

BCCEC

Draft BS8534 – Opportunity & A Warning?

**Roy Casey
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Opportunity to Comment on an Emerging British Standard

BS8534: Construction procurement policies, strategies and procedures – Code of Practice

This British Standard gives recommendations and guidance on the development within a public or private sector organisation of policies, strategies and procedures for the procurement of construction in the built environment.

It does not cover the procurement of associated engineering services and offshore construction works or the procurement of facilities management.

Open for comments until 30th April 2011

<http://drafts.bsigroup.com/Home/Details/679>

BS8534

Why is it necessary if ISOs already exist?

BS8534 is complementary to BS ISO 10845-1 and BS ISO 10845-2, which cover construction procurement in relation to processes, methods and procedures, as well as the formatting and compilation of procurement documentation. As such the ISO standard covers operational process, whereas this standard deals with policy in establishing a procurement strategy and setting up a system

BS ISO 10845-1:2010, Construction procurement – Part 1: Processes, methods and procedures

BS ISO 10845-2:2011, Construction procurement – Part 2: Formatting and compilation of procurement documentation

BS ISO 10845 Parts 1 and 2

BS ISO 10845-1:2010, *Construction procurement – Part 1: Processes, methods and procedures*

Describes processes, methods and procedures for the establishment within an organization of a procurement system that is fair, equitable, transparent, competitive and cost-effective. Describes generic procurement processes around which an employer can develop its procurement system, establishes basic requirements for the conduct of an employer's employees, agents, board members and office bearers when engaging in procurement, establishes the framework for the development of an employer's procurement policy, including any secondary procurement policy, and establishes generic methods and procedures for procurements, including those pertaining to disposals

BS ISO 10845-2:2011, *Construction procurement – Part 2: Formatting and compilation of procurement documentation*

Establishes, in respect of supply, services and engineering and construction works contracts, at both main and subcontract level, a format for the compilation of calls for expressions of interest, tender and contract documents, and the general principles for compiling procurement documents

More ISO 10845

There's more:

BS ISO 10845-3:2011, *Construction procurement – Part 3: Standard Conditions of Tender*

BS ISO 10845-4:2011, *Construction procurement – Part 4: Standard Conditions for the Calling for Expressions of Interest*

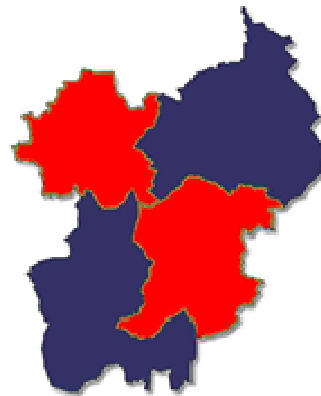
BS ISO 10845-5:2011, *Construction procurement – Part 5: Participation of Targeted Enterprises in Contracts*

BS ISO 10845-6:2011, *Construction procurement – Part 6: Participation of Targeted Partners in Joint Ventures in Contracts*

BS ISO 10845-7:2011, *Construction procurement – Part 7: Participation of Local Enterprises and Labour in Contracts*

BS ISO 10845-8:2011, *Construction procurement – Part 8: Participation of Targeted Labour in Contracts*

From BS8534 - The remaining parts of the ISO 10845 series (Part 3 to Part 8) have not been adopted as British Standards. If clients wish to use them they are encouraged to check their compliance with EU procurement law. European Standards for the procurement of engineering consultancy services for building, infrastructure and industrial units are in development



BCCEC

PAS91:2010

**Roy Casey
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Why Feature PAS91:2010 Tonight?

It says that:

“For the full benefits of PAS91 to be achieved, as many buyers as possible need to know about it, understand it, and use it.

