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# MARKET, SUPPLIER & SUPPLY CHAIN ENGAGEMENT IN CONSTRUCTION

Guidance Note

September 2022

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# 1. Policy Context

## 1.1. Overview

- 1.1.1. This Guidance Note builds on Chapter 3 in the Construction Playbook to provide more detailed guidance for departments on carrying out engagement with suppliers and the wider supply chain in Construction projects and programmes.
- 1.1.2. Sections 2, 3 and 4 provide guidance on the three different types of supplier engagements:
  1. Market Health and Capability Assessments - These include desktop based research of the market prior to engaging with suppliers.
  2. Early Market Engagement - This includes engaging with suppliers prior to commencing the tendering process.
  3. Early Supply Chain Involvement - This includes formal engagement with suppliers and the supply chain in the pre-construction phase.
- 1.1.3. Section 5 of this document includes guidance on supply chain involvement during the delivery phase. Sections 6 and 7 provide case studies from the Ministry of Justice and the Department for Education.
- 1.1.4. This guidance has been primarily produced to support contracting organisations in following the Construction Playbook policy of Early Supply Chain Involvement. Early Supply Chain Involvement extends the principle of early contractor involvement by formally engaging the Tier 1 contractor alongside Tier 2 and 3 subcontractors and suppliers.
- 1.1.5. Departments are mandated to conduct Early Supply Chain Involvement activities for complex projects/programmes, and it should be ensured all activities comply with Public Procurement Regulations and the principles of transparency, non-discrimination, equal treatment and proportionality.

## 1.2. Dissemination

- 1.2.1. The contents of this Guidance Note apply to all Central Government Departments, their Executive Agencies and Non-Departmental Public bodies. Contracting Authorities within the wider public sector are also encouraged to apply this advice.

### **1.3. Contact**

- 1.3.1. The Cabinet Office Markets, Sourcing & Suppliers team ([commercial.support@cabinetoffice.gov.uk](mailto:commercial.support@cabinetoffice.gov.uk)) provides support to complex outsourcing projects and market insight.
- 1.3.2. Enquiries about this Guidance Note should be directed to the Markets, Sourcing & Suppliers team at [markets-sourcing-suppliers@cabinetoffice.gov.uk](mailto:markets-sourcing-suppliers@cabinetoffice.gov.uk)

## 2. Market Health Assessments

### 2.1. Purpose

- 2.1.1. Prior to engaging contractors and the wider supply chain, it is prudent for contracting authorities to conduct market health and capability assessments. This is increasingly important within the construction industry where economic trends influence the outlook for the industry as a whole. This should include obtaining and analysing information relevant to suppliers and the wider industry, which will aid in informing the most advantageous approach to early supplier involvement for individual projects and programmes. You could supplement this desktop research by speaking to suppliers, trade and professional bodies. Knowing and understanding the market, and the suppliers within, will enable you to approach the market at the optimum time with robust and relevant information to realise maximum benefits.

### 2.2. Timing

- 2.2.1. Typically Market Health Assessments are conducted early in the procurement lifecycle following the early establishment of scope/specification of the requirement. This will aid development of a robust market strategy and is the first step in defining the approach to early market engagement and maximising the output of early supplier involvement.
- 2.2.2. It is also important that this assessment is kept updated regularly during the procurement lifecycle, particularly in long-term contracts, to ensure that any risks and indeed opportunities are identified as a result of any changing factors that may occur.

### 2.3. Considerations during Market Health Assessments

- 2.3.1. Market Health Assessments will inform you of a range of factors to consider which will allow for planning and positioning of your engagement with suppliers and the supply chain. You should consider the following factors during your assessment:
- Size of the market and it's landscape,
  - Market concentration,
  - Health of the supply chain,
  - New trends,
  - Supplier capabilities and available capacity,
  - Supplier perception of customers,

- Regional variances,
- Innovation opportunities,
- Identification of risks.

2.3.2. You should consider the following questions as part of your assessment:

- Is the market currently in a period of growth, contraction, or neither, and how will this impact the different stages of your procurement process?
- What are the main macro-environmental shifts that have impacted your market over the past twelve months? Are these risks, issues, or opportunities?
- Are you able to list which of your likely bidders has the largest market share to understand the key suppliers and stakeholders?
- How does the market perceive you as a customer? You may be perceived as a valued customer, however additional work may be required to improve the relationship.
- What other public projects and programmes are planned that are similar to yours - what opportunities exist for collaboration, or what are the potential risks?
- Does your target market have the required capacity and capability?
- Do your suppliers have any common “bid / no-bid” criteria - and how is the current state of the market impacting these?
- Compare and contrast your requirements with those for the private sector and its suppliers. If certain suppliers serve the private sector only, consider the reasoning behind this.

2.3.3. As you develop your market assessment, you should also be aware of the following potential issues:

- Supporting data for your assessment may be poor and or out of date. You should ensure that you seek to obtain the most up to date data.
- Consider the level of data required to support your assessment. Some data might not be granular enough.
- Some sources of data may not be neutral / free of opinion and bias so consider the source of supporting data and its limitations.
- Rushed procurements and onerous terms at times of market constraint may result in a lack of bids being received, poor quality bids, and possibly higher costs. Consider your timing requirements in line with market capacity.

## 2.4. Supporting Resources and Data sources

- [Market Management Guidance Note](#) - This was designed for public services, however it provides useful guidance for any market.
- Cabinet Office Market Health Assessment team - [market.health@cabinetoffice.gov.uk](mailto:market.health@cabinetoffice.gov.uk) who can provide support on latest insight and where to source further supporting data.
- Crown Commercial Service can provide individual supplier factsheets and market reports - Contact them [ci@crownccommercial.gov.uk](mailto:ci@crownccommercial.gov.uk).
- [Construction Innovation HUB](#) - Provides information on the construction market.
- [UK Construction Purchasing Managers' Index](#): This is an economic indicator measuring the expansion or contraction of the UK construction industry. It is based on survey responses from construction companies, compiling procurement managers' ordering activity. A reading above 50 indicates expansion and increased activity and readings below 50 indicates contraction.
- [The Baltic Dry Index](#): This is an economic indicator which gives a short-hand view of the global economic outlook. It is a measure of the cost of international shipping, and so provides a sense of demand within supply chains, given that many raw materials involved in manufacturing and construction are shipped internationally. Increasing prices within global shipping indicate growth, with decreasing prices indicating contraction.
- [Crown Commercial Service Framework management teams](#), subject to demand, can provide qualitative insights gathered through contact with suppliers and live procurement/projects.
- [BEIS reports on building material prices](#) - Provides information on selected building materials and includes monthly price indices for bricks, cement and concrete blocks; and quarterly data on sand and gravel, slate, concrete roofing tiles and ready-mixed concrete.
- [RICS Building Cost Information Service](#) - This is a private database providing cost data for a range of construction activities.
- [Constructing the Gold Standard](#) - An Independent Review of Public Sector Construction Frameworks with a brief to create a new 'Gold Standard' for public sector frameworks and framework controls.
- [Constructing Excellence](#) - Industry body which publishes regular newsletters.
- [Build UK](#) - Industry body which publishes a range of reports on issues impacting the industry.

## 3. Early Market Engagement

### 3.1. Purpose

- 3.1.1. Market engagement can be horizon scanning to build a general understanding of the market or driven by a business need. It is a process that allows contracting organisations to:
- Communicate their needs or requirements to suppliers,
  - Openly and transparently exchange information with the market,
  - Develop a commercial strategy and explore different options,
  - Make the market aware of future opportunities,
  - Develop a category management function,
  - Focus on collective market and better understand market capacity, capability, and trends (building further from the market health assessment), and
  - Stimulate innovation in the design and delivery of the solution.
- 3.1.2. Market engagement is not just a tick-box exercise. It is vital for accessing market knowledge which is often unavailable within contracting organisations. It is a useful way for contracting organisations to understand the range of solutions and options available from the market and the deliverability of requirements. It encourages market interest and can provide contracting organisations with valuable information to develop the delivery model approach by testing and piloting approaches, routes to market, and bid evaluation criteria.
- 3.1.3. Market engagement will help to achieve:
- Better supplier experience, at Tier 1 and key/critical Tier 2/3, of interacting with the contracting organisation, through sharing goals and being more transparent. This will result in higher bidding interest and number of bid returns, as well as an increase to the quality of the returns.
  - Better understanding of suppliers and the market, using insights and data to continuously improve relationships and make better decisions on procurement options and timeline's.
  - Develop commercial strategies and delivery models that promote healthy markets over the short, medium, and long term.

- Assess whether project expectations, timescales, resources, and budget are reasonable and adapt where required to build market confidence and interest.

3.1.4. When undertaken well, market engagement can lead to higher, more sustained, levels of interest and better quality tender returns.

### 3.2. Timing

3.2.1. The timescales for market engagement depend on the size, scale, and complexity of the project. For early engagement, contracting organisations should begin engaging with the market at least 90 days before you intend to issue a tender. This provides suppliers with the time to effectively consider the opportunity, feedback on requirements, prepare internally and with supply chain members, and decide whether they intend to participate in the tender process. Table 1 provides key factors which might influence the scale and level of market engagement.

<b>Market engagement process can be streamlined</b>	<b>Extensive market engagement should take place</b>
Small scale project	Large scale project
Many similar examples in local market	Few similar examples in local market
Low complexity requirement with low degree of innovation needed	High complexity requirement and high degree of innovation needed
High degree of market interest, capacity and competitiveness	Low degree of market interest, capacity and competitiveness
Partnerships/consortia formation unlikely	Partnerships/consortia formation likely needed
High degree of internal knowledge and experience within contracting organisation	Low degree of internal knowledge and experience within contracting organisation

*Table 1: Key factors influencing level of market engagement*

### 3.3. Market engagement approach

- 3.3.1. It takes time, patience, and commitment to do engagement in a way that allows you to get the most from suppliers' experiences and expertise. Market engagement is a cross-functional activity that involves areas from across the project, the wider organisation and external parties.
- 3.3.2. There is no set process for market engagement, nor are there defined activities, and it can take many forms. It is all about listening to the market and taking their feedback onboard to drive better social, environmental, economic and project outcomes. It is relational, and at its most effective where suppliers and organisations grow together.
- 3.3.3. It's up to contracting organisations to design an engagement plan that will get the best results for the type of procurement you are doing, using market health assessments to inform market engagement. A project may use one or more types of engagement, depending on its size and complexity. The route to market, procurement, and distance from the Invitation to Tender will steer the types of market engagement activities that are undertaken. These activities get more structured nearer the Invitation to Tender stage and range from 'One-to-many' to 'One-to-one' as detailed in Table 2 below.

<b>Types of Engagement</b>	<b>Examples</b>	<b>Benefits</b>	<b>Drawbacks</b>
One-to-many	Market briefings, town halls, industry workshops, supplier meetings (group)	Useful for communicating key aspects of the project to a large number of suppliers	Feedback from the market may be limited due to the open forum
Written	Questionnaires, requests for information	Useful for seeking feedback from a broad range of suppliers, although the number and quality of responses will vary	Maximum value is typically achieved when paired with one-to-one sessions

One-to-one	Supplier meetings	The most effective way to get detailed and direct feedback from participants	The process requires higher investment of time and effort from the contracting organisation
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*Table 2: Types of Market Engagement*

3.3.4. It is important that contracting organisations:

- Observe the principles of public procurement and are fair, open, and transparent,
- Clear about the purpose and objectives of market engagement and all its activities,
- Keep an accurate record of discussions and feedback,
- Give equal access and information to all suppliers, and
- Treat all suppliers the same.

3.3.5. It is worth noting that certain types of market engagement can be time intensive. Ensuring that allocation of people’s time is justifiable is vital to the long-term success of a market engagement approach.

3.3.6. Before conducting any market engagement, it is a good idea to be clear on how feedback from the engagements will be used. It is important that contracting organisations give suppliers sufficient time to understand the requirement and themselves sufficient time to reflect, and act, on any feedback received.

3.3.7. Market engagement should inform crucial decisions on how to proceed with a project. It has different objectives at different stages. The types of information collected through engagement will depend on when and why contracting organisations engaged with suppliers. The following sets out the purpose of market engagement and types of activity depending on the maturity of the requirement.

3.3.8. Scenario A - No developed requirement i.e. strategic or initiation phase

3.3.8.1. In this scenario, market engagement should be used to inform your strategic approach to a project or programme.

3.3.8.2. Purpose:

- Understand market position, general construction and sector specific, to develop an overall focus for the engagements;
- Using the opportunity to set out what the contracting organisation is aiming to achieve;
- Working with the market to understand what is possible;
- Providing clarity about the commercial principles guiding the contracting organisation's approach and consistent messaging about the project.

