGC is drawing up best practice guidance about when and how to talk to suppliers while still adhering to the principles of open competition that underlie the EU procurement directives. Departments will need to embed the guidance in their procurement processes.

54. Procurement opportunities also need to be accessible. The diverse nature of the public sector marketplace means that spotting opportunities can be difficult, time consuming and expensive for some firms. There is likely to be benefit in finding ways of giving easier access to procurement opportunities across Government. The [Major Contractors Group](#) (MCG)⁷, for example, have called for a single list, published and updated monthly, of all major construction projects likely to come on the market over the next 12 months.

⁷The MCG is a construction trade association representing some of the largest construction companies in the UK – www.thecc.org.uk

55. At the very least, all departments should be expected to have procurement areas on their websites listing forthcoming major contracts and contact points, as well as details of recently awarded contracts so that SMEs would know who to talk to about sub-contracting possibilities. The more general availability of such websites, particularly if they are constructed in a reasonably standard form, could make it easier to construct a national portal for government opportunities for contracts as recommended in the recent Better Regulation Taskforce/Small Business Council report. Time and effort saved could translate into lower bid costs and more effective competition from a wider range of potential suppliers.

Encouragement of R&D and innovation

56. R&D is seen as a driver for innovation, growth and long-term employment opportunities in Europe. A recent EU study has resulted in a draft action plan to increase the level of R&D investment in Europe from 1.9% to 3% of GDP by 2010, to bridge the gap between R&D investment in Europe and the US. The use of public procurement is one potential lever to stimulate demand for R&D, which the DTI has been considering in its Innovation Review. The OGC has also conducted its own study into how creativity can be captured during the procurement process.

57. Government is in a powerful position to be a driver of innovation by demanding more innovative products, services and solutions from its suppliers. The Government's role as a consumer may bring compound benefits, which help both producers and potential adopters of new products and services. By buying a new product or service, it may demonstrate the benefit to potential users. In addition, it may help producers achieve economies of scale, which lowers prices and facilitates more sales, benefiting both the producer and the consumer.

58. Insufficient encouragement of R&D and innovation is a potential capacity issue in that it could affect both suppliers' ability to come forward with up to date and/or innovative solutions to Government requirements and their competitive position in wider markets.

59. Innovation can be helped by the wider use of output-based specifications (OBS), so that suppliers can respond to business needs in imaginative ways without being unnecessarily constrained by departments' preconceived ideas. Output-based specifications are already recognised as best practice, but they need to be embedded further. There is, however, a risk that they could encourage departments using them inappropriately to adopt a more hands-off approach to their procurements than would be healthy.

60. There is a widely held belief, including among suppliers, that there is a link between innovation and SMEs since in many areas SMEs are an acknowledged source of new ideas and different ways of doing things. The recommendations of the May 2003 Better Regulation Task Force and Small Business Council report *Government: Supporter or Customer?* are therefore highly relevant, in particular those relating to:

- A web portal to provide information on future contract opportunities.
- Advice and training to SMEs on selling to the public sector.
- Encouraging prime contractors to provide opportunities for SMEs.

- Simplifying or standardising pre-qualification information.
- Asking departments and other public bodies to take steps to encourage SMEs to compete for their business.

61. We have seen little point in merely repeating these various studies in our own work, as their findings will be incorporated as appropriate in best practice and promulgated to departments.

PART 4: MARKET CREATION AND MANAGEMENT

Coordination of public sector demands on the marketplace

62. We have been struck in researching this report by the limited extent to which attempts are made to coordinate major procurements across Government, even in those markets where the public sector's activities can be expected to have a major impact on industry capacity and structure. There is, of course, a lot of informal contact between the major departments, partly facilitated by the OGC. But there is no **systematic** attempt across central government, let alone the wider public sector, to exchange information about future projects and the demands they are likely to make on suppliers, or about views on market capacity.

63. Particularly at a time of significant investment in the infrastructure, it would benefit the Government to understand the total demand that the public sector (not just central government) is making and will be making on the construction and IT industries, and to have a view about how that relates to likely or achievable industry capacity and how the current balance is likely to be affected by more buoyant private sector demand as the economic cycle moves on. In the absence of such an understanding, it is difficult to see how departments can have confidence in the implementation of their planned programmes. Nor can it be easy to have effective discussions with industry about the steps they should be taking to plan and, if necessary, to increase their capacity.

64. It is not practical for departments to do this in isolation. It will often be more appropriate for it to be done in a coordinated way. There is some specialisation in the construction industry between, for example, those firms building schools and those building roads or hospitals. But they are still largely competing in the same labour market. As a minimum, we would expect those responsible for the schools building programme, for example, to want to understand the demands the hospital building programme is likely to be making over the same time period. Similarly, we would expect those planning major IT projects to want to know who will be making demands on the same relatively small group of major contractors at the same time. With the bidding process taking up to two years or more in some cases, skilled bidding teams are a scarce resource for suppliers.

