

## Radical transparency

The future of public procurement

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# About

*Reform* is established as the leading Westminster think tank for public service reform. We are dedicated to achieving better and smarter public services. Our mission is to set out ideas that will improve public services for all and deliver value for money.

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## **About the author**

Peter Smith holds an MA in Maths and Management Science from St. John's College, Cambridge and worked as a Procurement Director in both public and private sector organisations. He was a senior adviser to the UK National Audit Office, President of the Chartered Institute of Procurement & Supply, and served as a non-executive director for two large public sector organisations. He was Managing Editor of the Spend Matters Europe website from 2010-18, and is the author of three books on procurement. His latest, *Bad Buying – How organisations waste billions through failure, fraud and fu\*k-ups*, was published internationally by Penguin Business in October 2020.

## **About *Reform Perspectives***

***Reform Perspectives*** – These are long essays, akin to a newspaper long reads, showcasing a particular opinion or angle on a policy issue. These are meant to be thought provoking, challenging the status quo of public policy.

Government has a responsibility to be a smart buyer: to purchase the things government needs to operate more effectively at the most competitive cost, in order to get the best value for the taxpayers' money. This is always the case, but in times of crisis, government is challenged to spend quickly as well as effectively.

Its efforts to do this have come under scrutiny during COVID-19, especially around the £15 billion government has spent on PPE. Yet it is worth reflecting that government will have spent more than £1 billion on goods and services *every day* in the course of 2020/21.<sup>1</sup> Spending on this scale means that government and whole public sector must consistently make smart buying decisions.

To achieve this, transparency is critical. This does not just mean the public's right to see how their money is spent – although this is important in the interests of accountability. It also means transparency *within* the public sector, which I call *transparency plus*: letting timely and accurate procurement information flow freely, so that commissioners can make the best-informed spending decisions possible. This makes it easier to spot and scale best practice where a problem has been tried and solved before. In both senses transparency can make the public sector more agile, less vulnerable to mistakes, and better able to replicate best practice. In certain circumstances it might even remove the need for much of the tendering process which currently surrounds public sector buying.

Efforts to improve information flow around the public sector are long running – more than 20 years ago, Sir Peter Gershon highlighted “the advantages to be gained from a common database of information about [government] suppliers”.<sup>2</sup> Yet progress has been limited by historical technical challenges, rules governing ‘commercially sensitive’ information, and by inconsistent data collection. The Cabinet Office has begun to gather information for central government, but this must be able to flow to and from where it can be most useful to enable deep comparative insights across departments. Efforts to realise this vision in the public sector are in their infancy.

Now, though, this could change. Emerging procurement technologies will make it possible to access, share, and exploit government procurement data, relevant information from prospective suppliers, and even information from other countries and adjacent markets.

Adopting these technologies, which are already in play in the private sector, would be truly transformative. However, the Green Paper, *Transforming public procurement*, has more limited ambitions. Whilst it moves the discussion in the right direction, committing to improve transparency and to try to reduce some of the bureaucracy of the European Union procurement process, it is not as ambitious as it could be on technological change.

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<sup>1</sup> Spend Network, Public procurement data needs a refresh (2021).

<sup>2</sup> Reform, Cloud 9: the future of public procurement (2016).

There is a need and an opportunity for government to be more forward thinking. The Treasury must consolidate £40 billion a year by the middle of this decade<sup>3</sup> – or around a tenth of the value of annual public procurement spending.<sup>4</sup> Even before this, the rushed and sometimes opaque buying we have seen during COVID-19 has raised questions about public procurement that will not easily resolve themselves. Public procurement can and must get smarter and more efficient, and technology will play a big role in making this happen.

### **The challenge of smart buying**

The public sector faces different procurement challenges to the private sector, due to its scale, the markets it operates in, its motivations, and the kinds of goods and services it needs. These challenges play out at all levels of the public sector – it will spend approximately £400 billion with suppliers by the end of this fiscal year, and in normal years, the proportion spent by central government is less than a quarter of the total.<sup>5</sup>

The challenges of making government a better customer are clear, but so too are the potential rewards: a more productive, more efficient public sector that delivers higher quality services.

The UK public sector is in the market for most of the things it buys constantly, which is an advantage. High-frequency market participation for things such as social services provision in hundreds of local authorities gives the public sector extraordinary visibility of many markets. This should enable buyers to see how individual markets are moving by pricing, geography, service capability, supplier performance and specification. Yet, poor information flows mean at present this rarely happens.