#### 3.3.8.3. Types of activities to undertake:

- Carrying out regular strategic market sector scanning with industry bodies, independent market experts, and current supplier(s).
- Publishing forward procurement activity plans/pipeline to help suppliers understand the likely future demand, over at least 3-5 years, giving them more time to prepare themselves, and their supply chains, for upcoming opportunities. This can be done through frameworks, on GOV.UK, and with the IPA's National Infrastructure & Construction Pipeline.
- Engaging widely across different organisations and subject matter experts specialising in the delivery of construction and public services (i.e. industry bodies, representative groups, consultants, constructors, small and medium-sized enterprises, voluntary, community, and social enterprises, and independent experts).
- Attending trade shows to understand the latest products and services in the market and to raise awareness of potential opportunities
- Make use of available channels to advertise market engagement (Contracts Finder, Prior Information Notices, Trade magazines, social media, supplier framework briefings).

#### 3.3.9. Scenario B - Early/Developing requirement i.e. concept design and feasibility phase

3.3.9.1. In this scenario, market engagement should be used to ask tailored rather than generic questions.

3.3.9.2. Purpose:

- Giving the market an understanding of the requirement,

- Fostering market participation, innovation, and collaboration,
- Engage meaningfully with suppliers to assess their response to a proposed approach or requirements, and
- Providing opportunities for the market to solve problems, develop solutions, or influence requirements.

#### 3.3.9.3. Types of activities to undertake:

- Working in partnership with the Cabinet Office, Crown Commercial Service, and other public sector organisations to share and join up data and insights;
- Identifying the suppliers that are key/critical by Tiers i.e. supply chain mapping, then clarify how to handle the process of working with them and involving them;
- Host events, such as forums or industry briefings or workshops, to facilitate exchange of information and capture views on requirements (including viability and possible delivery options);
- Understanding market dynamics, supply chains, trends, capability, and capacity – and using the insight to develop delivery models and the commercial strategy i.e. developing insights further by testing assumptions and getting robust conclusions.

#### 3.3.10. Scenario C - Detailed requirement i.e. specification and tender development

3.3.10.1. In this scenario, market engagement should be used to inform the preparation of your tender documents.

3.3.10.2. Purpose:

- Ensure the requirements, the procurement route, and the tender documents, are appropriate and well-developed (addressing key issues raised by suppliers).

3.3.10.3. Types of activities to undertake:

- Host a meet the buyer/meet the supplier event to provide information and create/strengthen supply chain networks;
- Further events, such as one-to-one sessions or group workshops, to develop and get feedback on specification and tender documents;

- Hold a pre-tender supplier briefing to give advance notice and promote the opportunity;
- Workshops with suppliers and key stakeholders to gather feedback;
- Share lessons learned from previous projects or programmes with suppliers to build capability in the market.

### **3.4. Relationship building with the market**

3.4.1. Trust and credibility are very important when engaging with the market. It is vital to have a feedback mechanism that helps suppliers understand where and how their participation in market engagement has informed the way that the project is being taken forward. As part of this, contracting organisations should:

- Encourage suppliers to voice their opinions and explain to them what changes have been made based on their feedback (where it has or hasn't been used).
- Be proportional in the approach to improving competition i.e. making delivery model improvements, simplifying procurement processes, identifying onerous Terms & Conditions and discussing potential amendments with commercial contract managers.
- Facilitate the multiway exchange of information (not just one-way delivery of information) to give suppliers the confidence to make decisions, develop themselves, and allocate resources to meet planned projects.
- Provide early sight of information to enable the identification and mitigation of risks and development of delivery models to support effective delivery,
- Actively seeking supplier views on important issues or decisions.

3.4.2. It is important to bring internal stakeholders along with the market on the development and iteration of requirements. Stakeholders need to recognise their organisation's influence in areas where the government is a market maker and/or accounts for a large proportion of the market. In these cases stakeholders should understand the importance of the supplier's feedback and be prepared to respond and provide support in iterating the organisation's approach for the benefit of the market and to ensure value for money is achieved for the organisation.

### **3.5. Assessing success from early market engagement**

3.5.1. When approaching market engagement, it is important to know how you'll recognise success. Effective market engagement means:

- Suppliers have a good perception of the organisation as a client and are well informed about the organisation’s ambitions.
- Suppliers and the supply chain are on board with the contracting organisation’s priorities.
- Contracting authorities identify potential challenges with risk allocation and take action to address those issues.
- Contracting organisations adopt an approach that better utilises the construction market’s capabilities.
- Contracting organisations make informed decisions that reduce risk and maximise buying power.
- There is a clear and comprehensive understanding of suppliers and the market.
- The marketplace is stimulated, both locally and nationally. There is better market capacity and resilience to provide a healthy competitive response to opportunities.
- Contracting organisations understand the pressures and drivers on the supplier market (capacity, capability, trends, and appetite), and can better gauge what the market can contribute.
- Contracting organisations provide clear and consistent messages to suppliers about expectations.
- Supply chain capabilities have been strengthened using feedback to identify and address pinch points.
- There is a move towards a more proactive and joined up approach to the construction market in the public sector.

### 3.6. Common risks during market engagement process

3.6.1. There are steps that you can take that will help you manage, through mitigations, the most common risks involved in the market engagement process.

Risk	Mitigation Steps
Unfairly advantaging one supplier or disadvantaging a group of suppliers	<ul style="list-style-type: none"> <li>• Always act responsibly and with integrity – be fair, open and transparent.</li> <li>• Treat all suppliers the same – do not discriminate or favour one supplier over another.</li> <li>• Share the same information with all suppliers, for example, by briefing them together.</li> </ul>

<p>Shaping your specification or requirement in favour of one potential supplier or solution</p>	<ul style="list-style-type: none"> <li>● Be open to new players, new ideas and new solutions and do not get ‘sold’ on one solution.</li> <li>● Focus on the outcomes you intend to achieve not the inputs or outputs you think you need.</li> </ul>
<p>Creating an atmosphere of mistrust and putting suppliers off working with government</p>	<ul style="list-style-type: none"> <li>● Listen to and act on feedback from the market or if it’s not possible to act, explain why not.</li> </ul>
<p>Failing to protect intellectual property rights or commercially sensitive information</p>	<ul style="list-style-type: none"> <li>● When contracting organisations ask suppliers to talk to them, particularly about their new ideas, which are commercially sensitive, they must carefully plan how to engage with suppliers throughout the process. Suppliers’ innovative ideas, commercially sensitive information, and intellectual property must be protected.</li> <li>● Ask suppliers to identify any aspect of their feedback (or proposals) which they deem to be commercially sensitive and cannot be included in the delivery model, commercial approach, or tender documents. Then ensure that you do not disclose this information or use it without that supplier’s written consent.</li> <li>● Set out the rules for how intellectual property and sensitive information will be used throughout the process including clear roles and responsibilities for communications with the market.</li> </ul>
<p>Misunderstandings of information</p>	<ul style="list-style-type: none"> <li>● Plan how and when you will engage with the market, including communication.</li> <li>● Keep a record of all your meetings.</li> <li>● Ensure you place the word “DRAFT” on all information or documents shared.</li> </ul>

Setting unreasonable expectations in the market	<ul style="list-style-type: none"><li>• Make the process clear to all suppliers and manage their expectations.</li></ul>
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*Table 3: Common risks involved in market engagement and their mitigation*

## 4. Early Supply Chain Involvement (ESI)

### 4.1. Purpose

- 4.1.1. Early Supply Chain Involvement (ESI) extends the principle of early contractor involvement by formally engaging the Tier 1 contractors, alongside Tier 2 and 3 subcontractors and suppliers, in the pre-construction phase to input into the design (including the use of standards for products and interfaces), costing, risk management and structuring of a project or programme. It can reduce project risk and add value in aspects such as programme, capital and whole life costing, design, sustainability (including net zero carbon objectives), innovation, safety, buildability and quality.
- 4.1.2. For example, early engagement with design will enable Tier 2 suppliers to input into interfaces and methodologies that will reduce future failure or detect risks and costs.
- 4.1.3. ESI enables projects to be brought to market sooner when project information is less developed as it provides time to work through issues and develop solutions as a team. This should be supported by a collaborative approach and culture based on mutual trust between contracting authorities and suppliers. Implementing ESI provides greater cost certainty through more robust pricing with full consideration for all risks and provides greater scope for innovation by generating more interest and incentivisation for suppliers to input their expertise. However, it is not expected that all solutions proposed by suppliers will be accepted.

### 4.2. Contracting options for early supply chain involvement:

- 4.2.1. There are several different contracting options that facilitate early supply chain involvement:
  - 1. **Two-Stage Open Book:** This allows early appointment of a single contractor prior to completion of all project information. A limited appointment during the first stage is agreed to enable the contractor to support and/or commence project design, cost and risk development, with a fixed price or target cost agreed at the end of the second stage. The first stage appointment is commonly made using PPC2000, NEC4 ECI or a Pre-Construction Services Agreement (PCSA) and could include agreement of a Not to be Exceeded Price where appropriate. There is additional published [guidance and case studies on the Two Stage Open Book](#).

2. **Integrated Contract, e.g. [PPC2000](#), [NEC4 ECI \(early contractor involvement\) provision](#)**: ESI using Two Stage Open Book can be implemented using an integrated contract such as PPC2000 or NEC4 ECI. This is a single contract with one supplier but with stages aligned to the Business Case Process that allow for clear breaks at the end of each stage, requiring a notice to proceed to the next stage. For example, at the end of the Outline Business Case (OBC) period and prior to the development of the Final Business Case (FBC) and subsequent construction stage.
3. **Single-Stage Tender**: ESI using Two Stage Open Book can be implemented using a PCSA. Contracting Authorities can award a PCSA for the ESI period only with a separate tender process for construction. This is unlikely to be attractive to the market and the separate tender process for construction can undermine the benefits of ESI.
4. **Sub-Alliances (e.g. FAC-1 Contract) within portfolios or frameworks**: Sub-Alliances of suppliers can be created at project-level within a framework or portfolio using the FAC-1 contract. These alliances will collaboratively develop standard designs, master programmes and budgets across a portfolio and/or joint approaches in areas such as social value, with opportunities for all alliance members to secure work at the end. This has been put into practice by the Ministry of Justice in [Case Study A](#). Factors to consider when deciding on a sub-alliance route include:
  - a. Repeatability
  - b. Size and complexity of work – will a sub-alliance reduce risk?
  - c. Potential for economies of scale
  - d. Internal departmental structure and governance, e.g. is funding centralised?
  - e. Maintaining balance of power between Contracting Authority and suppliers
  - f. Ensuring all suppliers in the sub-alliance are incentivised against alliance success measures using KPIs
5. **Contracts with Tier 2 and 3 supply chain**: This can be achieved in three key ways:
  - a. Engaging Tier 2/3 directly through the main contractor (no contractual arrangement with Contracting Authority)
  - b. Joining agreements as part of the sub-alliance using FAC-1

- c. Construction management approach which enables direct contracting with Tier 2/3 suppliers by Contracting Authorities

4.2.2. Although not a contracting model, **Competitive Dialogue** is an alternative tender route that could be used to maintain competitive tension. It enables involvement of two or more suppliers after initial tenders and until submission of final tenders. However, this can result in suppliers incurring significant non-recoverable costs and is not a preferred route.

