

PRELIMINARY MARKET ENGAGEMENT: A SMARTER START FOR BUYERS AND SUPPLIERS

The introduction of the Procurement Act 2023 (the 'Act') on 24 February 2025 marked a transformative moment for public procurement in the UK. Replacing what was a complex web of EU-derived regulations, the Act sought to establish a simplified, transparent, and more flexible framework that empowers both contracting authorities and suppliers to adopt best practice procurement approaches.

Far from being a mere legislative update, the Act presented a strategic opportunity to embed value-driven procurement, foster innovation, and enhance competition. For public bodies, it encourages more agile and outcome-focused procurement processes, while for contractors, it opens the door to fairer access, clearer procedures, and greater visibility of opportunities.

In this first article of a series exploring the Procurement Act 2023, Fleur Summers (Associate Director - Regulated Procurement) and Chris Robinson (Operations Director - UK & Europe) of Mace, in collaboration with the Get It Right Initiative (GIRI), examine how the Act encourages the use of Preliminary Market Engagement (PME), highlighting the benefits it offers to both contracting authorities and contractors seeking to capitalise on emerging opportunities within the sector.

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What is Preliminary Market Engagement?

Under the Act, PME is a formal process that allows contracting authorities to engage with the market before publishing a tender or transparency notice. Its purpose is to help both contracting authorities and suppliers alike prepare for upcoming procurements by shaping requirements, exploring market capabilities, and identifying potential risks or innovations, the latter of which has been a key driver following the inception of the Act.

What are the key features of Preliminary Market Engagement?

THEME	FEATURE
Permitted activities:	Contracting authorities can consult suppliers to inform procurement strategies, specifications, and delivery models.
Fairness and transparency:	Contracting authorities must ensure PME does not give any supplier an unfair advantage or distort competition.
PME notices:	Contracting authorities are encouraged to publish a PME to invite participation or confirm that engagement has taken place. ¹
Legal basis:	Governed by Sections 16 and 17 of the Act. ²

Collaborative not combative

Much of what has been written about the Act during both pre and post launch is through the lens of the contracting authority i.e. the organisation administering the procurement exercise and whilst market engagement has long been a permissible practice under previous regulations, the new Act places greater emphasis upon it. This is especially the case given the availability for more flexible procedures.

With a combined four decades of experience in public sector procurement, the authors observe that it's not unusual for contracting authorities to lack a fully defined set of requirements. While the end goal may be clear, the path to achieving it often remains uncertain or evolving.

At this juncture it is worth reminding ourselves that the Act is not only UK centric when it comes to public sector procurement but also actively encourages collaboration between contracting authorities and contractors. To that end, PME offers several valuable opportunities for suppliers, especially in public sector procurement.

¹ **Denotes:** If no PME notice is published; the contract authority must explain why in the tender notice.

² **Denotes:** Sections 16 and 17 of the Act focuses on PME and aim to improve transparency, fairness, and collaboration between contracting authorities and suppliers.

Key benefits of Preliminary Market Engagement

THEME	CONTRACTOR BENEFIT	CONTRACTING AUTHORITY BENEFITS
Early insight into buyer needs	<ul style="list-style-type: none"> Insight to the buyer's objectives and challenges Understanding of potential scope and scale of the upcoming procurement Clarify processes and expectations of contracting authority Offer a chance to ask questions and raise concerns to contracting authority 	<ul style="list-style-type: none"> Offer a chance to ask questions and raise concerns to contractors How contractors' offerings might fit into future requirements
Understand the procurement strategy	<ul style="list-style-type: none"> Understanding of the intended procurement route (e.g., open, competitive flexible procedure, framework/open framework, dynamic market) Timescales and budget expectations Proposed evaluation criteria and decision-making processes 	<ul style="list-style-type: none"> Feedback from contractors helps determine the 'art of the possible' and what is palatable based on market capabilities
Support with specification development	<ul style="list-style-type: none"> Help shape realistic and deliverable specifications Highlight potential risks or constraints that contracting authorities may not have considered 	<ul style="list-style-type: none"> Contractor shares innovative ideas or alternative approaches.
Build relationships	<ul style="list-style-type: none"> Establish rapport with procurement teams Demonstrate expertise and credibility Position themselves as thought leaders or trusted partners Opportunity to build relationships with SMEs e.g. subcontracting opportunities (assist contractor in bid mobilisation) 	<ul style="list-style-type: none"> Build a network/database of skilled, knowledgeable and experienced contractors Tap into the capability as a form of 'free consultancy' Opportunity to build relationships with SMEs e.g. building market intel around niche deliverables
Prepare for competitive tendering	<ul style="list-style-type: none"> Align proposal more closely with contracting authority needs Plan resources and any delivery partnerships in advance Improve the quality and relevance of future bids 	<ul style="list-style-type: none"> Confidence that proposals received will be comparable with identified need Assurance that proposals will include innovative elements aligned to existing market capabilities

