Insurance Indemnity Risk Assessment Feasibility Study

GO4GROWTH



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EXECUTIVE SUMMARY

- 1. In November 2021, Greater London Authority (GLA) commissioned Go4Growth (G4G) to undertake a research and feasibility study relating to insurance levels and innovative financial mechanisms that could be applied to procurement practices to reduce barriers for small and diverse business attempting to enter their supply chain.
- 2. The technical response document (p1,2 **Annex A**) outlines the approach taken by Go4Growth and is summarised in the Methodology Section below
- The project commenced on 4th January 2022 and concluded on 28th February 2022. The project was led by Saritha Visvilingham on behalf of the Greater London Authority and by Gillian Askew on behalf of Go4Growth.

Approach

Go4Growth utilised a combination of existing data and intelligence from its Go4Growth programme to supplement insights and information gathered via stakeholder interviews undertaken with insurance and/or procurement teams within Greater London Authority (GLA) and other Public and Private sectors. We also commissioned two social media surveys, one targeting the marketplace and one to capture inputs from procurement/commissioners and insurance specialists.

#### Our engagement included:



Annex B for complete list of contributing organisations

Annex C for interview questions

Annex D for the marketplace survey questions

We also conducted a sample review of 5 x GLA and 10 x CCS (Crown Commercial Services) Frameworks to examine insurance levels and accessibility. This used public facing documents supplied either by GLA or through public forum websites (such as www.crowncommercial.gov.uk).

## **Key Findings**

The research reflects and is respectful of the different organisations within the GLA group and their individual drivers and contexts. It is accepted that approaches, including risk profile requirements, need to be tailored to different organisational drivers.

Some consistent themes were identified though:

- Evidence suggests that insurance level requirements are seen as a barrier to entry or growth for smaller providers. Although this is not the sole determining factor in no bid decisions by smaller organisations, it certainly is a significant element. This is usually a cost related barrier with SMEs citing they are unable to afford the breadth or insurance or levels required.
- Feedback in competitions would suggest that the liability (especially when unlimited) is potentially of greater concern than the required levels of insurance
- A large part of the marketplace is relatively invisible to the GLA, as little or no analysis is done on expressions of interest to bid conversions
- The GLA often lacks a consistent narrative to engage the marketplace and the amount of engagement has reduced in recent years due to resource and capacity constraints
- Refreshing marketplace engagement consistently could enable procurements to be structured with market intelligence and feedback at their core with consideration of the risk profiled for the authority.

- There was evidence within TfL that when providers were given information around the context of insurance (what was being requested and why) that this did result in more engagement from smaller providers
- There is also evidence to suggest that smaller providers feel that having to buy higher levels of insurance (which they need to pass on the cost of) will render their pricing uncompetitive versus their larger competitors, however we did find that larger providers will sometimes challenge the levels required during competitions or will wait until award and then attempt to negotiate the insurance level down post award.

Evidence also suggests that financial assessment and management of contracts is an area of concern for providers and there is inconsistency in how this is managed by the functional bodies within the GLA. This is almost certainly going to alienate some providers, especially smaller organisations and prevent them from being able to take part in competitions.

It is clear however there is a genuine desire to improve in this area and if this can be done collaboratively across the GLA there is likely to be some significant impact on the number of providers seeking to take part and ultimately win contracts.

## **INSURANCE**

Insights from procurement teams and commissioners

# 1

## **General Approaches**

Most public sector procurements will typically involve a request for Public Liability, Employers Liability, Professional Indemnity and Product Liability as basic requirement.

Two main approaches are used to set insurance levels for these.

The most popular approach is to employ standard levels of insurance and use market feedback during the competition phase to adjust. Adjustments are undertaken if there is evidence that standard insurance levels have been set too high in the opinion of the conracting authority

A risk-based approach is also common with insurance levels set based on risk assessments that relate to the specific procurement requirements. This usually relates either to the risk perceived by the type of procurement being undertaken (Framework, Call off Competition, DPS etc) and/or the value of goods/service. A risk-based approach provides more flexibility to procurement teams.

The approach taken by teams depends on where accountability and responsibility for insurance risk is situated in their organisation. In almost all cases, responsibility and decisions on insurance levels were outside the procurement team, although they did report being able to influence these decisions. Through our stakeholder interviews we found only one contracting authority based in Yorkshire enabled the Head of Procurement to own the decision on insurance levels, in others they had only a key stakeholder role.

## Team and individual approaches

Some teams, category leads or individuals within contracting authorities, do seek to challenge the status quo. This is possible in several ways:

- Understanding the risk tolerance of the organisation
- Understanding the risks relating to the procurement
- Seeking advice from insurance specialists both internally & externally

Respondents to the survey described trying to better understand how their organisation considered risk and the nature of exposure they were seeking to avoid; personal harm,

reputational damage, disruption to service for example. In some organisations these are key considerations when determining insurance levels.

Others considered risk from a procurement perspective, relating to the type of procurement, size or nature of the contract to consider the likelihood of failure to deliver.

In most cases procurement teams were able to access insurance expertise through their organisation or the wider Greater London Authority. Often citing heavy workloads, it is clear procurement and commercial teams are not regularly reviewing or challenging insurance levels.

## Sector / Category approaches

There was no evidence from within the GLA that teams are considering general sector or category-led approaches to inform how insurance levels are set although insurance providers will advise levels of cover or insurance types based on sectors (such as Contractors All Risk for construction and higher Professional Indemnity levels for advisory based services). Some respondents to the survey made reference to insurance being either difficult to obtain for some providers or expensive, with examples including consultancy and cyber-security but there was no relationship to market development activity within the response.

## Key Recommendation(s)

Agree, communicate and apply a consistent approach across the GLA

A strategic approach developed as a collaboration between procurement and insurance colleagues would provide clarity and consistency across the Authority

Provide training for procurement teams empowering them to understand and profile risk

Regular training for procurement teams would enable them to better understand, assess and build risk management into procurement processes. This should include exploration of a range of interventions and how and when these should be applied

## Accommodation for smaller providers

Marketplace diversity and resilience relies on smaller providers accessing procurement opportunities; insurance levels, with their associated costs, can be a significant barrier.

Contracting authorities were asked about insurance requirements in relation to smaller organisations, specifically whether there was any accommodation made for these providers.

