

**Project Review Group (PRG) – Process and Code of Practice**

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## 1 Purpose of this Document

### 1.1 This guidance:

- a) Provides an explanatory note on the Project Review Group (PRG) process;
- b) Clarifies the allocation of responsibilities, including assessment of criteria, between departments, the PRG, PRG reviewers and the local authority;
- c) Establishes the timeframes within which reviews are expected to be completed; and
- d) Sets out a standard Code of Practice for PRG Reviewers to follow in conducting a review.

## 2 What is the PRG?

### 2.1 Local authorities in England are able to apply for central government funding (in the form of PFI credits) towards PFI projects. The PRG both oversees and is part of an overall scrutiny and approvals process in awarding such funding.

Note that local authority schools projects and street lighting projects may follow different arrangements. Local authorities should contact 4ps for further advice.

### 2.2 The PRG consists of a two-stage process referred to throughout this paper as the “1<sup>st</sup> stage review” and the “2<sup>nd</sup> stage review”, and is itself part of a more extensive process of assessment. Together, these reviews provide comfort to the private sector about the quality of projects being brought to the market, reassure local authorities that there is a fair and equal treatment across sectors, and confirm that the project will attract funding from central government before either commit to the major expenses involved in a PFI procurement. The PRG process does not replace the ongoing monitoring that should be carried out by local authority and sponsoring departments. Appendix 1 shows a diagram illustrating the PRG process and how it fits within the broader procurement process.

### 2.3 The **1<sup>st</sup> stage review** is carried out at the Outline Business Case (OBC) stage of a procurement and assesses both the commercial deliverability and value for money of a project. It is mandatory for all local authority projects requiring PFI credit funding, and is only carried out once it has satisfied necessary departmental assessments and received Ministerial endorsement. A project review assesses whether a project is sufficiently well developed to enter into a procurement that will deliver a value for money output that satisfies the specified requirement. The criteria against which a review is completed are outlined in Appendix 5. The PRG panel then considers this review in a meeting with departmental and project representatives. The outcome of this meeting is for the panel to decide whether or not to endorse the award of PFI credits, and if endorsed whether conditions should be imposed. Such endorsement is a requirement of the PFI credit process and projects requiring central government support in the form of PFI credits should not proceed into procurement without it. If the panel does not endorse the award of PFI credits it will provide its reasons in the PRG minutes.

### 2.4 For projects going to market under the Competitive Dialogue procedure the **2<sup>nd</sup> stage review** is conducted in two stages:

- a) A derogation review is conducted prior to close of dialogue; and

- b) An affordability assessment is undertaken after receipt of final tenders, but prior to selection of preferred bidder.
- 2.5 Under the negotiated procedure the 2<sup>nd</sup> stage review is conducted in a single stage prior to the selection of preferred bidder. The 2<sup>nd</sup> stage review is carried out by PUK and the PRG secretariat with a concluding note sent (usually by email) to the project. The PRG panel does not meet to discuss a 2<sup>nd</sup> stage review.
- 2.6 2<sup>nd</sup> stage reviews are conducted on selected projects. Projects can either be selected at the time of their 1<sup>st</sup> stage review (if the panel believes there are sufficient grounds) or through random selection no later than 2 months prior to the expected date for close of dialogue (for competitive dialogue) or at the pre-preferred bidder stage (for the negotiated procedure).
- 2.7 The focus of the 2<sup>nd</sup> stage review is to evaluate project affordability and compliance with standardised contract terms and conditions at a later stage in the procurement process than achieved by the 1<sup>st</sup> stage review. It may also consider broader factors in line with Stage 3 of the HM Treasury Value for Money guidance.
- 2.8 Standardised terms and conditions are to be taken as those encapsulated in the latest version of the HM Treasury publication “Standardisation of PFI Contracts” (SoPC) or a HM Treasury, and sponsoring department, endorsed Sector Specific Contract. The intention of the 2<sup>nd</sup> stage review is to highlight any issues that may have an adverse impact on the success of the project in reaching financial close at a time when the procuring authority can still enter into dialogue or negotiations with bidders in a competitive environment. The 2<sup>nd</sup> stage review does not remove the requirement for all PFI projects to ensure compliance with standard contract terms and conditions prior to financial close but is likely to reduce the burden significantly, in particular under the competitive dialogue procedure. See Appendix 2 for a further explanation of the 2<sup>nd</sup> stage review process.
- 2.9 The final role of the PRG is triggered by **significant changes**. Projects that have been approved in the 1<sup>st</sup> stage review and subsequently undergo significant changes must be submitted to the PRG for re-approval. As such, its focus is on the continuing viability of the project.
- 2.10 The requirement to return to the PRG for approval of additional PFI credits applies to projects that are seeking an increase in credits in excess of the lower of £20 million or a 20% increase in the originally approved allocation. This requirement continues to be applicable throughout the procurement, construction, and operational phases. As with 2nd stage reviews, a broader view will also be taken in line with Stage 3 of the HM Treasury Value for Money (VfM) guidance.
- 2.11 Complementing PRG are procedures to promote the adoption of best practice within local authority PFI projects and facilitate the dissemination of lessons learnt. This dissemination is principally achieved through the Local Authority PFI Policy Group administered by Communities and Local Government (CLG). This group meets at least 4 times a year. At each meeting the PRG reports back on lessons that have emerged.

### 3 Who are the PRG?

- 3.1 The PRG is a **panel of experts** appointed in their individual capacity and selected on the basis of their knowledge and experience of PFI. It is chaired by HM Treasury

(HMT) and contains permanent representatives from Communities and Local Government and the Public Private Partnerships Programme (4ps). Appointments are made to the panel for a period of 12 months and are selected on the basis of their collective PFI skills and experience. Such a selection criterion is tempered by the fact that panel members are obliged to reveal any conflicts of interest that they have in considering particular projects. Once these are established it is for the Chair of the PRG to take appropriate steps to ensure that they do not have undue influence on the final decision of the panel.

- 3.2 As appointments to the PRG panel are made on an individual capacity, members should not substitute representatives from their departments or organisations if they are absent at meetings.
- 3.3 There is a PRG secretary that is responsible for managing the administration, and should typically be the first contact for any queries. In addition, Partnerships UK (PUK) completes the PRG reviews on behalf of the panel and attends its meetings in this capacity.

#### **4 The PRG Process**

- 4.1 The PRG forms one part of the overall process of issuing PFI credits. This process is set out below and should be read in conjunction with the flow diagram in Appendix 1.
- 4.2 The key steps are:
  - a) **Announcement of Local Authority PFI Funding**  
Central government announces the overall value of local authority PFI projects that it is willing to support over the spending review period, split between services.
  - b) **Submitting and Selecting Bids**  
Local authorities identify and develop projects, working with the 4ps as appropriate. Most sponsoring departments have periodic bidding rounds inviting proposals for projects to support from within its PFI credit allocation. Those departments who do not have a bidding round will accept proposals at any time. A department should take advice from HM Treasury on the suitability of PFI for unusual or complex projects (or projects not covered in the department's Stage 1 VfM assessment). Projects that are prioritised by departments are then invited to submit an OBC.
  - c) **Selected Projects Submit an OBC to the Sponsoring Department**  
Local authorities should submit their OBC to the sponsoring department sufficiently far in advance of the PRG meeting at which they wish it to be considered that departments can complete their assessment and then submit to PRG 5 weeks before the meeting. The time needed by departments will vary, but is likely to take several weeks at least. No commitment can be made regarding at exactly which PRG meeting the OBC will be considered. Each department reviews the OBCs of projects that it wishes to support. At this stage, departments should complete the following tasks before putting a project forward to the PRG for a 1<sup>st</sup> stage review:
    - i. Ensure the project meets both departmental criteria and general criteria that apply to all PFI projects. Guidance on the general criteria which need to be met in order to be paid PFI grant can be found in the Communities and

Local Government publication “Local Government PFI Support Guide” [<http://www.local.communities.gov.uk/pfi/sg0809.pdf>]. Those criteria include compliance with the HM Treasury “Value for Money Guidance” [[http://www.hm-treasury.gov.uk/ppp\\_vfm\\_index.htm](http://www.hm-treasury.gov.uk/ppp_vfm_index.htm)] and SOPC4.