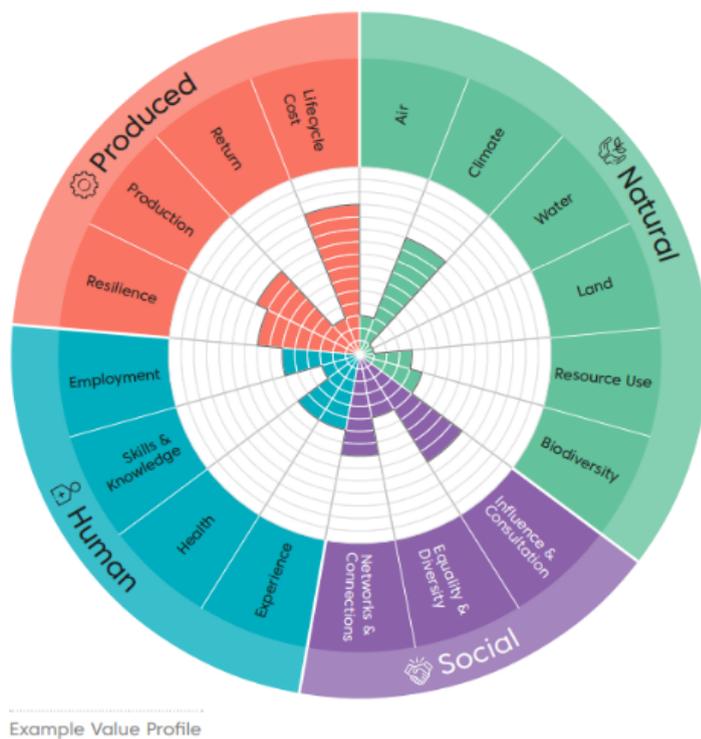
### **4.3. Timing**

- 4.3.1. The earlier the supply chain is engaged in the project, the greater the opportunity for added value and risk reduction through their input. This works particularly well on complex projects with a high risk profile, across large programmes of work and where there is sufficient time in the programme to enable suppliers and their wider teams to add meaningful value. The level of need should always be considered.
- 4.3.2. In determining timing for ESI, it is important to consider the optimum project stage. Ideally this is when there is a defined brief and scope, with or without initial design, but still a high level of risk to provide access to all parties' expertise to mitigate or eliminate those risks. Where a programme of work involves significant repeatable elements, ESI may require less supplier involvement after the initial project(s).
- 4.3.3. The duration of ESI is largely dependent on the scope of the supply chain's involvement and the project stage – too short a period may not provide the expected outcomes or the scope/time to implement innovation. For example, implementing Modern Methods of Construction typically requires more upfront time investment but will provide greater benefits when the project is on site. Direct engagement with specialists e.g pre-cast concrete suppliers should be considered and has successfully been used by contracting organisations. The need and scope can be defined as part of the early market engagement process (see Section 3).

### **4.4. Implementing ESI within projects**

- 4.4.1. Establishing the scope and team
- 4.4.2. ESI is a distinct process and should not be confused with Early Market Engagement where suppliers are engaged and provide feedback without cost to contracting organisations. ESI is about improving project delivery through engaging with the supply

chain and involves compensating the supply chain for its insight and expertise.



- 4.4.3. It is important to consider the value and benefits contracting organisations want to gain from suppliers' involvement when establishing the scope of ESI within bid documents. This should reflect any Strategic Value Drivers established using the [Value Toolkit](#) and provide clarity for the supply chain on their role, responsibilities and shared project objectives. Establishing a clear scope will also enable the supply chain to bring in wider teams, e.g., operational and asset management teams to advise on whole life cost/carbon.
- 4.4.4. An outcomes focused approach should be used and alignment to the requirements of the Value Toolkit considered. The Value Toolkit is designed to assist contracting organisations to work with their supply chains to make informed, value-based decisions that drive better social, economic, and environmental outcomes. All aspects of the four elements should be considered when defining the outputs sought from the ESI process.
- 4.4.5. From the outset, contracting organisations should have in place appropriate governance and project / design management protocols and teams with the right knowledge, skills and experience to manage project stakeholders and design development during the ESI period and beyond. The roles to be considered include

design, risk, and cost management along with stakeholder and social value management.

- 4.4.6. Creating a fully integrated team with the supply chain, rather than arm's length involvement, will provide better outcomes. Use of guidance such as [ISO44001 Collaborative Working](#) principles can help to shape the integrated team relationship.
- 4.4.7. In Alliances/Sub-Alliances or where multiple supply chain organisations are involved in the pre-construction stage, it is important to implement fair and transparent processes for sharing information and balancing input across suppliers. This will ensure that all suppliers have access to the same information and that pricing is fair and accurate.
- 4.4.8. No one supplier should gain an advantage and the process should be clearly articulated as part of the Early Market Engagement process.
- 4.4.9. How ESI could mitigate risk areas
- 4.4.10. The project or programme team should consider the areas of risk that they are seeking to address through ESI, for example:

<b>Risk Area</b>	<b>Example ESI output / benefit</b>
Design / Scope	Early consideration to use of Modern Methods of Construction, Net Zero and 'buildability' aspects
Time	Supplier involvement and expertise in development of robust project and programme timelines
Cost	Supplier involvement and expertise in development and validation of robust project cost and should cost models / estimates
Quality	Supplier involvement and expertise in quality of build solution
Social Value	Ability for suppliers to engage early with external organisations to develop links and added social value strategies
Sustainability	Opportunity to engage supplier expertise in Net Zero carbon solutions
Building Safety	'Supply Chain Collaboration' can be used in the pre-construction phase to optimise early contributions of all duty holders and other team members to improve safety, quality and regulatory compliance. DLUHC has published <a href="#">Guidance on Collaborative Procurement for Design and Construction to Support Building</a>

	<a href="#">Safety</a> which details how ESI can be used to improve building safety
Supply Chain Resilience	Helps to develop better understanding of resilience of key members of the project's supply chains and ensure plans are put in place to manage potential resilience issues

Table 4: How ESI could benefit in project risk areas

- 4.4.11. Access to innovation and expertise within the Tier 2 and 3 supply chain, including product manufacturers also adds further value to projects. Contracting organisations should consider opportunities for Tier 1 suppliers to partner with key Tier 2 subcontractors for the first stage bid, e.g. for larger work packages such as M&E, MMC elements and primary structure / facade with a fully open book approach during Stage 2 to ensure value for money. There may also be opportunities to create Tier 2/3 supply chain alliances to mitigate capacity issues and share innovation but this needs to include ways to provide fair opportunities for work packages at the end.
- 4.4.12. Pricing consideration and incentivisation during ESI
- 4.4.13. Adopting ESI should not prevent competitive tension in the procurement process. Contracting organisations should be clear about what they require from the supply chain and what they want to achieve at all stages of the process. It is important to ensure that mixed motivators are avoided and clarity is provided around deliverables at each stage.
- 4.4.14. In two-stage tenders, contracting organisations should consider the pricing mechanism for both stages. All options need to ensure a clear demonstration of value for money. The following table sets out the risks and benefits associated with different pricing considerations for both stages of the tender process.

Stage	Pricing considerations	Benefits	Risks
Stage	Lump sum	Provides greater cost certainty.	Supplier commitment / involvement may reduce once the lump sum limit is reached

	Cost reimbursable approach using staff rates	<p>Provides confidence that all work will be fairly paid for, improving supplier input.</p> <p>Enables suppliers to invest the right resources accordingly, improving value.</p>	<p>Authorities should consider whether to agree a cap (and the circumstances in which the cap should be adjusted) on the total cost payable</p> <p>Clear timelines and deliverables need to be agreed from the outset</p> <p>Paying suppliers for their expertise and time avoids an inflated construction cost (if the supplier tries to build early involvement costs back into the project) and ensures resource commitment</p>
	Free-of-charge	Perception of value from lack of cost	Rarely provides the best people from the supplier or the expected level of input
Stage 2	Allowing only limited Stage 2 price changes	Potential to demonstrate robust control over final price	Although perceived to give greater cost certainty, those costs may still materialise as compensation events during the contract
	Allowing development of a fully robust lump sum or target cost price during Stage 2	<p>Reduces risk and provides greater cost certainty overall</p> <p>Collaborative risk management will reduce supplier undefined risk pricing</p> <p>Promotes collaborative behaviours within the team</p>	Risk of market cost escalation and client scope changes

Table 5: Pricing considerations, risks and benefits of the two stage tender process

- 4.4.15. Incentivising suppliers across the whole project/programme, rather than just the construction stage, provides opportunity for suppliers to input their innovation and expertise in managing wider project risks, e.g. land costs or planning. Incentivisation could also be based on measured performance against alliance/project KPIs. Authorities need to understand the benefits that are derived by suppliers and articulate these as part of their procurement process.
- 4.4.16. It is also important to consider how the supply chain will be appointed following ESI. Direct award at the end of an ESI period, subject to agreement of a price, provides greater incentive to the supply chain to share innovation and commit their best resources. Further competition following the ESI period can be a disincentive as it creates concerns that innovation developed during early engagement will be shared with the wider market and place them at a disadvantage at the next stage of bidding.
- 4.4.17. Considerations during ESI implementation
- 4.4.18. As part of ESI implementation, contracting organisations should ensure that all risks are communicated to all parties, with risks allocated to parties best able to mitigate and manage them at the end of the ESI period. Within an integrated team, it will be in everyone's interest to manage risk to the maximum extent possible.
- 4.4.19. It is important to have clear communication channels with the suppliers and supply chain and build trust in order to implement effective ESI. This includes notifying suppliers and the supply chain of any changes or delays to approvals.
- 4.4.20. Good ESI requires strong leadership, project governance and strong commercial management from the contracting organisation. This will ensure that proposals from the supply chain are clearly understood and limited to what is required to enable successful project delivery. There should be strong stakeholder management within the contracting organisations to mitigate scope creep which can lead to additional costs. Good budget management is important as this can have an impact on when to appoint suppliers, acceptability of prices for the construction stage and overall stakeholder confidence in supply chain involvement.
- 4.4.21. There is a potential perception that implementing ESI means reduced cost certainty at the outset compared to single stage bids. A purely cost driven procurement strategy is unlikely to result in value for money as it can drive deterioration in quality or risk management. Costs that are perceived to have been avoided early on in this approach

usually materialise later in the project and implementing an open book and transparent approach can help ensure that value for money is achieved.

- 4.4.22. Implementing ESI also requires consideration of competitive tension following the ESI period. While it is possible to follow ESI with a further competitive procurement process, this can undermine the benefits of ESI. There are alternative approaches to maintaining competitive tension such as open book contracts during the construction phase or implementing an alliancing approach.

## 5. Supply Chain Involvement during the Delivery Stage

### **5.1. Purpose**

- 5.1.1. The Construction Playbook advises that the procurement process, evaluation approach and contract should generally be structured to cover both the Early Supply Chain Involvement (ESI) and the construction phase. Retaining engagement with the supply chain during the delivery phase of the contract is likely to lead to efficiencies in construction, avoidance of waste and cost savings.
- 5.1.2. As noted in Section 4, there are a wide variety of ways in which ESI could be applied and the extent of the involvement of Tier 2 and 3 suppliers. Approach to supply chain involvement should remain consistent throughout the whole project cycle, and this section deals with engagement during the delivery stage.
- 5.1.3. This stage could involve the supply chain working with the contracting organisation's project manager (the person or organisation who is appointed to administer the contract) in developing the design, pricing and scheduling the work and subsequently carrying out the work needed to deliver the project, or it may simply provide for the direct involvement of the supply chain in delivery following a competition involving price and quality. In the latter case, further detailed design is likely to be needed, and the contribution of the supply chain will be important in developing the optimum design.

### **5.2. Management of the relationship with the supply chain and governance**

- 5.2.1. The involvement of the supply chain during the implementation stage needs careful management. Traditionally, the relationship of the client and the client's project manager is with the contractor, and there is no direct interface with subcontractors. The contract needs to be very clear on what involvement is expected and how this involvement is to take place. Detailed requirements for the level of cooperation of the supply chain should be set out in the scope of work. In defining this cooperation, care must be taken to avoid cutting across the contractor's commercial relationship with its suppliers.

5.2.2. Shortly after the contract award, contracting organisations should hold joint workshops involving the contract manager, contractor and key suppliers. These would aim to get a clear understanding of how the contract should operate, including setting out clear governance controls and developing collaborative working relationships.

5.2.3. A more direct involvement of key suppliers can provide efficiencies in contract management, but care is needed to avoid introducing unnecessary requirements.

Some areas where key supplier involvement can be useful are:

- **Input to risk management** - Suppliers should be encouraged to notify potential risks to the project at an early stage, and relevant suppliers should attend joint risk workshops with the contracting organisation's contract manager and the contractor to discuss potential risks and decide the actions to be taken.
- **Putting forward proposals for improvements** - Reduction in the cost of work, savings in the whole life cost, improvement in carbon reduction and other sustainability goals, achievement of performance measurements.
- **Design involvement** - As well as direct design input related to their specialism, suppliers should be involved in identifying the effect of design proposals on their work and identifying the likely cost of future work.
- **Assisting in change control** - Key suppliers could have a role in assessing any change events and identifying future costs to completion.
- **Resolving and avoiding disputes** - Greater engagement of the supply chain during the project will lead to a reduction in the likelihood of disputes. Where a dispute involves the work of a key supplier, whatever route is taken to resolve the dispute should include the direct involvement of the supplier.
- **Building Information Modelling (BIM)** - The role of key suppliers in providing information to create the information model in accordance with the [UK BIM Framework](#) should be identified in the contract.

5.2.4. Some contracts such as PPC2000 and the NEC expressly include procedures for these actions, whilst more detail will need to be drafted if using a contract which does not.

