

# Chelmsford North East Bypass

Procurement Strategy Note

July 2020

## Document Control Sheet

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## 1 Introduction

On the 15 July 2020 a Procurement Strategy update meeting was held for the Chelmsford North East Bypass scheme. The purpose of this meeting was to review and update the current procurement strategy notes.

This meeting was held via MS Teams and attended by;

|                        |                       |
|------------------------|-----------------------|
| Chris Cooper (Jacobs)  | Laura Elliot (ECC)    |
| Mark Eves (ECC)        | Colin McHugh (Jacobs) |
| Ben Mills (Jacobs)     | Terry Selfe (Jacobs)  |
| Alex Woodgate (Jacobs) |                       |

Due to being in the design development stages for the Chelmsford North East Bypass Scheme (the bypass) to date there has been no direct engagement with Contractors. However, internal discussions have continued to take place on a suitable procurement strategy, details of these discussions are provided below.

## 2 Delivery Programme

The meeting commenced with a high-level overview of the Project delivery programme and any updates.

Key milestone of the current delivery programme was identified as follows,

- Complete Construction in line with HIF Funding requirements of March 2024
- Approximate Construction duration 24months (to be reviewed / confirmed)

## 3 Key Procurement Aims and Objectives

In order to continue to develop options and identify and agree the most appropriate procurement strategy for the bypass, a review of the key procurement Aims and Objectives previously established was carried out. The key aims and objectives which ECC required to be achieved by a selected procurement strategy remain as follows;

1. Deliver the bypass to meet the 2024 spend / funding deadline
2. Provide Early Cost Certainty
3. Provide full design risk transfer

## 4 Key Procurement Constraints and Risks

Following the review of the key procurement Aims and Objective the meeting reviewed the previously established key procurement constraints and risks, which were identified as follows;

1. Deliver the bypass to meet the 2024 spend / funding deadline
2. Interfacing with the existing Quarry
3. Planning requirements early 2021

All these constraints were still considered relevant in the selection of an appropriate procurement strategy and will continued to be reviewed as the project progresses.

## 5 Routes to Market

The two Routes to Market still under consideration as previously identified for the bypass remain as follows:

### **Public Procurement Regulations**

The Public Procurement Regulations 2015 (Regs) applies to public authorities including, amongst others, government departments, local authorities and NHS Authorities and Trusts. The directives set out detailed procedures for the award of contracts whose value equals or exceeds £4.733m for Works Contracts. Given the value of the works and the comments made above in relation to the suitability of the existing frameworks, this directive would be applicable to this scheme.

A standard approach of pre-qual and ITT, typically takes around 10 to 12months to complete and would currently meet the aims and objectives of this scheme, however this will require ongoing review of the delivery programme to ensure it continues to meet the objectives.

A key advantage of the Regs approach is that unlike the use of an existing framework it would not limit the potential contracting audience as it provides access to/from the Open market.

The Regs process offers an Open, Restricted and Competitive Negotiation options and it was agreed for the purposes of this scheme aims and objectives that the Restricted approach would be the most suitable. The Open procedure has been ruled out due to the high number of tenders that could be expected and the potential skills and experience that may be required of potential bidders. The Competitive Dialogue option is considered more appropriate for complex contracts where contracting authorities are not objectively able to define the technical means capable of satisfying their needs or objectives, which does not apply here.

It was also agreed that this route to market would not necessarily be suitable for the delivery of any advanced works packages due to the time constraints.

### **Crown Commercial Services Construction Works and Associated Services Framework**

The Crown Commercial Services Construction Works and Associated Services Framework is a fairly new industry Framework, which is arranged in 11 lots of varying levels of complexity and value of work from £0-£3m up to £80m+. Individual lots are divided into regional sub-lots appropriate to the market sector and value. The Bypass would fall under Lot 4.1 Construction Works & Associated Services £30 - £80m England & Wales, which there is 14 contractors.