- ii. Complete their own evaluation of the project to confirm that it is likely to meet all PRG criteria and includes all the material needed for the PUK review.
  - iii. Projects that satisfy points i) and ii) must then secure Ministerial endorsement for the indicated level of PFI credits.
- d) **OBC Submitted for PRG Review**  
The review of OBCs is currently performed by PUK acting as sub-contractors to the Treasury under the terms of a framework agreement. PUK has responsibility for ensuring that an appropriate reviewer is assigned to each submitted project. The review will be completed within 4 weeks of the PRG reviewer receiving the OBC. The sponsoring department is normally invited to participate in any meetings should they wish to.
- e) **Circulation of the PRG Review Report**  
The PRG review report for the project prepared by PUK will be circulated (with other appropriate papers) during the week prior to the PRG meeting at which it is to be discussed. The reviews will be circulated to a PRG distribution list that will include members of the panel and PFU representatives from those government departments that allocate PFI credits. The sponsoring department will forward a copy to the local authority.
- f) **The PRG Meeting**  
The PRG panel meets with representatives of the project and has the opportunity to question them on any element of the project. Projects will be assigned a specific timeslot and typically be represented by an appropriate official from the sponsoring department and a member from the local authority project team. The PRG meeting consists of a number of slots allocated to individual projects. Each slot is anticipated to take approximately 40-45 minutes but this will vary.
- g) **Announcement of the PRG Decision**  
Subsequent to the meeting, the panel decides whether to endorse the project and sends a minute to the sponsoring department usually within 3 days of the meeting. The minute will also indicate any actions or recommendations for the project and, where appropriate, outline the reasons for the PRG decision.
- Sponsoring departments send standard approval letters to the respective local authority informing them of the PRG decision, and identifying any actions placed upon them or issues that will be monitored particularly closely.
- An action may be placed on a project at this time to undergo a 2<sup>nd</sup> stage review.
- The PRG minute is published on the HM Treasury website on the second Friday after the PRG meeting or as soon as is practical.
- h) **Progress the Procurement**  
Once the local authority has received the approval letter from the sponsoring department it can progress the project through the procurement process subject

to any monitoring requirements or actions placed upon it. This includes a standing requirement to follow Stage 3 of the HM Treasury VfM guidance.

i) **2<sup>nd</sup> Stage Review**

A project that is within 3 months of closure of dialogue (for competitive dialogue) or within 3 months of appointing preferred bidder (for the negotiated procedure) may be selected by the PRG to undergo a 2<sup>nd</sup> stage review. Sponsoring departments are required to inform the PRG secretariat of all projects reaching that stage. Alternatively, projects can be selected at the time of the 1<sup>st</sup> stage PRG review. All projects selected for 2<sup>nd</sup> stage reviews are announced in the minutes of PRG meetings.

The output of the 2<sup>nd</sup> stage review is a report sent to the local authority project team and sponsoring department by the Chair of the PRG identifying whether or not it needs to take any action prior to closure of dialogue or appointment of a preferred bidder as relevant.

All PFI projects, whether undergoing a 2<sup>nd</sup> stage review or not, are strongly encouraged to achieve compliance with standardised contract terms and conditions prior to appointing a preferred bidder. Participation in a 2<sup>nd</sup> stage review does not alter a project's obligation to seek HMT approval for any new or modified derogation that arises after the review has taken place. The 2<sup>nd</sup> stage review process is shown in more detail in Appendix 2. 2<sup>nd</sup> stage reviews are only considered within PRG meetings by exception.

j) **Additional Credits or Significant Changes**

If, in the course of its procurement, a project is subjected to a significant change in its objectives, scope, or approach then it must be re-submitted to the PRG as soon as possible to confirm that it remains affordable and VfM as a PFI procurement. In addition, if it is awarded additional PFI credits by the sponsoring department that are at least £20million or an increase of 20% above the amount originally approved (whichever of the two is lower) then the project must also be re-submitted to the PRG. Guidance on these points is in Appendix 3.

k) **Issue the PFI Credits**

Sponsoring departments send a formal PFI credit letter issuing the PFI credits when the project has provided the following:

- i. written confirmation that financial close has been reached;
- ii. an acceptable Final Business Case (FBC), providing the sponsoring department with reassurance that the final project continues to meet requirements and provide VfM; and
- iii. has demonstrated compliance with standardised contract terms and conditions or has received HMT approval to any derogations.

## 5 Roles and Responsibilities - 1<sup>st</sup> Stage Review

### PRG Secretariat

5.1 The PRG Secretariat shall be responsible for:

- a) Circulating the agenda, actions, and reviews for each PRG meeting, in advance of each meeting;
- b) Arranging for the chairing of the PRG meeting;
- c) Consulting on, selecting, and appointing members of the PRG panel;
- d) Attending PRG meeting and preparing and circulating the minutes of PRG meetings and decisions;
- e) Communicating relevant issues and lessons learnt to the Local Authority PFI Policy Group. Members of the PRG panel (typically a Treasury representative and the PRG Secretary) attend the Local Authority PFI policy group to ensure that this is achieved;
- f) The cost of the PRG review is shared by HM Treasury the departments. The PRG secretariat will arrange for invoices to be sent to the relevant departments.

### PUK

5.2 The review of OBCs is currently performed by PUK acting as sub-contractors to the Treasury under the terms of a framework agreement.

5.3 Following the process outlined above, departments submit the OBC, together with any complementary material, to PUK. PUK's PRG co-ordinator shall be responsible for:

- a) Ensuring an appropriate project reviewer is appointed to complete the review for the PRG, and that the local authority and sponsoring department are notified of this;
- b) Ensuring that reviews are conducted in accordance with the procedure set out in Section 3 and assesses the criteria which are set out in Appendix 5;
- c) Reviewing the draft reports produced;
- d) Forwarding the reports to the PRG Secretariat at least one week prior to the PRG meeting; and
- e) Attending the PRG meeting to present a brief summary of the findings of each review and to answer any questions raised by the panel.

### PRG 1<sup>st</sup> Stage Reviewers

5.4 PRG Reviewers conduct a technical review on behalf of the PRG and are guided by the "Code of Practice" in Appendix 4 and the "1<sup>st</sup> Stage Review Pro-Forma" in Appendix 5.

5.5 The PRG review of an OBC takes the form of a high-level health check rather than a detailed audit although, wherever possible, the review will seek concrete and objective evidence of PRG criteria having been satisfied. Currently, a PRG review of an OBC focuses exclusively on the following 12 criteria:

- a) Affordability

- b) Design Quality
- c) Output Specification
- d) Risk Allocation
- e) Commercial Interest
- f) Compliance with Standard Form
- g) Value for Money Analysis
- h) Suitability of Advisors
- i) Indicative Timetable
- j) Project Team
- k) Commitment of Sponsors, Stakeholders, and Users
- l) Statutory Process

Further information on these criteria is provided in Appendix 5. (The criteria is open to PRG review at any time).

- 5.6 A review also includes an “Other” category and a “Conclusions” section in which the reviewer will make a recommendation to the PRG panel regarding the deliverability of the project and whether it is fit to proceed into a formal procurement. However, the decision whether or not to endorse the award of PFI credits remains the sole responsibility of the PRG panel.
- 5.7 In order to effectively assess a project's viability against the PRG criteria the reviewer must maintain clear lines of communication with departments and operate in line with the Code of Practice for reviewers that is set out in Appendix 4. All reviewers are bound by a confidentiality requirement and, subject to audit and other legal requirements, may only disclose information gathered in the course of a PRG review with any third party with the express prior written permission of the sponsoring department and the Chair of the PRG. This will normally only be given after prior discussion with the relevant local authority.
- 5.8 The reviewer must inform the Secretariat and sponsoring department if they identify any outstanding issues with a project that should have been resolved prior to being submitted to the PRG. If it is deemed unlikely that the outstanding issue(s) can be resolved in time for the PRG meeting, the project is likely to be deferred to a later meeting.