65. We recommend that **departments should systematically pool market intelligence and share strategic information about future projects and current bids, with a view to better understanding the totality of the public sector's likely demands on industry and the nature of the market necessary to meet those demands.** This is particularly important where there are questions about the volume or quality of available industry capacity. With information available on the totality of the public sector's future demands on industry, and a corresponding understanding of available industry capacity, Government can adjust its pattern of demand or can seek to influence the shape and size of the supply market, in order to avoid bottlenecks and manage the associated delivery risk. Government could make this information available to industry to enable industry better to plan its capacity. The benefits of a more coordinated approach would be greatest if it encompassed the whole public sector, not just central government. The relevant central bodies and sponsor departments would need to be involved to bring it about.

Development and management of markets

66. More generally, and this is probably our most important recommendation, we believe there could be significant value for money gains from focussing on markets as well as individual procurements. In our view, this is the next important stride for public sector procurement to take. We recommend therefore that **in addition to improving performance on individual procurements, both individual departments and the public sector as a whole should take a much more systematic and strategic approach to the major markets in which they operate.**

67. This might imply:

- Open discussions with industry well in advance about future requirements and the sorts of industry services that might meet that need.
- A well-informed view about the right number and nature of suppliers to support effective competition and security of supply.
- A willingness, where possible, to adjust demand and/or stimulate supply where there are concerns that demand might risk outstripping supply.

68. In appropriate cases, there may be a case for the involvement of the OFT in investigating particular markets where competition is deemed inadequate.

69. The benefits of a proactive and effective approach to market creation and management include:

- Ensuring a healthy number of competent suppliers able to make credible bids for public sector procurements, even those involving novel requirements.
- Not leaving a credible industry response to chance.
- Avoiding over-dependency on particular suppliers.
- Stimulating innovation.
- Realising significant value for money gains.

70. These benefits would be magnified if Government were to adopt a coordinated approach across departments and, potentially, the wider public sector.

Novel markets

71. There are now a number of examples where the public sector has successfully sought a supply response to a novel requirement, where a healthy competitive supply market did not exist and where it has had to be stimulated. The precise circumstances of each case have been different. But we are confident that there are some common lessons to be learnt about what works well and what less well, about pitfalls to be avoided, about how to facilitate continuing competition as the market develops and so on. We recommend that **the OGC should explore three or four of the more obvious case studies of market creation – stimulating a competitive supply response, for example to novel service requirements, where a healthy competitive supply market does not already exist – with the departments or other public sector bodies involved with a view to producing best practice guidance, which departments should be expected to embed.**

Avoiding over-dependency

72. A particular aspect of market management is avoiding over-dependency. There are three potential aspects to this:

- Individual departments' over-dependency on one or more suppliers.
- Government's over-dependency overall on one or more suppliers.
- Individual suppliers' over-dependency on Government business.

73. Over-dependency on any individual supplier can be a problem for departments because of the business risks they run if that supplier fails to deliver or gets into financial or other difficulties. Over-dependency by any firm on Government can also create problems if that firm loses a major contract through, for example, the effect on its financial position washing over on to other contracts. Over-dependency can, moreover, be self-reinforcing because of the advantages incumbents in some sectors enjoy when contracts come to be re-competed. They have staff in place and know the business so much better than any potential competitors.

74. It is for this reason that the NHS IT programme is based on multiple sourcing – retaining significant control in-house, insisting on transferability of intellectual property and stipulating required standards to ensure compatibility. In this way, if any one supplier fails to deliver, there will always be others with proven ability and hands on experience to fill the gap. Similarly, when the time comes to re-compete there will be a number of suppliers able to respond from a position of knowing the business and on whom the NHS will be able to make judgements based on direct experience of their abilities.

75. The Inland Revenue has taken a different view of what its business needs require and is looking to award the ASPIRE contract to a single strategic partner. To get the widest possible engagement of suppliers, especially since there was perceived to be a strong incumbent advantage, the IR has undertaken a number of activities including extensive dialogue with the IT industry, development of new evaluation tools and an announcement that it would meet the unique costs of transition to the ASPIRE contract. The consequence was that seven of the world's top IT suppliers entered the competition as a member of one of the three consortium bids.

76. It must be for departments to judge which approach best meets their business needs. We think it would be helpful for the OGC to produce guidance based on experience of the factors that can be taken into account in reaching decisions of this sort without breaching EU rules or undermining value for money. It would also be helpful for OGC to research and articulate strategies for levelling the playing field away from a bias in favour of incumbents (while recognising that in many instances it may well be appropriate to award new contracts to incumbents, with advantages in terms of continuity).

77. In reaching a decision about the placing of major contracts, most departments pay no attention to what that decision might imply either for the dependency of the public sector as a whole on a particular supplier, or for the successful suppliers' dependency on public sector business.

78. This is understandable. Government purchasers do not act as one unit. They generally do not have sufficient information about activity in similar areas in other departments. In any event, they are engaged in pursuing the best value for money for their own department's particular contract. If a supplier gains a large share of Government departments' individual contracts for particular goods or services, this is the unintended collective result of many decisions, usually following competitive procurement. It is not possible legally, nor necessarily sensible for value for money purposes, to exclude a candidate simply on the grounds of market share, however defined. No presumptions can be made on that ground alone about its ability to perform the contract.

79. Nevertheless, with care and in appropriate cases, consideration of the impact on market share can be brought within the procurement process, consistently both with the EU rules and the pursuit of value for money.

