

## **APPENDIX 5 - CREWE GREEN ROUNDABOUT PROCUREMENT OPTIONS**

### **1. Available Procurement Routes**

The alternative procurement routes are: .

- a. The Scape Framework. Scape is a public-sector owned organisation that has in place a number of national procurement frameworks for use by the public sector. The relevant framework for the Crewe Green Roundabout project is the Civil Engineering and Infrastructure Framework. The provider for highways on the Framework is Balfour Beatty.
- b. Highway England's Collaborative Delivery Framework (Lot 2) with a mini-tender. The Framework provides a cost effective way for Highways England to procure up to £5 billion of investment in England's motorways and major A roads over the next five years and is open to highway authorities to use. Lot 2 covers medium-value construction works up to £25 million
- c. OJEU Open Procedure is a single-stage process in which the Invitation to Tender must be sent to all suppliers that express an interest in response to the Contract Notice.
- d. OJEU Restricted Procedure is a two-stage process which allows Institutions to draw up a short-list of interested parties by undertaking a pre-qualification stage, prior to the issue of invitation to tender documents.

The alternatives above vary in their delivery mechanisms, with some being strongly based upon Early Contractor Involvement (ECI) or Design & Construct (D&C), and others having a greater leaning towards traditional contracts with detailed design undertaken in advance of tendering and contract award. With some options there is flexibility and opportunity for all possibilities.

A potential option to deliver the scheme via the existing Highway Service Contract has been explored, but discounted on legal and procurement advice that a direct award by this route of a contract of this scale and value could be successfully challenged on the basis that it is beyond the intended scope of the existing contract.


## **2. Selection Criteria**

All options need to be considered in the context of the three major risks to the success of the project:

- a. Quality of scheme / service – including relevant experience of the potential contractor delivering in high quality schemes and service in similar traffic sensitive locations, including compliance with the Construction Design and Management Regulations (CDM).
- b. The Roundabout has to be complete before the start of works on the nearby Sydney Road Bridge Major Scheme in October 2018 which is fixed by rail possessions
- c. The budget for the Scheme is set at £5,000,000. With as-yet unquantifiable utility diversions required it is important to apply all the funding directly to the design and works rather than to an expensive procurement route.

### 3. Assessment of Procurement Routes against the Principal Risks

With regard to procurement route selection, the following presents an assessment of the relative strengths and weaknesses of the route options against the principal risks to the Project (see Section 2):

Procurement Option 	Risk		
	Quality	Timely Completion	Affordability
Scape Framework	<ul style="list-style-type: none"> <li>Provides for Early Contractor Involvement to inform the detailed design and minimise cost and delay risks.</li> <li>Has been used satisfactorily successfully on a scheme of similar nature and value delivering on time and on budget. (Warrington) – Client references are very good.</li> <li>The supplier is a recognised experienced contractor with a track record of delivery locally and nationally via the framework.</li> </ul>	<ul style="list-style-type: none"> <li>Facilitates early diversion of utilities during the detailed-design phase, hence not delaying the works</li> <li>Speed of procurement much quicker than OJEU procedures.</li> <li>Has been used successfully on a scheme of similar nature and value delivering on time and on budget. (Warrington) – Client references are very good.</li> </ul>	<ul style="list-style-type: none"> <li>Low cost of transaction. SCAPE fee is 0.5%</li> <li>The Scape framework ensures that the market is tested and value achieved via tendering the majority of works to local supply chains.</li> <li>Has been used successfully on a scheme of similar nature and value delivering on time and on budget. (Warrington) – Client references are very good.</li> <li>Provides for the use of NEC target costs form which incentivises cost minimisation and shares risks.</li> </ul>

	Risk		
Procurement Option	Quality	Timely Completion	Affordability
Highways England Collaborative Delivery Framework Lot 2	<ul style="list-style-type: none"> <li>The suppliers will be recognised experienced contractors with a track record of delivery via the framework.</li> </ul>	<ul style="list-style-type: none"> <li>No pre-qualification process required</li> <li>Speed of transaction quicker than OJEU, but</li> <li>Requires a mini-tender which would take a minimum of 8 weeks</li> <li>The Framework could reach capacity and close before it could be used for this Project</li> </ul>	<ul style="list-style-type: none"> <li>Restricted to 5 contractors</li> <li>Value-for-money will be uncertain on a scheme of this scale and is dependent on the level of supplier interest at mini-tender stage</li> </ul>
OJEU Open Procedure	<ul style="list-style-type: none"> <li>Provides the opportunity to select a good-quality delivery team.</li> <li>Potential lack of local knowledge with some tendering companies.</li> <li>No opportunity for Early Contractor Involvement give the project time constraints.</li> </ul>	<ul style="list-style-type: none"> <li>Procedure is far too long to achieve the Project delivery deadline taking approximately 7 months</li> <li>Full Tender documents have to be available when the PIN Notice is published</li> </ul>	<ul style="list-style-type: none"> <li>May provide good value for money as there would be more competition</li> <li>Interested, viable contractors will apply potentially from across the EU</li> <li>Expensive in terms of preparing documents;</li> </ul>