#### Sponsoring Department

- 5.9 Local authorities wishing to receive central government support should submit a proposal to a sponsoring department. The mechanisms for submitting and prioritising proposals will vary, but each department needs to ensure that the following have been carried out before the proposal is submitted to PRG for consideration:
- a) The proposal should be supported on the basis of its outputs and how it meets the department's policy objectives;
  - b) PFI represents the most appropriate procurement route as shown by the approved HM Treasury VfM assessment method;
  - c) A detailed OBC has been submitted which includes all the information and supporting material needed for review;
  - d) The level of support requested is manageable within the department's allocation of PFI credits;

- e) The Department is satisfied that the project is sufficiently developed and robust to enter procurement;
  - f) Ministerial approval has been obtained to support the project, subject to PRG endorsement.
- 5.10 It should be noted that the PRG panel will not consider schemes that have not received Ministerial endorsement. Departments should maintain their involvement throughout the 1<sup>st</sup> stage review to ensure that they are adequately briefed on the issues prior to the PRG meeting.
- 5.11 It is the responsibility of the sponsoring department to ensure that the project is appropriately represented at the PRG meeting. This includes nominating an appropriate representative from the department to attend the meeting and be prepared to answer questions from the panel. No more than 2 departmental representatives shall be permitted to attend the PRG meeting: this may include a representative of an agency where the day-to-day management of programmes lies with them. Where a project is jointly sponsored, appropriate representation should be agreed in advance. The departmental representative should ensure the local authority representative(s) is informed of the time and place at which the PRG meeting is to be held.
- 5.12 Departments are responsible for sending an approval letter to the respective local authority informing them of the PRG decision and highlighting any actions placed upon them or issues that will be monitored particularly closely.
- 5.13 Departments are responsible for monitoring progress of the project throughout the procurement. This monitoring should include factors such as affordability, value for money, compliance with standard terms and conditions, timetable, and market failure or abuse. The HM Treasury guidance on Stage 3 VfM assessment should be followed during this process. The existence of the PRG does not diminish the responsibility of local authorities and departments to secure value for money.
- 5.14 Please note that the PRG does not reimburse travel costs.

#### PRG Panel Members

- 5.15 PRG meetings are generally held once a month, typically on the third Tuesday. If issues of broader PFI policy interest emerge during consideration of reviews, which have been missed at earlier stages, then they must be referred to HMT and / or Communities and Local Government. As a result, it may or may not then be appropriate to continue with consideration of that project at the PRG meeting. At the PRG meeting itself, panel members have the opportunity to question project representatives on any aspect of the project. After this discussion, the PRG panel takes a collective decision about the project. The possible outcomes are:
- a) The project is approved; or
  - b) The project is conditionally approved. Such conditions will be in one of two forms:
    - i. Actions – The PRG panel places formal actions upon the project that must be completed within the timescales stated. Such actions are recorded and monitored by the PRG Secretariat through updates from sponsoring departments; or

- ii. Recommendations – These should be viewed as highly persuasive statements from the PRG stating that both the sponsoring department and local authority should pay particular attention to the areas they have highlighted.

Sponsoring departments should highlight within the approval letter to the local authority that they are required to comply with the actions and recommendations made by the PRG; or

- c) The project is rejected in its current state but may be viable if worked on further. The PRG panel will seek to provide clarification of the reasons for its decision in the minutes of the meeting and may suggest that the project be re-submitted once the issues have been addressed.
- 5.16 Final conclusions, decisions or recommendations are not directed to the local authority representatives at the meeting. PRG decisions are, rather, minuted by the PRG Secretary and circulated to the PRG distribution list usually within 3 working days. These minutes are then published to the Treasury website on the second Friday after the PRG meeting or as soon as practical thereafter. Within those requirements the meeting will be as open as possible and no outcomes should come as a surprise to any of the participants. It is the responsibility of each sponsoring department to inform the respective local authorities of the outcome of the PRG meeting.

#### Local Authority

- 5.17 The authority is required to cooperate fully with the PRG review and respond to requests for information from the reviewer promptly and accurately. In addition, the authority must send suitable representative(s) to the PRG meeting. This representative must be in a position to answer questions from the panel on the project, focusing on criteria covered in the review. See appendix 5 for more information on the criteria covered in the 1<sup>st</sup> stage PRG review. No more than 2 local authority representatives shall be permitted to attend the PRG meeting. Where a project is jointly sponsored, appropriate representation should be agreed in advance. Attendees should not be an advisor or consultant.
- 5.18 Please note that the PRG does not reimburse travel costs.

## **6 Roles and Responsibilities - 2<sup>nd</sup> Stage Review**

### PRG Secretariat

- 6.1 The PRG Secretariat shall be responsible for:
- a) Administering the 2<sup>nd</sup> stage review process;
  - b) Identifying projects selected to undergo the 2<sup>nd</sup> stage review (chosen either through PRG panel selection, departmental request or random selection).
  - c) Inform sponsoring departments of those projects selected via the PRG minutes;

- d) Considering the 2<sup>nd</sup> stage review report and ensuring that it is sent to the local authority and sponsoring department;
- e) Acting as a central communication point for queries, clarifications etc; and
- f) Referring exceptional issues raised to the PRG panel and providing general feedback on completed 2<sup>nd</sup> stage reviews.

#### PUK

- 6.2 The review of OBCs is currently performed by PUK acting as sub-contractors to the Treasury under the terms of a framework agreement.
- 6.3 Following the process outlined in Appendix 2, local authorities submit second stage review submissions to PUK, PUK's PRG co-ordinator shall be responsible for:
  - a) If required, providing the local authority with an explanation of the information that it must provide (listed in Appendix 6) for the 2<sup>nd</sup> stage review;
  - b) Ensuring an appropriate project reviewer is appointed to undertake the second stage review, and that the local authority and sponsoring department are notified of this;
  - c) Ensuring that reviews are conducted in accordance with the procedure set out in Appendix 2;
  - d) Reviewing the draft reports produced; and
  - e) Forwarding the reports to the PRG Secretariat.

#### PRG 2<sup>nd</sup> Stage Reviewers

- 6.4 The PRG 2<sup>nd</sup> stage reviewer shall be responsible for:
  - a) Completing the 2<sup>nd</sup> stage review within a maximum of 10 working days of receiving all the information required from the local authority;
  - b) Producing a 2<sup>nd</sup> stage review report to be submitted to the PRG secretariat that includes the following:
    - i. A copy of the results of the affordability analysis that has been carried out. This analysis should be carried out on all bidders' proposals;
    - ii. A copy of the evaluation of SoPC compliance (or compliance with HMT approved sector specific contract). This evaluation should be carried out on all bids that are being considered
    - iii. A covering letter outlining conclusions from the analysis undertaken, a recommendation regarding whether the project should be approved and, if appropriate, any conditions that should be placed upon the local authority;

- c) Accommodating the level of involvement in the process that has been requested by the sponsoring department(s);
- d) Responding promptly to communications that are received from the PRG secretariat, sponsoring department, or local authority.

#### Sponsoring Departments

6.5 The sponsoring department shall be responsible for:

- a) Informing PFI projects for which they are sponsor of the possible requirement to undertake a 2<sup>nd</sup> stage review and providing a brief explanation of what this entails;
- b) Providing a list to the PRG of all PFI projects (covered by the PRG process) that are within 3 months of the planned date for closure of dialogue (under Competitive Dialogue) or are within 3 months of the appointment of preferred bidder (under the Negotiated Procedure). This list is to be updated and submitted at the time of every PRG meeting;
- c) Informing PFI project teams of whether they have been selected to undertake a 2<sup>nd</sup> stage review;
- d) Ensuring that they confirm their support for all derogations that are sent to PUK (Where additional input is required from PUK to resolve the derogations position as a result of issues with the contract, beyond that which HMT will fund, PUK will require that the authority or sponsoring department agree to fund the additional work);
- e) Establishing the level of involvement that they wish to have in the 2<sup>nd</sup> stage review process and ensuring that the procuring authority and PUK are informed.

