

**Submission
No 1**

PROCUREMENT OF GOVERNMENT INFRASTRUCTURE PROJECTS

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Date Received: 14/01/2016

13 January 2015

The Chair,
Legislative Assembly Committee on Transport and Infrastructure
Parliament House
Macquarie Street
SYDNEY NSW 2000

Via Email: transportinfrastructure@parliament.nsw.gov.au

Dear Alister,

RE: **Keolis Downer (KD) submission to the inquiry into the procurement of infrastructure projects (Inquiry)**

KD provides the responses below to the Committee on Transport and Infrastructure request for feedback on its Terms of Reference for the Inquiry.

- **the best process of gateway decision making on the efficacy of public private partnerships compared to other procurement methods;**

There are positives and negatives for all procurement methods, the key consideration for the government when considering PPPs is the long-term versus short-term funding and which procurement method best matches the particular project.

- **the best procurement process and documentation;**

KD supports a pre-selection stage, for example Expression of Interest (EOI), which allows broad market interest and capability to be understood, followed by short-listing to a detailed tender or Request for Proposals (RFP) stage. Limiting the RFP shortlist to two is preferable since it increases the incentive to participate. A well run EOI should confirm that the parties shortlisted for an RFP are capable of delivering the project, which should allow the government to be comfortable with a shortlist of two.

- **the desirability of the standardisation of procurement processes and documentation;**

Procurement processes are largely similar currently, since the State's do share information and similar consultants are involved across all projects. The standardisation of documentation would save time and money on legal fees as well as the review and negotiation of documentation. Balanced risk allocation within standard documentation is required however, otherwise the same areas of contention will be discussed on each project.

- **the desirability of a standard national process and documentation for the delivery of government infrastructure within a federal structure;**

See response in 4 above.

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- **methods to minimise the cost of contractors tendering for the supply of services with respect to government infrastructure;**

Uncertainty on project timelines imposes significant costs on tenderers. Large bid teams need to be brought together, including international resources, which has potentially long lead times and a high burn rate when in place. Hence, changes to timelines and short notice on commencement dates can be expensive. A specific example is on the Sydney Light Rail projects, where the communication of release of RFP was 4 hours before the actual release, despite discussions with the State the week prior on the need for lead time to mobilise an international team. This meant 1-2 weeks were lost in an 18 week bid period, which ultimately increased costs due to the need to insert additional resources to try and catch up. Communication and regular updates is all that is required, and to the extent possible certainty on timelines to work to.

The amount of information required from the Returnables and plans/schedules in an RFP response is generally onerous. A few examples include:

- Safety plans and Returnables – Whilst certainly important to start the accreditation process with the regulator (eg ONRSR in relation to rail), since it can be a long process to get approval, and hence including a draft submission valid. However, is it necessary to provide detailed information on the safety management system and a Returnable selling where tenderers have done it before? The EOI is the demonstration of capability. The tenderer will be obligated to achieve safety accreditation and hence will need all the plans and systems in place. Whilst some of this work may commence during the RFP, for the tenderers benefit, it doesn't need to be in a presentable form and may be back-ended depending on the time frame.
- Customer service plans and Returnables – similarly, the key for the government is to know what is being committed to, impact on the service levels and what it will cost. Additional information on demonstrating how it will be done, where it has been done before as again part of the EOI. Proponents are incentivised through the contract and financial penalties to deliver to commitments and KPIs.
- Asset management – similar comments to above, if there are output specs on asset condition, reliability, availability and hand back conditions, the proponent is fully incentivised to deliver on them. The contractual structure should allow the State to be comfortable they can rely on the output specs and manage to the KPIs and contractual commitments.

The proposed solutions need to be thought through by tenderers and communicated through the RFP response, however the tenderers invited into the RFP phase have been shortlisted because they have the demonstrated ability and experience to deliver the project. The RFP focus should be on understanding the specific solution and approach of each tenderer.

- **methods to achieve optimal contestability in tendering for the supply of services with respect to government infrastructure; and**

This could be supported through certain actions:

- Early and regular communication regarding upcoming projects, allowing appropriate consideration and preparation by tenderers
- Major projects are very expensive to bid, on many occasions in excess of \$10m, and minimising costs is always targeted by tenderers due to budgetary constraints. A sensible level of bid reimbursement would make a difference on the decision to bid and

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on resources tenderers are willing and able to contribute. Historically confirmation of any bid cost reimbursement has only come at the EOI stage, earlier confirmation would assist when tenderers are undertaking preliminary analysis of whether to pursue an opportunity or not.

I trust that you will find our contribution to your inquiry useful.

Yours sincerely



Simon Humphrey
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Keolis Downer