This was happening in a small number of cases. We noted the following:

- 1. If the risk is assessed correctly then the size of the provider has no bearing on the level required so this is unnecessary
- It is possible to include different insurance levels for different size providers where this does not adversely affect exposure to risk
- 3. This had been positively received by the marketplace when applied

There were examples of creative approaches being utilised in lower value procurements although reserving procurements for SMEs is not regularly used (PPN 11/20).

## Key Recommendation(s)

- Wherever possible, if risk is not adversely affected, insurance levels are set to reflect the size of provider - https://www.gov.uk/government/publications/ short-form-terms-and-conditions
- Where possible, more procurements to be reserved for SMEs to encourage insurance and financial assessment to be proportionate to both the contract value and marketplace provision - https://ec.europa. eu/growth/smes/sme-definition\_en
- Basic information cover sheet (factsheet) to be included with every bid (and pipeline if possible) laying out clearly and simply the headlines of what is required such as total contract value, key insurance requirements, etc so that providers can see at a glance what they need.

These approaches are likely to increase the attractiveness of the GLA Group's Functional Bodies to the SME marketplace and can be communicated to demonstrate accessibility and inclusivity.

## Insights from the marketplace

#### The Federation of Small Businesses (FSB)

The UKs largest member organisation for small businesses, representing over 200,000 members, took 17,500 calls last year from small businesses on insurance alone. They have contributed useful information and insights to this project and are well-placed to provide a trusted communication and/or engagement route to the SME marketplace.

As insurance providers have increasingly driven their customers online, FSB deal with significant queries from members seeking reassurance or clarity about what insurances are essential, which are optional and how to manage claims.

They have estimated the average annual cost of insurance for a small provider to be in the region of £1,000 and that new requirements in areas such as cyber security can often triple costs. They often help members to navigate differences between insurance requirements in the private and public sector:

"A window cleaning business adding a local council office or library to their round would mean they suddenly needed increased levels of public liability and professional indemnity. Is this proportionate? How does this encourage smaller providers to work in the public sector marketplace? Who explains it to them?"

Some positive progress was also identified in that gross indemnification and unlimited liability requirements were now rare, which was encouraging for smaller organisations.

There are examples within TfL where cyber training certificates have been utilised to optimise accessibility. This could be explored for broader use.

Key Recommendation(s)

- Develop collaborative strategic relationships and projects with marketplace representatives with both insurance specialist and commercial representatives
- Understanding the claims environment better (through analysis and training) may add further value when profiling risk. For categories/sectors where claims are low, this can be reflected in the insurance and liability requirements.

There is an offer from FSB to build a strategic relationship with the GLA to help develop an approach to insurance for small providers and to embed the voice of small businesses into its long-term thinking. Go4Growth would be happy to make the introduction should this be something of interest.

Smaller organisations

Our research from smaller organisations consisted of detailed feedback to GLA given by SMEs during competitions, our social media survey and general feedback (non GLA specific from the Go4Growth programme). This indicated that feedback on insurance levels via clarification questions mostly came from larger organisations often using insurance levels to challenge costs.

Respondents (both smaller businesses and procurement teams) agreed that smaller organisations were unlikely to use clarification processes, either because they lack confidence or are unaware of the opportunities to do so. Feedback from GLA was that they felt market engagement exercises had dropped off over recent years and so support for SMEs was under provided in the main.

Furthermore, consensus was that, whilst a handful of micro or SME businesses may use clarification questions, many quickly discounted the opportunity, which makes is it difficult to determine the role insurance might play.

It is also the case that most contracting authorities we surveyed do not actively scrutinise reasons opportunities do not progress from Expressions of Interest. Again, this leaves an evidence gap as to whether insurance was a factor in the decision not to tender. Several participants suggested that feedback through clarification questions related to liability as opposed to insurance levels, particularly where unlimited liability is at play.

Smaller organisations also identified a lack of consistency from contracting authorities in relation to insurance requirements and how and when evidence of insurance is requested.

#### This included:

- Suppliers asked to confirm they have insurance at point of bid
- Suppliers asked for assurance that they will have insurances at contract start date
- Certificates do not need to be submitted
- --> Certificates need to be submitted
- Checks made throughout a contract period
- No checks made about whether insurances had been maintained
- Challenging insurance providers on cost of provision

There is evidence that the variability of approaches taken by different public sector procurement teams makes smaller organisations cautious about their procurement opportunities. A perception that the public sector procurement is confusing is supported by an inconsistent approach across the Authority.

There was also a perception that support for suppliers looks for short term, quick fix solutions with programmes of support launched but not enduring.

## Key Recommendation(s)

- Develop and apply consistent approaches for setting insurance levels that take account of SME differentiation (where possible)
- Develop and apply consistent approaches for evidencing insurance for the contract length
- Develop/improve mechanisms for collecting and analysing pre-market engagement data

A consistent approach, taking account of SME considerations, will provide clarity about procurement and improve SME marketplace perception. It will also reduce exposure to risk in relation to performing appropriate checks on insurance certificates.

## Effective practice and innovation

There are opportunities to share good practice between procurement teams that will support improvements to process and practice and support SME marketplace engagement. Some specific examples include:

## Authority A (TfL):

"We took the time to explain the decisions behind levels of insurance we were asking for, we wanted to help them understand the risk we were trying to mitigate. Being pro-active about engagement with the provider market had several benefits, we used feedback to tailor the insurance requirements, had fewer clarification questions and improved uptake".

# Team B (Architecture + Urbanism):

"We wanted to encourage under-represented groups to bid for a capital project, so the framework included supports that were more representative of the cultural local business landscape. Spaces were held back on each Lot specifically for SMEs. We made it easier for SMEs to bid by basing insurance levels on business size and removed minimum turnover levels requirements."

Procurement teams have limited opportunity to influence standard insurance levels and costs are beyond the scope of even the contracting authorities. Relationships with brokers or providers tend to sit with insurance teams who have clear drivers relating to risk and protecting the contracting authority. Most respondents felt there was more that could be done to build strategic relationships with the insurance sector that would benefit the authority.

