Dear Sir/Madam,

**PROCUREMENT REFORM (SCOTLAND) BILL**

The above Bill was introduced in the Scottish Parliament by the Scottish Government (the Government) on 3 October 2013.

The Finance Committee has responsibility, within the parliamentary scrutiny process, for the examination of the cost implications of Bills. The Committee agreed to invite written evidence from the organisations identified above seeking a response to the specific questions attached to this letter.

The estimated financial implications of the Bill's provisions are set out in the Financial Memorandum (FM) accompanying the Bill (page 13 of the *Explanatory Notes*).

According to the FM, “the Bill will establish a national legislative framework for sustainable public procurement that supports Scotland’s economic growth through improved procurement practice.” The Bill's provisions are intended to encourage local action and to maximise public procurement’s contributions to wider socio-economic and environmental policy objectives.

**The Financial Memorandum**

*Costs on the Scottish administration (paragraphs 10 to 19)*

The FM states that from the Government’s perspective, “there is a limited number of additional costs to be associated with the Bill”, as “for the most part”, it “seeks to
embed the use of systems and policies that have already been put in place”, to ensure contract opportunities are easily accessible, particularly for SMEs and the third sector.

For the same reason, the FM states that the “Government does not expect the Bill to lead to significant additional long-term costs.”

The FM goes on to explain that the costs that are expected to be incurred will principally relate to the public contracts website and to the development of secondary legislation and related guidance.

A table is provided at paragraph 11 which summarises the expected costs to the Government between 2014-15 and 2016-17, broken down by system costs, staff costs and non-staff costs. The table states that costs to the Government will total £3.274 million over these three years, with the highest annual costs (£1.147 million) falling in 2015-16. The FM provides a description of the basis for these estimated costs in paragraphs 11 to 19.

The FM expects the Government to incur ongoing system-related costs of £560k per annum to support the Bill’s provisions. However, it states that such costs are currently met by the Government and will continue to be so, so are already provided for within existing budgets.

The FM anticipates the Government incurring staffing costs of £547k per annum for the preparation of secondary legislation and guidance material but states that “it is currently not clear whether these costs will continue beyond 2016/17”.

A further £547k per annum in staffing costs is expected to be required for the support of business systems. The FM does not specify whether these costs are expected to be ongoing after 2016-17. Additional staffing costs, associated with developing and delivering guidance are also anticipated although estimates of these are not provided.

The Government expects to incure a total of £500k in non-staff costs (such as training) over the three years from 2014-15 to 2016-17. Again, the FM does not specify whether these costs are expected to recur after 2016-17.

Costs on local authorities and other contracting authorities (paragraphs 20 to 23)
As the FM expects the Bill’s provisions to be absorbed into their existing procurement practices, it anticipates no overall net impact on costs for local authorities and other contracting authorities

Costs on other bodies, individuals and businesses (paragraph 24)
The FM anticipates no additional costs falling on other organisations as a result of the Bill’s provisions. Instead it states that the proposals “should lead to reduced business costs by ensuring that participating in a public procurement exercise is simpler, more transparent and more accessible to suppliers irrespective of their size.”

A table summarising all expenditure expected to arise as a direct result of the Bill is provided after paragraph 89.
The Bill – Part by Part

The FM goes on to break down the Bill’s provisions and to describe their expected financial implications as follows.

**Part 2 – General Duties and Procurement Strategies (paragraphs 26 to 33)**

Costs expected to be incurred by the Government for the production of guidance are noted in table 1 and paragraph 13.

The FM does not expect this part of the Bill to “impose material additional costs on local authorities and other public bodies”. Whilst it notes that the duties will require contracting authorities “to revisit and perhaps revise” their procurement strategies, it anticipates costs relating to this to be “absorbed in to existing work practices.”

No additional costs are anticipated to arise for any other bodies.

**Part 3 – Specific Duties (paragraphs 34 to 81)**

The costs expected to be incurred by the Government as a result of these provisions are discussed above.

The FM does not expect the Bill to impose “additional material costs” on local authorities and other contracting authorities, although in certain circumstances it notes the possibility of “nominal costs” or the risk of “increased administrative effort”. However, it anticipates that such cases will be “cost-neutral”, will provide “improved value for money”, or will “actually reduce costs” to such bodies.

The FM expects no adverse financial impact to arise from these provisions for other bodies, individuals or businesses. Indeed, some of the duties are expected to result in cost savings for bidding suppliers.

**Part 4 – Remedies (paragraphs 82 to 87)**

Where a public body has been found to be in breach of its duties, the Bill gives the courts powers to impose certain penalties. The FM states that such cases are rare and that they are unlikely to increase in frequency as a result of the Bill. No material additional costs are expected to arise for the Government, public bodies or any other bodies.

**Cost Savings (paragraphs 90 to 95)**

The final part of the FM deals with savings expected to arise as a result of the Bill. Whilst noting that “it is not possible to precisely estimate cost savings to be accrued in cash terms”, the FM points out that the Bill has been informed by “a significant amount of qualitative evidence” suggesting that efficiency benefits are likely.

**Responses**

The Infrastructure and Capital Investment Committee is the lead committee with responsibility for considering the general principles of the Bill. It recently issued its own [call for evidence](#) and intends to take oral evidence in November and December before reporting on the Bill’s general principles in early 2014.
To facilitate the parliamentary timetabling of the Bill, the Finance Committee invites you to respond to the attached questions by **Friday 15 November**. All responses should be sent electronically (in MS Word - no confirmatory hard copy required) to finance@scottish.parliament.uk. Written responses will be handled in accordance with the Parliament’s policy for handling written evidence received in response to calls for evidence.

Please do not hesitate to contact me if you have any questions about this letter.

Yours faithfully,

Alan Hunter
Assistant Clerk to the Committee
FINANCE COMMITTEE QUESTIONNAIRE

This questionnaire is being sent to organisations that have an interest in, or may be affected by, the Procurement Reform (Scotland) Bill’s Financial Memorandum (FM) (page 13 of the Explanatory Notes).

In addition to your responses to the questions below, please add any other comments you might have that would assist the Finance Committee in its scrutiny of the FM.

Consultation

1. Did you take part in the Scottish Government consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?

2. Do you believe your comments on the financial assumptions have been accurately reflected in the FM?

3. Did you have sufficient time to contribute to the consultation exercise?

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the FM? If not, please provide details.

5. Do you consider that the estimated costs and savings set out in the FM and over the timescales for which they are projected are reasonable and accurate?

6. If relevant, are you content that your organisation can meet any financial costs it is expected to incur as a result of the Bill? If not, how do you think these costs should be met?

7. Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Wider Issues

8. Do you believe that the FM reasonably captures the costs associated with the Bill? If not, which other costs might be incurred and by whom?

9. Do you believe that there might be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?