This framework cannot currently be assessed as ECC have yet to complete a tender under this framework. ECC are currently tendering the A127 Fairglen Interchange scheme using this framework and feedback could be provided soon as tenders are due for submission within the next month.

Considerations regarding using this framework are:

- Various forms of contract available including NEC3 & NEC4
- Tender evaluation is based on 75% quality and 25% price splits, which can be adjusted by 25% to a ratio of 50% Q / 50% P.
- Tenders can either be invited from all contractor on the Lot or short listed by use of mini-PQQ.
- The framework does not dictate the format of tender documentation which will enable use of previous documents developed by ECC.

The framework may also be suitable for the delivery of any advanced works packages as there is no need for the prequalification process.

### **Advance works**

The meeting then discussed various advance works packages that are required for or could aid the delivery of the Bypass scheme. The packages are:

- Quarry Conveyor Bridge
- Quarry Lagoon Relocation
- Statutory Undertaker Diversion Work along existing A131
- Water Main Diversion Works along Cranham Road
- Environmental Mitigation Works (within existing highways boundary)

The advance works packages required ahead of the main bypass contract as those relating the quarry. These items are part of the on-going land negotiations with the quarry owner and are required in order to maintain operating of the quarry once the bypass works commence.

The remaining items are being investigated as to whether there would be any advantage to the project if these works were undertaken ahead of the main Bypass contract.

These advance works packages could be either procured via the Eastern Highways Alliance Framework (EHAF3) or the CCS Construction & Associated Services Framework.

The Eastern Highways Alliance Framework, which ECC is a leading Board Member, is a wide-ranging framework which covers structural work, surfacing, road works and capital schemes for highways, divided onto 3 lots with an upper project value limit of £30m. The latest framework is due to become operational in Autumn 2020.

Both these frameworks would offer a reduction in the procurement programme as not requiring a prequalification. In addition, the EHA Framework has advantages as ECC are familiar with its processes and procedures.

### **Programme**

A review of the programme for the delivery of the main works & the advance works packages is being undertaken to ensure the overall programme is achievable within the constraints of the scheme.

## 6 Procurement Options

As agreed previously, the procurement option selected for the Bypass contract is that of Design and Build (D&B) as it meets most of the procurement aims and objectives while potentially being best placed also to deal with the constraints / risks identified. It is also ECC preferred route for procurement of schemes of this size and nature.

Design and Build provides early cost certainty and accelerates scheme delivery where the project is relatively low risk. As the Contractor is responsible for the design a great deal of time can potentially be saved as the design and construction elements will be run concurrently. However, there may be a cost premium to pay for the transfer of the full design risk to the contractor at this stage of the project.

The bypass main technical risk relates to the ground conditions of the existing backfilled quarry, which will require a suitable risk management strategy to be developed. The remainder of the works would be built over primarily arable farmland and compared to many road schemes, is not complicated.

An 'illustrative' design would provide sufficient information to the contractor to provide reasonable cost certainty, stimulate innovation and ensure thinking on construction phasing happens at the optimum stage of the project. Developing a design to 50 to 60% before going to D&B would also get the works to market quicker. This approach is considered of interest to many contractors. It should be noted however, that changes to the scope during the contract could be costly.

## 7 Contract Strategy

It was discussed and agreed that the form of contract to be utilised in successfully delivering the schemes would be the NEC4 Engineering and Construction Contract.

It was acknowledged and agreed that the decision on the proposed contract option would not be made until later, but it was likely to be one of the following main option clauses for the bypass or any potential advanced work packages;

- Option A – Priced Contract with Activity Schedule or;
- Option C – Target Contract with Activity Schedule.

## 8 Conclusion

The current preferred procurement strategy for the bypass, based on the aims, objectives and constraints identified remains as a Design and Build contract using an NEC4 Option A contract via either Public Procurement Regulations or the Crown Commercial Services Construction & Associated Services framework.

This strategy will require ongoing review and updates as the scheme develops and particularly in relation to the delivery programme and the key constraint in relation to the 2024 spending deadline.