Some innovative practice in relation to insurance in the domestic market was highlighted by our research; use of smart watches to promote healthy lifestyles and lower premiums for health or life insurance premiums or devices to monitor driving that may reduce the cost of vehicle insurance. There is little evidence of innovation within the corporate insurance. Although fleet managers may use dashcams, black boxes and trackers in the corporate environment there is no innovation for Public and Employer Liability and Professional Indemnity insurance.

Whilst innovation in insurance policy is lacking, there is some evidence of innovation in process. An innovators database exists within the GLA and providers are encouraged to sign up. This is used to advertise calls for competitions, is made up predominantly of smaller organisations and is utilised to encourage and fund innovation. https://tfl.gov.uk/info-for/business-and-advertisers/commercial-innovation?intcmp=55927

The initiative uses competitions to target innovation projects with a particular theme or focus and these attract funding with winners supported to develop innovations. There are also data partnerships, which are free from financial concerns or constraints.

## Key Recommendation(s)

- Support procurement teams to share and replicate good practice
- Encourage teams to use data from pre-market engagement to improve the procurement process, especially in relation to SMEs
- Create a culture of promoting innovation in relation to procurement across the GLA
- Develop strategic relationships between the GLA and insurance sector with a focus on insurance to drive a culture of innovation and creative approaches (such as the domestic examples shown previously)

A mechanism for sharing and replicating good practice could be applied across the GLA procurement teams. For example, a SME working group (such as is adopted within CCS) or a Leadership Cohort (as is adopted within Go4Growth). This will have several benefits. Insurance could be an initial focus with additional improvement areas introduced over time.

#### **30% OF BUSINESSES**

Engaged with said they don't believe they have the necessary levels and/or range of insurances required by the public sector

#### **28% OF BUSINESSES**

Engaged with said that getting the necessary insurances to take part was challenging and expensive

When asked about having to take out new or additional levels of cover on insurance for specific competitions, providers told us:

#### 40%

had done so for Employer Liability

#### 90%

had done had taken so for out cyber insurance Liability specifically for a tender

#### **20% 80%**

had increased professional indemnity cover

#### **64% OF BUSINESSES**

Have declined to bid for opportunities after expressing interest, insurance is often not the sole or even primary reason for doing so. The main reason is due to timescales and complexity.

When asked what would providers like to see changed the main responses were:

- Greater consistency of requirements within sector (when size of opportunity and risk would appear similar)
- Insurance does not always appear relative or proportionate to the value of the contract or risk (or lack of) that the provider is undertaking.
- More flexibility prior to the procurement, opportunity to discuss what is needed and why

## Insurance Analysis

Public Liability required insurance ranges from £1m minimum level to £10m maximum level

When comparing CCS-led frameworks in the same sectors (such as people) the levels of insurance vary compared to contract value. For example, a £2bn Framework for temporary staffing requires £10m public liability versus a £800m DPS for Apprentices (also people related) only requires £1m public liability insurance. This may be down to the impact of not being able to get qualified professional staff versus apprentices but there is little or no understanding given in public facing procurement documents about how insurance levels have been arrived at.

We analysed 10 CCS Frameworks (some with multiple lots) in people, estates, facilities and product (office supplies/MFDs) and the resulting norms are:

**Employer Liability - £5m** 

**Public Liability - £5m** 



Of the frameworks we were given for the GLA to analyse, insurance levels did appear consistent:

**Employer Liability - £5m** 

**Public Liability - £10m** 

#### **Professional Indemnity - £1m**

On a number of live and past opportunities we scrutinised whilst Employer Liability was consistent at £5m, the rest of the insurance requirements were linked to standard contract and worded as follows:

"The Service Provider will at its sole cost maintain employer's liability and motor insurance cover as required by law and insurance cover in the sum of not less than £5 million per claim (in terms approved by the Authority) in respect of the following to cover the Services (the "Insurances") and will ensure that the Authority's interest is noted on each and every policy or that any public liability, product liability or employer's liability insurance includes an Indemnity to Principal clause:

20.1.1 public liability to cover injury and loss to third parties;

20.1.2 insurance to cover the loss or damage to any item related to the Services;

20.1.3 product liability; and

20.1.4 professional indemnity or, where professional indemnity insurance is not available, a "financial loss" extension to the public liability insurance referred to in Clause 20.1.1 or, if applicable, the product liability insurance referred to in Clause 20.1.3. Any professional indemnity insurance or "financial loss" extension shall be renewed for a period of 6 years (or such other period as the Authority may stipulate) following the expiry or termination of the Contract.

20.2 The insurance cover will be maintained with a reputable insurer."

It is not clear whether this is a deliberate strategy to maximise accessibility of the opportunity for the supplier base or actively encourage SME participation. It is also unclear as to how the resulting levels required would be determined when standard terms and conditions are in use.

With regard to limits on liability, we received a variety of responses from different functional bodies of the GLA and wider public sector, in relation to whether unlimited liability is ever asked for. A number of authorities do still request uncapped

liability. Some use this as a known starting point but with the ability to change this should market feedback require this. Others will negotiate post competition on insurance and liability levels (Although there is a risk this could be construed as a material change and therefore could risk challenge). Others remain at uncapped liability regardless of feedback and there are some who do not utilise unlimited liability. In all cases there were usually questions and potential pushback from the marketplace where there was unlimited liability.

#### Conclusion

The research reflects and is respectful of the different organisations within the GLA group and their individual drivers and contexts. It is accepted that approaches, including risk profile requirements, need to be tailored to different organisational drivers.

#### Some consistent themes were identified though:

- Evidence suggests that insurance level requirements are seen as a barrier to entry or growth for smaller providers. Although this is not the sole determining factor in no bid decisions by smaller organisations, it certainly is a significant element. This is usually a cost related barrier with SMEs citing they are unable to afford the breadth or insurance or levels required.
- Feedback in competitions would suggest that the liability (especially when unlimited) is potentially of greater concern than the required levels of insurance
- A large part of the marketplace is relatively invisible to the GLA, as little or no analysis is done on expressions of interest to bid conversions
- The GLA often lacks a consistent narrative to engage the marketplace and the amount of engagement has reduced in recent years due to resource and capacity constraints
- Refreshing marketplace engagement consistently could enable procurements to be structured with market intelligence and feedback at their core with consideration of the risk profiled for the authority.
- There was evidence within TfL that when providers were given information around the context of insurance (what

- was being requested and why) that this did result in more engagement from smaller providers
- There is also evidence to suggest that smaller providers feel that having to buy higher levels of insurance (which they need to pass on the cost of) will render their pricing uncompetitive versus their larger competitors, however we did find that larger providers will sometimes challenge the levels required during competitions or will wait until award and then attempt to negotiate the insurance level down post award.