The scale of public sector buying, however, can be a disadvantage. In theory, scale gives a buyer leverage to negotiate better deals, an idea that has driven many aggregation strategies in public procurement. In reality, though, many public sector contracts are so big that only a few large suppliers can service them. This means smaller suppliers, which cannot operate at the scale required, but could be more innovative, agile, and cost-effective, are screened out. Overreliance on a small number of big players means there is less incentive for competition and may cause supplier markets to stagnate. *Transparency plus* would make mid-sized alternative suppliers more visible in order to level the playing field and steward healthier public sector markets.

There are long-running challenges with public sector buying, such as a lack of commerciality in many public sector employees outside of procurement teams, which cannot be fixed overnight. Improving the flow of information around the public sector is a first and critical step to improve the quality of buying decisions quickly.

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<sup>3</sup> Resolution Foundation, Unhealthy finances: How to support the economy today and repair the public finances tomorrow (2020).

<sup>4</sup> Spend Network, Public procurement data needs a refresh.

<sup>5</sup> Spend Network, Public procurement data needs a refresh.

### **The public sector sits on an information goldmine**

While government has struggled to adopt the kind of transparency initiatives that this paper calls for to catch up with the private sector, the frequency with which it buys, and the information this can generate, means it is better placed to benefit from these reforms than even the biggest private sector businesses.

The technology exists today to make this possible: artificial intelligence can interrogate and evaluate tenders and contracts; data analysis tools can visualise large amounts of spend data to improve decision-making; and vendor management software is ubiquitous in financial services companies to monitor and manage supplier performance, or harvest public domain information about suppliers. This is all relatively conventional for a FTSE or Fortune business, where some companies can see everything they are buying on an app with no more than a 20-minute delay from order submission.

Yet, despite the potential for the public sector to generate huge volumes of procurement information, government has not yet seized the opportunity to harness it effectively. It has not adapted its activities to reflect that procurement can be done differently when this information is available and flowing. This leaves space for a host of potentially inefficient practices: commissioners needlessly starting from scratch, old mistakes being repeated, and best practice being ignored.

Somewhere in the UK, a local authority will have developed an innovative approach to social care contracting and delivery that secures better outcomes for vulnerable citizens than elsewhere.<sup>6</sup> An NHS Trust will have developed a public-private-voluntary sector partnership that is reducing hospital admissions and improving public health in its area.

Somewhere, a departmental agency has used an innovative approach to tendering a facilities management contract which took half the usual time, received proposals from several local suppliers (all new to the public sector), and awarded the contract to a social enterprise that is high performing.

Without a healthy flow of procurement information around the public sector, these successes are little known beyond a select number of commissioners, award events, and occasional media reporting. This is a critical weakness, and it needs to change.

### **A vision for *transparency plus***

Consumers have access to a wealth of real-time information on goods and services they want to buy, and the markets they're operating in. Platforms like Amazon, Google, and TripAdvisor give us information on pricing and supplier performance at the click of a button. While the technology is there – and has been for some time – government buyers do not all have such tools at their disposal.

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<sup>6</sup> Peter Smith, Innovative "Commissioning For Outcomes" – Adult Social Care in Slough Leads the Way, *Spend Matters*, October 10<sup>th</sup> 2017.

In the same vein, the procurement functions of large private sector firms work to improve companies' understandings of the markets they are in. They constantly review current suppliers and seek new ones; they develop new commercial approaches and use advanced tools and technologies in planning, analysis, sourcing, contracting and risk management. This can be process-heavy work, and still delivers excellent results. The Green Paper focus on lessening the process burden in public procurement is misplaced; I do not believe that this is the major issue. What matters most is for the public sector to spend time gathering knowledge about their markets and supplier performance, and then allowing that information to flow into the right hands to support better procurement process and decisions.

Subject to appropriate 'top secret' constraints, there should be a presumption towards openness. Information such as spending plans, tender opportunities, tenders from and contracts with suppliers, details of how a supplier's performance will be assessed, and information on how suppliers are performing, should be available to all public sector stakeholders, including policymakers, budget holders, and commercial teams.