6.6 The sponsoring department may specify a project to be subject to a 2<sup>nd</sup> stage review. It is for the Chair of the PRG to decide whether such a request is granted.

6.7 This process does not diminish the responsibility of the local authority and sponsoring department to secure value for money.

#### Local Authority

6.8 The local authority shall be responsible for:

- a) Keeping the sponsoring department informed of the stage it has reached in the procurement and when it is planning to close dialogue or appoint preferred bidder, as appropriate. Any delay in providing this information to the sponsoring department may adversely affect the above planned dates;
- b) If selected for the 2<sup>nd</sup> stage review, the local authority must liaise with PUK and agree a date for the provision of information. It must then provide PUK and the sponsoring department with the information listed in Appendix 6, and any supplementary documentation it feels would support its position.
- c) Submitting the 2<sup>nd</sup> stage review to PUK in accordance with the following timetable:

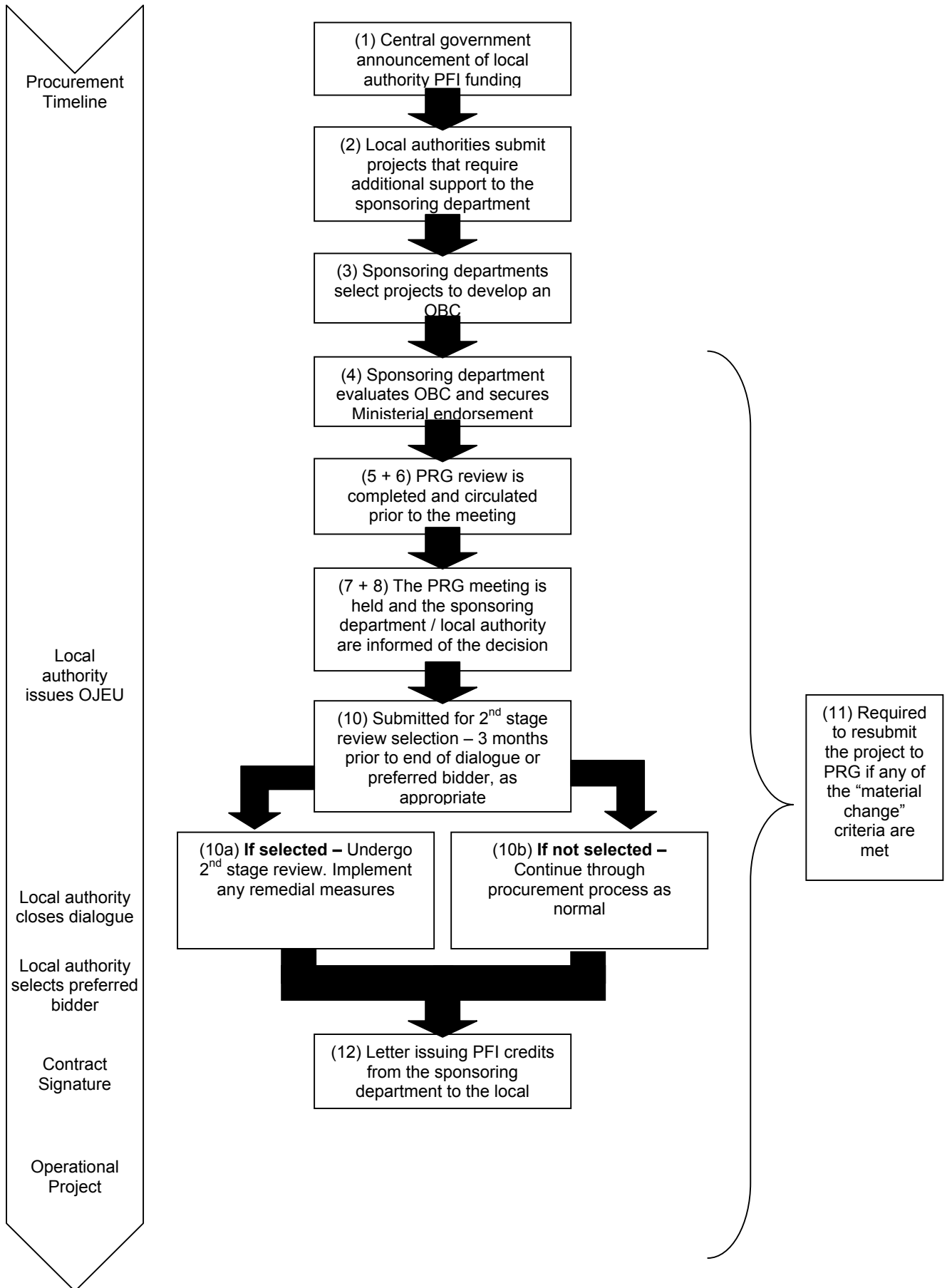
- i. Under the competitive dialogue process, the information required to undertake the derogations review must be provided at least 4 weeks prior to the planned date for close of dialogue and the information required to conduct the affordability assessment must be provided at least 4 weeks prior to the planned date for appointment of preferred bidder;
    - ii. Under the negotiated process, the information required to undertake the second stage review must be provided at least 3 weeks prior to the planned date for appointment of the preferred bidder.
  - d) Responding promptly to queries from the 2<sup>nd</sup> stage reviewer / PRG secretariat;
  - e) Accommodating the level of involvement in the process that has been requested by the sponsoring department(s); and
  - f) Complying with the findings of the 2<sup>nd</sup> stage review in line with PRG expectations.
- 6.9 This process does not diminish the responsibility of the local authority and sponsoring department to secure value for money.

PRG Panel Members

- 6.10 PRG panel members shall consider exceptional issues as they are presented to them by the PRG secretariat.

Appendix 1

PRG Process Diagram



## Appendix 2

PRG 2<sup>nd</sup> Stage Review Process

TIME	ACTION BY PROCURING AUTHORITY	ACTION BY SPONSORING DEPARTMENT	ACTION BY PRG SECRETARIAT	ACTION BY PUK / REVIEWER
Every PRG meeting (1 <sup>st</sup> stage review)	Inform sponsoring department if it believes it is within 3 months of close of dialogue or appointing preferred bidder, as appropriate	Provide a list to the PRG secretariat of PFI projects that are within 3 months of close of dialogue or appointing preferred bidder, as appropriate.	Collate lists of PFI projects provided by sponsoring departments and select those that will undergo the 2 <sup>nd</sup> stage review.  Report those projects that have been selected in the PRG minutes.	
Within 1 week (of the PRG meeting)	Acknowledge requirement to undergo the 2 <sup>nd</sup> stage review	Sponsoring department to inform those projects that have been selected to undergo the 2 <sup>nd</sup> stage review.		
At least 4 weeks prior to planned date for closure of dialogue or appointment of preferred bidder, as appropriate	Submit the required information to PUK (copied to the sponsoring department)			Provide limited support (if necessary) to ensure that correct information is supplied for review.  Appoint reviewer.  Undertake the review in accordance with Appendix 6.
2 weeks after receipt of the required information				Complete the review.  Submit 2 <sup>nd</sup> stage report to the PRG secretariat (copied to the sponsoring department).
1 week after the receipt of the 2 <sup>nd</sup> stage report			Provide the procuring authority with the 2 <sup>nd</sup> stage report.	

The PRG secretariat will also provide feedback to the PRG panel and CLG Local Authority Policy Group on 2<sup>nd</sup> stage reviews that have been completed since its last meeting.

It is important to note that the later a procuring authority provides the information required to complete the 2<sup>nd</sup> stage review, the more likely it is that it may impact on the planned date for closing dialogue and/or appointing the preferred bidder.

### Appendix 3

#### Significant Changes / Local Authority PFI Projects Requiring Extra PFI Credits

Projects that have been endorsed by the Project Review Group (PRG) may subsequently apply to sponsoring departments for additional PFI Credits. The reasons are likely to fall into a number of categories:

- a) Delays in procurement, leading to inflation effects and/or changes in the discount rate applied to the PFI special grant;
- b) Errors in the original calculations/assumptions (e.g. an item overlooked);
- c) A large difference between the original assumptions and the bids received; or
- d) Changes in the scope of the project.