	Risk		
Procurement Option	Quality	Timely Completion	Affordability
			<p>administering the process; and evaluating tenders.</p> <ul style="list-style-type: none"> <li>• There could be a very large number of tender returns requiring assessment</li> <li>• Burden of tendering effort may reduce interest in bidding from contractors available through other routes</li> <li>• Some smaller companies will be deterred from bidding as they normally operate as supply-chain partners</li> </ul>
OJEU Restricted Procedure	<ul style="list-style-type: none"> <li>• Provides the opportunity to select a good-quality delivery team.</li> <li>• No pre-existing Communications and Stakeholder Management</li> <li>• No opportunity for Early Contractor Involvement as it is now too late to</li> </ul>	<ul style="list-style-type: none"> <li>• Procedure is far too long to achieve the Project delivery deadline because of the extra PQQ stage of at least 2 months making approximately 9 months in total</li> <li>• Full tender documents have</li> </ul>	<ul style="list-style-type: none"> <li>• Less resource-hungry and expensive for tenderers compared to the OJEU Open Process</li> <li>• May provide good value for money as there would be focussed competition</li> </ul>

	Risk		
	Quality	Timely Completion	Affordability
	procure this via OJEU	to be available when the PIN Notice is published	<ul style="list-style-type: none"> <li>Interested, viable contractors will apply</li> <li>Expensive in terms of preparing documents; administering the process; and evaluating tenders.</li> <li>Supervisory and contract administration required adding a financial burden to the Project</li> </ul>

It should be noted that the procurement decision does not depend on which design option is selected. They all present the same characteristics in terms of the construction challenges posed. Therefore, there should be no further factors influencing the procurement route.

On the basis of this comparison of procurement routes, it is recommended that the Scape Framework is used to deliver the Works at Crewe Green Roundabout, using an NEC Target Cost Form of Contract.

#### **4. Form of Contract**

The New Engineering Contract (NEC) is a family of standard contracts which stimulate good management of the relationship between the two parties to the contract. This Form of Contract was conceived by the Institution of Civil Engineers and is maintained by them. The latest version is NEC3 amended in April 2016. It is entirely suitable for the Crewe Green Roundabout Project. It is a clear and simple document and has become widely accepted for the vast majority of civil-engineering projects. The NEC3 complies fully with the [Achieving Excellence in Construction](#) (AEC) principles. The Efficiency & Reform Group of The UK Cabinet Office recommends the use of NEC3 by public sector construction procurers on their construction projects.

The Scape framework allows for the use of this form of contract

#### **5. Risk./Reward Strategy**

As the contract will be a works only contract, with Jacobs as the nominated designer, a payment and risk-sharing mechanism needs to be selected with the NEC Form of Contract. The choices are:

- a. A Lump Sum 'Priced Contract' which provides price certainty and reduces administrative costs during site works. However, there remains a risk of suffering contractual claims
- b. A "Target-Cost" contract which incentivises the contractor to reduce costs through a pain/gain share mechanism but doesn't fully protect the Client from potential overspend. There are significant costs associated with the administration of the finances as a result of the mechanism.
- c. A Cost-Reimbursable contract where the financial risks are taken largely by the Client. With a well-developed design & statutory undertakers diversions carried out in advance this could arguably give the least construction expenditure, but risks would need to be well understood and the administration of the contract is likely to be a cost burden.

The circumstances at Crewe Green Roundabout support all three types of contract because the design will be very well-developed, and major risks associated with statutory undertakers diversions will have been reduced through advanced diversions. The choice of type of contract should be based upon ability to administer the contract and assignment of risk.

On balance, a target-cost contract will provide a reasonable share of risks and incentivises all parties to maximise benefits to outcomes throughout the project, and will result in a competitive price with early certainty. This type of contract encourages efficiency and early completion which will be particularly important for Crewe Green Roundabout.

**An NEC 3 Target Cost contract is therefore recommended as the form of contract to be used, with a choice to be made on whether the pricing basis is an Activity Schedule (Option C) or a Bill of Quantities (Option D). A decision on this should be based upon how well the detailed breakdown of the works to be executed, suit an established Method of Measurement for the production of a meaningful Bill of Quantities.**