The list of benefits associated with Preliminary Market Engagement (PME) extends well beyond those outlined above. Consequently, many public sector organisations are already actively utilising PME for precisely these reasons. The core message is simple: PME offers a vital opportunity to ensure procurement is set on the right course from the very beginning. This principle is clearly reflected in current practice – since the Act came into force in February, over 4,800 PME notices have already been published on the Find a Tender Service.

How The Get It Right Initiative (GIRI) can support

This is where there is clear alignment between GIRI and the Act. GIRI is a UK not-for-profit organisation focused on eliminating avoidable errors in construction. It seeks to achieve this by collaborating with clients, contractors, consultants, regulators, and educators. Rather like the Act, GIRI advocates a culture of error prevention through shared knowledge, skills development, and stakeholder engagement.

Contractors to the public sector may well benefit from the array of tools and training that GIRI has available. PME allows the contractor a sneak peek behind the proverbial curtain of the contracting authority prior to the commencement of formal competitive tendering.

When it comes to construction projects, up to 80% of all reworks in UK construction projects can be traced directly to design errors and changes. This includes poor initial design, lack of coordination, and reactive compliance processes.³

To that end this is where the [GIRI Design Guide](#) can support; focusing on reducing design-related errors in construction by promoting early collaboration, clear responsibilities, and strong leadership. It encourages investing time upfront, using tools like the Design Responsibility Matrix, and setting clear milestones. The goal is to improve design quality, reduce costly mistakes, and enhance project outcomes across the industry. All drivers behind the inception of the Act and of course PME.

GIRI's research shows that many construction related errors stem from poor project formation and design processes. The Design Guide aims to:

- Address root causes of design errors.
- Promote early and collaborative engagement among stakeholders.
- Improve the quality and clarity of design information.
- Encourage a culture where issues are identified and challenged early.

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³ **Denotes:** Source: <https://smartinfrastructuremagazine.com/features/why-uk-infrastructure-projects-keep-falling-behind>

Synergies with the GIRI Design Guide

THEME	GIRI APPROACH	SYNERGY WITH THE ACT
Early Investment in Design	Emphasises the importance of allocating time and resources early to avoid costly errors later.	Supports contracting authorities in the development of accurate specifications and scope of works within the PME 'arena'.
Collaborative Culture	Encourages open communication between clients, designers, contractors, and the supply chain to align expectations and responsibilities.	Helps to upskill contracting authorities in relation to market capabilities and intel.
Clear Roles and Responsibilities	Promotes the use of tools like a Design Responsibility Matrix (DRM) to define who is responsible for what, and when.	Provides contracting authorities with a realistic understanding of the scale of works and personnel required.
Design Leadership	Advocates for strong leadership to guide the design process and ensure consistency across disciplines.	Assists in assuring contracting authorities that they are getting cutting edge solutions by way of contract deliverables.
Milestone Planning	Recommends setting clear design stage milestones to manage progress and quality.	Supports with the development of contractual KPI's that will be managed and maintained throughout the life of the contract as mandated within the Act.
Robust Briefing	Stresses the need for a well-defined and evolving project brief that reflects the client's needs and constraints.	Supports identification of risk and variation throughout the life of the contract.

Innovate don't hesitate

The Procurement Act – and specifically its emphasis on Preliminary Market Engagement (PME) – not only reflects a UK-centric approach to public sector procurement but also actively promotes meaningful dialogue between contracting authorities and suppliers within a regulated framework. Crucially, it encourages creativity, innovation, and futureproofing in the delivery of contracted services. In light of ongoing economic pressures and persistent supply chain challenges both domestically and internationally, it is essential that both parties fully embrace the opportunities PME presents. While this will require a commitment of time and resources from both sides, the benefits are substantial: stronger working relationships, more effective procurement outcomes, and ultimately, better value for the taxpayer whom contracting authorities are entrusted to serve.

GIRI research has shown that errors in design and construction contribute to between 10 and 25% of project cost, depending on size and complexity, amounting to roughly £10-25 billion annually in the UK construction sector.

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