Most importantly, this applies right through the supply chain, to where contractors, subcontractors and consultants are employed”

So, even though I will share some personal opinions with you – and you could conclude that I am not in support of it – the Club is doing what has been asked

And – let me state now that I applaud and support the initiative, however I am doubtful that the tool provided will meet the industry’s need, and in particular the need of Micro and SME companies

PAS91:2010 Background

- **Released October 2010**
- **'Construction Related Procurement – Prequalification Questionnaires'**
- **A Publicly Available Specification published by BSI**
- **Sponsored by Department for Business, Innovation & Skills**
- **Produced in response to growing industry demand for a common PQQ to be used in construction**
- **Written by a panel of organisations representing construction including:**
 - ❖ **Office of Government Commerce**
 - ❖ **A London Council**
 - ❖ **Public Bodies**
 - ❖ **Contractor Trade Associations and Bodies (e.g. NFB, FMB, CECA, etc.)**
 - ❖ **Safety Schemes in Procurement**
 - ❖ **Equality & Human Rights Commission**
 - ❖ **Constructionline**
 - ❖ **Exor**

What Does PAS Status Mean?

- **Publicly Available Specifications are standards developed more rapidly than normal British Standards – but are not given BS status**
- **Can be considered as the current “best practice” or “best available model for now”**
- **Will be reviewed in 2 years by BSI, at the latest, if it has not been withdrawn, replaced or incorporated into a BS or European equivalent**

Application

- **Sets out the nature, content and format of a set of PQQ questions**
- **Provides questions to elicit data considered to be a Core Criteria for construction procurement**
- **Provides guidelines for the way in which the questions should be selected, applied and presented in an equitable and transparent manner**
- **States that its questions in Annex A are universally applicable to assessment of capability of all suppliers**
- **States that its questions in Annex B are additional information which buyers may require**
- **Proposes that its questions in Annex C could further reduce the burden of PQQs**
- **Acknowledges that buyers will have to ask more questions than contained in the PAS91 specification – termed as ‘project specific’ questions**

How It Proposes to Streamline PQQs

States that using its core criteria questions will:

- Reduce need for unproductive, repetitive completion of a multiplicity of prequalification processes *[RC opinion – it will need to be universally adopted to achieve this]*
- Increase consistency between various prequalification databases *[RC opinion – only when such database operators align their assessment systems to it; the PAS considers that they will migrate their assessment services to it over a time of 1 to 2 years]*
- Facilitate the identification of suitably qualified and experienced suppliers *[RC opinion – as it only addresses part of the overall set of PQQ questions it can only identify partially suitable suppliers]*
- Enable the separation of criteria at the prequalification and contract award stages of the procurement process *[RC opinion – it identifies some of the criteria at a specific stage but allows buyers to then ask anything else they chose as 'project specific' criteria]*

How successful will it be at achieving its aims?

Bigger Picture Aim

States that using its core criteria questions in conjunction with 3rd party assessment schemes *[e.g. ConstructionLine, Exor, etc.]* will mean that:

“Ideally, suppliers should only have to join one assessment provider’s scheme to obtain maximum exposure to work opportunities”

However, it also states that:

“This PAS does not address the capability of assessment providers This is beyond the scope of the PAS. Accordingly, it is a matter for buyers to satisfy themselves that the assessment provider(s) whose members they accept through the PQQ process are suitable and employ information gathering processes that conform to this PAS”

Can It Achieve Its Aims?

RC opinion – I can't see how

- ***Does not, and cannot, set all questions universally relevant to all buyers – and so invites them to add their own and therefore continue to issue PQQs for each project***
- ***Does not attempt to "regulate" 3rd party assessment providers – so is it unlikely to discourage the major contractors from continuing to impose their "pet" systems or public sector imposing its "pet system" which many major contractors reject?***

Can It Achieve Its Aims?

