

THE UNIVERSITY OF EDINBURGH

WRITTEN SUBMISSION

Background:

The University of Edinburgh is amongst the leading higher education institutes (HEIs) in the world for its excellence in research, teaching, knowledge exchange/commercialisation. As was reported to the Scottish Parliament on 25th September 2013, we have generated some £300m in competitively won research income (up 20% in 2012/13) and our commercialisation activities have generated over £140m in gross value add for Scotland and support over 2,400 jobs. The University sources 56% of our annual influenceable expenditure with small and medium firms (SMEs) and 80% of all the firms supplying us are SMEs e.g. £25m with around 600 SMEs in the local area and we buy from supported businesses. Our University spin-outs or start-ups have in fact created 171 new companies (in total over 5 years).

Support for Procurement Best Practice:

The University has a long standing [sustainability and social responsibility strategy](#), is a signatory of the Suppliers' Charter, and achieves levels 3 to 5 of the [Flexible Framework on Scottish Sustainable Procurement Action Plan](#), which has been recognised by the *Universities UK*¹ as a case study in embedding 'sustainable procurement as a strategic asset'. We are active supporters of the Scottish Model of Procurement and the Procurement Reform initiatives, serving on the advisory groups at all levels. We also have a track record of superior capability in public procurement performance². Our Director of Procurement is a Fellow of the Chartered Institute of Purchasing and Supply has 30 years in public sector procurement in Scotland in the national health and now higher education sectors.

Written Evidence regarding the Bill:

1. As recognised in the APUC (*Advanced Procurement for Universities and Colleges*) evidence *Universities Scotland* report that Scotland's university sector has £6.7 billion gross value added to the Scottish economy in 2012/13 supporting 142,000 jobs. Scotland is now the most successful part of the UK with 28 per cent of all spin-outs and attracting foreign direct investment by

¹ <http://www.encyclicexchange.ac.uk/wp-content/uploads/Sustainable-procurement-for-strategic-impact-University-of-Edinburgh-case-study-July-2013.pdf> published on behalf of *Universities UK*, 2013

² [Procurement Capability Assessments](#) (superior) since 2008; *Times Higher Education* & *Government Opportunities Awards*

...innovative new models that will become “critical to the way companies re-invent and evolve products and services.”³

2. We must not risk the excellent international standing of our University’s research, or the value-add of HEIs in Scotland’s economy, by adding extra compliance risks, to be managed by our researchers, that **do not apply to competitors** across the rest of the UK (rUK) or in Europe (EU).

3. We appreciated the Consultation process and the amendments made as a result, but would suggest, as indicated in oral evidence, that some further issues remain to be considered seriously, although many of its provisions are procurement best practice and already covered in our activities.

Critical to the University are consideration for any unintended consequences for research impact:

(i) The Bill or implementing Regulations should **clearly exclude contracts for goods, services or small works for the purposes of academic research**⁴, to avoid unintended consequences, for the University’s staff or its research income, and for all Scottish universities, as stated by APUC, to avoid having to meet new **compliance risks at much lower values** than at competitor HEIs in rest of the UK (rUK) and in the EU. Publishing our strategic buying plans (Bill s11) or limiting the pre-qualification criteria (s23) we can use may add other risks to confidential or high value and high risk research, which may hamper the most innovative and globally competitive academic research growth which in turn attracts Scottish and international students, and these should be subject to the ‘withholding information’ rights as in s29, but of course, for similar justifications, and in exceptional cases.

(ii) To avoid the unrealistic complexity of **separating procurement for research from that for teaching**, as goods/services or works are shared, in the Regulations yet-to-be-drafted, it may thus be safer to **remove higher education institutions from the new processes additional to those in rUK**, where HEIs, we understand will be seen in future be seen as outside the public regime, **or in the EU**, where new EU Directives are likely to offer flexible options at higher values for non-central authorities (such as European higher education institutions). All research staff are very mobile:

³ GROW, EXPORT, ATTRACT, SUPPORT Universities’ contribution to Scotland’s economic growth *Universities Scotland*, 2013.

⁴ Frascati Manual Proposed Standard Practice for Surveys on Research and Experimental Development, *OECD*, 2002

Illustrative Scenario: A high profile international academic principal investigator (PI) at the University is challenged by failed bidders on a procurement process of £51k, delaying vital research outputs, missing deadline for research funders. She blames the University and takes a grievance procedure and seeks press interest. The University is asked to repay full or part of a £300k UK research grant.