There is no centralised procedure for how departments should determine whether they wish to provide additional credits for any of these reasons, although they will need to address some basic questions:

- a) Can the increase be accommodated within their departmental PFI credits allocation?
- b) Could or should the reasons for the increase have been anticipated from the outset?
- c) Did the local authority have any control over the change?
- d) Would the project still have been prioritised at the increased credit level?
- e) Does the project still represent vfm at the revised credit level?

Once that decision has been taken, there are set circumstances when projects must also be resubmitted to the PRG for its approval, as follows:

- a) If the objectives, scope or approach of the project have, in the view of the department concerned, changed significantly from that proposed when the project was signed off by PRG (whether a change is significant or not is, of course, a matter of judgment);
- b) If the increase in credits is more than £20 million; or
- c) If the increase in credits represents 20% or more of the value of the original PFI credit (including where more than one increase brings the total above this threshold).

Applications for additional credits may be received from projects that have already reached contract signature and therefore been issued with PFI credits, or even from operational projects. The same considerations apply. It should be noted that revenue support for such increases will be paid separately if they are in a different financial year to the original contract signature.

## Appendix 4

### Code of Practice for PRG reviewers for 1<sup>st</sup> Stage Reviews

PRG reviews commence as soon as an OBC is received from a sponsoring department for review. The PRG Reviewers undertake to:

- a) Confirm receipt of an OBC the same day that it is received, and declare any conflicts of interest that may arise in the course of review as soon as they are identified;
- b) Inform the sponsoring department within 5 working days of receiving the OBC of the name and contact details of the reviewer who will be reviewing the business case;
- c) Maintain close contact with the sponsoring department throughout the review;
- d) Send copies of all the correspondence exchanged with the local authority to the sponsoring department and (where appropriate) to the PRG secretariat;
- e) Inform the sponsoring department and the local authority within 10 working days of receiving the business case whether a meeting is required with the local authority project team to discuss questions arising out of the review, and if so, to suggest possible dates for such a meeting; and invite departmental representatives to attend if they wish;
- f) Send an outline agenda to the project manager at least 2 working days in advance of the meeting;
- g) Endeavour to address all the questions raised in connection with the case at the review meeting, and to indicate at the end of the meeting whether any further information or evidence is required from the local authority;
- h) Inform the sponsoring department and the PRG secretariat of any issues (identified by the review) that require resolution before the project is submitted to the PRG panel for consideration. Such projects are likely to be deferred to a later PRG meeting so that the outstanding issue(s) can be resolved;
- i) If it is unlikely that the issues identified are capable of resolution prior to the date due to submit the PRG reviews to the panel then the reviewer should inform the PRG secretariat;
- j) Submit the review to the PRG Secretariat at least 5 working days before a meeting;
- k) Conduct and complete all reviews in a timely, professional and efficient manner;
- l) Ensure that all business cases receive a consistent degree of scrutiny from PRG reviewers, in accordance with the appended pro-forma and with best practice;
- m) PRG reviews should be restricted to an assessment of the project against the PRG criteria. Any broader issues identified that relate to, for example, PFI policy should be raised with the PRG secretariat and the sponsoring department as soon as possible;
- n) If a project is resubmitted to the PRG because of a large increase in PFI credits, PRG reviewers will focus their assessment on the changes to the PFI model, affordability and the reasons for the increase. They will also highlight any issues of concern on general progress that have been revealed by the assessment.

## Appendix 5

1<sup>st</sup> Stage Review Pro-Forma

(Department)

(Name of Project)

(Authority)

(Value of PFI Credits applied for)

(Date of PRG Review)

<b>Summary</b>	<ul style="list-style-type: none"> <li>• Summary length should be 3 to 5 paragraphs and in sufficient detail to provide the PRG panel with an understanding of the nature of the project</li> <li>• A description of the project including all services within the scope and proposed concession length</li> <li>• Detail decisions where services have not been included within the scope</li> <li>• Note if there is more than one procuring authority and cross refer to where this may impact on project deliverability – e.g. funding, procurement, contractual terms</li> <li>• Any issues to highlight (including if this is an application for additional credits)</li> </ul>																
<b>Affordability</b>	<ul style="list-style-type: none"> <li>• Projected PFI service payments identified</li> <li>• Shadow bid assumptions – capex, opex, lifecycle, other cost, income etc</li> <li>• Comment on the suitability of the funding assumptions e.g. gearing, margins – detail what advice they have received from advisors in this respect</li> <li>• The PFI credit support and the method of calculation – with clarification if this appears higher than the project capex and lifecycle costs</li> <li>• Comment on all budgeted sources of income including any risks associated with the income assumptions (give careful consideration to 3<sup>rd</sup> party income assumptions)</li> <li>• Are any land sales anticipated?</li> <li>• Are any capital contributions from authority planned? If so, how much, payable when and on what basis, how are the payments likely to relate to draw down of senior debt. Detail why a capital contribution is deemed to be necessary</li> <li>• Affordable in the first full year, and over the whole life of the contract, taking into account the unitary payment and all sources of income including existing LA resources, projected additional revenue support and additional income from capital receipts or third party income</li> <li>• Review consistency of indexation assumptions (fixed/variable elements correspond with split of fixed/variable costs within the financial model)</li> <li>• Affordability and impact on budgets, accepted by Members, Senior Management and budget holders. Detail supporting evidence (e.g. cabinet minutes, dates, S151 officer letters)</li> <li>• Detail the sensitivities to affordability that have been performed. Have Members been made aware of the key risks to the project's affordability</li> <li>• When is it assumed that PFI grant will start (state date and event)?</li> <li>• On-going affordability risks – what sensitivities have been performed?</li> <li>• Has the authority got appropriate letters of comfort from their technical and financial advisers regarding the appropriateness of the cost/income assumptions reflecting current market conditions?</li> <li>• For projects with a funding requirement above £50m, what are the proposals for funding competitions?</li> </ul> <p>Key shadow bid financial data to be summarised on the following basis:</p> <table border="1"> <tr> <td>Capital cost of PFI solution</td> <td>£m</td> </tr> <tr> <td>Lifecycle Cost</td> <td>£m</td> </tr> <tr> <td>Operating Cost</td> <td>£m</td> </tr> <tr> <td>Other</td> <td>£m</td> </tr> <tr> <td>Income</td> <td>(£m)</td> </tr> <tr> <td>Price Base for the above</td> <td>Date</td> </tr> <tr> <td>Funding terms</td> <td>senior debt : equity</td> </tr> <tr> <td>LIBOR swap rate</td> <td>%</td> </tr> </table>	Capital cost of PFI solution	£m	Lifecycle Cost	£m	Operating Cost	£m	Other	£m	Income	(£m)	Price Base for the above	Date	Funding terms	senior debt : equity	LIBOR swap rate	%
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<b>Affordability Gap</b>	[ ]	[ ]	[ ]																																																
<b>Design Quality</b>	<ul style="list-style-type: none"> <li>Project to demonstrate how they intend to meet key objectives of the Egan Report (for example safety, minimising waste, supply chain management, etc)</li> <li>Authorities are expected to take account of the guidance on design quality included in the DCMS publication 'Better Public Buildings', the OGC guidance 'How to achieve Design Quality in PFI Projects' and the 4ps 'Achieving Quality in Local Authority PFI Building Projects.</li> <li>Note any sector specific (e.g. housing, waste) design legislation / guidance and how it is to be followed</li> <li>Detail any involvement with CABE, whether the authority has appointed a "design champion" how good design will be addressed in the ITN / Evaluation etc (e.g. through Design Quality Indicators)</li> <li>Has adequate consideration been given to design and whole life cost issues?</li> <li>Consider the guidance on design provided in Appendix 7 of the PRG Code of Practice</li> <li>Detail what additions, if any, have been added to the base costs to reflect any specific design requirements</li> </ul>																																																		
<b>Output Spec</b>	<ul style="list-style-type: none"> <li>Requirement specified in terms of service outputs required, rather than particular assets or solutions</li> <li>Range of on-going services included in the requirement defined broadly, to offer scope for efficiencies and innovation</li> <li>Specification set at a level that is justifiable in terms of procurement best practice and robust precedent from similar projects, is consistent with affordability assumptions, and further enhancement in specification needs to demonstrate that value for money is not diminished</li> <li>Are specifications based on standard sector guidance (e.g. schools)?</li> <li>Are the specifications based on previous projects, experience and good practice?</li> <li>Is there anything either within or outside of the Project scope that is considered unusual?</li> <li>Is the authority requiring any Mandatory Variant bids? If so, detail the specific areas where mandatory variant bids are required and the rationale for this. Comment upon the materiality of the variants sought, how this could impact upon market interest or the composition of bidding consortia, the degree to which the authority could be perceived as not having settled upon its requirement and the degree to which it could be perceived as not having a clear view of which delivery model constitutes optimum VfM.</li> </ul>																																																		
<b>Risk Allocation</b>	<ul style="list-style-type: none"> <li>A PFI <b>project</b> risk matrix has been prepared, identifying all the foreseeable risks associated with the scheme, and making a preliminary risk allocation</li> </ul>																																																		