## Recommendations (potential pilot activities)

- Training for procurement teams on how to assess or profile risk including what level to do so at (Framework, Call off Contract etc). This training should be embedded and ongoing and reflective of changes in legislation and sectoral developments.
- Develop a central database across the GLA of insurance where providers (or potential providers) can upload their insurance documents and enter levels of insurance evidences.
- Provide transparency to the marketplace on what is required (outside competition processes). For example, produce market-facing information that illustrates the insurance requirements (perhaps by sector) that is easily available for providers to access.
- 4. Strengthen market engagement activity to reconnect with the market and understand market capability & capacity to take on the requirements of the Authority. This includes helping providers find opportunities in the first place but also to have better understanding of what opportunities there are to ask questions (e. g. clarifications) both during and beyond procurement competition processes
- 5. Analysis of attendance at pre-market engagement activities and expression of interest to bid conversion rates with follow up to providers who declined to bid to ask why. Use the data to understand why providers are dropping at particular points.

- 6. Where risk profiles for the authority would not be adversely affected, consider reducing insurance levels for micro and small organisations. This could send a positive message for the micro/small provider market and signal the commitment to making changes that encourage inclusivity.
- 7. Create a closer relationship between procurement and the insurance sector (through the respective insurance teams) so that innovation can be encouraged and market demographics and ambitions for SME development can be acknowledged by those who set the standard. Active engagement may produce more creative, innovative ways of requesting and managing insurance to deliver greater accessibility for smaller providers.

In addition, improvements for ease of use for both the marketplace and Authority could be made by creating a central database or repository for insurance evidence to be uploaded each year to ensure it is in one place. Perhaps explore having a central SQ database for the GLA where providers that qualify with one part of the GLA, therefore would be classed as qualified for all reducing the need to run selection processes each time? This would fit with the Cabinet Office "Tell Us Once" project also.

## FINANCIAL ASSESSMENT AND MANAGEMENT

Insights from procurement teams and commissioners



The role of financial assessment is to provide assurance to contracting authorities that the provider of goods or services has the capacity to deliver the contract to the level required throughout its duration.

Through our surveys, we found a variety of financial assessment models being applied including:

- Assessment against turnover (usually 2 x turnover)
- Basic credit checks
- Performance bonds (occasional use in construction projects)
- Construction Line Bronze Level
- Financial Viability Risk Assessment tool (FVRA, used in conjunction with Sourcing Playbook)
- Filed Accounts (including balance sheet)
- Parent Company Guarantee (PCG)

A potential provider should not be de-selected on the basis of turnover size alone <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/137569/PPN\_Supplier\_financial\_risk\_Feb-18.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/137569/PPN\_Supplier\_financial\_risk\_Feb-18.pdf</a>

We didn't find many Authorities using **Step-in rights** as a method of de-risking a contract. Some Authorities were not familiar with Step-in rights as defined below in the above PPN.

"Step-in rights written into the contract, where 'Step-in' means another party, other than the supplier, takes over some or all of the supplier's contractual obligations for a temporary period to rectify a problem (usually a major performance failure), after which control is returned to the supplier. A trigger could be the breach of a statutory duty where the customer is obliged to assume control of the service after the service provider has had an appropriate time to remedy the trigger event. A permanent replacement supplier cannot be appointed under these measures; that would require a fresh competition in accordance with the applicable procurement law."

There was also inconsistency of approaches to making formal checks on requirements, including those relating to insurance levels, payments and communication and scrutiny through

supply chains. Most respondents would follow-up on complaints from tier 2 suppliers but not proactively make formal checks.

There was an acknowledgment that this is important but a reluctance or knowledge gap on how to do this both effectively and sensitively was a barrier.

## Use of the Sourcing Playbook

We sought stakeholder views on the Sourcing Playbook, updated and re-issued by Government in May 2021. Although there is no mandate for non-government departments or wider public sector to comply, the Playbook outlines a direction of travel for public sector procurement:

"embedding the Sourcing Playbook into our ways of working is a journey the whole of government must continue to walk together".

The Playbook specifically emphasises that the delivery of public services is a collaborative endeavour involving colleagues from commercial, finance, project delivery, policy and other professions and as such, relevant to this research and future activities.

Most stakeholders have a degree of familiarity with the Playbook. No team we surveyed is yet working in complete alignment but in some cases the basic principles are being utilised.

We asked about this principally due to the resulting contract tiering methodology and use of the Financial Viability Risk Assessment (FVRA) tool.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/1029564/Financial\_viability\_risk\_assessment\_tool\_v4.3.1.xlsx

No respondent identified use of the FVRA in GLA teams. However, some local authorities are adopting the supplier tiering tool and using this to drive contract tiering and contract management processes.

# Consideration or accommodation for smaller providers

When we polled opinion in some central government departments about the sourcing Playbook, we found whilst it has value, there is also a perception that the Playbook could constitute a barrier to entry for smaller organisations. The FVRA is rigorous and complex and there is feedback from providers that they simply can't utilise it and so are choosing not to bid because of it.

Some authorities felt that training for procurement would be useful in understanding supplier resilience, when to use performance bonds, project bank accounts, profit ratios and how to calculate liability caps effectively, and for the marketplace how to work out what the liability risk means.

#### Team C (Non GLA):

"We replaced mandatory turnover requirements with different approaches more aligned to contract risk. This resulted in more bidders taking part in competitions, particularly for social care procurements"

#### Team D: (TfL)

"We collated learning following a difficult procurement. We had no response to a procurement due to a 2 x turnover requirement which had been applied based on the full value of the Framework. We changed this to the value of the call off competition, but providers were still not able to compete at this level and so further deep dive analysis suggested that as the providers were actually only charging a management fee (which was a small proportion of the call off contract) that the 2 x turnover could be based on that fee. It was at this point that the marketplace was then able to actively take part in the competition."

