



MRS Policy Unit

Submission to Consultation on Changes to the Public Procurement Rules in Scotland

Introduction: About MRS and the research market

1. The Market Research Society (MRS) is the world's largest research association. It's for everyone with professional equity in market, social and opinion research and in business intelligence, market analysis, customer insight and consultancy. MRS supports best practice by setting and enforcing industry standards. All MRS Members and Company Partners must adhere to the MRS Code of Conduct.¹ The commitment to uphold the Code of Conduct is supported by the Codeline service and a range of specialist guidelines.

2. The UK is the second largest research market in the world (second to the US) and the UK research sector is recognised as leading the way in the development of creative and innovative research approaches. According to the Office for National Statistics' (ONS) Annual Business Survey² it is estimated that the total UK turnover of the 3,159 enterprises involved in market research and opinion polling to be £3,782 million in 2011. Further in 2012, MRS with PricewaterhouseCoopers LLP (PwC) undertook an assessment of the size and impact of the UK research and evidence market, producing the MRS report *The Business of Evidence*³. One of the main findings from this report is the that the UK 'business of evidence' market is substantially larger than previously estimated, employing up to 59,000 people and generating £3billion in annual gross value added (GVA).

3. MRS represents both large businesses and small and medium sized enterprises (SMEs) and we have a range of research suppliers included in our membership, from large research groups to independent individual consultants. However the research supplier market is dominated by SMEs. The MRS 2013 League Tables, which are the MRS Intelligence industry statistics detailing the largest suppliers of market research, analysis and intelligence ranked by individual company UK-based turnover (£m) reported in 2013, indicates that once outside the Top 15 companies, all other suppliers are SMEs

¹ See [MRS Code of Conduct](#)

² Office of National Statistics (ONS), (2012) Annual Business Survey. Standard Industrial Classification (SIC) 73.2: Market research and opinion polling.

³ See www.mrs.org.uk/pdf/The_Business_of_Evidence_Final_08102012.pdf for a copy of the full report.



and there is a considerable number of small and micro business suppliers.⁴ This report is available at [MRS Intelligence Industry League Table](#)

About this response

4. MRS is pleased to respond to this consultation which will inform the development of new draft Scottish Regulations on public procurement. We have taken into account the questions posed in the consultation document and focused our response on the key factors to take into account in procuring market and social research considering in particular the impact on small businesses.

5. Procurement of market and social research supports evidence based decision making in government. It is important that this is delivered in an affordable and sustainable manner but the specific issues associated with procuring intellectual capital must be recognised to ensure that evaluation of research is around maximising value rather than minimising price. Procurement terms and conditions must also be suitable for SMEs and unduly restrictive. Use of regulated research suppliers, who follow professional standards as members of a recognised professional association, is critical and should be a qualifying requirement for public procurement of market research. High ethical, commercial and methodological practices supported by a Code of Conduct and clear compliance procedures will both support those engaged in research and reassure the general public that research is carried out in a professional and ethical manner.

6. We confirm that no parts of the response are confidential and that the information may be attributed to MRS.

Taking social, environmental and employment issues into account

Q.10 We believe that contracts should not be awarded on the basis of price or cost alone? Do you agree or disagree? Please explain why.

10.1 Although price and cost are key factors to ensure value for money other criteria are also important and we agree that contracts should not be awarded on the basis of price or cost alone. Research is an intellectual capital and creative service depending on skills, training and intellectual capacity. It is highly labour intensive, often requires high levels of customisation and interaction service rather than one based on a 'methodology menu'. As such any marking criteria used to evaluate research services should be based

⁴ Based on EU definition of SME using sole turnover criteria of 50 million euros.



on assessing whether a proposed solution is fit for purpose and good value for money; not on lowest cost. Lowest cost does not equate with value for money and the core purpose in evaluating research should be around maximising value rather than minimising price.

10.2 Design of the appropriate contract award criteria is important in ensuring that procurement is carried out adequately. A range of criteria should be reflected in the scoring criteria used, either the current 'most economically advantageous tender (MEAT) approach or evaluation on the new 'best price quality ratio'. It is also important in doing so to recognise the importance of specific sector characteristics and customary practices and the impact this may have on the criteria to be used in evaluating bids and proposals.

10.4 As research services are based on intellectual capital, the applicable criteria for the research sector are likely to differ from other sectors that may be based on physical capital such as the construction sector. In light of this evaluation criteria such as the track record of technical experience, suitability of the research solution i.e. the methodology and approach suggested appropriately address the business problem and indicate requisite level of innovation and understanding of the department's business needs and demonstrating how quality is maintained during the research project would be useful criteria to apply to research projects.

10.5 One of the most difficult areas when buying research is ensuring that the business problem or challenge to be addressed has been properly identified and defined, and as a consequence the best research approach procured. Expertise and knowledge of those commissioning is therefore also important. Having specialists that understand research as a discipline ensure that, for the most part, the right research solutions are procured and there is less wasted research, resources and time as a result. When internal expertise is not available and a buyer desires independent advice, there are also a wide range of practitioners who can act in a consultative capacity for buyers (this already occurs in some government departments). These consultative and advisory skills are part of the Intellectual Property that a good research approach enables. There is no cost to the buyer as suppliers pitch this advice as part of their proposals, and as long as at least 3 suppliers are sought to propose the best solution the risk of conflict or bias is properly mitigated. Including researchers properly (both in-house resources and research suppliers) in the research procurement process, should result in better value for money for government.

Making contracts more accessible for smaller businesses

Q.11. We believe that public bodies should retain discretion to split requirements into smaller lots and to award more than one lot to the same bidder. Do you agree or disagree with this? Please explain your answer.

