

3Ts Programme Board 23 March 2012

3Ts Procurement Strategy

Introduction

1. The purpose of this report is to present to the Programme Board the proposed procurement strategy for the build element of the 3Ts Programme.

Action

2. The Programme Board is asked to **approve** the proposed procurement strategy and **recommend** this to the Board of Directors. This documentation was also discussed at the Finance and Workforce Committee on 19 March. Comments, questions and observations are welcomed.

Areas Covered within the Report

3. The following key areas are covered within this report:
 - The 3Ts Outline Business Case – which identified a publicly funded procurement as the optimal way forward;
 - An overarching procurement review (paper 1 appended to this report) – which examines the various procurement methodologies for a publicly funded development;
 - The detail of how value for money will be demonstrated using the Procure 21 procurement model (paper 2 appended to this report).
 - Conclusion and Recommendation;
 - Next Steps.

The 3Ts Outline Business Case

4. The 3Ts Outline Business Case (OBC), as approved by Programme Board, FWC and the Board of Directors examined a range of potential strategic options for how the build element of the 3Ts Programme could be delivered. These were:
 - A publicly funded procurement;
 - Application of a Private Finance Initiative (PFI) procurement;
 - A phased PFI procurement;
 - PFI with a Trust capital injection;
 - ProCure 21;
 - NHS LIFT;
 - Property development Joint Venture (JV).
5. A summary of the findings of reports from Ernst & Young and Turner & Townsend was provided at section 11.4 of the OBC.
6. The discussion of these options noted that NHS LIFT and a property development JV are not available to NHS Trusts, but would potentially be available for NHS Foundation Trusts as those entities have the legal powers to enter into such JV arrangements.
7. The OBC concluded that PFI was less affordable and not value for money overall. PFI only demonstrated value for money if a partial indexation option was used but the value for money advantage was small. Partial indexation has so far not been used in health PFI projects.
8. The OBC went on to demonstrate that if public funding was available, Procure 21 provided the most appropriate procurement route.

Procurement Review

9. Following on from this analysis the Trust's Independent Cost Advisers, Turner & Townsend, worked with the Trust Programme Director to identify a strategic/tactical analysis of the various procurement methodologies potentially available to the Trust given the preferred way forward for 3Ts as a publicly funded development.
10. This analysis is appended to this report as Paper 1 "Procurement Review. Main Scheme. Procurement Report". The options available to the Trust to procure the 3Ts facilities were identified to be:
 - Traditional tendering;
 - Design and build;
 - Construction Management;

- Management Contracting;
- Procure 21/Procure 21+ which utilises the principles of partnering.

11. The review report finds that, based on the current public procurement guidance, the most appropriate procurement methodologies are Procure 21, Procure 21+ and two-stage design and build.
12. The report concludes overall that based on cost, time, quality and risk, that ProCure 21 is the preferred way forward for the Trust. It also indicates that we may need to revisit this conclusion depending on the nature of the future discussions to be had with the Department of Health on this issue as part of its due diligence of the OBC.
13. Programme Board is asked to note that the ProCure 21+ framework which was established in September 2012 after the expiry of the ProCure 21 framework does not include Laing O'Rourke. However, as long as the Stage 4 phase of a P21 contract commences within five years of the expiry of that framework and there is a signed Stage 3 contract in place, it is open to the Trust to use the previous framework.
14. The conclusions of the report were endorsed by the Trust's Head of Procurement.

Procurement Strategy Report

15. The attached Paper 2 "BSUH 3Ts Scheme. Procurement Strategy Report. OBC Refresh Oct 2011 (Revision 4 February 2012)" sets out a more detailed tactical/operational view of how the procurement of the facilities will actually be effected to demonstrate value for money overall.
16. Effectively the report sets out the proposed methodology for selecting tenderers for works packages, how the process of managing tender submissions will be undertaken, plus the process for selecting the successful tenderer.
17. It is proposed that, in line with the partnering ethos inherent in the ProCure 21 methodology, all of these processes will be undertaken on a transparent and open book basis alongside the Trust's Independent Cost Advisers, Turner & Townsend, and the Trust team.
18. The report also identifies those areas of the construction where consideration is given to single source suppliers who are part of the Laing O'Rourke group of companies. Value for money will be provided on a benchmarked basis across other projects. Evidence will be provided by LOR and tested against other non-LOR projects by Turner & Townsend.
19. The levels of tendering and benchmarking proposed are not unusual in ProCure 21 or other framework projects.
20. Programme Board is asked to note that this assumes that we will use LOR as the preferred contractor for Stage 4 (construction) of the contract. The previous report sets out the time and cost implications of not following this route.

Conclusion and Recommendations

21. The reports summarised above set out a robust methodology for delivering a value for money construction price for the 3Ts development and the most efficient method of achieving that price, thereby delivering the overall benefits of the 3Ts development at the earliest possible point.

22. The Programme Board is asked to:

- Approve the conclusions of the Procurement Review to proceed with the ProCure 21 procurement methodology;
- Approve the approach to procuring the facilities set out in the LOR procurement strategy as a means to achieving value for money;
- Recommend the above to the Board of Directors at the meeting on 26 March 2012.

Next Steps

23. A key part of the delivery of the above which demonstrates value for money for the public purse will come in the strategy for negotiation with Laing O'Rourke as the procurement of works packages proceeds and a Guaranteed Maximum Price is delivered. This is at an advanced stage of preparation and will be brought to the April meetings of Programme Board, FWC and the Board of Directors, as per the Gateway Review held in October 2011.

Duane Passman
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15 March 2012