80. Despite the difficulties we recommend **that the OGC should draw up guidelines on the factors that can be taken into account in reaching decisions which reduce the risk of adverse consequences arising from over-dependency, for example where a supplier may be so over-stretched by existing demand as to raise doubts about its financial capacity to deliver, or where a supplier's share of the government business is such that it may be deterring other potential bidders.** The guidelines must, of course, be consistent with EU rules and the principle of awarding contracts based on value for money. They should also address measures that departments can take to obviate over-dependency on an individual supplier in the first place.

PART 5: BARRIERS TO COMPETITION

81. Most of the factors we have been discussing so far affect both competition and capacity planning. There are, in addition, some factors which bear more particularly on competition – though there is often still some read-across.

82. Features of the Government market place which may make it unattractive to some suppliers, and therefore inhibit competition, include the following:

- **Inadequate visibility of opportunities**

If companies do not know about opportunities, they cannot compete for them.

- **Perception of ‘incumbent advantage’**

This is mainly a feature of the IT market. It is not really an issue in construction. In the field of business services, it may in some circumstances even work in the other direction. Incumbent suppliers have the advantage of better knowledge of the department’s business. But their investment in staff, systems and intellectual property may inhibit them from proposing truly innovative responses to business needs which, like the technology available for meeting them, are likely to have changed considerably over the period of the contract.

- **Fear of being associated with failure**

IT projects are generally thought to fail more frequently in the public than in the private sector, possibly because of scale and complexity but also perhaps for other reasons. Whether this is true or not, when projects do fail in the public sector they are likely to attract much more attention because of Parliamentary scrutiny and the demands for transparency.

- **Intellectual Property Rights (IPR)**

Ownership of IPR can prove either an encouragement or a barrier to competition depending on circumstances. Current guidance is that IPR should reside with the ‘party best able to exploit it’. Most current contracts place IPR with the supplier, as the party best able to exploit it, and give the client a continuous and irrevocable licence to use. However, this can prove a barrier to competition in areas such as IT where ownership of IPR, particularly on design of interfaces, by one supplier can have the effect of locking other suppliers out of the market. Clients need to be aware of the consequences of the ownership of IPR and the guidance needs to be updated to reflect current commercial realities.

- **Time and cost of bidding**

It is a perennial complaint of suppliers that the time (and therefore cost) it takes to bid for major Government contracts, and the bureaucracy associated with the process, are excessive by comparison with the private sector, even allowing for the different requirements of EU procurement rules on fair and open competition.

- **Continuing instances, despite the guidance that has been issued on the subject, of evaluating bids on price rather than overall value for money**

This is not just an issue of profitability. It also encourages a certain type of behaviour in suppliers – bidding low, putting in inadequate contingencies and relying on contract variations to make up the difference. That makes for difficult relationships. It also discourages those suppliers who are not prepared to bid in this way.

83. The main advantage to suppliers of public sector work is that it tends to be less affected by the economic cycle than private sector demand, a point which is particularly important at present. The Government is also an excellent payer, with the equivalent of a triple A credit rating.

84. Each of these issues needs attention. For the most part, they are currently receiving it. In particular:

- The OGC is piloting an interactive website to help SMEs in particular to identify the opportunities available to them.
- The steps the Inland Revenue have taken to reduce incumbent advantage in the ASPIRE contract will need to be reviewed when the process is over and the lessons learnt.
- The actions in hand to improve central government's performance as a capable client and to curb over-ambition ought to help alleviate the risk of failure, though it will certainly not eliminate it.
- The OGC has issued advice to departments to award on value for money (VFM) rather than price, which appears to be bearing fruit. There are arrangements in place for industry to escalate this problem if it should arise, which it needs to be prepared to invoke.
- The Government Procurement Code of Good Practice for Customers and Suppliers makes clear that deliberate underbidding combined with later exploitation of contract variations is not acceptable.
- The costs and timescales of bidding are already widely recognised as an issue to be addressed. The OGC has recently adopted a faster procurement target to reduce the average time taken between OJEU and Award of Contract by 25% by 2006 for those projects taking more than 12 months between those milestones.
- The Cabinet Office and the OGC recently carried out a study in consultation with departments and suppliers to reduce red tape, looking at areas like more standard forms of contract and greater use of more standardised forms of pre-tender qualification.

85. The above activities are likely to yield a reduction in the bureaucracy and other inhibitors associated with bidding for Government contracts. We recommend that **the OGC and departments should give priority to reducing red tape in procurement and improving the attractiveness of the Government market place to all suppliers, including taking action in line with the Government's response to the May 2003 Better Regulation Task Force/Small Business Council Report.** We regard this work as critically important if competition is to be improved and capacity planning enhanced, and not just because of the effect on SMEs. Many of the things

which could be done to improve the attractiveness of the public sector market place to SMEs would be helpful to all firms.