## Key Recommendation(s)

- Agree a GLA procurement teams' approach to applying financial assessment and management
- Agree a GLA procurement teams' approach to aligning with the Sourcing Playbook
- Support teams with training and development opportunities to enable improved understanding of how to differentiate the application of requirements to support SME marketplace

## Insights from the marketplace

Research shows that smaller providers can often struggle to meet threshold questions where turnover is being used as a method of assessing ability to undertake a contract. This is often due to turnover requirements being set at potentially the wrong level (such as a Framework level as opposed to call off competition value). Accounts are being asked for but this also has a health warning, specifically over the last two years given the disruption caused by covid. In this and with credit checks, more small businesses are finding they are not able to meet the minimum requirements when they once might have for reasons outside their control.

Providers tell us that they would welcome more upfront support outside of competitions in understanding how to make sure they can qualify appropriately and to understand better what additional support they may need (such as a parent company guarantee) and at what point in the process.

**26%** of businesses told us that they found it difficult (especially post COVID-19) to pass credit checks or get parent company guarantees.

**36%** said they found getting the relevant references/prior experience difficult

**55%** said ensuring they have the necessary accreditations presented the biggest challenge

## Financial Management

We asked both contracting authorities and providers about payment terms and financial management processes (Purchase to Pay).

The main issues smaller providers are reporting are on payment performance and on payment visibility.

17% of providers told us that late payment was an issue

**32%** of providers told us payment within the terms of the contract had improved but there was further improvement needed

16% felt on time payment performance had deteriorated.

We received feedback that the public sector was usually unwilling to pay upfront and most required payment in arrears. This can often be difficult for smaller organisations where cash flow is more constrained.

Providers told us that the process of getting purchase orders to invoice against can often be a problem and that unresolved queries which delay payment are an issue.

Bradford Local Authority has introduced a new purchase to pay system which aims to make the process more transparent and dynamic through digitisation. There was a need to acknowledge that payment is important, especially to smaller providers and this system means that suppliers are to upload their invoice directly to a portal and then track its progress throughout the whole process. It has been a simple transition for providers, currently it is an email PDF but will become uploaded directly. The system is intelligent and so can work out where suppliers put their data and so can Match it quickly. There are also alerts around crucial process points, for example if a PO isn't goods receipted within 3 days it sends an alert and kicks off an escalation process.

Providers have received the change well.

An example provided by one authority (none GLA) was where suppliers who had previously looked for a rate increase, for example based on their ability to continue trading or to retain staff in social care, were given access to a hardship grant. There were conditions of compliance, but this was seen as a way of supporting financially vulnerable providers where appropriate.

#### **38% OF PROVIDERS**

Have concerns about passing financial stability tests in the public sector.

#### 24% OF PROVIDERS

Are unsure about how to manage financial milestones.

#### **20% OF BUSINESSES**

Are seeking specific support to help them get the basics of financial credibility right.

#### **48% OF BUSINESSES**

Say they are unsure how about what size of contract they should bid for.

#### **38% OF BUSINESSES**

Find it difficult to decide whether they should bid or not.

#### 22% OF BUSINESSES

Tell us that the legal terms and conditions put them off bidding for public sector work.

#### **27% OF BUSINESSES**

Are concerned about legal compliance in some policy areas.

## Conclusion

Evidence suggests that financial assessment and management of contracts is an area of concern for providers and there is inconsistency in how this is managed by the GLA. This is almost certainly going to alienate some providers, especially smaller organisations and prevent them from being able to take part in competitions.

It is clear however there is a genuine desire to improve in this area and if this can be done collaboratively across the GLA there is likely to be some significant impact on the number of providers seeking to take part and ultimately win contracts.

# Recommendations (potential pilot activities)

- GLA to develop consistent guidance on how to undertake financial assessments on procurement competitions, with a focus on how to apply this when marketplaces are likely to include (or aim to include) new entrants, small, local and diverse organisations
- 2. Potential for the above to be rolled out to all London Anchor Institutions as part of the Anchor programme
- 3. Training for procurement and service leads on how to check financial health and how to assess financial viability.
- Training for providers to be able to determine their own financial health status in relation to the checks public sector will undertake.
- Guidance for providers on mandatory exclusions (threshold questions) and what may be required of them to be able to successfully meet the relevant thresholds
- Better transparency on what is required include this in forward procurement pipelines so providers have the best opportunity to understand what's required and prepare.

## Annex A

#### **Technical Response pages 1-3**

#### **Question 1: Proposed Methodology (weighting 50%)**

Go4Growth is an action base research programme that seeks to gather evidence based intelligence about the barriers to entry or growth for smaller organisations in the public sector. Our core role is to provide a voice for the marketplace on current challenges or barriers to entry or growth in the public sector, but also to work with the public sector to drive change that overcome these barriers without increasing procurement risk or sacrificing governance requirements. Proportionality will take into account size of contract, the product/service being procured, risk profile and market capability/opinion. Go4Growth will use its established networks of 2,500 businesses, relationships with national membership organisations such as the Federation of Small Businesses and reach to Procurement teams to fulfil research criteria as follows:

- 1. Research across comparative sectors into insurance level requirements from the market covering different procurement types, categories, and values.
- a. Gather evidence-based intelligence on insurance proportionality versus scale & complexity of procurement competition, using a combination of general surveys designed for volume roll out, 121 research engagements with procurement & market leaders (including the groups/departments specifically mentioned at section 4 deliverables), social media polls and targeted engagement with the marketplace through membership organisations and directly with Go4Growth networks
- b. Compile evidence of best in class examples of proportionate practise and innovative approaches that encourage small to medium enterprises (including micro, start-ups and voluntary sector) to take part in public procurement competitions.
- i. Drawing on the Go4Growth Leadership Cohort we will assess how often clarification questions are received about insurance levels, how they are responded to, if they are ever changed during a competition process, how often they are reviewed in line with risk etc.
- c. Draw on Go4Growth existing evidence base to highlight barriers the marketplace has identified in relation to insurance, financial and contractual mechanisms, for example 31% of businesses tell Go4Growth their perception is they don't have sufficient insurance cover (breadth or levels) to be able to complete for public sector work.
- d. Conduct empirical (evidence based) analysis of insurance levels and risk currently undertaken by the GLA to provide analysis on whether the insurance levels within the GLA Group are proportionate to both risk and that of the wider sector. We will do so by carrying out a risk profile analysis and also gauging the following:
- i. Definition of proportionality
- ii. How much of a barrier does the market evidence demonstrate (in comparison to other barriers)
- e. Through the above approaches at point (a) to provide intelligence through research of other financial and contractual mechanisms currently utilised to support smaller organisations and encourage diverse supply chains. Identify and engage with organisations who are leading the drive for change in building diversity in supply base. Go4Growth is currently working with several innovative procurement leaders who are dedicated to ensuring their public sector authority is accessible and inclusive to all. In addition, we have built strong relationships with large Framework providers (such as Crown Commercial Services, YPO etc) with whom we will engage with for this project.
- f. We will compile an overview report of the findings around financial and contractual mechanisms detailing the practical, legal and financial implications on utilisation.
- g. Review TfL exiting Commercial Innovation projects and case studies for examples of reduced insurance and other financial and contractual considerations to encourage start-ups/SMEs.
- h. Compile intelligence on insurance and financial/Contractual mechanisms within common Frameworks currently in use across the GLA Group (for example Architecture + Urbanism) and those managed by CCS (Crown Commercial Services) and report on common approaches in use as well as outlier examples.