	<ul style="list-style-type: none"> <li>• Are risks allocated appropriately between the parties following standard form guidance including sector specific guidance where relevant such as 4Ps procurement packs</li> <li>• Is there an Internal Risk Register identifying all <b>procurement</b> risks to be managed by the public sector that ranks the lists in order of importance and a risk owner and mitigation strategy?</li> <li>• Is there regular reporting of risk management to the Project Board and is there a process to regularly update the risk register?</li> </ul>																											
<b>Commercial Interest</b>	<ul style="list-style-type: none"> <li>• Evidence of commercial interest including approach to market sounding exercises</li> <li>• Provide evidence of number of organisations contacted and response. Is there likely to be sufficient market interest in the project?</li> <li>• Are there factors which might hinder a good competition (e.g. geographic or sector related)?</li> <li>• Certainty of income stream to meet contract payments</li> <li>• Willingness to consider appropriate opportunities for generation of other revenues, either from sales of assets or third party use of assets and services</li> </ul>																											
<b>Compliance with Standard Form</b>	<ul style="list-style-type: none"> <li>• Commitment to use current version of SoPC terms and conditions or sector specific Standard Form where this has been approved</li> <li>• Commitment to use the bidding process to embed standard T&amp;Cs</li> <li>• Any likely project or sector specific derogations identified and a process in place to identify and deal with these issues</li> <li>• For joint procurements – what contractual basis is envisaged (lead authority, joint and several responsibility etc.)</li> </ul>																											
<b>Value for Money Analysis</b>	<ul style="list-style-type: none"> <li>• Has the department undertaken a stage 1 VFM analysis that identifies the sector or investment programme as suited to PFI procurement?</li> <li>• Has the authority completed the stage 2 quantitative and qualitative VFM assessment? are we content that they are project specific not generic?</li> <li>• For the quantitative assessment have robust input costs, economic assumptions and risk assumptions for both the conventional and PFI solutions been applied?</li> <li>• Provide details of the quantitative VFM benefit and the sensitivity analysis / indifference points. Compare with other projects in the same sector</li> <li>• Evidence that the stage 2 qualitative evaluation has been completed by the project team, is project specific and is supported by a good evidence base</li> </ul> <p>Key aspects of the quantitative VFM analyses to be summarised on the following basis:</p> <table border="1" data-bbox="371 1355 1447 1646"> <thead> <tr> <th><b>Assumption</b></th> <th><b>Values</b></th> <th><b>Comment (where applicable)</b></th> </tr> </thead> <tbody> <tr> <td>Capital expenditure</td> <td>% pre-FBC /</td> <td>Evidence of robust project</td> </tr> <tr> <td>Other OB figures</td> <td>Lifecycle % / %</td> <td>Evidence of robust project</td> </tr> <tr> <td>Differences in PFI / PSC</td> <td>PFI % higher/lower</td> <td>Rationale?</td> </tr> <tr> <td>Blended Equity IRR</td> <td>%</td> <td>Consistent with financial model?</td> </tr> <tr> <td>Cost of senior funding</td> <td>% swap rate plus [bp]</td> <td>Consistent with financial model?</td> </tr> <tr> <td>Transaction costs</td> <td>£m PC</td> <td>Consistent with procurement</td> </tr> <tr> <td>Tax adjustment factor</td> <td>%</td> <td>Rationale?</td> </tr> <tr> <td>Length of contract</td> <td>years</td> <td>Consistent with requirements?</td> </tr> </tbody> </table>	<b>Assumption</b>	<b>Values</b>	<b>Comment (where applicable)</b>	Capital expenditure	% pre-FBC /	Evidence of robust project	Other OB figures	Lifecycle % / %	Evidence of robust project	Differences in PFI / PSC	PFI % higher/lower	Rationale?	Blended Equity IRR	%	Consistent with financial model?	Cost of senior funding	% swap rate plus [bp]	Consistent with financial model?	Transaction costs	£m PC	Consistent with procurement	Tax adjustment factor	%	Rationale?	Length of contract	years	Consistent with requirements?
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		PFI unitary charge		%																																																							
<b>Suitability of Advisors</b>	<ul style="list-style-type: none"> <li>• Has the Authority identified all of the advisory support it will require?</li> <li>• Have advisors been appointed. If not when will they be appointed?</li> <li>• If the Authority is using in-house resources are they suitably skilled and experienced?</li> <li>• Who are the appointed advisors? What are the terms of the appointment and has a suitable budget been identified? Detail the budget for advisors.</li> <li>• Do the advisors have suitable sector specific experience?</li> <li>• Willingness of advisers to share lessons and approaches, without undue confidentiality and copyright constraints</li> <li>• Arrangements for periodic review of performance of advisers</li> </ul>																																																										
<b>Indicative Timetable</b>	<ul style="list-style-type: none"> <li>• Procurement timetable prepared – is it consistent with the CD process?</li> <li>• Detail and total length and breakdown into component parts – is there an extended period post PB and pre contract award, if so why?</li> <li>• Timetable and financial model and affordability assumptions consistent</li> <li>• Stages of procurement process kept to a minimum consistent with achieving optimal project delivery at least cost</li> <li>• Total elapsed time from OJEU to completion realistic taking into account sector specific experience</li> <li>• Is timetable consistent with previous experience within the sector?</li> </ul> <p>A summary timetable to be set out on the following basis (adapted as appropriate), showing elapsed time:</p> <table border="1"> <thead> <tr> <th>Stage</th> <th>Date</th> <th>Elapsed Months</th> </tr> </thead> <tbody> <tr> <td>PRG approval</td> <td></td> <td>-</td> </tr> <tr> <td>OJEU publication</td> <td></td> <td>-</td> </tr> <tr> <td>Issue Descriptive Document and PQQ</td> <td></td> <td></td> </tr> <tr> <td>Receive and evaluate PQQs</td> <td></td> <td></td> </tr> <tr> <td>Issue ISOS</td> <td></td> <td></td> </tr> <tr> <td>Receive ISOS</td> <td></td> <td></td> </tr> <tr> <td>Issue ISDS</td> <td></td> <td></td> </tr> <tr> <td>Receive ISDS</td> <td></td> <td></td> </tr> <tr> <td>Issue ISRS (if required)</td> <td></td> <td></td> </tr> <tr> <td>Receive ISRS (if required)</td> <td></td> <td></td> </tr> <tr> <td>Call for Final Tenders</td> <td></td> <td></td> </tr> <tr> <td>Preferred Bidder selection</td> <td></td> <td></td> </tr> <tr> <td>Contract Award and Financial Close</td> <td></td> <td></td> </tr> <tr> <td>Planning application submitted</td> <td></td> <td></td> </tr> <tr> <td>Planning application granted</td> <td></td> <td></td> </tr> <tr> <td>Start on site</td> <td></td> <td></td> </tr> <tr> <td>Commencement of operations</td> <td></td> <td></td> </tr> </tbody> </table>					Stage	Date	Elapsed Months	PRG approval		-	OJEU publication		-	Issue Descriptive Document and PQQ			Receive and evaluate PQQs			Issue ISOS			Receive ISOS			Issue ISDS			Receive ISDS			Issue ISRS (if required)			Receive ISRS (if required)			Call for Final Tenders			Preferred Bidder selection			Contract Award and Financial Close			Planning application submitted			Planning application granted			Start on site			Commencement of operations		
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<b>Project Team</b>	<ul style="list-style-type: none"> <li>• Project management experience. Provide specific details of previous PFI experience of the project team especially that of the Project Manager and Project Director</li> </ul>																																																										