86. The number and cost of bidding teams is a significant constraint on the ability of suppliers to respond to all the public sector's demands, much more important than, for example, actual construction capacity. The more of a bidding team's time which is taken up by one bid, the smaller the number of bids that company will be able to make in total in any one year. In our view the Government could make a substantial contribution to both increasing the capacity in its market place and to encouraging greater competition by delivering on the commitment to reduce bidding times, perhaps making it even more ambitious. We therefore recommend that **all departments should continue to give high priority to making procurement timetables more predictable and to reducing delays in the bidding process.** The OGC is already working with departments to achieve its 25 per cent target. **Further challenging targets should be set for the next spending review period.** This will require both careful analysis of the causes of delay and determination in all departments to do something about it. The suppliers to whom we have spoken were unanimous that bidding times could be reduced significantly, if the will, authority and expertise were there.

Supply chain management

87. There are particular competition issues for SMEs, detailed in the Better Regulation Task Force/Small Business Service report. These include getting a fair share of business from prime contractors, problems with meeting the required performance guarantees and the disproportionate burden on firms with small balance sheets of meeting the costs associated with bidding.

88. The first of these is an issue of supply chain management. Better supply chain management is one of the underlying principles of Achieving Excellence in Construction and there are some other examples of good practice elsewhere. Yet, in too many places, particularly in the IT area, many departments have hitherto shown little interest in or knowledge of the supply chain. This may partly be a consequence of a preference for using prime contractors for good reasons to do with the transfer of risk, familiarity, the desire to have one point of accountability, or departments' own limited capacity to perform the integration function. However, the consequences could include higher costs and less innovation than would otherwise be the case, if SMEs find it difficult to get involved or, if they are involved, are kept at arms length from the client and provided with little incentive to seek ways of reducing costs.

89. Experience in the construction industry and elsewhere shows that there are relatively low cost ways of managing the supply chain which preserve most of the advantages of using prime contractors without suffering from the disadvantages. We recommend therefore that the **OGC should research the wider applicability of Achieving Excellence principles on the make up and management of the supply chain and draw on this and other experience to articulate and embed best practice guidance in supply chain management.** The purpose should be to foster competition and in particular allow SMEs to compete on a level playing field below prime contractor level.

Aggregation and the use of frameworks

90. For larger projects decisions about aggregation may be crucial. The aggregation of several contracts together can help to reduce costs through economies of scale and give the supplier the opportunity to learn from experience. It is for these reasons that, for example, the Department of Health is experimenting with the possibility of three hospitals being the subject of one major contract under one framework contract, with partnering principles used to determine prices after the initial competition. It is likely this approach will also be applicable to smaller projects. In the Highways Agency, there has been a trend away from numerous small procurements done on an ad hoc basis towards fewer, larger procurements with the aim of developing longer-term relationships which allow better forward planning and provide greater opportunities for continuous improvement and partnership working.

91. On the other hand, aggregation in this way has to be handled intelligently if the reduction in the frequency of competition is not to have the effect of locking out good suppliers for several years.

92. The widespread practice of asking a private sector supplier to perform the aggregation role on large IT service contracts stems principally from considerations of risk and from departments' individual competency and capacity around systems integration. If a department chooses to place components of its IT needs through a number of contracts, it will need a much higher level of technical and commercial expertise to manage properly the interfaces between the contractors and between the technical products and services they provide. If one supplier's components have a knock on effect on the requirements for another, pushing up costs and timescales, it is difficult for that risk not to fall on the client. Such technical interactions can more readily be placed at the door of a single prime contractor. But the result is often large monolithic contracts that make it difficult for SMEs to get involved and effectively tie the client to a single supplier with no continuing competition or fallback in the case of underperformance.

93. The use of Government framework contracts means that fewer, wider-ranging contracts are let than would be the case if departments had to go through the full procurement process themselves, thus offering scope for savings on both sides. However, given the logistics of framework management, it is likely that framework procurers will want to limit the number of suppliers and hence, by implication, restrict competition. Many of the suppliers on OGC Buying.Solutions' frameworks are SMEs whose presence on a framework may provide them with access to a wider public sector market. But for those suppliers that do not succeed when these frameworks are competed, their absence from the framework may restrict their ability to win public sector business of the type that is the subject of the framework until the next refresh of the framework, which could be some years away. Generally, framework procurers are unable to give guarantees of work that will come through their books, so the existence of frameworks has at best a marginal effect on capacity planning.

94. A number of departments are trialling novel procurement methods, particularly in the construction arena, in an attempt to stimulate competition, overcome any supply side shortages and ensure an appropriate level of aggregation. These include:

- [Procure 21](#)⁸ in the NHS is establishing a national framework agreement for hospital buildings over £1million with up to 12 prime contractors Principal Supply Chain Partners (PSCPs), which can be used by any NHS Trust without the need for further tendering. Trusts can therefore engage with a supply chain very early in the procurement process, which can save at least 9 months on the conventional timetable. A central cost model is used to determine the price for each project and to maintain continuous improvement.
- The Department for Education and Skills schools building programme is proposing to set up a number of local Joint Venture (JV) companies around the country involving both local and central government. Each JV expects to build around 20 schools within its area (which may cover more than one local authority) and will have a contract with one supplier to build them.
- The Court Service is considering establishing a number of framework agreements for different types of supply (architects, consultancy, PFI providers and even finance) and then using one or more companies from each of these frameworks in individual projects to provide courts.