A subset of key information should also be made available to citizens and prospective suppliers, including forward plans, tender opportunities, key contract terms, expenditure, service level agreements and supplier performance data. Currently, tender opportunities are generally public, and sometimes specific tender documents are put in the public domain. Beyond the contract being awarded, though, scant contract details are published and supplier performance is most often a closed book. This leads to unacceptable accountability gaps and, when the public wants to know more, government is put on the back foot by forced exposures or leaks.

Our aim is that at any time, and with minimal delay, it will be possible to see everything that each part of the public sector buys. Easy to use tools will be available to interrogate the information to compare pricing and supplier performance. It should be possible to assess suppliers and comparable public sector entities in terms of the prices or outcomes achieved, across sectors and geographies. It is essential that transparency is accompanied by accessibility; users will not engage with this vision if tools are slow and cumbersome.

In some cases, this may even mean the need to tender is entirely removed. With better visibility of previous or parallel procurements, and subject to risk management around market domination and ensuring competition where appropriate, an organisation may be able to make a case for simply replicating a contract already let by a different public body.

### **Improving situational awareness – the Adjacency principle**

A second, critical benefit would follow from radical transparency: an improved understanding of where problems have already been solved. This would avoid public sector commissioners starting from scratch and trying to reinvent the wheel when faced with a 'new' problem. Enabling commissioners to adopt the principle of *Adjacency* –

identifying and learning from similar procurement challenges and solutions – could go a long way to making public procurement more efficient.

In a transparent system, public sector commissioners would quickly identify any relevant examples of procurements that could be replicated and tweaked as needed. This does not have to be limited to the public sector, either; it may mean asking how other countries or companies in the private sector have solved a problem.

Government should ask how a private sector company is able to commission and construct a cruise ship four times the size of – and more complicated than – a warship in four years, as opposed to fifteen. We are not the only country to have built large ships. Even when the public sector is a unique UK buyer, there are lessons to be learned.

Market curiosity should also drive the public sector to identify and exploit truly innovative ideas and technologies, something the Green Paper doesn't really address. I envisage that companies should be able to put forward their ideas to government, with suitable confidentiality provisions, so that proposals could be matched with public buyers who might be interested in pursuing matters further.

There are already websites which are constantly collating all public sector tenders across sixty or more countries.<sup>7</sup> Interrogating tools like these will make it easier to see where countries have already addressed particular issues, and how. The ultimate aim is to encourage dynamic markets, with new entrants providing competition and ideas for the benefit of the citizen.

### **Objections to transparency are outdated**

Now for some myth busting: some objections to adopting *transparency plus* are outdated.

In the past, the volume of information required to realise these benefits, and the impossibility of making sense of it, was a major barrier. Now, however, technological advances in data storage and processing capacity remove many previous objections. The blossoming of machine learning and AI technology that can extract key data from millions of pages of contracts is making search, analysis and data interpretation easier day-by-day. A public body can now automate a search for, say, previously issued contracts with similar requirements to a new problem.

Historically, government itself has been worried about greater transparency – even more so than the supply side. Some fears – of supplier collusion or prices hiking as suppliers will be cautious about exposing their 'best deals' – are credible. Then again, with full visibility of pricing and analysis of bidding patterns, it might well be easier to detect potential supplier collusion. On the flip side, government stands to gain from a more transparent, open process: fewer accusations of dodgy dealings and perhaps even a

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<sup>7</sup> E.g. Openopps (web page), 2021.

reduction in appealed procurement decisions, as well as the benefits that would come with smarter buying decisions enabled by better information flows.

There is an understandable fear among officials of exposing poor deals, poor contracts, or a failure to hold suppliers to account – secrecy gives an element of self-protection. The experience of COVID-19, where some procurements were not run in a transparent way, only for details to reach the press later, has shown how a lack of transparency can do short-term and lasting damage. More fundamentally, self-protection should not stand in the way of accountable public spending given that the information flow will enable better decisions in the first place.

So, the Government should be confident and understand that the benefits of transparency outweigh the negatives. There are benefits in exposing both best *and* poor practice through the better flow and sharing of information – either can lead to positive change.

### **Implementing *transparency plus***

The public sector has been on a general trend towards greater transparency for several years, but new technologies are required to affect more substantial change. Now, tools exist to realise the vision for radical transparency, and they are evolving fast. These stand not only to improve information flows around the public sector; they can generate a new industry for procurement technologies that enable information to be used to drive more effective public spending.