5.2.5. Payment to the key suppliers for the work they have done should be controlled to ensure there are no payment delays. This should preferably be through the use of a project bank account. If a project bank account is not used, the contracting organisation should carefully monitor payments to ensure that the contractor passes on payments to its suppliers without delay and, in accordance with the Public Contracts Regulations

and current Procurement Policy Notes. The contract should include provisions allowing the contracting organisation to verify the amount and timing of payments to suppliers.

### **5.3. Monitoring Performance**

- 5.3.1. Whatever is included in the contract for involvement of the supply chain, the contracting organisation will need to monitor the level of engagement of the supply chain. The purpose of this engagement is to achieve efficiencies in construction; monitoring will lead to an understanding of whether the expected benefits are being achieved.
- 5.3.2. Key performance indicators should be set to measure whether the expected benefits are being achieved. If the benefits are not being achieved, the contract manager should be able to understand whether this is because supply chain involvement is not taking place, whether suppliers are not performing as expected, or whether the measure was unrealistic. In setting the indicators initially, it may be helpful to involve the contractor and its suppliers in identifying appropriate measures during the early market engagement stage. If it is found that the measures are not working as intended, the supply chain should be involved in deciding any adjustment to them during the contract.

### **5.4. Changing Suppliers**

- 5.4.1. Where there has been a close involvement with potential supply chain members during early market engagement, it may be concluded that the identity of the suppliers to be used is a critical factor in the success of the project. In that event, the contractor would need to identify its proposed suppliers for those key elements of work, and having had its tender assessed on that basis, would be required to use those key suppliers during the implementation of the project.
- 5.4.2. If identifying named suppliers at the tender stage is not considered necessary, they should be identified by the contractor following award and confirmed as having the appropriate capability for the work they are engaged for and meeting the tender requirements. The continued involvement of key suppliers once named by the contractor should be retained for the duration of the work as far as possible.
- 5.4.3. In cost reimbursable or target type contracts, following acceptance of key subcontractors, they should be subject to the same value for money reviews as all

subcontractors. Any concerns need to be resolved with the contractor, and if not resolved may give rise to a need to consider alternative suppliers.

- 5.4.4. The contract would need to include provisions to deal with changes to these suppliers. Suppliers named by the contractor should not be changed unless a replacement has been accepted by the contracting organisation as meeting the tender requirements. A clear process for the submission of a proposal to change a supplier should be included, including the need for a clear rationale for the change from the contractor and the criteria which must be met for acceptance of the proposal.

## **5.5. Design Development Stage**

- 5.5.1. If the contractor and its key suppliers are appointed before design is complete and before the implementation stage can be properly priced, there are additional ways in which the key suppliers should be involved in the contract processes. These could include:

- **Cost control in the design development stage** - Design development should be carried out to a sufficient level so that realistic pricing of the construction work can be made. This involves a balance between the level of design detailing and the level of risk remaining. A clear process is needed to make sure that the supply chain only carries out design development which has been agreed by the contracting organisation. This should identify the work required at this stage and the forecast cost of that work, with payment disallowed for any work not agreed in advance.
- **Design proposals** - During the design development stage, proposals for construction will be put forward at various times. These should be based on options considered in meetings involving the key suppliers and contracting organisation, and take account of buildability and the approach to construction methodology. The contract should explain the level of detail required for these proposals, their timing and procedure for agreement. The submission should identify the cost and time implications of proposals.
- **Assessment of prices for the construction stage** - As the design would not have been developed sufficiently to provide a full costing of the work at contract award, the contract will need to include a process for establishing the prices and programme for this stage. This needs to be agreed with the supply chain once all necessary design aspects have been confirmed. At contract award, there should

be a clear process to establish prices which give a high level of assurance that it is a realistic assessment of the cost of the work by the individual suppliers with risk allowances and profit.

## 6. Case Study 1 - Ministry of Justice - New Prisons



*Image 1: HMP Five Wells, Wellingborough*

### 6.1. Executive Summary

6.1.1. This case study covers the Ministry of Justice's (MOJ) New Prisons Project, delivering around 6,500 additional prison places through four new prisons as part of the New Prison Capacity portfolio.

6.1.2. It details:

- Market assessments – understanding the market and how to shape or influence it;
- Early market engagement – the development and implementation of proportionate commercial strategies;
- Early supply chain involvement – the work to design and embed commercial strategies that promote healthy markets over the short, medium, and long term, and;

- Supplier engagement during the project – enablers to undertake early supplier involvement on governance, incentivisation, design, and supply chain management.

6.1.3. If you're a **contracting organisation**, you should read this to understand:

- A worked example of what early supplier involvement looks like in practice;
- Practical guidance and ideas on how it can be implemented on a smaller scale, and;
- The allocation of resources to undertake it.

6.1.4. If you're a **supplier**, you should read this to understand:

- How to influence contracting organisations and drive benefits from early supplier involvement;
- Where you can add value and the different ways to advise, engage, or input into the process, and;
- The allocation of resources to be involved in it.

6.1.5. Driving early supplier involvement on the New Prisons Project has resulted in an innovative commercial approach and delivery model that meets the challenges faced and delivers tangible benefits.

## 6.2. Introduction

6.2.1. Forecasts demonstrate a significant rise in prison population during the 2020s, putting sustained pressure on the prison estate over the next decade and beyond, with projected demand going up. The Ministry of Justice's New Prison Capacity Portfolio was established to deliver 20,000 additional prison places across England and Wales by the mid-2020s, with a £3.8 billion commitment in the [Comprehensive Spending Review 2021](#) over the next three years. This was the biggest prison building programme in more than a century and the largest funding increase in more than a decade for the justice system.

6.2.2. The delivery of these places included (Figure 1):

- [Four new prisons](#),
- Expansion of the existing estate, both open and closed,
- Refurbishment of the existing estate,
- Completion of ongoing prison builds at HMP Five Wells and Glen Parva.

20,000 additional prison places will be delivered through:

PETP Legacy	10,000 Additional Prison Places Programme				3,000 Additional Prison Places Programme	Emergency & Short-Term	Conversion	
New Prisons		Expansions			Expansions	Temporary Expansions		New Prison
New Prison: Five Wells	New Prison: Full Sutton	Houseblocks and Refurbs	Women's Estate	Cat D Phase 1	Accelerated Houseblock Delivery Programme	Covid-19 Capacity	Rapid Deployment Cells Project	Morton Hall Conversion
New Prison: Glen Parva	3 New Prisons							
3,360	6,500	3,500			3,000	3,400		353

Figure 1: Breakdown of the 20,000 additional prison places by programme and project

### 6.3. Project Overview and Objectives

- 6.3.1. The Ministry of Justice undertakes a wide range of activities, supporting frontline services such as prisons and the administration of justice in courts. The prison building programme commitment meant that the department suddenly became the second biggest infrastructure delivery organisation by total lifetime costs.
- 6.3.2. The New Prisons Project delivers circa 6,500 of the additional prison places as part of the New Prison Capacity portfolio, with the first prison planned at [Full Sutton](#), in East Yorkshire. This project builds on the construction experience of two new Category C resettlement prisons, HMP Five Wells (Northamptonshire) and Glen Parva (Leicestershire), which are based on a new innovative design.



Figure 2: Strategic objectives for the New Prisons Project

- 6.3.3. The four new prisons prioritised safe, decent and secure accommodation while also supporting effective resettlement and rehabilitation (Figure 2). The design was developed to deliver a positive impact, reducing offending behaviour and improving outcomes for prisoners, modernising the way prisons look and feel. This new design

became the standard prison design for new builds for all four new prisons. The new design included smaller house blocks, majority single cells with a shower, digital technology and bar-less windows, functional rooms on each floor, and a central services hub.

6.3.4. Early supplier involvement was necessary to meet the objectives of the New Prisons Project. It helped build and maintain effective and collaborative supplier relationships, addressing key challenges:

- Building the department's capability to deliver multiple infrastructure projects concurrently.
- Rapidly upskilling, training, and scaling up a multidisciplinary team.
- Achieving planning permission, with outline planning permission only being secured at one of the sites at the outset of the project.
- Opportunities to refine the standard prison design so that the next generation of prisons can be delivered swiftly, with lower lifetime costs.
- Supporting and promoting wider government policy (e.g. prison leaver employment & levelling up).
- Developing the standard prison design to be future-proofed, fit-for-purpose and sustainable, incorporating net carbon zero commitments and preparing for climate adaptation.
- Growing market capacity and capability to meet the demands of the project, particularly for key and critical supply chain packages.
- Continuously improving how the project is delivered across the commercial lifecycle.

6.3.5. New prison build development journey

6.3.6. A typical new prison development, taking limited risks in overlapping delivery phases and starting from a blank slate with site and design takes circa seven years (Figure 3), assuming there are no delays to the planning process. In this project, the Ministry of Justice was working to accelerated timescales of circa 5.5 years. Early supplier involvement accelerated the development of the standardised design to become an all-electric solution, achieving net zero carbon when the National Grid decarbonises.

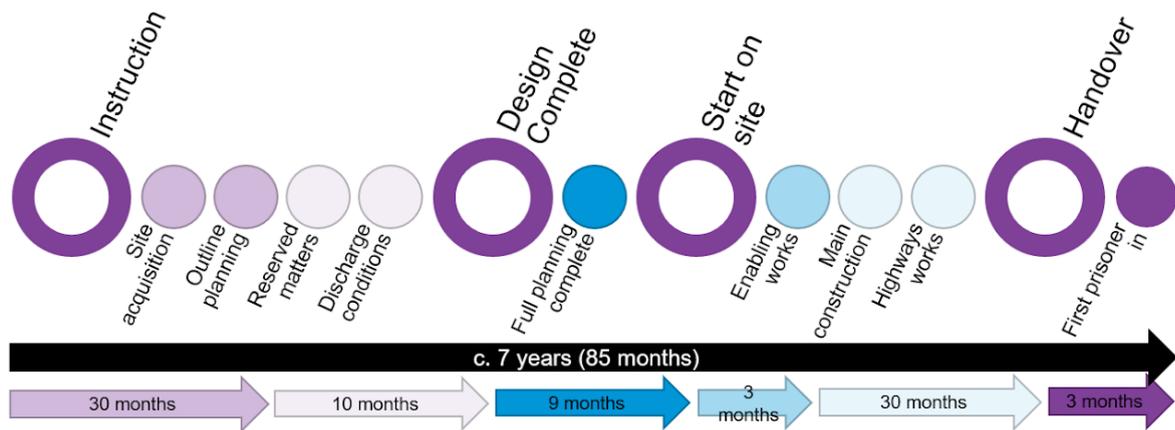


Figure 3: A 'typical' new prison build timeline. This assumes planning permission is given and there are no appeals. Clearly not every timeline is the same, some will be 1-2 years quicker, some longer.

6.3.7. The department faced a difficult challenge to build four new prisons over five years, in addition to the two under construction, on accelerated timescales required to keep up with demand in the medium term. The Ministry of Justice's commercial team undertook significant work to prepare the construction market for the scale of the challenge, develop a delivery model, and grow market capacity and capability.

#### 6.4. Market Assessments – Understanding the market

6.4.1. Market insight activities were undertaken at the outset and regularly throughout market engagement. The insights were used to understand market dynamics, improve the market strategy, and join up insights across government. Advice, guidance, and market health and capability assessments were gathered from:

- Commercial teams in the Cabinet Office (Markets & Suppliers and Crown Representatives) and [Crown Commercial Service](#) (Construction Category);
- [Infrastructure and Project Authority](#);
- Other Government Departments and contracting authorities;
- Market experts and industry bodies, for example [Royal Institution of Chartered Surveyors](#), [Institution of Civil Engineers](#), [Royal Institute of British Architects](#), and the [Construction Innovation Hub](#), and;
- Subject matter experts, for example Professor [David Mosey of King's College London](#).

6.4.2. At the inception of the New Prisons Project, market trends revealed that the construction market was highly interlinked and fragile, with vulnerable points that would have a butterfly effect throughout the whole industry. The challenges included:

- Fragility and fragmentation at every tier of the supply chain;
- Shortage of skilled workers and an ageing workforce;
- Insurance – risk, rising insurance costs and availability of insurance resulting in increased pressure on the supply chain;
- Sustainability – the Government’s 2050 carbon neutral date meant that rapid changes would need to take place in the construction market if it was to meet this date;
- COVID-19 pandemic – developing a more resilient sector with transparency, better planning, risk assessment and mitigation and a focus on value was crucial, and;
- Supply chain challenges – demonstrated at Glen Parva where there was a need to place early orders of critical items to manage constrained supply chains. Heavy reliance on subcontracting work packages, that can grow/contract relatively easily, creating capacity.