	<ul style="list-style-type: none"> <li>• Who is the Project Manager? Are they dedicated full time to the project?</li> <li>• Who is the Project Director? Are they dedicated full time to the project?</li> <li>• Detail the numbers of full and part time resources to deliver the project both current and planned</li> <li>• Does the project team possess an appropriate range of skills and experience, whether from advisors or in house, for the deal envisaged?</li> <li>• Does the project team demonstrate capacity to undertake the procurement?</li> <li>• Is there a suitable project management structure including reporting lines to the Project Board and members?</li> <li>• Have suitable powers been delegated to the Project Team and/or Project Board to effectively manage and progress the procurement?</li> <li>• What decisions need to be referred to the full Council/Cabinet/Committee?</li> <li>• What is the budget to fund internal project team costs – is it sufficient? Has it been approved?</li> <li>• What is the budget for site acquisition, site investigations etc – is it sufficient? Has it been approved?</li> <li>• Accessible to involvement of 4Ps / Departmental PFU</li> <li>• Recommendations from any recent gateway reviews plus info on how the authority has responded to these</li> <li>• Detail who will lead the dialogue with bidders. If this will be an advisor, does the procurement budget allow for this?</li> <li>• What are the proposed arrangements for on-going contract management post contract award and throughout the operational period. What costs have been included for this within the affordability analysis?</li> </ul>
<p><b>Commitment of Sponsors, Stakeholders &amp; Users</b></p>	<ul style="list-style-type: none"> <li>• Demonstrable support from all key sponsors (such as Councilors and Senior Officers) and, where appropriate, users</li> <li>• Demonstrable consultation with all other stakeholders</li> <li>• Detail any relevant decision making processes. What are the governance arrangements for joint procurements – (joint committee structures, joint working agreements, memorandum of understanding etc)</li> <li>• Ensure consistency between support of stakeholders and affordability commitments</li> <li>• Is there an effective communications strategy to liaise with all interested groups and keep them informed of progress / key decisions?</li> </ul>
<p><b>Statutory Process</b></p>	<ul style="list-style-type: none"> <li>• Ensure statutory processes are either complete or factored into the timetable</li> <li>• Note the relevant regulatory processes</li> <li>• Consider risk of delay, need for public consultation etc</li> <li>• Are sector specific issues adequately addressed?</li> <li>• Is there a mitigation strategy in place to manage statutory risks (especially relevant where planning may be contentious)?</li> <li>• What is the strategy for securing planning consent?</li> <li>• Has the project got outline planning permission? Are there any other bodies which will have right to veto e.g. Mayor of London, GOSE etc. What consultation has taken place with these?</li> <li>• What is the strategy, timetable for securing planning permission or any other consents required?</li> <li>• Commentary on accounting treatment (see Appendix 8)</li> </ul>
<p><b>Other</b></p>	<p>Detail any relevant information that is not covered by any of the headings above</p>
<p><b>Conclusions</b></p>	<ul style="list-style-type: none"> <li>• From the evidence presented in the OBC and any meetings and further correspondence, the PRG reviewer will provide a view to the PRG panel as to whether the project is in a suitable state of development to advance to the next stage of procurement</li> <li>• There are three broad categories of conclusion that the PRG reviewer might reach:             <ol style="list-style-type: none"> <li>a) The PRG criteria have been met and it is recommended that the project can proceed to procurement.</li> </ol> </li> </ul>

	<ul style="list-style-type: none"><li>b) The project meets the PRG criteria to a sufficient extent to recommend its overall approval but specific attention should be focussed on x, y and z. List recommendations.</li><li>c) The project needs further development work and is not recommended for approval by the PRG at this time – the specific outstanding issues [will be listed]</li></ul>
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## Appendix 6

### PRG 2<sup>nd</sup> Stage Review Information Requirements

Partnerships UK (PUK) will undertake the second stage review on behalf of the PRG. PUK, in discussion with PRG, has developed a methodology for how the affordability and SoPC compliance reviews will be undertaken. In order to perform a substantive review within a short time frame that will not impede on an Authority's procurement timetable it is necessary to be clear and precise regarding the information that is required to complete the review. This appendix details the information required to review affordability and SoPC compliance for 2<sup>nd</sup> stage reviews.

#### Compliance with Standard Form Contract Guidance

At the date of writing the extant standard form guidance is SoPC4.

For the second stage review the procuring authority and its legal advisors will need to provide the following information for each bidder:

- a) A copy of the project agreement black-lined against SoPC4 or, where applicable, a Treasury endorsed sector specific contract;
- b) A derogations report from the Authority's legal advisors detailing where, with sector/project specific justifications, the project agreement deviates from SoPC4. Derogations that do not relate to project or sector specific issues will not be accepted.

In all instances, the local authority must support the need to derogate and provide a detailed justification as to why the derogation should be permitted. It should be noted that requests for derogations that are based upon a preference for alternative drafting face a presumption that they will be denied. All derogations must receive the support of the sponsoring department prior to the submission of the derogations report to PUK for consideration.

The 2<sup>nd</sup> stage report will state whether requested derogations are acceptable.

#### Affordability

##### All Projects (other than Housing HRA)

To undertake the affordability review of projects the following information will be required:

- a) Projected date for financial close (month and year);
- b) Unitary charge information to be paid to contractor:
  - i. Basic annual unitary charge and price base;
  - ii. Ramp up information, in terms of percentages to be paid in each fiscal year from Financial Close (not project years);
  - iii. Indexation provisions (e.g. proportion to be indexed by RPI or other index);
  - iv. Unitary charges to be paid for each fiscal year of the contract in outturn or money of the day terms, i.e. nominal payments from Financial Close until the end of the contract;
  - v. Any other information that is needed to derive the nominal payments from the base unitary charge figure;

- c) Details of and amounts of any other payments to be proposed to be made to the contractor and the years in which such payments are due (e.g. any lump sum or completion payments);
- d) If the authority believes that there will be deductions from the unitary charges then the amounts and reasons for this assumption;
- e) An estimate of the risk of changes to the PFI contract that might result in increased unitary charge payments and the contingencies the authority has in place to cope with such changes;
- f) Details of any other payments that the authority will be required to make in respect of the project after financial close – e.g. monitoring payments;
- g) Details of proposed sources of funding from the local authority including:
  - i. PFI credit awarded;
  - ii. Revenue from land sales;
  - iii. Any third party income which may impact on the unitary charge;
  - iv. Existing budgets;
  - v. Additional contributions (together with confirmation from Members that these are committed);
  - vi. Interest rate that is expected to be earned for cash deposits;
- h) Details regarding changes in the projects scope that have occurred since the project received approval at the 1<sup>st</sup> stage PRG review, and the impact that they have had on affordability.

In each case the basic assumptions, the price base for these, and the appropriate inflation assumptions should be provided together with outturn (nominal) amounts for each fiscal year and part year from financial close until the end of the contract.

For HRA projects the following information is required to undertake the affordability assessment.