11.1 MRS agrees that retention of discretion to split requirements into smaller lots provides a flexible approach for procurement. However in deciding whether to do so care needs to be taken to ensure that any individual contract splits are appropriate. For example in the research sector it would be counterproductive to split a quantitative research survey among a number of suppliers. There are a variety of research approaches to business problems and challenges and care should be taken to ensure that the contract specification is not structured so tightly that it pigeon holes the appropriate solution.

11.2 On the other hand, as small market and social research businesses can provide niche expertise a filtering by research business specialism/subject matter would be a useful model for creation of smaller lots. This may involve separate lots for creative development, pretesting, campaign evaluation, customer insight etc. As price/cost should not be the sole evaluation criteria within the research business specialisms, additional information such as experience, skills and tools would be relevant.

Q15 We believe that similar payment terms for sub-contractors, as for main contractors, is a good thing and there are some measures underway, or in place, to address this. We also believe that direct payments to sub-contractors could be complicated and could mean public bodies assuming some responsibilities that should arguably remain with the main contractor. In light of this, we believe that public bodies should be able to make direct payments to sub-contractors only where the contract allows this to happen and parties agree. Do you agree or disagree?

15.1 MRS welcomes a combination of strategies and policies that seek to ensure that smaller contractors are paid on time. Procurement terms and conditions need to be suitable for SMEs and not unduly restrictive or limiting. We have been involved in advocacy on this area for our members and gathered evidence on standard public procurement terms and conditions which caused considerable problems for research suppliers.

15.2 Smaller research companies have previously identified several issues in the public procurement process. For example requirements for disproportionate insurance and



liability contractual burdens such as unlimited indemnity or burdensome warranties all of which are cost prohibitive for SMEs. Another example of a practice that impacts adversely on SME's is specifications of payment in arrears. The difficulties this causes for small companies are exacerbated in field, telephone and focus group research exercises where the contracted research company will need to pay people immediately.

Selection criteria and grounds for exclusion

Q32 What are your views about what should be included in this Statutory Guidance? Please explain your answer.

32.1 We note that it is proposed to issues statutory guidance on some standards and values, describing the basis on which a supplier can be excluded from a procurement exercise, including employee relations and a potential supplier's conduct in business. This type of statutory guidance could usefully reference and/or incorporate membership of self-regulatory schemes as either a mechanism for measurement or an indication of the manner in which suppliers take the relevant social, environmental and employment issues into account.

32.2 Codes adhered to by regulated suppliers set out useful ethical principles and standards of behaviour. For example under the MRS Code of Conduct researchers are required to, inter alia, "be straightforward and honest in all their professional and business relationships" and "respect the rights and well-being of all individuals." These high level overarching principles which are supplemented by more detailed Code rules guide researchers in the application of ethical standards on employment and other matters. The importance of regulation of supplier activities has been accepted a core part of other research frameworks (such as that under UK SBS). Being an unregulated supplier should be sufficient to exclude companies from research procurement as there are several market research professional associations that include oversight and regulation such as MRS regulation of Company Partners and ESOMAR's corporate membership scheme.

Q56 Do you agree or disagree that we should not require the use of central purchasing bodies for particular types of procurement, thereby allowing public bodies to exercise discretion as to when, and which, central purchasing body to use?

56.1 We agree that centralised procurement should be used with discretion and only where the benefits of centralisation can be realised. Some of the issues that should be taken into account are:

56.1.1. Streamlined and efficient administrative procedures e.g. standardised core documentation and information requirements (e.g. Health & Safety policies, data protection and security etc.) storing such information centrally ensuring it is accessible by decentralised organisations wishing to use the centralised framework and approved suppliers.

56.1.2. Using established market resources which are already available rather than the Scottish Government developing costly bespoke information resources. Not only does such an approach reduce costs it improved credibility in the market place. The MRS' Research Buyers Guide is a published and fully searchable online directory, is the only list of MRS accredited research suppliers in the UK, including suppliers by region and location including Scotland and areas within Scotland. The Scottish government would save a lot of money, reduce waste and ensure only research, conducted in accordance with the MRS Code of Conduct and its associated compliance procedures, was procured if the Scottish Government adopt the use of this directory as a recommended source for the procurement of research supplies, and the resource to access research services particularly those valued below the EU procurement threshold.

56.1.3. Research is reliant on the trust of customers and participants who take part in its programmes. It is increasingly dependent on the use of personal data. Policy makers and operational managers must have reliable evidence which is acquired legally and ethically. This is especially true when dealing with children or other vulnerable members of the public. In an era of high levels of public and press scrutiny confidence in the quality of evidence used is high. Any future research procurement must continue to recognise the basic 'hygiene' factor; only to procure research that was conducted in accordance with the MRS Code of Conduct and its compliance procedures i.e. from MRS Company Partner organisations or from suppliers with MRS members.



Open contracting

Q63 What is your view of the Scottish Government's position to broadly endorse the principles of open contracting and commitment to work with civil society and wider stakeholder groups to improve transparency in its procurement practices as part of its continuing programme of procurement reform?

63.1 MRS is keen to continue the conversation on the development of a public procurement and to work with the Scottish Government, particularly in regard to how research services are procured. Openness and transparency should be balanced with rigour and robust regulation. Widening access should not result in sacrificing rigour or accountability of those that supply or buy services.

For further information or clarification on this submission please contact Michelle Goddard, Director of Policy and Standards, (michelle.goddard@mrs.org.uk 020-7566-1882).

This submission is made on behalf of The Market Research Society, 15 Northburgh Street, London EC1V 0JR. The Market Research Society is a company limited by guarantee, registered in England No. 518685.

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