6.4.3. The impact of COVID-19 had a dramatic effect on the construction market, with potential long-lasting consequences, for example:

- Spending cuts - with some projects on hold and others temporarily closed while the industry adjusted to the new environment.
- Firms furloughed their staff across the supply chain, drastically reducing capacity, making it difficult to source critical items, and impacting productivity.
- Balance sheet critical – looking to see sustained growth.

6.4.4. It is within this context that the Ministry of Justice sought to use early supplier involvement to enable the construction market to bounce back, driving economic recovery, and restoring supplier confidence and trust in the department as a customer (following previously scaled back new prison construction projects which impacted market confidence). The department used early supplier involvement to engage collaboratively with suppliers to improve performance, deliver value, and stay aligned across multiple projects. It enabled both the Ministry of Justice and suppliers to focus on long-term alignment.

## 6.5. Early Market Engagement – Preparing the construction market for the challenge

- 6.5.1. Early market engagement was a crucial step to developing and implementing a commercial approach and delivery model that enabled both the Ministry of Justice and the construction market to achieve its goals.
- 6.5.2. The construction market's ability to bounce back would rely on having the right procurement capability and building robust supply chains. The Ministry of Justice made a commitment to meaningful early market engagement with suppliers to get the most from their experience and expertise and achieve the following outcomes:
- Understand the pressures and drivers on the construction market to:
    - Enable the Ministry of Justice to make informed decisions;
    - Develop a better understanding of suppliers and the market to shape the approach;
    - Support a sustainable supply chain for the long-term.
  - Simplify our commercial process and procedures to:
    - Enable participation from a diverse group of suppliers;
    - Develop a delivery approach that is proportional to the project and more sustainable;
    - Improve service delivery while achieving commercial outcomes.
  - Deliver a fundamentally better supplier experience of interacting with the department to:
    - Ensure all our suppliers are on board with the Ministry of Justice's priorities;
    - Maintain consistency of messaging and share information at early stages;
    - Drive forward opportunities in key policy areas, such as prison leaver employment.
- 6.5.3. Market engagement commenced at the strategic phase of the project, continuing through the concept design and feasibility phase, and concluding after the tender development phase. The process ended prior to the commencement of the Invitation to Tender process. In total, nineteen events were held from January to October 2020 with the Lot 5 providers on the Crown Commercial Service's [Construction Works and Associated Services framework](#). These varied from written questionnaires, one-to-one and one-to-many meetings, meet the buyer events, and industry workshops. Additionally, external input from Tier 1 suppliers and the supply chain (including product

manufacturers, SMEs, Tiers 2 / 3) was sought during market engagement. Their feedback was used to improve the delivery approach, peer review documents, and align the commercial approach with the wider market position.

#### 6.5.4. What the MOJ learned through market engagement

6.5.5. Feedback provided through the market engagement focused on several themes across the initial design, pre-construction, and construction phases. The market engagement approach was iterative, testing and improving the commercial approach and delivery model with the construction market, subject matter experts, and wider government over a 10-month period. The changes made based on feedback included:

- Commercial pipeline
  - Commitment and certainty – creating engagement about the pipeline, with transparency about the portfolio of work and opportunities across a five-year period. The clear picture of planned investment and early sight of requirements enabled suppliers to forward plan (and have confidence to invest).
- Delivery model
  - Delivery process – sub-alliance under the FAC-1 to enable collaboration, early supplier involvement, design reviews process, and development of a common supply chain.
  - Proposed development sites – sharing information on the proposed development sites at an earlier stage than originally anticipated in the project to enable suppliers to decide whether to participate in the tender process.
- Procurement process
  - Down selection – reliance on suppliers self-selecting whether to participate in the tender process.
  - Tendering process – shortened tender process to enable participation and 70/30 quality/price split to remove a ‘race to the bottom’ with median tender score for the price element.
- Early supplier involvement
  - Design review process – standard design for use on all four new prisons, with suppliers collaboratively inputting into progress the design.
  - Meaningful supplier input – developing the policy, guidance, and approach to prison leaver employment with input from suppliers.

- Supply chain
  - Common supply chain – development of a common supply chain, obtaining key component pricing for all four new prisons and incentivising collaboration.
  - Visibility of timelines – sharing the programme throughout market engagement to enable suppliers to resource and prepare themselves more effectively.
- Commercial terms
  - Limitations of liability – amended the position based on feedback from the market and review of risk with construction experts across Government.

6.5.6. The role of market engagement continued beyond the appointment of the four suppliers to the New Prisons Project, including:

- Development of market intelligence around supply chain capacity, capabilities, and health, to better manage suppliers critical to delivering the planned programme.
- Implementation of the supplier strategy, which sets out what the Ministry of Justice is going to do to make the New Prison Capacity portfolio a collaborative partner with good supplier relationships.
- Transitioning suppliers that are successful bidders to alliance members, from market engagement and mini-competition to supplier relationship management.
- Commencement of engagement and early supplier involvement with the Tier 2 and 3 suppliers in the supply chain to provide a clear pipeline of work, consistent messaging, and support the alliance in increasing capacity to meet demand.

6.5.7. Outcome from market engagement

6.5.8. It takes time, patience, and commitment to do market engagement in a way that allows you to get the most from suppliers' experiences and expertise. The sustained and consistent interaction with suppliers was a key component to improving market confidence following previous cancellation of high-profile projects, the impact of which still presents a risk. It also allowed the Ministry of Justice to confirm the existence of capability, capacity, and appetite to deliver the projects. Feedback from suppliers was positive, particularly the sharing of information at early stages, consistent interface, and open lines of communication. In turn, the Ministry of Justice was receptive to feedback from suppliers to shape its thinking, adjusting the strategy and delivery approach based

on their feedback. This allowed both suppliers and the Ministry of Justice to make informed decisions at an early stage.

## **6.6. Early supply chain involvement – Delivery model development**

6.6.1. The New Prisons Project has efficient procurement, collaboration and better project outcomes at the heart of it. Therefore, it was important that the delivery model took a programme-wide view that mitigated commercial and programme risk i.e. preventing the four new prisons being considered as individual projects in isolation of one another. The delivery of a £1.2 billion project of four new prisons on accelerated timescales required an innovative commercial approach. However, conducting a tendering process for each prison separately would have created:

- Unacceptable risks in resourcing, both within the Ministry of Justice and for prospective bidders;
- Risk of exhausting the construction market, for Tier 1 suppliers and supply chain;
- Power imbalance and missed opportunities of the potential benefits of the supply chain;
- Excessive (and potentially uncoordinated) competition for supply chain capacity, and;
- Programme slippage.

6.6.2. Crown Commercial Service adopted an innovative alliance approach on the Construction Works and Associated Services framework due to its benefits in promoting collaboration between Clients, Suppliers and Framework Managers. It encouraged use of innovative contract arrangements to procure projects or programmes of work as a strategic alliance. This approach increased consistency, efficiency, and improved value and performance. The Construction Category team provided input and support through the strategy and development phases of creating the alliance.

6.6.3. The alliance model was beneficial to the Ministry of Justice due to the scale and complexity of the project as well as the need for consistency in standard prison design. Beyond the cost benefits of the singular tender exercise, the alliance approach aimed to drive benefits of collective buying power, sharing of good practice, and procurement efficiencies.

6.6.4. To achieve its aims, the Ministry of Justice set up a FAC-1 alliance, with early supply chain involvement, as its delivery model for the four new prisons (Figure 4). Early supply chain involvement during the project helped to provide:

- An incentivisation structure to support and encourage collaborative working, with shared goals;
- Collaborative risk management and opportunities for risk reduction;
- Encouragement of openness and transparency in communication;
- Early involvement in decisions, scoping, early works, and logistics planning;
- Early design review and identification of opportunities;
- Working together to drive innovation, maximise social value outcomes, and reduce carbon, and;
- Unlocking opportunities through early supply chain involvement, such as market capacity, shared supply chains for offsite manufacturing, testing technical standards, and development of new products.

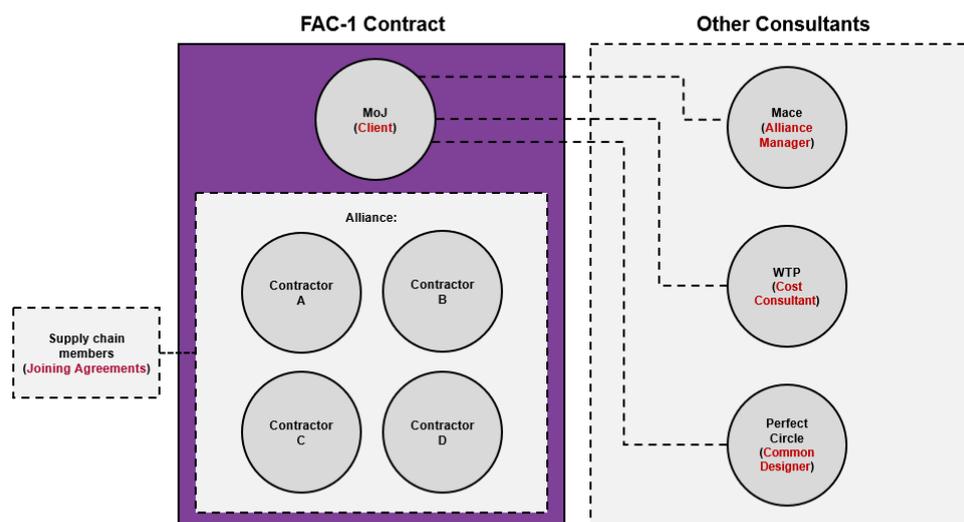


Figure 4: Parties to the Alliance and the integration of the wider Client team

6.6.5. The alliance model has been successfully employed on several high-profile projects, both public and private, with many different forms and varying approaches to structure used over the years. The Ministry of Justice transferred learning from these projects to design the appropriate structure to drive tangible benefits. Precedents set by other alliances demonstrate that the right balance of collaboration and competition could enable:

- Efficiencies,
- Joined-up working,

- Sharing of good practice,
- Sharing of data,
- Benchmarking between providers,
- Creating competitive tension around performance.

6.6.6. Embracing early supplier involvement through an alliancing model helped to design and embed commercial strategies that promote healthy markets over the short, medium, and long term. It shared the construction expertise and the range of supply chain, maximising value and knowledge sharing whilst mitigating risk and improving efficiency. This resulted in a strong unified team working collaboratively towards a set of common goals.

6.6.7. Following appointment, alliance members entered the pre-construction collaboration phase (Phase 1A). They provided input into the standard prison design, developed the supply chain strategy, and commenced any early works instructed by the Ministry of Justice. After the pre-construction collaboration phase (Phase 1A), alliance members then entered the pricing for the first new prison at Full Sutton (Phase 1B). Here, the alliance members provided a price for the main works for Full Sutton (based upon the completed design), which was then used as the baseline for the remaining three new prisons.

6.6.8. The overarching FAC-1 terms linked the four suppliers together throughout the project, with forums for shared risk and decision-making. While liability to one another is one way to drive collaboration, the four new prisons alliance used shared objectives and incentivisation (see incentivisation section). This ensured continued benefits from the alliance once the construction phase commenced (each governed by its own set of NEC4 terms).

6.6.9. Provision of cost certainty

6.6.10. Without a further tender stage following appointment of the alliance suppliers, cost certainty for both phases was monitored and delivered in accordance with a clear process. The tendered prices submitted by the alliance during the initial call-off/tender stage from Crown Commercial Service provided cost certainty in the following ways:

- Fees for the pre-construction collaboration phase (Phase 1A) were finalised at tender stage.
- Direct fees (overhead and profit) were fixed at tender stage.

- Staff preliminary rates were fixed at tender stage.
- Programme duration and contract value were assumed at tender stage, based on the ongoing prison builds at HMP Five Wells and Glen Parva.

6.6.11. During the pre-construction collaboration stage (Phase 1A) for the four new prisons, cost certainty was built upon by transparent supply chain engagement for key or critical packages i.e. mechanical, electrical and plumbing engineering, pre-cast concrete, and cell windows and doors

6.6.12. Following the pre-construction collaboration stage (Phase 1A), alliance members prepared their price for the first new prison at Full Sutton (Phase 1B). This was based upon a completed design and the alliance package procurement strategy, allowing the Ministry of Justice to have cost certainty in the form of an agreed lump sum contract value for the first new prison. The price for the first new prison at Full Sutton submitted by each alliance member (made up of the transparently tendered packages plus rates agreed at tender stage) then formed the basis for pricing for prison sites 2, 3 and 4, allowing for adjustment for site-specifics only.