Existing technologies which could play a greater role in the public sector include:

- Platforms that give buyers access to the universe of potential suppliers, with core information about their capabilities and characteristics
- Platforms that ‘scrape’ tender opportunity data from a vast range of national and international organisations
- Search and catalogue tools (along with the storage and processing capacity) that enable complex searches – for instance, for relevant contracts or supplier performance information – to be done in an intuitive free text manner
- Advanced sourcing tools that allow suppliers to put forward different options for how they would like to meet buyers’ requirements, enabling scenario analysis (e.g. ‘how much extra will it cost me to use five suppliers rather than three to meet this need?’)<sup>8</sup>
- Contract management tools that enable collaborative development of contracts and allow users to search huge volumes of information to identify particular clauses, risks, etc.

The “central platform” envisaged in the Government’s Green Paper, *Transforming public procurement*, is along the right lines – it would give public sector buyers access to information on supplier price and performance data, contract notices, and more. However,

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<sup>8</sup> Peter Smith, Sourcing Optimisation – Extracting Value from Complexity, *Spend Matters*, May 20<sup>th</sup> 2012.

it is likely that it will be hamstrung by concerns about releasing sensitive information, as is made clear by its lengthy discussion about precise FOI rules. Government needs to think seriously about what data it will make available in order to make a success of new technologies that are available.

What's more, government does not need to, and should not try to, create new systems from scratch to realise the vision for *transparency plus*. Beyond the central platform, it can build on existing technology to achieve its goals. The next challenge will be for government to embed these tools at scale, creating an architecture that promotes 'best in breed' technologies, allowing them to be removed, substituted or expanded as required.

As part of this, I strongly believe that government should create a market for tools and that the public sector should constantly experiment. There may be an opportunity to authorise multiple platforms for use (as countries such as Portugal do already). If this is to be possible, there must be common standards both for the platforms themselves, and for procurement data they would rely on.

### **Driving data standards**

That leads to the role of the Cabinet Office. The Green Paper sees its role largely as policing, even auditing, procurement process and performance. This is unrealistic. The Cabinet Office cannot possibly oversee, let alone audit, an annual procurement spend of £400 billion, from a naval base facilities management contract in Cumbria all the way to a consulting contract in a Yorkshire police force.

Instead, pursuing greater transparency about how government money is spent will be a much more powerful driver of improvements, both in terms of creating accountability, and supporting better informed spending decisions.

Cabinet Office should therefore focus its attention on making timely, accurate, and standardised information available to public sector policy makers, budget holders and commercial staff. It should set standards for government procurement data, making clear what procurement data should be collected and made available within the public sector and for citizens.

The principle of standardising data collection is straightforward – requiring contracting authorities to conform to the Open Contracting Data Standard, as the Green Paper proposes, would be a sensible first step. The question of *which* data can support meaningful assessments and comparisons of suppliers, though, is much more difficult. All the same; the more transparent public procurement becomes, the easier it will be to see what a supplier is doing and make fair, well-informed judgements on the basis of the facts.

As Cabinet Office wrestles with these questions, it should continue to drive best practice from the centre. It could, for instance, run innovation challenges for tech companies, or act as a hub for receiving unsolicited proposals from suppliers who believe they have something to offer government.

If government can support the rapid adoption of these new technologies and establish standards that they must conform to, it will encourage technology companies to innovate to meet UK demands. In turn, this creates an opportunity for the UK to lead by example. Just as we became world leaders exporting concepts around privatisation in 1990s, we can become leaders in this decade by showcasing practices that can be exported abroad.

### **Laying the foundations for public procurement in 2030**

The prize for adopting these changes would be significant. Large-scale private sector procurement transformation programmes usually aim to reduce third-party costs by 10 per cent or more. It is difficult to measure savings that might be accrued by smarter procurement in the public sector, which could include better policy outcomes from the same spend, rather than the same or better outcomes for a reduced spend. Even so, a saving of 10 per cent across government would cut close to £40 billion a year.

As government tries to build back better from COVID-19, huge sums will be spent with suppliers on infrastructure, support programmes, and new technologies. Money is tight, so it is more important than ever that government knows if money is well spent, and to share successes when it is. Let's have better data flows into, around, and out of the public sector, to re-establish trust, and support smart buying and better government.

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