



Robin Hood's Bay Project Appraisal Report

Appendix R: Procurement Strategy

October 2016

Scarborough Borough Council

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Appendix R: Procurement Strategy

The Procurement Strategy for the Robin Hoods Bay PAR has considered both the procurement route and the Contract in order to identify potential efficiencies, maximise competitiveness and to reduce the cost risk.

1 Contract Strategy

The Contract Strategy for a construction scheme can affect the efficiency of the project delivery and in particular the allocation of risk.

At the current PAR stage the design is effectively a feasibility design. However as the works consist of relatively simple repairs, the design phase is unlikely to be significant. It is considered that it will be more important for the Contractors to provide efficiencies and innovations with regards to new materials, especially those which may offer benefits to the life of the repairs or that ease construction methodology.

The main risks to the construction delivery at this current stage are related to the difficulties of site access and weather. Weather risk is always a risk in coastal engineering schemes and therefore the Contract documents should be clear where the risk lies. In order to secure price certainty at the tender stage, and reduce the risk budget, the risk can be allocated to the Contractor; however, this will be reflected in the tender prices. In a competitive tender this could help to minimise the risk budget for this item, particularly if Contractors are able to provide methods of working which are less sensitive to weather. Additionally the risks relating to access to the site and the temporary access required to undertake the works are likely to influence the tender price. In order to control these risks and ensure that Contractors do not over inflate their risk estimates the tender documents should provide suitable information such that tenderers are able to make informed decisions on the level of risk that these items pose.

There is also a strong need for the Contractor to consider the Stakeholders of the scheme, in particular those residents that will be directly and in-directly affected by the scheme given the difficult access routes. The tender documents should be clear on the roles and responsibilities and of the Contractor in liaising and supporting consultation with stakeholders during construction.

Given that the detailed design is relatively simple but the delivery of the construction is important the most efficient solution is likely to be one which considers both the solution design and delivery under the same contract. Therefore the recommended contract strategy is to appoint a Design and Build Contractor.

2 Procurement Route

Three options for procurement of the Detailed Design Consultant and Contractor for the Robin Hood's Bay Seawall works have been identified these are:

1. OJEU (Official Journal of the European Union);
2. EA WEM (Environment Agency Water and Environmental Management) Framework; and,
3. YORConsult (Construction framework for the Yorkshire and Humber).

A review of the procurement routes on the basis of the proposed works was undertaken and the following observations were made:

The OJEU process would open the tender out to a wide range of Contractors and should offer a competitive tender process. However the strict OJEU procurement rules and timings mean that it would take 4 to 6 months to procure a contract.

The EA WEM Framework would not require a Pre-Qualification stage as the Framework is already operational. However, the framework is limited to the 5 Contractors selected by the Environment Agency. Whilst these are all Contractors that should be capable of undertaking the works the short list and small size of the works may make the work less attractive to the large Contractors and therefore may reduce the competitiveness of the tenders.

The YORConsult YorCivils framework has more prequalified Contractors than the EA WEM framework and therefore should allow a more competitive process. Like the WEM Framework the suppliers are all pre-qualified so should expedite the procurement process. Some of the Contractors on the EA WEM framework are also contained on the YorCivils framework.

It is therefore recommended that a procurement route through the YorCivils is progressed.

The YorCivils Framework is based on the use of the NEC3 Contracts. For ECC (Construction) Contracts the main pricing options included are lump sum and target cost, although other forms of contract are permitted to allow the Council flexibility in how it commissions its services. For each scheme under the Framework, a mini tender competition is held between the Framework Consultants for the provision of services for the full delivery of the coastal schemes, including design, procurement, project management and supervision.

3 Form of Contract

The YorCivils Framework utilises the New Engineering forms of Contract Revision 3 (NEC3) making best use of the partnering options available to foster a team spirit.

The principal objectives of the NEC3 contracts are clarity, flexibility and a stimulus to good management:

- **Clarity:** The NEC3 uses ordinary language with as few long sentences and legal terms as possible. The actions required by each of the parties are precisely defined so that it is clear who has to do what, how they do it and in what timescale.
- **Flexibility:** The contract is structured to be flexible by the use of main and options clauses that deal with variables such as design responsibility, payment basis, risk allocation etc. without the need for amendment.
- **Stimulus to good management:** The procedures within the contract have been designed so that they actively encourage co-operation, and their implementation should contribute to, rather than detract from, the effective and efficient management of the contract. The contract is also written to ensure pro-active participation to give the best indication of outcome and management of risks at every stage.

Of the NEC3 forms of contract the two main pricing options for consideration on this commission are:

- **Option A: Lump Sum** – this form of contract is useful when the scope elements are well described, and there is limited scope for changes. This contract places a greater level of risk on the Contractor. The additional risk may be reflected in marginally higher tender prices, however overall this type of Contract should ensure a greater cost certainty on the project budget at the Contract stage.
- **Option C: Target Cost** – this form of Contract incentivises the Contractor performance through a pain/gain share based on the performance. This form of Contract shares risk more evenly between both the Client and the Contractor.

In terms of the Form of Contract for the Robin Hoods Bay it is recommended that to provide greater cost certainty at the Tender Stage that the Option A Contract is used. However, the Option C Contract would make a suitable alternative if it is felt that the incentivisation would deliver additional efficiency when the Contract is let.