➤ *In itself it may be contrary to the Treasury's Glover Report recommendations on improving opportunity for SMEs to gain more public sector work:*

- ❖ *PAS91 – "Ideally, suppliers should only have to join one assessment provider's scheme to obtain maximum exposure to work opportunities"*
- ❖ *Glover Report – "Procurers should ensure that, where they rely on a particular accreditation scheme or standard as part of the process of prequalification or contract award, that they take a flexible approach. Businesses should be given the opportunity to provide evidence that they can meet the contract requirements by reference to other similar equivalent accreditations or standards they may already hold – especially where these have been recognised or required by other public sector procurers"*

They might say the same thing – or they might not – but why do BIS, who funded PAS91, continue to fund and advertise with ConstructionLine when OGC dropped it's mandatory use after Glover's report?

➤ *Is PAS91 a good idea badly executed?*

So

It's here

Its use is being mandated by Government:

- **1st January 2011 – all Central Government funded projects**
- **1st March 2011 – must be used by agents, agencies and non-departmental public bodies acting for Government departments**

Local Public sector bodies are only being encouraged to adopt it – is this enough?

**Whether you like it, loathe it
or just disbelieve in it – you might
as well get prepared for it**

What you should not do it this!



***“Ignore it and it will go
away!”***

A Word of Disappointment from one of its Founding Organisations

National Federation of Builders – January 2011

“PAS 91 still mired in confusion

Confusion still prevails over the use of PAS 91, the government’s standardised pre-qualification questionnaire. PAS 91 was developed by the British Standards Institution in partnership with BIS, the National Federation of Builders, the Federation of Master Builders, Civil Engineering Contractors Association, Specialist Engineering Contractors Group and ConstructionLine. The form was designed to cut the time and cost contractors spent filling out separate forms each time they bid for public work. An NFB spokesperson argued that PAS 91 should be mandatory for local, as well as central, government, saying: *“While any move to make PAS 91 mandatory for central government and non-departmental public bodies is to be welcomed, the real litmus test lies in making it mandatory for local government, as this is the level at which most construction SMEs would bid. They need a level playing field and fair access to local projects – an inconsistent approach will undermine the purpose of PAS 91”*

[RC Opinion – I totally agree, and unless it is mandated on Local Councils and LEPs it will be unsuccessful]

The Format of The Core Criteria

Set out in 8 Modules

Annex A

Questions to be asked in each instance

A1 – Supplier identity, key roles and contact information

A2 – Financial information

A3 – Business and professional standing

A4 – Health and safety policy and capability

Annex B

Questions on areas frequently required by buyers, to be used where relevant

B1 – Health and safety policy and capability – designers and CDM Coordinators

B2 – Equal opportunity and diversity policy and capability

B3 – Environmental management policy and capability

B4 – Quality management policy and capability

Annex A1 Supplier ID, Roles & Contacts

- Who you and your company are
- Registered and Operating Addresses
- Trading status – Ltd, PLC, Sole Trader, etc.
- Business Registration Number (If applicable)
- VAT Registration Number (If applicable)

- Are you part of a Group?
- Your position in Group and who are the rest of it

- Are you part of a Consortium applying for the work **[RC Opinion – this means it is not generic information]**
- Do you use Sub Contractors

- How many employees
- How many work on the relevant services/products
- Do you need to engage more employees to undertake the works **[RC Opinion – this means it is not generic information]**

Annex A2 Financial

- **Your accounts or alternative forms of financial status evidence** *[RC Opinion – although on the 4th read it may be evident that the 4 questions are sequential and if you answer the first you don't need to do the other 3, etc. It is neither stated nor implied]*
 - A. 2 years audited accounts**
 - B. Turnover, profit and cashflow for most recent full trading year; or Turnover, profit and cashflow for most recent trading year**
 - C. Cash flow forecast for current year PLUS Bank letter outlining current cash and credit position**
 - D. An alternative means of demonstrating financial position if less than one year's trading**
- **Types of Insurances you hold or are willing to obtain if required** *[RC Opinion – does not ask for evidence, value, etc so hardly a transparent and equal playing field]*

Annex A3 Business & Professional Standing

What are you expecting to find in this section?