95. All these projects are following the Achieving Excellence in Construction principles. Their outcomes should be monitored to establish how successful they are and where else the structures created could be appropriately used in other parts of the public sector.

Sharing of information on supplier performance

96. A final factor affecting competition is the shortage of systematic information on the performance of individual suppliers and advisers. This is a difficult area legally. Using information already held on supplier performance to guide the type of information to be sought from bidders appears unproblematic. Information on technical capacity which can be required from candidates in procurement under the EU Directives includes evidence of performance under past contracts. However, suppliers might legally challenge the conduct of a procurement that used information on supplier performance from other sources. Work is already in hand on this for the OGC Supervisory Board. It is difficult to see how competition can be truly effective if poor performance on one public sector contract does not have repercussions for the chances of getting others (assuming, of course that the poor performance is the fault of the supplier and not of the client). Ideally, this sharing of information would extend across the whole public sector.

⁸ http://inventuresweb.co.uk/content/news/news_articles_float/news_articles_archive/procure_21.html

PART 6: LEADERSHIP

97. Effective procurement is key to the delivery and reform agenda. If the Government is to ensure effective competition and good capacity planning in the markets in which the public sector operates, it must develop its own capacity to act as a capable and effective client.

98. Improving client capability is not just a question of identifying and articulating best practice. It requires leadership in departments and leadership and support from the centre. It may imply a role for the OGC across the whole public sector. It will also require the OGC to work even more closely with HM Treasury and the Cabinet Office to bring about the necessary changes in departments.

99. This will not be easy. Nevertheless, we recommend that **all relevant departments should be tasked with giving a stronger lead on procurement issues to the agencies, NDPBs and other wider public sector organisations they sponsor, including on market creation and management issues.** This is not intended to cut across existing governance responsibilities, nor the thrust towards greater delegation in the public sector. However, the current arrangements mean that in many cases responsibility for procurement expenditure of significant size and impact is in the hands of organisations of unproven capability and individuals for whom project and procurement activity is not core business. There is a gap in delivering improvement in strategic procurement performance and understanding markets across parts of the wider public sector, which needs to be addressed. Relevant departments should be charged with achieving higher standards based on the adoption of best practice in procurement generally, an insistence that strategic procurement is done by experts, and the fulfilment of the market creation and management recommendations above in particular. In doing so, they would need the support in appropriate cases of central bodies such as the Strategic Partnering Taskforce and the Local Government Procurement Forum. Account would need to be taken of the best practice already in operation in some areas. There may be a requirement to strengthen capability in some departments.

100. Ministers may wish to look again at the OGC's formal remit in the 2004 spending review. First, there is a strong case for accelerating the existing improvement programme, upon which the main capacity and competition recommendations are dependent. Secondly, OGC is the natural home for central leadership in driving forward these new recommendations and in bringing about the suggested coordination. On both these points, there are options to be considered regarding the style of leadership that is most likely to produce results.

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MoD
NHS
NHS Estates
NHS PASA
ODPM

OFT
OGC

OGC Buying.Solutions
Partnerships UK
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Overview of current work and offerings that will help to improve capacity planning and enhance competition

C1. Gateway Process

The OGC Gateway process involves a series of reviews that support the successful management and ultimate delivery of government procurement projects.

The reviews are based on best practice and are independent in order to provide an objective 'peer' assessment. OGC's introduction of the Gateway Process is improving the delivery of major projects and programmes. Already more than 500 reviews have been conducted, covering over 300 projects.

The Gateway process is based on well-proven management techniques that lead to the more effective delivery of benefits, together with more predictable costs and outcomes. The process considers the project at critical points in its development. These critical points are identified as Gates. There are currently six Gates (from 0-5) to follow a typical project lifecycle. The Gateway Process also identifies generic lessons that are learned from the Reviews conducted, which is disseminated throughout OGC and other government departments. The aim is to improve the chances of project success, by avoiding the pitfalls that may affect other projects.

C2. Centres of Excellence

Departments are now required to have Programme and Project Management Centres of Excellence. The overall aim is to achieve significant improvement to central government's capability to deliver successful programmes and projects. A Centre of Excellence brings together the following essential functions to support the successful delivery of programmes and projects:

- Coherent upward reporting to the Management Board, the centre (HM Treasury, the Prime Minister's Delivery Unit (PMDU) and OGC) and ministers to provide assurance, to support prioritisation and enable effective decision-making.
- Networking and cross-government lesson learning to build on the outward relationship with other departments, the centre and delivery partners in the public and private sectors.
- Inward support to help delivery programmes and projects with the right expertise when they need facilitation of organisational improvement in capability and capacity.

A department's Centre of Excellence (COE) is required to provide strategic oversight, scrutiny and challenge of all types of programmes and projects, including those for delivering Public Service Agreement (PSA) targets, and covering the department's Agencies and NDPBs.

Centres of Excellence are intended to act as a focal point in departments for institutionalising better programme/project management and thus will gradually improve the attractiveness of the government market.

