

# Contracts Advance Bid Clinic

## Green Paper: Transforming public procurement - The Implications









brownejacobson<sup>LLP</sup>

Craig Millhouse (CA), Lee Hasell (CA), Matt Mitchell (CA), & Louise Bennett (BJ)

Thursday 25<sup>th</sup> February 2021

# Agenda



	Introduction & Housekeeping	3
	Craig Millhouse, Lee Hasell, Matt Mitchell	4
	Introduction to Browne Jacobson and Louise Bennett	5
	CA Overview of the Green Paper	6
	Browne Jacobson view of the Green Paper	7
	Summary & Final Questions	12



# Introduction & Housekeeping



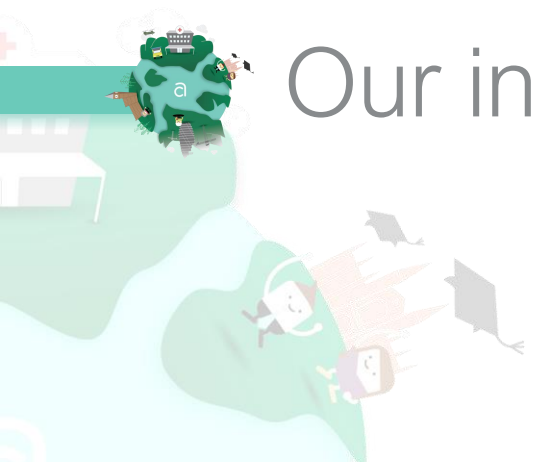
A discussion webinar



Audience participation



Our insights and experience



## Craig Millhouse, Lee Hasell, Matt Mitchell



Craig is the Managing Director of Contracts Advance. Craig's responsibility is for the overall strategic direction of the business. Craig has been in the role since 2008 and prior to this Craig has held multiple Director roles where he had responsibility for driving up revenue and growth.



Lee is our Managing Partner here at Contracts Advance. He manages our Advisory team, and as an experienced senior executive, he's gathered a wealth of knowledge and expertise over the years. Having been both CEO and Director of Business Development for a large blue-chip provider, Lee continues to play an active role within the public sector by providing advice to clients on strategy and bidding.



Matt has over 25 years of bidding experience with considerable managerial expertise in corporate and operational services. Matt has supported CA and our clients to project manage a multitude of bids in industries ranging from; defence, healthcare, print, FM and many more. Matt has previously held a number of senior roles including Director of Development and is the Lead Consultant at CA.

## Introduction to Browne Jacobson and Louise Bennett?

Browne Jacobson LLP, National law firm with offices across the UK

Louise Bennett, a senior associate in the Government and Infrastructure Team specialising in Public Procurement

One of the largest procurement teams within a legal practice

Advice on procurement process issues and procurement litigation

Act for both public sector and private sector in procurement matters

Louise Bennett

Senior Associate

+44 (0)115 948 5615

[Louise.Bennett@brownejacobson.com](mailto:Louise.Bennett@brownejacobson.com)

# CA Overview of the Green Paper

 The procurement processes reduced from 7 to 3

- Open procedure and simple more straight forward procedures
- More published notifications
- Freedom to negotiate

 Centralised data platform

- All data
- OCDS compliant
- We will be doing this for you anyway



# Browne Jacobson view: Health Services



Green paper does not consider whether health services should be caught by regime



Separate consultation process underway

## Browne Jacobson view: Selection and Award (Chapter 4)



Proposing to replace MEAT with MAT test



Award criteria must be linked to the subject matter of the contract



New exclusion grounds (fraud, deferred prosecution agreements)



Central debarment list



Exclusion for past poor performance



Central KPI reporting



# Browne Jacobson view: Revised Approach to DPS and Frameworks (Chapter 5)



New DPS+ for all types of contracts



2 types of Framework

- Closed, similar to current situation
- Open: has substantial differences to current regime
  - Can run for a term of up to 8 years
  - New providers will be able to join the framework at predetermined points
  - Existing suppliers will have opportunity to submit new bids when framework reopened
  - Where there is a cap on numbers existing suppliers will be evaluated alongside new applicants on any re-opening



Nothing specifically to deal with construction specific issues like early engagement

# Browne Jacobson view: Open and Transparent Contracting (Chapter 6)



Greater emphasis on transparency



Release of information consistent with FOIA type principles



CAs will be required to publish all data in format compliant with Open Contracting Data Standard (OCDS)



Alignment with OCDS will mean a new set of procurement notices



Notable that a lot of reforms in the paper relate to establishment of new central platform

## Browne Jacobson view: Access to Justice (Chapter 7)



A tailored fast track system



Certain categories of challenge to be dealt with on paper only submissions



New guidance and rules on disclosure



Reform is focused on pre-contractual remedies being the norm due to the fact procurement cases will be heard quicker



Subject to some exceptions, proposing that any award for damages will be capped at legal fees plus 1.5 x bid costs



Tougher test for lifting the automatic suspension



# Summary & Final Questions

<https://contractsadvance.co.uk/resources/webinars/>