Annex A3 Business & Professional Standing

- **Has your organisation or its directors been subject of criminal or civil court action**
- **Has your organisation or its directors been bankrupt or insolvent**
- **Have your organisation been subject to enforcement or remedial orders from Government agencies like HSE or Environment Agency**

[RC Opinion – up to now, the first 3 Annexes have been reasonably straight forward objective Yes/No type answers

But from A4 we now move to very descriptive Subjective answers being required from Micro and SME organisations – and I believe that poses a barrier to a level playing field

We enter a guessing game:

MSME - What do I think this question means?

Buyer receiving PQQ response - What do I think your written descriptive response means?]

Annex A4 H&S Policy & Capability

12 wide ranging questions on your H&S:

- **Policy**
- **Procedures**
- **Training**
- **Communication and Workforce Involvement**
- **Management and Performance Improvement**
- **Advisor(s) and qualifications**
- **Incident & Accident Investigation**
- **How you apply/check this H&S information with your Sub Contractors**

Question A4.11 – Do you have arrangements for co-operating and co-ordinating your work with others (including other suppliers, notably contractors)?

PAS Guideline – Please provide explanation of how co-operation and co-ordination of the work is achieved in practice, and how other organisations are involved in drawing up method statements/safe systems of work etc. This should include details of how comments and input from your suppliers will be taken into account and how external comments including any complaints will be responded to

[RC Opinion – this is an example of why the system will fail the majority of the industry – how many Micro or Small organisations in Construction (over 9 out of 10 companies) will provide an appropriate and adequate response?]

Annex B1 H&S Supplement for CDM

- **If you are a Designer do you have and implement arrangements for meeting your duties under regulation 11 of CDM2007?**
- **If you are a CDM Coordinator are you able to demonstrate how to encourage cooperation, coordination and communication between designers (and anyone else)?**
- **If you are a CDM Coordinator are you able to provide evidence of your field of knowledge and experience in the design and construction process?**
- **If you are a CDM Coordinator are you able to provide evidence of your knowledge and experience of H&S in construction?**

[RC Opinion – there is a key role in the CDM process not being addressed here – the Principal Contractor – and the group of Contractors involved in the drafting of PAS seem to have overlooked that. The role of Designer is No Less Onerous than that of Principal Contractor and if one is separately addressed then the other should have been too]

Annex B2 Equal Opportunities & Diversity Policy & Capability

- **6 questions on your equal opportunities performance**
- **Includes how you apply equal opportunities guidance/criteria to your sub contractors**

Annex B3 Environmental Management Diversity Policy & Capability

- **5 questions on your equal opportunities performance**
- **Includes how you apply the same criteria to your sub contractors**

Annex B4 Quality Management Diversity Policy & Capability

- **5 questions on your quality management performance**
- **Includes how you apply the same criteria to your sub contractors**

Annex C Exemption Provisions

Provides PAS91 users with an option to exempt some of the questions if respondents have achieved certain criteria

- **Successful completion of a PQQ for others as long as the PQQ conforms to PAS91 – Buyer to identify which other PQQs apply, e.g. an assessment scheme provider**
- **Successful attainment of construction related schemes operated by 3rd parties, e.g. anSSIP H&S registration – Buyer to identify which other schemes apply**
- **3rd party certification of compliance to a recognised management standard, e.g. ISOs – Buyer to identify which ISOs and accreditation schemes apply (e.g. UKAS)**

[RC Opinion – if Buyers began to accept that use of external 3rd party registrations were an acceptable substitute for completing a PQQ would we need PAS91? How much more would they need to ask if it was accepted that having ConstructionLine, CHAS, ISO9001 and ISO14001 were acceptable alternatives?]

Where Do You Get PAS91?

Free to download from BIS or BSI

<http://www.bis.gov.uk/search?keywords=pas91&type=all>

<http://shop.bsigroup.com/en/Navigate-by/PAS/PAS-912010>

OR

£49 hard copy from BSI

<http://shop.bsigroup.com/en/ProductDetail/?pid=000000000030202493>