6.6.13. Whilst the alliance members were already in contract, value for money was driven during Phase 1B in several ways:

- Competitive rates set at framework level could not be exceeded.
- Call-off competition to form the alliance provided additional competitive tension on these rates.
- Key supply chain packages were subject to procurement mapping by the alliance during the pre-construction collaboration (Phase 1A) to build a common supply chain, driving value through collective buying power.
- Circa 80% of the total value of each of the four new prisons would be competed transparently, competitively tendered on Ministry of Justice's sourcing portal, enabling additional reviews and benchmarking of costs.
- The second, third, and fourth of the four new prisons would be priced on the same basis as the first at Full Sutton, with the only permitted adjustments being for site-specific differences (cost data from the Full Sutton prices will be used to build up these adjustments to ensure competitive prices are maintained).
- The ongoing prison builds at HMP Five Wells and Glen Parva provided valuable cost and benchmark data, particularly in the second stage without further tender.

6.6.14. Benchmark data, both more broadly across the industry and specifically from HMP Five Wells due to the similarity of design, proved critical throughout the process. It supported the development of a robust cost plan and formed the basis for time and cost calculations from an early stage. This provided confidence in the business case process and allowed cost consultants to firm up estimates as tendering progressed (via the transparent e-tendering portal), accounting for site specifics, inflation and other variables.

## **6.7. Supplier engagement during the project – Initiating the Alliance**

6.7.1. The 'Alliance4NewPrisons' was formed in June 2020 between:

- The Ministry of Justice,
- ISG Construction Limited,
- Kier Construction Limited,
- Laing O'Rourke Construction Limited, and
- Wates Construction Limited.

6.7.2. The early market engagement and procurement of the four alliance members was only part of the puzzle. To give the project the best possible chance of success, there were enabling factors to the alliance itself and early supplier involvement. These included:

- Alliance set up,
- Milestones and deliverables,
- Incentivisation,
- Governance, and critically
- Culture.

6.7.3. Setting the alliance up

6.7.4. The alliance was founded upon a set of principles, facilitated by the FAC-1 framework alliance contract. Alliancing is both a relationship and a contract form. This approach helped to embed the collaborative relationship early, from the alliance launch to transition through the different phases. Each of the four alliance members nominated representatives from their organisation, both at Board and operational levels, to sit alongside representatives from the Ministry of Justice and its delivery partners (Mace Limited, WT Partnership and Perfect Circle). Together, they formed the 'core group', establishing strong leadership and trust from the outset (Figure 5).

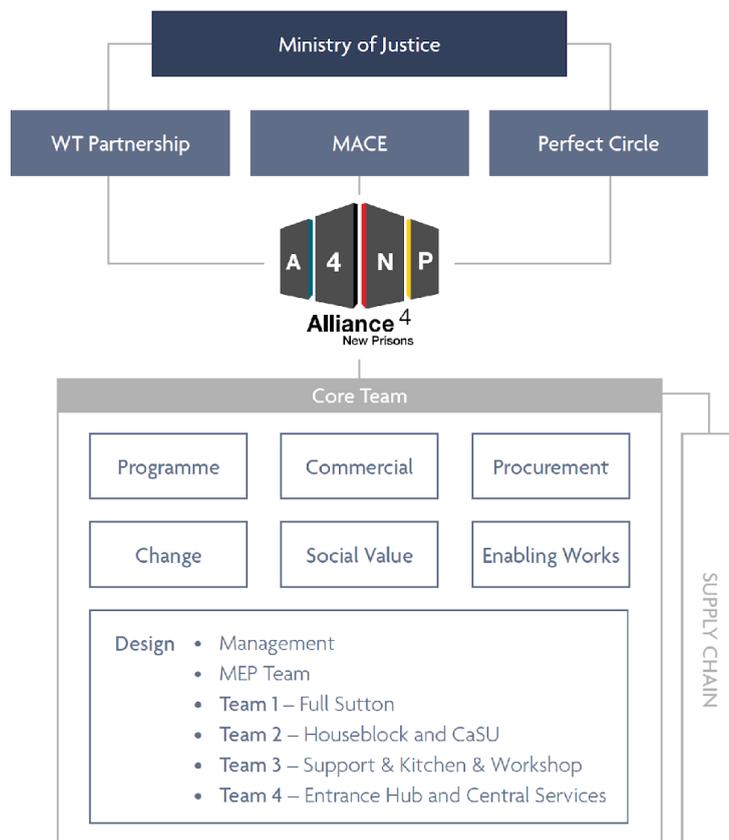


Figure 5: Alliance high level workstream structure

- 6.7.5. The alliance launch event prioritised communication of the Ministry of Justice’s strategic drivers, helping the alliance understand the critical success factors of the project. Buy-in was obtained from all alliance members, from the top levels of each organisation to delivery team members, with a commitment to share knowledge, industry expertise and access to networks and innovations. Working principles were set out in an “Alliance Charter” and an overarching framework covering pre-construction services, early construction, and main works was developed. This helped to ensure consistency of approach that would help to minimise risk and drive effective and efficient practices to deliver good value. It was at the launch event that workstreams were developed and aligned to the objectives set out in the scope.
- 6.7.6. There would always be a degree of ‘push and pull’ between different Full Business Case commitments. The Ministry of Justice worked with the alliance members to break down the criticality of each of these commitments to give a better understanding of Ministerial priorities and ensure they could make palatable recommendations to the Ministry of Justice with full appreciation for the governmental context. Providing the alliance and wider market with insight into the department’s drivers had significant

benefits, allowing the suppliers to align their business objectives and focus their teams more effectively on what mattered most to the Ministry of Justice.

6.7.7. The alliance was committed to delivering the principles of the [Construction Playbook](#) and [Transforming Infrastructure Performance programme](#) as a pathfinder project. For the New Prisons Project, this meant:

- Creating a contracting environment that delivers sustainable, resilient, and effective relationships between contracting authorities and the supply chain, focused on outcomes and that create long term value for all.
- Providing support and consistent and robust identification of opportunities and risks with openness, constructive challenge, innovation, and operational excellence.
- Focusing on success outcomes and aligning our governance forums and assurance processes.
- Ensuring successful delivery is built on developing high-performing teams from the outset with the necessary mix of multidisciplinary expertise to match the capabilities of the market.
- Optimising the alliance's engagement with the supply chain through advanced knowledge of engagement, and providing confidence and certainty in the commercial pipeline.
- Prioritising smarter construction – driving modern methods of construction, carbon reduction, supporting the delivery of the Transforming Construction Challenge; and a presumption in favour of offsite construction.

6.7.8. Milestones and deliverables

6.7.9. The deliverables and milestones were measured at regular intervals, monitored weekly through face-to-face core groups, and challenged in monthly steering groups. These included:

- Reviewing and improving the building reference design.
- Contributing to the development of site-specific design for the first new prison at Full Sutton.
- Supporting and developing a common supply chain.
- Standardising the supply chain, building components, and building engineering systems.

- Providing a clear commercial pipeline to the supply chain to secure and smooth market capacity.
- Realising economies of scale across the supply market.
- Delivering cost certainty sooner in the delivery process.
- Providing early works and services (as required).
- Improving enabling and main works programme integration through early engagement and collaboration.
- Improving shared learning across projects.
- Providing resource efficiencies and optimising resource profiling.
- Understanding and mitigating, eliminating, or reducing the risk to the New Prisons Project with the aim of bringing forward prisoner-in dates.

6.7.10. Collaboration and the benefits of an alliancing model didn't end following the pre-construction collaboration phase. The alliance contract was built around shared objectives that all alliance members signed up to for the duration of the project.

#### 6.7.11. Incentivisation

6.7.12. It was essential to ensure the FAC-1 alliance was incentivised to continue to leverage the benefits of early engagement as it moved into individual project delivery (governed by its own set of NEC4 ECC terms) and achieved (or where possible exceeded) a set of stretching additional targets, beyond that of a standard new prison build. To support this, the alliance approach included an incentivisation sum for targets over and above the 'core' key performance indicators, and key performance indicators that focused on early supply chain involvement.

6.7.13. The overarching FAC-1 alliancing terms still applied throughout the new prison build. Delivery of each individual prison build was closely monitored through 34 key performance indicators, including incentivisation of early supply chain involvement. The decision to incentivise the alliance was based on:

- Additional encouragement for alliance members to work together to achieve better outcomes for the HM Prison and Probation Service, Ministry of Justice, and the construction sector.
- In-line with the Construction Playbook, government strategy guidance is not for a "race to the bottom" approach.
- Promotion and incentivisation of activities that provide significant and long-term value to the project, department, and beyond.

- 6.7.14. The key performance indicators were developed to incentivise “over-performance” i.e. the incentivisation pot could not be accessed through business-as-usual performance. This was due to the structure of the key performance, split into three ‘tiers’ of core, stretch, and performance. The alliance members needed to achieve all core key performance indicators and green status on 12 of 16 stretch key performance indicators in each month to be considered for incentivisation. Although the key performance indicators only applied to the construction period, in creating the alliance, the Ministry of Justice used incentivisation to drive continued benefits following the initial collaboration phase, getting the most out of bringing four suppliers together over the longer term.
- 6.7.15. Governance
- 6.7.16. Mapping out how the alliance would fit into pre-existing governance structures was an important activity to undertake early in the project. It provided an opportunity to test the effectiveness of the alliance. The alliance contract set out the role of the ‘core group’ and ‘steering group’ in decision making, both during the pre-construction and construction phases. Beneath the ‘core group’ sat the workstreams where most of the activities were carried out. These workstreams were commercial, procurement, design, and programme (Figure 6). Whilst each alliance member led a workstream, the working groups consisted of individuals representing all organisations within the alliance, featuring combined specialisms from blended teams.
- 6.7.17. The ‘core group’ was responsible for collating the outputs from each workstream and approving them before they were passed through the relevant project governance. Each board had clear levels of delegation and authority to ensure decisions could be made efficiently and effectively. This was critical in allowing the project to be flexible, responding quickly to mitigate emerging risks, and taking decisions at the right level.
- 6.7.18. The ‘steering group’ was a forum for progress monitoring and escalation, featuring a director from each organisation. Selecting the right representatives from the Ministry of Justice was key to challenging ‘group-think’ and representing value for money.

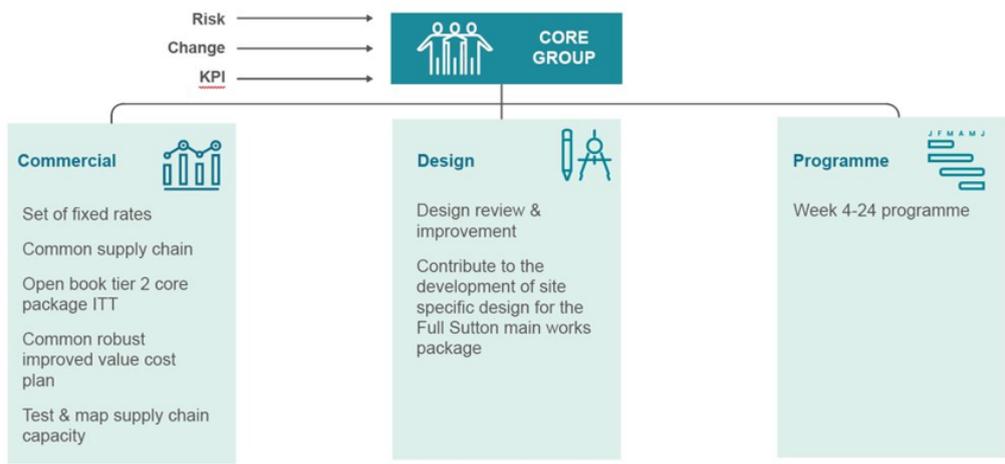


Figure 6: Alliance detailed workstream structure

6.7.19. Alliance members were integrated within the project teams and boards for each individual new prison build, as well as across the various projects, to ensure everyone received the same information and was sighted at a strategic level. The boards were made up of cross-functional leads, including representatives leading operation of the prisons post-construction and ‘critical friends’ e.g. from the Infrastructure and Projects Authority. This ensured decisions were made with a full understanding of the implications.

**6.8. Benefits and Challenges of Early Supplier Involvement**

6.8.1. Procurement and the supply chain

6.8.2. The Ministry of Justice was aware that market confidence, certainty and commitment of the commercial pipeline, and consistent messaging would be a challenge. Market confidence was critical to success (as referenced in the market engagement section). The following table describes some of these challenges and how they were addressed.