- 2. Conduct a feasibility study of a risk and scale-based approach to both insurance level requirements and any financial and contractual approaches emergent from active research
- a. Provide advisory review by category or sector where appropriate
- b. Based on evidence base gathered, proposals will be made outlining where initial areas of opportunity of focus for pilot schemes to drive change can be undertaken.

Activity Type	Detail	Start Date
Kick Off Meetings	Inception meeting, engagement meetings with specific functional bodies (facilitated by CRPT)	w/c 4th Jan 22
Survey design & roll out	Development of surveys for procurement leads and marketplace, polls and targeted engagements	w/c 10th Jan
121 Interviews	Design, schedule and implementation of 121 research interviews (using the Go4Growth Leadership Cohort and our partners, we estimate approximately 20 121 interviews)	w/c 10th Jan
Engage membership organisations for member feedback	Agree organisations to target, agree research approach and implement.	w/c 17th Jan
Intelligence gather on examples of leadership on diversity in supply chain	121 engagements with each Go4Growth Leadership Cohort Member, work with CIPS to identify best in class examples of supply chain diversity & engage.	w/c 17th Jan
Market research on financial & contractual mechanisms utilised (to attract SMEs)	Compile examples of other financial and contractual mechanisms in play that are helping to attract SMEs to public sector (utilising existing Go4Growth intelligence where appropriate)	w/c 24th Jan
Analysis on proportionality of insurance levels and risk	Looking within current GLA agreements (including via frameworks) analyse and report on proportionality of insurance levels versus risk	w/c 31st Jan
Interrogate & analyse intelligence	Analysis of the research findings, interrogation of intelligence for inclusion in final reports	w/c 7th Feb
Compile reports for submission	Reporting will be a blend of data, written findings and infographics to ensure the final reports are user friendly and visually stimulating.	w/c 14th Feb
Feasibility study and recommendations for pilot opportunity	Study of a risk and scale-based approach to both insurance level requirements and any financial and contractual approaches emergent from active research including provision of advisory review by category or sector where appropriate  Proposals will be made outlining where initial areas of opportunity of focus for pilot schemes to drive change can be undertaken.	w/c 14th Feb

## Annex B

#### **Contributing Organisations (non-Market Place)**

**ALARM Group** 

Barnsley Chamber of Commerce

Blue Light Commercial

**Bradford Council** 

Crown Commercial Service

Federation of Small Businesses

Foreign, Commonwealth and Development Office

London Fire Brigade

London Legacy Development Corporation

Merlin

Metropolitan Police Service

North Yorkshire County Council

Paid

SmartTogether Procurement Service (representing 4 London NHS Trusts)

Transport for London

YP0

Roles included: Insurance specialists, responsible procurement leads, procurement & commercial, finance and legal



## Annex C

#### **Stakeholder Interview Questions** (non marketplace)

Question No	Question	Answer
1	Do you get involved in setting insurance levels for contracts, orders or competitions?	
2	Are there any examples you know of where insurance or financial requirements have been altered specifically for smaller organisations?	
3	As an organisation how to assess what the financial pre-requisites and insurance requirements are? At what point in the procurement cycle is this done?	
4	Do you accept self insurances as a valid method from providers?	
5	Are you aware of any feedback from providers or businesses who aspire to join the public sector marketplace of insurance being a barrier to entry?	
6	Do you get routine questions or comments from bidders on insurance, perhaps through clarification questions?	
7	Do bidders generally tell you why they decide not to bid (especially when they have expressed interest). Do you ever ask providers if they haven't given you that information?	
8	Do you have a SME strategy?	
9	Have you ever reserved an under threshold procurement purely for SMEs? Or have you held spaces on lots for SMEs?	
10	Do you work in line with the sourcing playbook?	
11	How often do you assess proportionality to contract value and risk on insurance and financial assessments of providers?	

12	What are your general payment terms? Do these vary for SMEs? Did these change at all during Covid? Do you check these are flowed through from tier one to tier two providers?	
13	Do you ever ask for unlimited liability from providers?	
14	How are providers contract managed? Is there a different process based on size of contract or size of providers?	
15	Are you aware of (or are you implementing) any innovative approaches to attracting, securing and managing SMEs (or the wider marketplace).	
16	If you were able to make a change to how insurance is reflected in procurement competitions, what would it be?	
17	What Innovation in Insurance are you aware of? (Specifically Corporate Insurances such as PL/EL/PI)	



#### **Market Place Survey Questions**

## 1. Which type of insurance policies do you have? (tick all that apply)

**Employer Liability** 

**Public Liability** 

Directors Insurance

**Product Liability** 

Cyber and/or Data Insurance

Buildings & Contents (for business)

**Professional Indemnity** 

Vehicle Insurance (for business)

**Business Interruption** 

Health and/or medical

Legal Expenses Cover

Contractors All Risk

Other (please specify)

#### 2. Do you self insure?

Yes

No

If yes please specify which types of insurance you self insure?

## 3. Do you get any free business insurances through your business bank account?

Yes

No

If yes, which types of insurance do you get through your account?

# 4. If you're a member of any membership organisation (such as Chambers of Commerce, Federation of Small Businesses etc), have you bought your insurance through them?