C3. Key Actions to Improve IT Projects

In December 2002 Cabinet ministers agreed six actions that targeted areas of weakness in the delivery of IT-enabled programmes and projects. These are:

- Establish Project/Programme Management (PPM) Centres of Excellence in each department with a remit including its Agencies and NDPBs, as above.
- Accounting Officers to provide assurance on existing (pre go-live) and new major projects that they are not based on common causes of failure identified by the National Audit Office.
- Mandate no big-bang implementations and developments (instead have modular, incremental developments and implementations) unless approved by central scrutiny group (e.g. Chief Secretary to the Treasury, Minister for e-Transformation, Office of the eEnvoy, OGC).
- No government initiative (including legislation) dependent on new IT to be announced before analysis of risks and implementation options has been undertaken.
- Force prioritisation of all existing and new projects as Mission Critical, Highly Desirable and Desirable.
- All high risk and mission critical projects to have clearly identified (i) responsible Minister (ii) Senior Responsible Owner and Project Manager with good relevant track records.

These actions will improve the attractiveness of the government market in an area that has suffered from performance problems and inadequate competition.

C4. Achieving Excellence in Construction

This initiative, which was launched in 1999 to improve the performance of government organisations as clients of the construction industry. It put in place a strategy for sustained improvement in construction procurement performance and in the value for money achieved by government on construction projects, including those involving maintenance and refurbishment.

The Achieving Excellence initiative set out a route map with challenging targets for government performance under four headings – management, measurement, standardisation and integration. Targets included the use of partnering and development of long-term relationships, the reduction of financial and decision-making approval chains, improved skills development and empowerment, the adoption of performance measurement indicators and the use of tools such as value and risk management and whole life costing.

The key thrust of Achieving Excellence is the delivery of best value for money. This is not the lowest cost but the optimum combination of whole life cost and quality to meet the user's requirement.

Achieving Excellence is now in its second phase, with targets for improving project success rates and procurement timescales (and, by implication, bid costs). Targets have been set that:

- 70 percent of construction projects at benefits evaluation stage between April 2003 and March 2005 be delivered on time, within budget, exceed consumer and stakeholder expectations and with zero defects.
- For each sector, by March 2005, average time from start of procurement to award of contract be reduced by 25 percent for construction projects taking over a year between these points and by 15 percent for all other construction projects.

These improvements will help to improve the attractiveness of the government marketplace and the achievement of successful delivery and whole life value for money.

The advocacy of integrated supply chains helps to encourage industry capacity planning.

C5. Successful Delivery Skills Programme

The Successful Delivery Skills (SDS) programme, which has been endorsed by the Civil Service Management Board and the OGC Supervisory Board, is intended to result in the deployment of a consistently professional workforce on government procurement projects. The SDS programme offers commercial practitioners and others involved in the delivery of major, novel or complex projects the opportunity to widen and improve their skill in a more organised manner than has been previously available. Skills development can now be more effectively planned by departments, agencies, NDPB's and individuals, with help and support from OGC's Skills Development Centre.

Many projects that have been through the Gateway process have suffered from inadequate skills for the project. The Successful Delivery Skills Programme aims to address this by providing a benchmark level for each of the common programme and project management roles against which the potential project team members can be assessed before the start of the project.

As part of the SDS programme and to complement the Government Procurement Service launched in 1999, a new specialism in programme and project management (PPM) within the Civil Service was launched in October 2003. The specialism is a joint initiative between the Office of Government Commerce (OGC) and the Cabinet Office Corporate Development Group.

The main objectives behind the creation of the specialism are to:

- Develop the programme and project management capability and capacity within the Civil Service by providing support and guidance to Specialist staff.
- Provide arrangements to recruit, motivate and retain programme and project management staff within the Civil Service by providing a career structure, which recognises and rewards them.
- Develop suitably qualified and experienced people in the programme and project management community.
- Encourage an environment where jobs can be acknowledged and advertised as requiring a programme and project management capability.

- Design and implement career paths in programme and project management for the Civil Service.

The SDS programme is intended to result in the deployment of a consistently professional workforce on government procurement projects, so that project staff should have the knowledge required to facilitate capacity planning and engender effective competition.

C6. Up-skilling of Senior Civil Service

The OGC has been working with the Cabinet Office to foster the take-up of delivery-leadership skills within the Senior Civil Service. The objectives are better leadership and a cultural climate in departments that is more conducive to successful delivery, for example, by working closely on the improving leadership capacity initiative, strengthening commercial messages in fast stream and Senior Civil Service training and developing the Senior Responsible Owners' training and support.

C7. Successful Delivery Toolkit and Best Practice Guidance

The Successful Delivery Toolkit provides a repository of accepted good practice in delivery and procurement. The OGC Best Practice guides provide documented best practice for senior officials. Departments' adoption of standardised, repeatable processes based on published best practice guidance facilitates quality improvement and organisational learning. The OGC guidance already includes practices conducive to capacity planning and competition. The guidance is to be strengthened as departments' and the OGC's understanding of best practice about these and other subjects develops.

C8. Faster Procurement

The OGC led a 'Faster Procurement' study in 2002, which considered causes of delay in procurement projects and recommended actions to be taken to speed things up. Delays in procurement have negative effects on:

- The delivery of the benefits that the procurement is intended to achieve in the first place.
- Suppliers' bid resources, often a critical and expensive part of a supplier's capacity, which can be tied up unpredictably and unproductively.