Challenges	Solution
Importance of culture, embedding the right behaviours from the outset, and the governance to enable a successful alliance	These factors were central to the planning for the initial pre-construction collaboration phase (Phase 1A). By incorporating a paid collaboration phase into the contract and bringing suppliers onboard earlier in the process, this was critical to

	<p>maximise the benefits that the four alliance members could offer the Ministry of Justice.</p>
<p>Supply chain and procurement was an area of challenge against a backdrop of COVID-recovery and projects re-starting across the country. Therefore, getting the supply chain engaged required a coordinated and targeted effort.</p>	<p>To maximise engagement, the alliance pooled their supply chains and expertise by creating a dynamic purchasing system. This was designed to encourage new market entrants and secure buy-in from experienced suppliers in delivering prison schemes. It also provided a communication route and forum for testing ideas and assumptions on the project.</p>
<p>Demonstrating commitment, both financial and strategic, and providing confidence in the commercial pipeline of work to the supply chain</p>	<p>To demonstrate commitment, the Full Business Case was approved by HM Treasury prior to award of the alliance contract. This enabled forward-planning and risk mitigation through early and enabling works, design activity, and early ordering.</p>
<p>Ensuring the commercial pipeline was well understood by the supply chain i.e. Tier 2 and 3 suppliers</p>	<p>The alliance planned supplier days to ensure the size of the project and future commercial pipeline was well understood.</p>
<p>Developing a common supply chain, testing capacity, and obtaining key component pricing for the entire programme of works (prior to the construction phase commencing)</p>	<p>In support of commercial pipeline planning, the alliance undertook a supply chain capacity mapping exercise, reviewing requirements for materials, labour, plant, and equipment against the programme to identify pinch points and critical early order dates. Additionally, early works orders for off-site manufacturing were identified and agreed.</p>
<p>Importance of considering whole life cost, rather than</p>	<p>Sharing the outline cost plan with the alliance members provided early feedback on key</p>

construction costs, in all decision making	packages in a volatile market, facilitated by market testing and engagement with Tier 2 and 3 suppliers. Additionally, the key performance indicators regime emphasised whole life costs for decisions taken.
Risk of competition between individual schemes or inconsistent or repetitive requests to the supply chain	Collective approach to procurement ensured consistent messaging and streamlined engagement and processes, ensuring focus was maintained on project-wide outcomes.

*Table 6: Challenges during market engagement*

- 6.8.3. The main benefit of early supplier involvement was the accelerated single procurement exercise. However, the benefits went far beyond Tier 1 level and the initial procurement of the alliance members. Beyond capacity and delivery, the alliance had stretching social value targets to achieve, for example, prison leaver training and employment is part of the overall rehabilitation roadmap. Many of the opportunities to achieve the stretching key performance indicators would be realised in the supply chain through early supply chain involvement during the project.
- 6.8.4. Risk management, programme, and early works
- 6.8.5. The alliance delivered tangible and significant benefits through their input into the early works, logistics, and planning process. The deep dive reviews carried out by the programme and design workstreams identified opportunities to bring works forward, overlap activities, or re-sequence to improve upon delivery timescales. This provided valuable mitigation at an earlier stage by testing and, in some cases, disproving assumptions in previous iterations of the programme. The benefits ranged from reviewing alternative access routes to ecological interventions. The alliance also input into, and supported the development of, scoping documents.
- 6.8.6. Four organisations working alongside the Ministry of Justice enabled accelerated reviews and deep dives into each project, programme and critical path, delivering maximum value in a short period. Despite many challenges on builds of this size, the alliance drove identification of risks at the earliest opportunity, bringing together the expertise of multiple organisations to assess options in achieving the best outcomes for the programme.

6.8.7. Design

6.8.8. Consistency of design across the four new prisons was also critical. In line with the government’s Construction Playbook, the four new prisons included standardised components, platform design for manufacture and assembly, and digitisation. The challenges around design and their solution is detailed in Table 7.

<b>Challenge</b>	<b>Solution</b>
Encouraging innovation at every stage of the project	Inclusion of a ‘review and improve’ objective for the design workstream to deliver a schedule of design opportunities to support Full Business Case commitments. Additionally, they focused on agreeing standards which would deliver value for money across the programme of works.
Review of standard design prior to handover	In a combined effort across all workstreams, a requirement to engage specialist design partners within the supply chain were identified, allowing for early appointments.
Design readiness prior to procurement packages going to the supply chain	Design readiness is a critical enabler for procurement, and the alliance has focussed on identifying co-dependencies across workstreams to ensure opportunities are not missed.
Handover of the design between the Ministry of Justice’s design team and the alliance.	Early supplier involvement during the design process in the pre-construction collaboration phase (Phase 1A) meant the alliance was able to provide feedback, flex programme dates, and smooth the process to mitigate some of the emerging risks.
Ensuring lessons identified from the previous experience of the HMP Five Wells and Glen Parva construction were learned	The lessons learned from previous experience of the HMP Five Wells and Glen Parva construction were incorporated through a robust process of continuous improvement.

*Table 7: Challenges around design and their solution*

6.8.9. Innovation was one of the biggest benefits of early supplier involvement. Early supplier involvement of the alliance in a pre-construction collaboration phase (Phase 1A) helped the Ministry of Justice to achieve this. It was driven through the design workstreams joint review with representatives across all four organisations alongside the Ministry of Justice and its delivery partners. The design improvements ranged from:

- Changes to increase offsite manufacture.
- Improvements to health and safety onsite.
- Better efficiency in construction.

6.8.10. More than **60 opportunities** were triaged for implementation through the project’s change group.

6.8.11. Though there was a pre-existing standard design, the design for the four new prisons would target BREEAM 2018 Outstanding ratings, and routes to net zero carbon. The design of these new prisons, while based on that of Glen Parva, would deliver better environmental outcomes because they would:

- Achieve a significant reduction in operational energy consumption from the national grid compared to the Glen Parva baseline.
- Achieve an 85% reduction in operational carbon emissions compared to the Glen Parva baseline and achieve BREEAM Outstanding.

6.8.12. The continued environmental improvements of the four new prisons can be seen in the graph below (Figure 7).

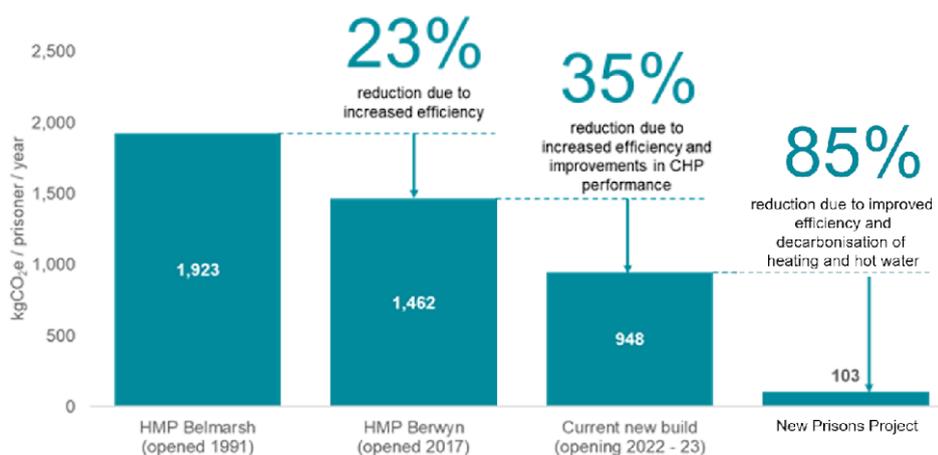


Figure 7: Carbon reduction through the new build prisons

## **6.9. Conclusion**

6.9.1. Early supplier involvement was critical to the New Prisons Project and the achievement of strategic objectives, driving benefits in time, cost, and quality. It challenged the construction market to deliver better outcomes from shared expertise. The alliance members rose to the challenge, sharing information, solutions, and collaborating to mitigate risk. It was a truly collaborative venture throughout the construction supply chain. This helped the Ministry of Justice to develop an understanding of how to stimulate the marketplace and build the capacity, capability, and resilience as well as position itself as a more desirable customer, building confidence, trust, and credibility with the market. Achieving this was enabled through good planning, openness with the market, and a robust tender process to appoint the alliance, as well as ensuring the right structures were established to facilitate maximum value. These steps have ensured challenges and setbacks are worked through collaboratively as the programme progresses, driving continuous improvement through each new prison build.

# 7. Case Study 2 - Department for Education - 2021 Construction Framework

## **7.1. Introduction**

7.1.1. This case study covers the market engagement undertaken by the Department for Education (DfE) to procure the 2021 Construction Framework (2021 Framework).

### 7.1.2. 2021 Framework – Key Characteristics

- **Framework Duration:** 4 years
- **Framework Value:** £7bn
- **Scope:** Construction of schools, academies, sixth form colleges, further education colleges, other educational facilities and wider publicly funded buildings
- **Users:** DfE, schools, trusts, dioceses, local authorities, further education colleges, universities and other government departments
- **Contractors:** 26 Contractors
- **Lots:** 22 Lots in total
- **Value Bands:** 3 Value Bands (High, Medium and Low)

7.1.3. DfE's Construction Frameworks have supported the delivery of new school buildings and refurbishment schemes for DfE and external users for the past 15 years. Over 1000 capital school projects worth over £11bn have been procured since the first iteration of the Construction Framework in 2007.

7.1.4. DfE's 2017 Framework expired on 26 November 2021. DfE had an immediate need to retain its own procurement route due to its significant capital delivery requirements. It was critical that the procurement of the 2021 Framework was completed prior to the expiry of the 2017 Framework to ensure projects continued to be delivered seamlessly.

## **7.2. Key Focus Areas for Market engagement**

7.2.1. There were several key areas for DfE to address through the market engagement strategy including:

- Design and structure of the 2021 Framework, including cost and commercial strategy;

- Introduction of the Construction Playbook and integration of its key themes into the core operation of the 2021 Framework;
- Launch of Output Specification 2021, the next iteration of DfE's standardised approach to delivery, including key sustainability updates to achieve net zero carbon in operation;
- Incorporating the concepts and principles of information management using building information modelling (ISO 19650) and ISO 12006-2; and
- Understanding market interest for the 22 Lots to ensure sufficient capacity.

7.2.2. Early engagement enabled DfE to offer a clear message to the market as to what DfE's minimum expectations and requirements were, in addition to gaining an invaluable insight into areas that could be improved for the 2021 Framework. Potential improvements were tested during the consultation period with the wider market. DfE was keen to engage new suppliers and seek new ideas and solutions through market engagement.

### **7.3. Engaging with suppliers**

7.3.1. The timeline of market engagement was critical to manage due to the expiry date of the 2017 Framework. Market insight and initial engagement was undertaken 12 months prior to the procurement start (see Figure 8 for timeline of market engagement activity). It was important to start engagement early to:

- Provide the market with sufficient time to understand the requirements and provide feedback;
- Mobilise their procurement teams to bid for the opportunity; and
- Increase visibility of the procurement to encourage bidding.

7.3.2. This preparation time proved invaluable to the market due to the COVID-19 pandemic, as many businesses had furloughed staff which had limited their capacity. The market engagement consisted of:

- Two prior information notices;
- Market engagement events at the commencement and conclusion of the consultation period; and
- Four consultation surveys.

7.3.3. The timeline for each consultation was scheduled to provide sufficient time for DfE working groups to analyse and reflect on the feedback received to inform the remaining

consultations. This approach allowed for flexibility in designing each consultation and enabled the addition of further questions to test any common themes that arose.