- a) Cash Inflows
  - i. Rental Income;
  - ii. Housing subsidy (this being management & maintenance allowances less rents attributable to the units);
  - iii. PFI subsidy;
  - iv. Housing benefit subsidy;
  - v. Cash savings in the HRA reinvested in the project;
  - vi. Additional contribution from the Authority
- b) Cash Outflows
  - i. Unitary charge
  - ii. Housing benefit cost
  - iii. Contract management
- a) Details regarding changes in the projects scope that have occurred since the project received approval at the 1<sup>st</sup> stage PRG review, and the impact that they have had on affordability.

If a project does not appear to have sufficient funding in place, then the procuring authority will have to demonstrate that either:

- a) The authority will commit to additional support;
- b) The procuring authority will apply for additional credits. This is subject to support from the sponsoring department;
- c) The bidder(s) price can be reduced. If this is by reducing the scope of the project, then the authority will need to demonstrate that the procurement still satisfies value for money requirements and does not conflict with EC procurement rules.

## Appendix 7

### Design Quality and Sustainable Development Checklist

#### Introduction

A requirement of all PFI projects seeking support is that they should contribute to the Government's commitment to achieving "Better Public Buildings". Authorities are expected to take account of the guidance on design quality in PFI projects available from OGC (*How to achieve Design Quality in PFI Projects*), CABE (*Improving Standards of Design in the Procurement of Public Buildings*, October 2002), NAO (*Getting value for money from construction projects through design: How auditors can help* ([www.nao.gov.uk/guidance/vfmfromconstruction.pdf](http://www.nao.gov.uk/guidance/vfmfromconstruction.pdf)) and 4ps (*Achieving Quality in Local Authority PFI Building Projects*).

The PFI general criteria also require that all projects adopt an integrated approach to the sustainable development of the social, environmental and economic well-being of the area, now and for future generations, in line with the OGC guidance note *Green Public Private Partnerships*. A *Code for Sustainable Buildings* is being developed in response to the recommendations in the report of the Sustainable Buildings Task Force *Better Buildings - Better Lives*.

The following checklist suggests questions which Departments should ask when assessing whether an OBC adequately covers the requirements in the PFI general criteria about design quality - and the related but wider issue of sustainable development. It has been produced to help get below the surface of statements made in OBCs.

It is based on advice from the 4ps, the local authority PFI design champion; and incorporates comments received from other Departments. The points in the checklist are mostly about the process needed to ensure that good design will result.

#### What Departments should do

During the Project Review Group process both sponsoring departments and Partnerships UK (PUK) would be expected to consider design quality, although the focus is likely to be different. Departments will be taking a broad view to see that the authority has taken a proper approach to the issue and that this is adequately reflected in the OBC. PUK might be expected to look more closely at matters such as how design has been reflected in the procurement process and its relationship with value for money

The main section of this note is set out as a checklist, which those assessing an OBC or FBC can use when considering whether the authority has met the requirements set out. It is intended that this should be done with a light touch and it is not essential for all the points listed to be addressed. But each one that is done adequately adds to the general impression that a serious approach has been adopted to considering design quality.

It should also be borne in mind that assessing design quality will always be done in the context of a wider assessment of other criteria - various cross-overs are discussed here, but there will also be others. Trade offs should be recognised and a sensible balance proposed. The question then is whether that appears to have been done in a considered and sensible way, and that it is adequately set out in the OBC.

### **What is design quality?**

The design of facilities is not just about appearances, it is an expression of how well the facility operates and meets or exceeds the needs of clients and users. Good design is implemented through an effective procurement process, a well-managed construction phase, and continues through the operational period of the PFI contract as a cost-effective life-cycle approach. Generally, happy stakeholders are a symptom of good design.

The checklist is primarily aimed at projects involving buildings, although Departments assessing other forms of project (in the local authority context that will generally mean transport or waste) should find elements of it useful.

A well-designed building is likely to exhibit “commodity, firmness and delight”. In other words: user satisfaction on the practical level of “does it work?”; safety, soundness and skilled specification and construction; and last but not least a degree of pleasure imparted to users through the use of imagination or innovation. It is not unreasonable for Departments to expect that Authorities and their projects will strive to deliver these qualities in public buildings of all types.

### **What is sustainable development?**

Many of the considerations intended to help achieve a more sustainable environment overlap with good design, including the emphasis on whole life costs, and the two should be compatible. Examples of design related issues are energy or water efficiency, use of renewable energy or 'greywater', waste minimisation and design for future use or recovery. Consideration of materials includes use of products from sustainable sources or minimised environmental impact, use of recycled or reused material. Wider considerations may include use of brownfield land, impact on travel, minimisation of site waste.

### **Checklist**

- Does the authority have a track record of well-designed buildings? Has the Authority appointed an overall local authority Design Champion?

*Departments could ask CABE, Govt Offices for the Regions, and the Authorities themselves about any building or other design awards. CABE has produced a helpful guide – “Local Authority Design Champions” available from [www.cabe.org.uk](http://www.cabe.org.uk)*

- Where more than one site is available, have design/sustainability issues influenced the choice of site, and has the context influenced the approach to design?

*Options appraisals should take site-specific issues into account. However, a balance has to be found in the appraisal between the weighting attached to such issues, and that attached to other matters such as cost.*

- Are stakeholders involved in deciding on design/sustainability issues?

*Design Quality Indicators (DQIs) are a valuable tool for measuring the reaction of a range of stakeholders to the design of the project. See [www.dqi.org.uk](http://www.dqi.org.uk)*

- Is there evidence of Egan objectives in the scope of the project?

*Examples include:*

- *Cost reductions in construction as a result of smarter procurement processes (e.g. management of supply chain)*
- *Reduction in accidents on site*
- *Construction workforce improvements- "Respecting people" agenda*
- *Use of off-site construction for elements of project*
- *Has the Council considered nominating the project as a Demonstration Project?*

*Full details from Constructing Excellence [www.constructingexcellence.org.uk](http://www.constructingexcellence.org.uk)*

- Are external design advisers (e.g. CABE or appointed client-side firms) being used?
- Has the Authority produced clearly stated design quality and sustainability criteria that are in the OBC, and will be sent to bidders in an Information Memorandum?

*4ps can advise Departments if required on the suitability of the quality criteria proposed by Authorities.*

- Is the intended quality affordable? Does the reference scheme adequately reflect the standards required in the PFI scheme?

*This is a matter of judgement, but comes down to the question "has the Authority underestimated the cost of achieving the standards they require". PUK can be expected to comment on this in their assessment if there are any indications of an inadequate budget. It is, however, worth raising in the context of design quality or stated aspirations regarding sustainability of the project. The Treasury Green Book and 2004 guidance on Value for Money in PFI projects deal with the balance of quality, cost and value.*

- Has adequate time been allowed in the Authority's procurement programme for quality responses to be produced by bidders, especially for grouped projects?

*This is again a matter of judgement on which PUK may comment. It is worth raising because stakeholder involvement in design takes time and resources, and may conflict with Government's desire to see procurement times shortened. Judgement therefore needs to be exercised on priorities for each project.*

- Have any potential environmental risks - and possible ways to manage these - been identified in the risk register?
- Has an environmental impact assessment been carried out?

*The environmental impact of buildings can be measured using BREEAM (Building Research Establishment Environmental Assessment Method). Projects should be aiming to achieve "excellent" ratings.*

## Appendix 8

### Accounting opinion requirements for PFI credits

Local authorities should include in their Outline Business Case their best view of the likely accounting position assuming that available draft IFRS guidance<sup>1</sup> is put in place for 2009-10. That should be based on the probable way in which the following two key questions are likely to be answered:

- Who controls or regulates the services the operator must provide with the asset, to whom it must provide them, and at what cost?
- Who controls any significant residual interest in the asset at the end of the contract?

This should be the authority's own view and does not need the same level of quantitative analysis (and therefore specialist advice) that was needed under FRS5.

At the same time, authorities should continue to include risk registers showing the likely risk profile of the contract.

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<sup>1</sup> [www.cipfa.org.uk/pt/download/LAA\\_SORP\\_2009\\_ITC\\_exposure\\_draft.pdf](http://www.cipfa.org.uk/pt/download/LAA_SORP_2009_ITC_exposure_draft.pdf)