Yes

No

Some

I have in the past but not anymore

Other (please specify)

## 5. What is the combined cost of the insurances you have for business?

Less than £1000 per year

£1000-£1999 per year

£2000-£2999 per year

More than £3000 per year

Additional Information

#### 6. Have you ever had to claim on any of your policies?

Yes - the claim paid out in full

Yes - with partial pay out

Yes - but my claim was unsuccessful

No

## 7. If the answer to Q6 was yes, which policy have you claimed against (please tell us about all of them).

**Employer Liability** 

**Public Liability** 

Directors Insurance

**Product Liability** 

Cyber and/or Data Insurance

Buildings & Contents (for business)

**Professional Indemnity** 

Vehicle Insurance (for business)

**Business Interruption** 

Health and/or Medical

Lega Expenses Cover

Other (please specify)

#### 8. Do you pay your premiums monthly or annually?

Monthly

**Annually** 

A mixture of annually and monthly

If you don't pay annually please tell us the reason for this? Eg: to spread the cost over the year

# 9. Have you had to get additional insurance policies (including increasing cover levels) in any of the following in order to compete, quote or as part of winning work in the public sector?

**Employer Liability** 

**Public Liability** 



**Directors Insurance** 

**Product Liability** 

Cyber and/or Data Insurance

**Buildings & Contents (for business)** 

**Professional Indemnity** 

Vehicle Insurance (for business)

**Business Interruption** 

Health and.or Medical

Legal Expenses Cover

Contractors All Risk

Other (please specify)

## 10. Have you ever declined to tender or quote for public sector work due to the levels of insurance you would be required to have/get?

Yes

No

If you answered yes, please tell us which insurance type prompted your decision to decline?

# 11. Do you have insurance policies that are required for your business but are NOT routinely asked for in public sector tenders or quotes (please tell us about all of them)

## 12. On average are invoices paid on time by public sector clients?

**Always** 

Usually

Sometimes

Rarely

Never

**Additional Comments** 

#### 13. Do you use invoice/payment factoring services

Yes

We have done in the past

No

Other (please specify)

## 14. What would you like to see change in relation to the insurance requests from the public sector?

15. What size is your organisation (Using EU SME Definitions)

Micro/Sole Trader <10 employees <£1.7m turnover

Small <50 employees <£8.2m turnover

Medium <250 employees <£41m turnover

Large <1000 employees

Enterprise >1000 employees

#### 16. Where is your business based?

Scotland

North East

North West

**Greater Manchester** 

Yorkshire & the Humber

East of England

Central

South East

London

South West

Wales

Northern Ireland

Europe

Rest of World

#### 17. What sector is your business in?

People

Place (including Construction & FM)

Professional

Other (please specify)

## 18. Would you be interested in being interviewed further on this topic?

Yes

No

If Yes, please supply your name and contact details below:



## Annex E

Summary table of all Recommendations (with examples of best practise)

No.	Recommendation	Impact	Examples of Best Practise (where applicable)	
1	Training for procurement teams on how to assess or profile risk including what level to do so at (Framework, Call off Contract etc). This training should be embedded and ongoing and reflective of changes in legislation and sectoral developments.  Training should cover indemnities, liabilities also.	Avoids waiting for market feedback to ensure insurance is proportionate to risk.  Prevents unnecessary walk aways by businesses who decide not to bid due to insurance levels  Allows more dynamic risk assessment to take place at source	Guidance does take place within GLA from insurance specialists to commercial colleagues (this was discussed within TfL and Met Police).  This could be built on to become a formal training module for commercial that is embedded and regularly undertake	
2	Develop a central database across the GLA of insurance where providers (or potential providers) can upload their insurance documents and enter levels of insurance evidences	Allows insurance teams to sense check if providers are of the right standard to reassure Authority  Allows sharing of information across the GLA reducing time and effort in selection processes and ensures evidences are collected and always available.  Put the onus on providers to ensure insurances are valid and current as well as evidenced.		
3	Provide transparency to the marketplace on what is required (outside competition processes). For example, produce market-facing information that illustrates the insurance requirements (perhaps by sector) that is easily available for providers to access	Allows providers to see at a glance what is required to aid preparedness for the competition	There is a level of transparency in some categories. For example, in Construction in LFB they require suppliers to be bronze or above on Construction Line and this is largely well known in the market	
4	Strengthen market engagement activity to reconnect with the market and understand market capability & capacity to take on the requirements of the Authority. This includes helping providers find opportunities in the first place but also to have better understanding of what opportunities there are to ask questions (e. g. clarifications) both during and beyond procurement competition processes	Creates a dialogue between the marketplace and the Authorities which aids category management and market development processes.  Bidders become more knowledgeable on the process which will create better quality bids and will help drive supply chain breadth and diversity	There were examples of previous market engagement within the Met Police prior to competitions but this was acknowledged as having lapsed during the pandemic. It is largely thought to have been successful however when in place	

No.	Recommendation	Impact	Examples of Best Practise (where applicable)
5	Analysis of attendance at pre-market engagement activities and expression of interest to bid conversion rates with follow up to providers who declined to bid to ask why. Use the data to understand why providers are dropping at particular points.	Analysis creates an opportunity for learning at each point in the process, understanding why providers are dropping out so that appropriate changes can be made to future processes to drive more robust engagement	Architecture + Urbanism are measuring the volume of providers at pre market engagement events (800+) versus who then goes on to express interest (E0I), who bids versus who wins. They are tracking the process at each stage with a view to understanding the dynamics of the process
6	Where risk profiles for the authority would not be adversely affected, consider reducing insurance levels for micro and small organisations.	This sends a positive message for the micro/small provider market and signals the commitment to making changes that encourage inclusivity. This will ultimately support broader market participation from smaller organisations	Architecture + Urbanism removed the 2 x turnover thresholds for qualification and changed the insurance requirements so that micro- organisations were not asked for the same as other SME (Small to Medium Enterprises). This did not increase any inherent risk
7	Create a closer relationship between procurement and the insurance sector (through the respective insurance teams) so that innovation can be encouraged and market demographics and ambitions for SME development can be acknowledged by those who set the standard.	Active engagement may produce more creative, innovative ways of requesting and managing insurance to deliver greater accessibility for smaller providers.	
8	GLA to develop consistent guidance on how to undertake financial assessments on procurement competitions, with a focus on how to apply this when marketplaces are likely to include (or aim to include) new entrants, small, local and diverse organisations	Ensures consistency of approach within each part of the GLA Helps providers to better understand what supplying the GLA can entail	