Slow procurement and high bid costs are known deterrents to suppliers' participation in the government market place. Some of the good practices aimed at faster, less bureaucratic procurement will have a beneficial impact on capacity planning.

The OGC is now working with departments and suppliers to bring about improvements and has set specific, challenging targets to improve the time taken in procurement projects between advertisement and award.

C9. Reducing Bureaucracy

A report published alongside this one - *Making a Difference: Reducing Bureaucracy in Central Civil Government Procurement* – gives the results of a study carried out by the Public Sector Team in the Cabinet Office's Regulatory Impact Unit and the OGC. The study gathered evidence from a wide range of stakeholders in government and industry. It built on past and current work within government.

The report delivers practical measures, that have been agreed by departments and the OGC, to reduce unnecessary bureaucracy and burdens, so that the procurement of services and goods can be conducted more efficiently - thus reducing costs for both departments and suppliers, and achieving better outcomes. A two-year programme to implement the measures has already started.

The most important changes are aimed at:

- Speeding up the procurement process and reducing costs.
- Improving leadership and capability.
- Improving communication with the market and in Government.
- Focussing on successful project outcomes.
- Achieving more consistent use of best practice.

The major benefits, to be achieved through the successful implementation of the actions are:

- Shorter procurement timescales.
- Greater standardisation and consistency.
- Improved leadership and skills.
- Getting the best from consultants and advisors.
- Improved communication with the market.
- Improved collaboration across central government.
- Greater focus on outcomes.
- Achieving more consistent use of best practice.

C10. Better Regulation Taskforce Report on SMEs and Public Procurement

In May 2003, the Better Regulation Task Force (BRTF) and the Small Business Council (SBC) issued a report *Government: Supporter and Customer?*, which considers the difficulties that SMEs face in doing business with the public sector – from procurement to payment. The report does not seek to favour smaller firms over larger ones; rather it makes recommendations that aim to ensure a level playing field so that smaller firms can gain a fair share of the public sector marketplace, both by competing for public contracts and by participating in the supply chain. The report is set within the overall context of ensuring value for money in public sector procurement.

The government's response was published in September 2003. In the response, the government commented that 'Ensuring that small businesses are able to access and compete effectively in public sector markets is critical to the Government being able to take advantage of the benefits of greater competition and gain value for money across the range of its procurement activities. That is why we are pleased to note that the report identifies a number of examples of good practice across the public sector.

'Engaging small businesses can potentially lead to big advantages throughout the lifetime of a contract such as responsiveness, flexibility, quality of service and the ability to provide innovative solutions, for example through the early exploitation of new technology. Whilst we recognise that it takes time for good practice to be

embedded across the public sector, we are working hard to reduce the barriers that small businesses face when trying to access the government market place. We would therefore like to take this opportunity to re-iterate Government's firm commitment to enabling small businesses to compete in the government marketplace contributing to greater competition and innovation in supplying the public sector, and thereby improving value for money.' That commitment was also reflected in the Chancellor's 2003 Budget statement in which the Government highlighted some of the key recommendations of the BRTF and the SBC.

Of the 11 recommendations made in the report, which is available along with the government's response on the BRTF website www.brft.gov.uk, the government accepted 9 without qualification and the other 2 in principle.

C11. SME Procurement Pilots

In support of the recommendations of the BRTF and the SBC and in order to test a number of the proposed solutions, the OGC and the Small Business Service (SBS) have recently launched two pilot procurement schemes aimed at ensuring SMEs have easier access to government contracts. One is based in the West Midlands Region and the other in Haringey, North London.

In the West Midlands, the OGC is working closely with Advantage West Midlands, the Government Office for the Region and the SBS to make procurement strategies more accessible and transparent to smaller companies. In particular the pilots will undertake to:

- Advertise procurement opportunities below the EU threshold of about £100k (*recommendation 1*).
- Facilitate the provision of advice and training for small and medium-sized enterprises on how to do business with central government (*recommendation 3*).
- Pilot common core pre-qualification information for lower value contracts (*recommendation 5*).
- Promote the OGC Procurement Code of Good Practice (available on the OGC website: *recommendation 6*).
- Work with Prime Contractors to enable opportunities for small and medium sized enterprises throughout the supply chain (*recommendation 9*).

The Haringey Pilot is focusing on working with Trade Local, a local initiative to further open up opportunities to small and local businesses. It is undertaking to:

- Encourage/oblige prime contractors to offer sub-contracting opportunities to SMEs (*recommendation 9*).
- Develop common pre-qualification information documents that do not make unnecessary demands on SMEs (*recommendation 5*).
- Further develop the Trade Local portal to include information about how the public sector buys its goods and services, details of opportunities to bid for contracts of all values (*recommendation 2*) and also details of prime contractors to the public sector, locally (*recommendation 9*).

- Develop a ‘toolkit’ of policies, documentation and good practice that can be fed into the work of the Regional Development Agencies (*recommendation 4*), the Local Government Procurement Forum’s SME-friendly procurement concordat (*recommendation 10*) and used by other local authorities in developing their procurement strategies (*recommendation 11*).

