

# England's Economic Heartland Strategic Alliance Strategic Transport Forum

12<sup>th</sup> February 2016

## Agenda Item 6 : Innovative Procurement Opportunities

### INTRODUCTION

The formation of England's Economic Heartland Strategic Alliance brings with it the opportunity to consider a new / combined approach to procurement for transport related projects. A combined approach would offer a range of benefits to the member authorities:

- Combing projects under a single procurement route would attract and retain greater market interest – important in a seller's market
- Combining projects in a longer term programme would help develop the correct relationship between parties and encourage collaboration
- Repeat business reduces overall project durations from initial concept to handover – time is money for all parties and the authorities would see cost savings
- Using a small group of contractors on a longer term programme will enable clients to leverage greater social value from the projects
- A single prequalification exercise will reduce significantly the procurement time for subsequent projects
- There will also be a direct saving in procurement costs at an early stage in each project
- Authorities would be able to combine contract procurement and administration resources, whether in-house or bought-in, thereby mitigating the loss of in-house skills

### FIRST STEPS

A successful procurement process should select the ***“right horses for courses”***. The essential starting point is therefore accurate identification of the ***“courses”***. The EEH authorities would therefore need to establish the scope of work to be included:

- Highway construction only or to also include wider infrastructure or transport related contracts such as bus, rail, guided bus, communications
- Construct only or to have the facility to include finance and operation
- Will this procurement route only apply to cross border schemes?
- Typical contract size
- Volume of work to be let
- Likely number of contracts
- Client needs to have a “picture” of their ideal contractor
- Selection process needs to have this end result in mind

## KEY CRITERIA

Depending on possible constraints such as funding, time, local or national politics an authority may have different criteria which assume higher or lower priorities:

- Initial cost
- Cost certainty
- Whole life cost
- Cost of procurement
- Speed of procurement
- Speed of delivery
- Social value
- Use of local resources

## CONTRACT ADMINISTRATION

Experience suggests that the most successful contracts are those with a knowledgeable client. Financial pressures over the past couple of decades have eroded the “knowledge” of many public sector clients. Where this is the case, this “knowledge” needs to be replaced or substituted if a substantial programme of work is to be delivered successfully. These skills will include a combination of:

- Financial forecasting and budgeting
- Ability to determine the scope and stick to it
- Adequate design prior to each stage of procurement
- Knowledge of contracts
- Experienced contract administration

On the assumption that few local authorities still retain these skills they will usually have to be bought in. This is an area where “penny wise, pound foolish” certainly applies and the EEH members will have to give careful consideration to how they obtain these essential support skills. Some clients with major programmes of work take on board a Delivery Partner to work alongside the client to provide the “knowledgeable client”. Factors to be considered are:

- Will the EEH members pool their resources?
- Will one member authority be the lead authority for all schemes?
- Will each scheme have a separate lead authority?
- Will the EEH select a single delivery partner or a different partner for each scheme?
- Even if member authorities retain ownership of individual schemes, a shared approach via the Alliance will enable neighbouring authorities to combine and align their transport modelling to ensure cross border compatibility

The narrower the range of types of contract to be included within a specific procurement process the more prescriptive that process can be. It is not practical to develop a very prescriptive procurement process to cater for a whole range of schemes of different size, type of work, risk allocation, operation or finance. The wider the range of schemes, the more general the procurement needs to be. Some

procurement processes, designed by so-called experts, only succeed in being totally unworkable because they try to cover every possible eventuality.

Depending on the “**courses**” and Key Criteria identified above, a suitable procurement process would need to consider one or more from each of the following headings:

### **Forms of Procurement**

- OJEU each scheme
- Select list - large or small
- Formal framework
- Alliance

### **Commercial Arrangements**

- D&B
- Client design, with or without Early Contractor Involvement
- ECI followed by negotiated Target Price
- Straight competitive tender, whether D&B or client design

### **Incentivisation**

- Only incentivise the contractor
- Include designer, client partner
- All alliance members
- Based on cost only or cost and time
- Meaningful shares

### **Contractor Selection**

- Price
- Quality
- Combination
- Contractor only or include supply chain

## **POSSIBLE PROCUREMENT ROUTES**

### **Alliancing**

- Only suitable for a rolling programme of work with multiple partners
- Not suitable for multiple clients

### **Framework**

- Most suitable for a rolling programme of work
- Most suitable for partial or full allocation of work, otherwise it is just a select list
- One of the main benefits of a true framework is that it enables a close working relationship which allows ECI, design and/or pricing to proceed in parallel with construction
- Requires confidence from all parties to negotiate target prices
- A well devised incentivisation mechanism will promote a win-win relationship

### **Select List**

- Eliminates the time and cost required to select contractors for each scheme
- If a small list, contractors are kept interested
- Allows some flexibility around contractual arrangements for each scheme
- Allows multiple clients to retain ownership of each scheme
- Suited to a smaller number of larger schemes, rather than a rolling programme of smaller work

### **OJEU Each Scheme**

- Requires a selection process for each scheme
- Should, unless there is a delay between PQQ and tender, produce a keen list
- Suited to single one-off schemes for non-repeat clients
- Unlikely to encourage a long term working relationship

### **POTENTIAL OPPORTUNITIES AND BENEFITS**

- A single procurement route would enable member authorities to align their modelling and reduce the costs involved
- Combining schemes under one procurement route makes the package more attractive to the market
- Single PQQ exercise would save cost and time
- EEH has the opportunity to select the ***“right horses for courses”***
- Each authority would still retain the freedom to use their existing procurement route or adopt the combined route for larger schemes
- Existing relationships with local contractors can be maintained for smaller schemes and maintenance and they are not squeezed out
- Simple is often better

### **RECOMMENDATION**

As outlined above the first step in formulating a successful procurement route is to identify precisely the type of work to be procured and the Key Criteria to be taken into account. Once this has been done, the strengths and weaknesses of the various procurement options can be assessed and a recommended proposal submitted for discussion.

The next step would therefore be for the Alliance Members to identify the type of work to be procured under the single procurement route and the Key Criteria to be taken into account.

**January 2016**