*Then PI moves to another rUK institution, attracts her former research team to join her and all their grants & equipment assets (£2m) transfer from Edinburgh. PI attracts global press interest and academic journal interest on the theme of '**Scots value a process above scientific progress**'.*

This harms Scotland's global reputation for research funding and makes it hard to attract other PIs.

(iii) **Implementation guidance, regulations, tools and buyer & supplier training** must be available **before** any of the Bill's new rules apply; a phased change programme (s39) may confuse the various supply markets and risk unforced errors by buying staff in contracting authorities; the changes needs legal certainty with training and resources in place. Costs for contracting authorities are underestimated and as APUC indicated may need up to 20% increase in procurement resources.

(iv) **Full debriefing obligations** as proposed for lower value tenders (s28) can add delays & costs and a more simple [secure online tick-box using the PCS portal] summary to inform failed bidders of the rationale for rejection then tailored FOISA⁵ requests would be faster and probably more useful to assist the SMEs to prepare for new opportunities coming up imminently, after a failed bid event.

Illustrative Scenario: The University has 400 purchases over £50k, requires 30 – 60 mins for a full s28 debrief letter preparation. If (say) there are 5 unsuccessful bids each time: this is 1-2000 hours p.a. of limited procurement resources focused on bid losers. If the Bill attracts more SMEs to bid, it also lowers each bidders chances of success, and increases resources just on debriefs, reducing value-add.

4. We welcome the **Sustainability and Social Responsibility** opportunities in the Bill, but suggest there needs to be scrutiny to avoid conflict with (current) EU Directives and the [Treaty Obligations](#) on contract **materiality** and on **non-discrimination**; to avoid this the Bill could link the new s9 and s19 duty to **an authority's purpose and strategic objectives**

⁵ Freedom of Information (Scotland) Act 2002 requires response within 20 working days, faster than 30 days as in Bill s28

rather than to its 'area' or perhaps have new requirements apply below EU level, to avoid issues until **after** new EU Directives.

5. **Limits to minimum standards**; the Bill's *Policy Memorandum* has a suggestion based on turnover that is inappropriate for assessing financial risk (*para 97*). And the Bill's s11 payment strategy obligations could be applied for works (as a sub-contractor's own sub-contractors can be known) but if applied to all goods or services contracts will put a burden on bidders, especially SMEs, to manage this down their supply chains. In works contracts this could have an inflationary impact on costs and this aspect should be considered in response to the Scottish Construction Review⁶ .

6. **Missed opportunities**, as noted in our Consultation Response, the Bill could embed key reforms in procurement best practice in Scotland, for example, it could:

(i) **require adequate procurement capability resources** and accountability in public body governance; supported from audits and Scottish Government;

(ii) ensure the availability of SME, third sector, supported **business training and bid qualification** support by enterprise and business development bodies;

(iii) encourage public bodies and suppliers to public bodies to **invest in people and skills for sustainability and social responsibility**, knowledge sharing;

(iv) secure resources to **improve procurement skills and capabilities** (invest in procurement people today and *procurement people of tomorrow*⁷);

(v) encourage **price transparency and open book access or auditing** of public suppliers bids/contracts, to avoid lowball bids, money laundering, tax issues;

(vi) clarify reforms to benefit **Scotland as a Fair Trade Nation**; require as minimum **International Labour Organisation** standards, reducing modern day slavery, worker exploitation and child labour, locally and globally; with implementing guidance, training and supplier awareness, for example on s25 technical specification to '*define ..characteristics ... relating to any process.....stage in..life cycle*'.

⁶ Review of Scottish Public Sector Procurement in Construction, Scottish Government October 2013

⁷ <http://www.scotland.gov.uk/Topics/Government/Procurement/Capability> public/private sector/education project, 2013

This Written Response was prepared for the University of Edinburgh by Director of Procurement, Karen Bowman MA(Hons) FCIPS SRN, and approved in draft at the University Central Management Group meeting 11th Nov 2013.

Oral evidence was provided in support of these and other points to the *Infrastructure and Capital Investment Committee* on 13th November 2013. And a *Finance Questionnaire* response was sent under separate cover.

The University of Edinburgh
15 November 2013