C12. Supplying to Government Website

This joint OGC/DTI website, www.supplyinggovernment.gov.uk, is intended to provide information to help make the government marketplace more accessible for suppliers, especially SMEs. The website provides a single reference point for suppliers wanting to find information on selling to government.

C13. Government Procurement Code of Good Practice for Customers and Suppliers

OGC, on behalf of itself and a number of industry bodies including the CBI, published the code in 2002. The code was produced with input from the Senior IT Forum, which comprises senior officials associated with government IT and senior staff in IT companies in the Intellect IT-industry body. The code sets out core values that are shared by customers and suppliers and they way the respective parties are to conduct themselves, in accordance with the values. The core values are:

- Fairness.
- Honesty and openness.
- Efficiency and effectiveness.
- Professionalism.

Adherence to the code will benefit both government and industry.

C14. Supplier Capability and Performance

OGC has been developing guidance to help departments assess markets and suppliers in order that procurement projects deliver the desired outcomes. It should lead to more qualified suppliers coming forward, submitting better bids, winning government business and delivering high quality, VFM solutions.

C15. Aggregation

It is perhaps self evident that government is in a better position to achieve value for money if it has an aggregated picture of how much it is spending on what. That does not mean, of course, that it is always best to go out to industry with large, aggregated requirements. There may be a risk, for example, of creating a monopoly or of the government becoming over-dependent on a particular supplier. So it is best to take decisions about aggregation based on an understanding of the characteristics of the market concerned. OGC has started work to document good practices on aggregation. This can include the pooling of demands across departments or over time, or the bundling of related requirements into a single contract. Aggregation may provide more certainty to encourage suppliers’ capacity planning, but a balance is required to help ensure aggregation does not go beyond an efficient scale or unduly dampen competition.

Similar considerations apply to frameworks. The use of frameworks enables faster procurement and provides some assurance of supply quality, but it also has an impact

on competition. The framework procurer should for example pay attention to the appropriate encouragement of innovation, and care must be taken not to discriminate inadvertently against SMEs.

C16. Innovation

The DTI has been conducting a wide-ranging review of innovation in UK industry, which is to be published in December 2003. There will be a chapter on public procurement, which will address the question of how the public sector as a major customer across various sectors of the economy can influence and nurture innovation for the benefit of taxpayers, business and government. The review will suggest that this is best achieved through procurement best practice, for example engaging better with suppliers at the right time and in depth.

The OGC has been considering how government can better capture innovation and creativity through procurement and will be producing guidance on the subject in 2004. Effective competition should itself stimulate innovation. It is also a matter of avoiding prescriptive specifications and applying flexibilities to procurement processes, in order to avoid the complaint that suppliers sometimes make that departments reject their good ideas in favour of less satisfactory solutions. To obtain the right levels of innovation, the market needs to be alerted to forthcoming requirements – several years in advance in some cases.

In line with the objective of significantly improving the success rate of IT enabled business change projects the 15th July Treasury announcement “PFI: Meeting the Investment Challenge” stated that for future IT related projects there would be a strong presumption against PFI. It also commissioned OGC development of new guidance. This has been the responsibility of the Contract Innovation team.

Following consideration of NAO findings, Gateway lessons learned and consultation with over 20 Departments and Agencies, plus key suppliers, guidance for IT procurement is now ready for publication.

The guidance is aimed at Senior Responsible Owners (SROs), practitioners and their legal and financial advisers. It addresses the common causes of failure by helping the reader think through those initial strategic decisions that should be taken before a Gateway 0 or Gateway 1 review. It then points the practitioner reader to key issues that should be considered for every contract, and again helps them to think those through. As a result it leads the reader to a choice of contracting approaches with precedent clauses available in a number of key areas.

The overall impact is to point Departments, Agencies and NDPBs more in the direction of smaller, more focussed contracts. It does not seek to stop major long-term Prime style contracts. Instead it indicates that these are only suitable for Departments, Agencies and NDPBs that have the breadth and depth of capacity required to set-up and manage such contracts.

The publication of the guidance on the OGC website by the end of November is the starting point for a period of consultation and implementation leading to publication of an enhanced version in July 2004. In the interim, Departments, Agencies and

NDPBs will be expected to follow the guidance, or offer detailed comments on how the guidance should be adapted to meet their needs.

The Contract Innovation team will shortly commence work on producing guidance on contracting approaches for non-IT projects. This is scheduled to be published in March 2004.

C17. National Strategy for Local Government Procurement

The ODPM and Local Government Association, with input from the OGC, prepared a National Strategy to improve procurement in local government in light of the recommendation of the Byatt Report 2001. The strategy was published in October 2003. Its implementation is to be supported by Centres of Excellence and a new procurement advisory service.

C18. A Level Playing Field for UK Industry

The Chancellor has announced a review of UK business' experiences of competing for public contracts in other EC countries. This will look at different approaches to the application of the rules on public procurement and the impact they have on contract opportunities for UK business and their workers. The review will produce recommendations aimed at improving the competitiveness of European procurement markets and the ability of UK business' to compete effectively.

Further information

About OGC

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– is an Office of HM Treasury.

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OGC customers can contact the central OGC Service Desk about all aspects of OGC business. The Service Desk will also channel queries to the appropriate second-line support.

We look forward to hearing from you.

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