

**TRAM Project
(FOISA Exempt Commercial In Confidence)**

OUTLINE OF PROCUREMENT STRATEGY

Date:- 5th September 2006

1.0 Introduction

1.1 The purpose of this document is to:-

- Summarise the Procurement Strategy set out within the OBC
- Set out the problems and issues of implementing this strategy given the slippage on design
- Set out the recommendations for mitigating the impact of these problems to maintain the Strategy Objectives.

1.2 This paper deals primarily with the Capex element of the strategy rather than operation and maintenance.

2.0 Procurement Strategy Objectives

2.1 The Objectives as set out or implied in the OBC are to:-

- Transfer design and construction risks to the private sector
- Minimise the pricing risk premium (and/or exclusions of liability) that bidders for a design, construct and maintain contract. Usually at tender stage bidders would not have a design proven with key consents to meet the contract performance obligations and hence they would usually add risk premiums for this element.

3.0 Background

3.1 The supply chain to deliver the works is, at high level:-

- SDS - system designer
- TramCo – Tram design, manufacture and commissioning
- InfraCo – Infrastructure provider and potentially maintainer
- MUDFA – Utilities diversions and enabling works provider
- DPOFA – Operation of tram system
- TSS – technical engineering and cost validation support.

4.0 Strategy

4.1 The overall strategy is to procure the supply chain separately, to aggregate the supply chain by novation of SDS and TramCo to Infraco to create a single contract entity to deliver the work. This single entity will then have tram system design, construction and maintenance responsibility to meet the performance requirements of the tram system.

4.2 The strategy is shown graphically in Appendix A. The principal steps are:-

- A Procure SDS to develop requirements definition, preliminary design, detailed design and modelling.
- B Concurrent with design and modelling procure first TramCo and then InfraCo
- C Progressively pass design information to Infraco through the tender and CARP period
- D Award InfraCo and novate SDS and TRamCo to Infraco

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E TSS validating that SDS design will deliver the tram system performance requirements (run time and capacity etc)

- 4.3 This approach is intended to achieve the Objectives by:-
- Providing Infraco with a design that is validated to deliver the tram performance requirements before award of the contract thereby eliminating or reducing bidders pricing risks. This also enables the bidders to put a reliable price on the scope by giving InfraCo the preliminary designs during the tender period.
 - Novating SDS to InfraCo to transfer design risk, and hence tram system performance risk to InfraCo. (Novation effectively allows InfraCo to lay off part of their tram system performance risk to SDS)
 - Novating TramCo to InfraCo to transfer system integration and system performance risk to InfraCo. Effectively creating a single point responsibility for tram system performance.
 - Gaining assurance that the designs will meet the trams system performance requirements through validation by TSS.
 - Resolution of consents prior to commencement of InfraCo works avoiding the risk to programme of delays due to consents not being in place.

4.4 To eliminate bidders pricing risks it was intended to progressively reduce bidders remaining pricing risk allowances by progressively providing detailed design information and confirming key consents with bidders during the CARP period from Oct 06 and March 07.

4.5 Bidders are very unlikely to accept the risks of delivering utilities diversions to meet the programme given that they cannot control the third party utility companies. Therefore this will be procured separately and undertaken well in advance of the commencement of the InfraCo works to minimise risks to InfraCo delivery programme.

4.6 The headline delivery phase risk allocation once designs are completed and SDS and TramCo novated are:-

RISK ALLOCATION			
Risk	tie	InfraCo	MUDFA
Utility diversion scope, cost and delivery performance	Y		
Performance of utility companies	Y		
Changes in tram system performance requirements	Y		
Design risk to meet specified performance		Y	
Construction – ground conditions, constructability, street possession compliance		Y	
Incorrect cost estimate for InfraCo works (including tram)		Y	
System integration		Y	
Incorrect programme assumptions		Y	

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5.0 Issues and Problems

5.1 Since the strategy was endorsed by acceptance of the OBC the following position has developed:-

- Delivery of the assured preliminary design by SDS has slipped by three months
- Issue of TramCo tender has slipped by three months
- Award of the MUDFA contract has been delayed by four months
- The InfraCo tender period has been reduced by one month to enable the FBC to be informed by the returned tenders in Jan 07.
- The negotiation (CARP) period for InfraCo has been reduced by four months to maintain commencement of works and hence completion date.
- Utilities diversions cannot start before DFBC approval which means that the risk of delaying InfraCo works has increased.

5.2 Delivery of the Strategy is also contingent on:-

- InfraCo accepting novation of TramCo
- Consents (TTROs, TROs and key planning consents) being obtained and communicated to the bidders/preferred bidders before conclusion of negotiations.
- InfraCo bidders having the necessary design and consent approval information at commencement of bid period and within the early stages of the bid period.

6.0 Proposals to Mitigate the Impact of the Issues and Problems

6.1 To mitigate the impact of the above and maintain the integrity of value for money risk transfer:-

- To minimise risk pricing by bidders and deliver negotiated contracts within the shortened timescales:-
 - Identify and agree with the bidders the price critical design, performance and consents information that they require.
 - Agree a priority design programme with SDS to deliver this design information.
 - Develop a plan for the phased delivery of consents and share and agree this with bidders
 - Agree bid programmes with bidders and monitor their performance against them through regular face to face review.
 - Agree the phased delivery of bid information by bidders.
 - Conduct the bid process as an ongoing negotiation (whilst maintaining parity of tendering).
- To deliver a cost effective (i.e. minimum risk premium) novation of TramCo:-
 - Identify but do not announce the preferred TramCo bidder once evaluated. Hold the bids open until selection of a preferred InfraCo bidder and then facilitate negotiations between TramCo and InfraCo to settle all technical, commercial and programme issues.

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- To minimise risk pricing in respect of the capability of the SDS design to meet the tram system performance requirements:-
 - TSS to confirm that the Preliminary Design delivers these requirements.
 - Negotiate with SDS to enforce novation. To refuse would effectively represent breach of contract and tie's loss would be the risk premium that bidders add as a result of not being able to lay off their risk to SDS. It is not necessary for SDS to complete detailed design for the InfraCo to effect this risk transfer but purely that tie's rights under the SDS contract in respect of design work to date is transferred to InfraCo.

7.0 Recommendation

7.1 It is recommended that the proposals set out above are implemented.

Proposed

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Date:- 5/9/06

Recommended

Andie Harper
Project director

Date:- 5/9/06