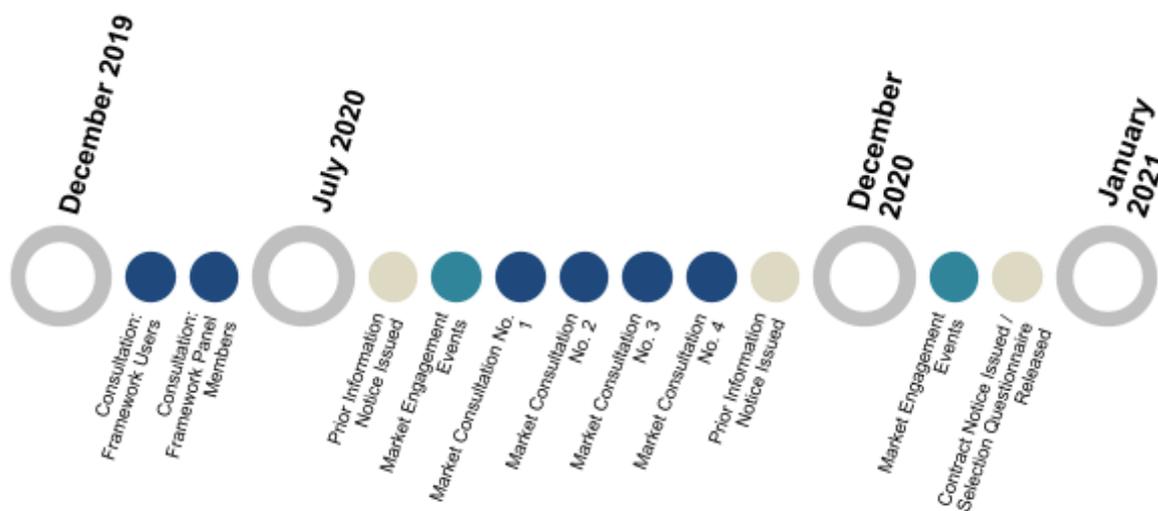


Figure 8 – DfE’s Timeline of market engagement activity

#### 7.3.4. Market Insights

7.3.5. Market insight was undertaken prior to embarking on the formal market engagement. This included a review of performance data and statistics on the 2017 Framework and previous iterations. Insight was also obtained on matters such as the Construction Playbook, procurement policy notes, sustainability, supplier financial health and the impact of COVID-19 on the market to understand any risks and opportunities. This review was repeated throughout the procurement process to enable DfE to be proactive in responding to change.

#### 7.3.6. Market Engagement Events

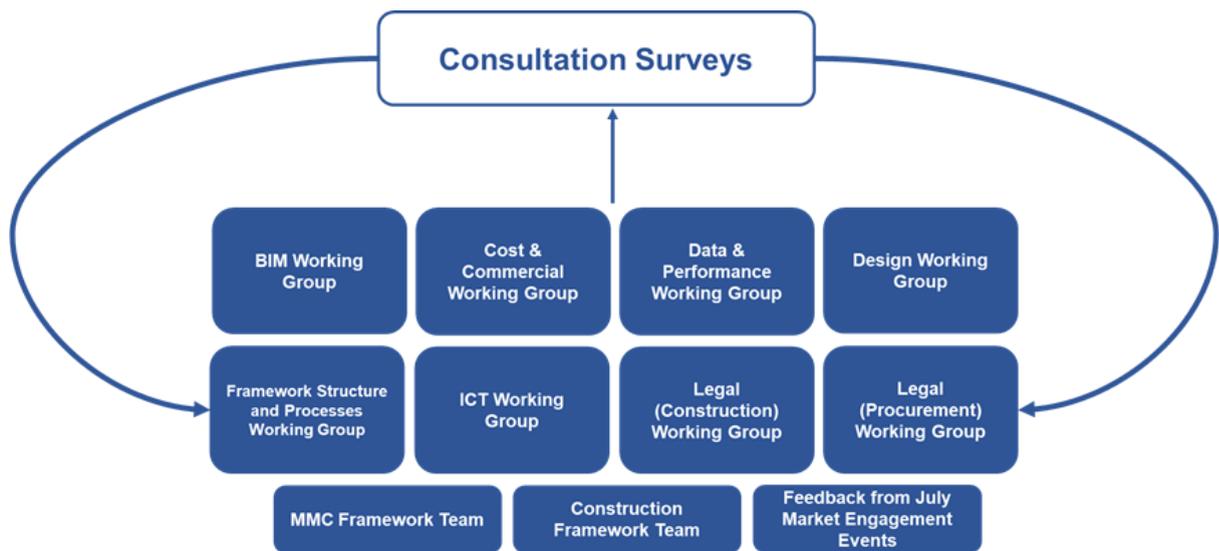
7.3.7. Market engagement for the 2021 Framework consisted of two market engagement events advertised to the market via Prior Information Notices. This approach provided the market with awareness of the procurement opportunity and ensured all potential bidders were placed on an equal footing regardless of whether they had worked with DfE previously. DfE was keen to bring suppliers on the procurement journey and provide insight into the impact the feedback had on the framework structure and design.

7.3.8. The COVID-19 pandemic presented a unique challenge as the events could not take place face-to-face. However, this also presented an opportunity to enhance

engagement with the market using technology as events were hosted using Microsoft Teams.

- 7.3.9. The first market engagement event held in July 2020 allowed DfE to provide the market with:
- An introduction to DfE as a client and the history of the Construction Framework;
  - Key performance data;
  - Projected pipeline;
  - Clarity on the opportunity being presented to the market;
  - DfE's future aspirations on sustainability with the launch of DfE's updated Output Specification;
  - Projected programme; and
  - Market consultation process.
- 7.3.10. The aim of the event was to enthuse the construction market about the opportunity and encourage new suppliers and SMEs to bid.
- 7.3.11. A final market engagement event was held in December 2020 to provide the suppliers with a summary of the market consultation undertaken between July and October 2020 and how their feedback influenced the 2021 Framework design. This session also included an explanation of the restricted procedure and requirements for the selection questionnaire stage, (including information and requirements for invitation to tender stage) and information on the Framework Agreement and Scheme Contracts.
- 7.3.12. Consultation Surveys
- 7.3.13. The consultation surveys were issued following the first market engagement event in July 2020, to ensure suppliers had a clear understanding of DfE's requirements and the timeline for market engagement. The survey was created to ensure anonymity so that respondents were comfortable providing honest feedback. Supplier feedback obtained during the first market engagement event was incorporated into the first consultation survey. The market consultation surveys were structured so that DfE could reflect on feedback and share with the market how DfE had developed consultation themes. This provided complete transparency and facilitated a strong level of engagement during the procurement phase.
- 7.3.14. DfE's market consultation was a cross-functional activity with working groups assigned to analyse the market's response to each consultation and this information was used to

inform the design of subsequent consultations and the underlying structure of the 2021 Framework. Each working group was composed of colleagues from across DfE, in addition to representatives from the appointed legal and technical advisory firms. This structured approach ensured the purpose and objectives of market engagement, and its activities, were clearly defined. Inclusion of feedback from the framework management team ensured qualitative insights gained through supplier management and project delivery experience were also incorporated (see Figure 9 for the working groups contributing to the consultation process).



*Figure 9 – Breakdown of cross-functional Working Groups integral to the market consultation*

7.3.15. Four market consultation surveys were issued to the market between July and October 2020. The survey design and timing of issue was structured to allow working groups sufficient time to analyse the data and use the feedback to explore alternative options in subsequent surveys. The themes for each consultation are detailed in Table 1. The surveys were also used to gain feedback from the market as to whether procurement expectations and timescales were reasonable. This allowed DfE to adapt where required to build market confidence and ensure interest in bidding was maintained throughout the process.

7.3.16. It was important that new suppliers had a clear understanding of the 2017 Framework and the underlying processes to ensure all suppliers had the same level of understanding of DfE’s previous approach. This helped to ensure responses were informed and provided useful insight to suppliers that may have had limited interaction with DfE previously.

<b>Market Engagement Consultation</b>	<b>Theme</b>
Consultation 1	2017 Framework Structure – what works well and areas for improvement
Consultation 2	2017 Framework - call-off process, framework information and performance
Consultation 3	Follow up to Consultation 1 2021 Framework proposed structure
Consultation 4	Follow up to Consultation 2 2021 Framework processes

*Table 8 – Market Engagement Consultation Survey Themes*

7.3.17. As an example, the themes covered in Consultation 3 included:

7.3.17.1. Procurement

- o Diversity & Inclusion.
- o Modern Slavery.
- o Constructionline.
- o Selection Questionnaire Minimum Requirements.
- o Financial – Viability Risk Assessment Tool.

7.3.17.2. Construction

- o High Value Band Construct Only procurement option.
- o High Value Band Bespoke Contract.

7.3.17.3. Framework Structure & Processes

- o Batching of projects.
- o Pre-Construction Services Agreement (PCSA) Payments.

7.3.17.4. Design

- o BIM / Technology / Digitisation Sustainability.

7.3.17.5. Follow-Up to Consultation 1

- o Traditional / Modern Methods of Construction (MMC).

- o Bidding concerns.

#### 7.3.17.6. Market Feedback

- o Other procurements December 2020.
- o Use of category frameworks.

7.3.18. It is critical to review and understand any external factors that can impact your project as the market consultation can be used as an opportunity to gain insight into the potential impact on your suppliers and programme. For example, DfE received feedback that indicated there may have been a high volume of procurements going to the market in December 2020 due to the end of the Transition Period on 31 December 2020. A question was included within consultation 3 to understand the market's awareness of this and whether this was a concern due to the timing of DfE's procurement. The majority of respondents confirmed that although they were aware of this, it was not a concern, which provided assurance that the programme timescales were sufficient to help manage this risk.

### **7.4. What DfE learned through market engagement**

7.4.1. DfE sought feedback from the market in several areas to inform key decisions on:

- The approach to the selection questionnaire;
- Market capacity and capability;
- Framework structure; and
- Cost strategy.

7.4.2. Holding an initial market engagement event prior to issuing the formal consultation surveys, gave DfE early insight into what the market was concerned about e.g. minimum criteria around experience examples. To better understand what types of experience should be considered, DfE included a question in the first consultation survey about the respondent's experiences of working in a live environment. The result was overwhelmingly that respondents had live environment experience (primarily in educational establishments, hospitals, residential care homes, student residence and research facilities) which was transferable to an educational scheme.

7.4.3. This information was critical to providing evidence to support DfE expanding the types of experience examples required at the selection questionnaire stage. This was communicated at the December 2020 market engagement event and ultimately led to

DfE engaging a more diverse pool of suppliers in the process and maintaining interest in the 2021 Framework.

7.4.4. The market consultations were effective in securing interest received from the market and SME engagement throughout the process. Feedback from suppliers stated that the clarity provided during the market engagement events was invaluable in supporting their decision to bid for the 2021 Framework.

7.4.5. Aspects the market wanted the DfE to retain

<b>Simplicity</b>		"Simpler than most."	<b>Efficiency</b>		"The approach of the DfE framework is attractive to a contractor and efficient for the supply chain as little time is wasted."
<b>Process</b>		"Set process enables contractors to resource suitably."	<b>Engagement</b>		"Allows for earlier engagement than most other frameworks."
<b>Agility</b>		"Quick tender periods and quick decisions, in comparison to what we are experiencing currently in the market, is excellent."	<b>Disciplined</b>		"The process is more disciplined which improves certainty around planning resources and time for opportunities."

7.4.6. Areas the market wanted DfE to improve:

7.4.7. High Value Band

<b>Cost</b>		"The cost of bidding is the highest on any Framework we are involved in"	"There is no other framework in the market that has such a high tariff between success and failure to get down to a single bidder."	<b>Reduced number of Client Engagement Meetings in competition to limit costs</b>
<b>Resource</b>		"The six-week bidding process is the most intensive tendering period we experience either in or outside frameworks and requires a high degree of personal sacrifice for the individuals involved, resource burnout has to be monitored closely."		<b>Split Client Engagement Meetings process, part in competition thus reducing intensity</b>
<b>Risk</b>		"Contractors have to accept more risks than on other Frameworks and are required to operate with a negative cash flow for the whole preconstruction period whereas other framework take a more equitable approach."		<b>Increased Pre-Construction Services Agreement Payment Milestones</b>

#### 7.4.8. Medium and Low Value Bands

Use of Standard Questions		<i>"The use of standard questions may lead to boilerplate standard answers with site specifics added."</i>	Full review of questions and increased flexibility in ITT Questions at Mini-Competition
Collaboration		<i>"Not as collaborative as other Frameworks."</i>	Introduction of a Framework Innovation Forum
Resource Planning		<i>"Pipeline visibility is critical to contractors in order to plan estimating resource."</i>	Regular pipelines and meeting updates

### 7.5. Conclusion

#### 7.5.1. Successes:

- Integration of the Construction Playbook themes into the core operation of the 2021 Framework.
- A 10% increase in the number of bids received and SME participation at selection questionnaire stage when compared to the 2017 Framework. This was a reflection of the effectiveness of the market engagement undertaken and maintaining supplier levels of interest throughout the process.
- An attraction of new suppliers to the DfE framework with 74% of bids received coming from contractors new to DfE's frameworks. This highlighted the importance of using feedback from the market to adopt the approach in criteria for educational experience.
- Positive engagement and feedback from contractors throughout the process.

#### 7.5.2. Areas for improvement:

- **Avoid school holidays to maximise response rates** - Where possible, avoid school holidays for the issue and return of response to consultations. Due to the programme timescales, the fourth consultation fell within the school holiday period, which resulted in a reduction in response rate.
- **Use alternative methods to increase visibility** - Use a variety of methods to share consultations such as Prior Information Notices and professional networks to increase visibility of the opportunity.



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