No.	Recommendation	Impact	Examples of Best Practise (where applicable)
	Training for procurement and service leads on how to check financial health and how to assess financial viability.	Ensures that financial viability assessments are proportionate to the actual risk and value of contracts which ensures that the marketplace is not unnecessarily deterred by overstated requirements	Government Commercial Function – People Standards for the Profession https://assets.publishing.service. gov.uk/government/uploads/ system/uploads/attachment_data/ file/984460/Government_ Commercial_FunctionGCF People_Standards_for_the_ Profession_Version_3.0pdf
			Government Commercial Function  - Heling you manage suppliers and contracts
9			https://www.gov.uk/government/ publications/civil-service-helping- you-with-managing-suppliers-and- contracts
			Principals from the Sourcing Playbool could be applied to Procurements (where appropriate) https://assets.publishing.service.gov.uk/governmentuploads/system/uploads/attachment_data/file/987353/The_Sourcing_Playbook.pdf
10	Training for providers to be able to determine their own financial health status in relation to the checks public sector will undertake.	Allows providers to be able to sense check whether they will meet the required thresholds and prepare responses accordingly. This could lead to more breadth in competition	FSB provide guidance and support for small businesses and this could be a good relationship development opportunity for GLA/FSB to work together to support the marketplace
11	Understanding the claims environment better may add further value when profiling risk.	For categories/sectors where claims are low, this can be reflected in the insurance and liability requirements	FSB have recently surveyed their member database of small providers (over 200,000) and have made an offer of developing a closer working relationship with the GLA to understar and support providers better
12	Guidance for providers on mandatory exclusions (threshold questions) and what may be required of them to be able to successfully meet the relevant thresholds	Builds preparation for providers inherently into process which could drive better access to GLA opportunities for smaller providers	There is existing intelligence available that the GLA could point to. For example: https://youtu.be/ axmaDEeUAMk

No.	Recommendation	Impact	Examples of Best Practise (where applicable)
13	Better transparency on what is required – include this in forward procurement pipelines so providers have the best opportunity to understand what's required and prepare.	Allows maximum transparency and therefore preparation time for providers which could result in better access for micro and smaller local providers	Should be available April 2022
14	Where possible, more procurements to be reserved for SMEs	Provides focus on and exclusive opportunities for micro and smaller providers to be able to take part	There is a current project within GLA looking specifically at reservation of 10 procurements for SMEs - Learning for this project should be available from April 2022 onwards
15	Basic information cover sheet (factsheet) to be included with every bid (and pipeline if possible) laying out clearly and simply the headlines of what is required such as total contract value, key insurance requirements	Allows providers to see at a glance what they need and make informed decisions on taking part and/or ensuring they have the necessary requirements to be able to compete See Annex F – Key Fact Sheet Example	See Annex G – Key Fact Sheet Exampl
16	Create a culture of promoting/ encouraging innovation in relation to Procurement & Commercial across the GLA	Creates a continuous improvement environment and ensures that the marketplace has a key stakeholder role to play in developing and delivering value to the GLA	Commercial Innovation team have an innovators database that they encourage providers (typically smalle to sign up for. They also advertise calls for competition through the database optimise inclusivity.
			Demographic analysis is also being undertaken through commercial Innovation team to assess providers and supply chains on size, status, location etc

## Annex F

#### **Proposed process plan**



## Annex G

#### **Sample Key Needs Sheet**

Framework, DPS, Contract Name or Reference	Accreditation Required	Public Liability Insurance	Employer Liability Insurance	Professional Indemnity Insurance	Licences Required	Financial Assessment Thresholds Used	Other
Building Repairs Ref:	SSIP or Construction Line (Bronze Level) Cyber Essentials+	£10,000,000	£5,000,000	£2,000,000	N/A	2 x Turnover Credit Checks	Contractors All Risk Insurance Safeguarding Policy Risk Assessments & Methods Statement will be required Working at Height Certification Compliance to LOLER and PUWER

## Annex H

#### **Frequently Asked Questions**

The below are questions that have been asked by providers during the clarification process within a competition.

It could be helpful to consider these prior to assessing the levels of insurance required:

- 1. Why is that particular insurance policy required?
- 2. I have (for example) £5,000,000 of public liability, will this suffice? Why are you asking for £10,000,000
- 3. When do I need the insurance in place for?
- 4. Will you accept an alternative type of insurance or mitigation?
- 5. I can't provide the financial assessment information (such as 2 years accounts as I'm a new business) how do I qualify?
- 6. Why do I need that level of turnover when the contract is only worth £x?

It can often be useful to provide detailed context and background to the procurement, demonstrating why a particular type and level of insurance is being requested.

Be clear, upfront and robust in tender documents of your descriptions of:

- → what you require
- why you require it and
- → by when (bid submission, implementation period, contract start date etc)

You can also state upfront what equivalents you may accept such as cyber training certification over cyber insurance for example? Or IASME (Information Assurance for Small to Medium Enterprises) over ISO27001 accreditation

Proportionality is crucial for both insurance and financial assessment.

- → Consider how new entrants will pass financial threshold type questions if they haven't been trading long, what risk do they represent?
- → Does the requirement seem proportionate to the level of business you are giving as well as the risk?
- → How does unlimited liability affect smaller providers ability to take on the risk or appropriately insure themselves.



#### **About the Authors - Go4Growth Overview**

Go4Growth is an action-based research programme that seeks to gather evidence based intelligence about the barriers to entry or growth for smaller organisations in the public sector. Our core role is to help the marketplace overcome those barriers through our programme and also to work with the public sector to drive change that results in greater accessibility and inclusivity for smaller organisations without increasing procurement risk or sacrificing governance requirements. Go4Growth has an existing network of 2,500 businesses and draws on a growing database of circa 3,000 pieces of evidence. We have established relationships with national and regional membership organisations including the Federation of Small Businesses (FSB), Yorkshire Asian Business Association as well as Chamber of Commerce and Mayoral Offices and reach into Procurement teams within both the public and private sector.



# GO4GROWTH