

**INDEPENDENT INVESTMENT PROGRAMME ADVISORY
GROUP
TRANSPORT FOR LONDON**

**SUBJECT: INDEPENDENT INVESTMENT PROGRAMME ADVISORY
GROUP**

BANK STATION CAPACITY UPGRADE

ADVICE ON PRE-GATE D CORPORATE REVIEW

DATE: 04 MAY 2013

1. PURPOSE

- 1.1 The purpose of the Review was to confirm selection of the bidder(s) with whom to negotiate a contract to design and construct measures to relieve congestion at Bank Station.
- 1.2 This Review by the EE and IIPAG did not consider the full scope of Corporate Gate D. It addressed just one line of inquiry i.e. Procurement and Commercial. The Key Challenges that this line of inquiry must answer are
- supplier chosen demonstrates best value for money
 - legal and procurement policy requirements have been followed
 - arrangements in place for managing suppliers post-contract award
 - risks have been effectively assessed
 - consequences of procurement strategy for long-term contracts have been considered
- 1.3 In addition the Review considered the impact of the selection of the lowest Target Cost contractor on the Estimated Final Cost.

2. ADVICE ON THE ADEQUACY OF THE PRE-GATE REVIEW PROCESS

- 2.1 IIPAG considered the project analysis and review processes to be a significant step forward; setting a good example for other projects. The evaluation of the bids has been carried out with rigour and there is evidence that the judgements and conclusions drawn are well documented.
- 2.2 IIPAG and the EE were given access only to the LU preferred bidder's documents on April 11 and again on April 18 when they were also informed of the Target Cost submitted by the 3 other bidders, the "normalisation" and quality scores of the bids, leading to the Project Team's selection of the Contractor offering best value. IIPAG issued its initial findings on April 12 and reported further on April 22. The bid documents submitted by the 3 other bidders were not made available to IIPAG.

INDEPENDENT INVESTMENT PROGRAMME ADVISORY GROUP

- 2.3 The IIPAG initial findings and report drew attention to the lowest Target Cost Contractor's bidding strategy of offering lowest first price supported by assumptions, qualifications and concessions against LU standards. It also highlighted the importance of the "normalisation" of the Target Costs to give Project Prices and evidence to support the deliberations of the assessors.
- 2.4 On May 02 the Project Team disclosed details of the "normalisation" and presented evidence of the judging of quality.

3. ADVICE ON THE ISSUES IDENTIFIED FROM THE REVIEW.

- 3.1 The Target Costs submitted for Design and Construction were £224m, £251m, £272m and £373m. The Project Team's estimate for design and construction dated 13 January 2012, tabled at the time of the Gate Review, was £389m. It is thought that this estimate included some work by others and the Project Team made it clear at the Rail and Underground Board that the correct figure for comparison was £354m.
- 3.2 The ICE procurement method, the purchase of the enlarged site, and market forces have generated three schemes which are better, cheaper and can be built more quickly than the base scheme produced and costed by LU and its consultants. The Project Team are to be congratulated on this achievement.
- 3.3 However there is a need to re-evaluate the residual risks of accepting either of the two best value tenders and recast the EFC after the ambiguities contained in the tenders have been resolved and the selection of the best value contractor can be confirmed. For this reason the second lowest offer should be held open to retain a competitive edge in negotiations.
- 3.4 IIPAG and the EE agree that the lowest Target Cost bid contains too many assumptions and qualifications and it anticipates concessions against standards by LU, Thames Water and other stakeholders. The bidder has given his view of which risks he accepts and which remain with LU. More than half of the risks in the maximum category remain with LU. IIPAG anticipate that these comments apply to the second lowest bidder to a greater or lesser extent.
- 3.5 An example of the bidding strategy is evident from the lowest bidder who offers a running tunnel of a diameter which is smaller than that offered by all other bidders and takes a very favourable view of the extent of floating track. The Project Team should satisfy itself and confirm that this offer is compliant with the Works information in the tender documents and does not require a "normalisation" adjustment. The Team should review the probable floating track length against data on known piles and those affected buildings which have been designated as having no known piling records.
- 3.6 IIPAG note that there have been comparatively few questions from the Project Team regarding the risks to operational performance, time for completion and costs arising from engineering design and construction method. One of the more important issues is the selection of the optimal cross-section and dimensions of the track and running

INDEPENDENT INVESTMENT PROGRAMME ADVISORY GROUP

tunnel to combat the clashes with the piles encountered in the tunnel drive and minimise settlement and vibration. It would be beneficial if the Team drew up a full list of the technical issues to be resolved pre-contract. Those issues which affect cost and time for completion but are not necessarily expressed qualifications, should be extracted from the bid documents for prompt resolution. IIPAG have issued notes from their brief overview to assist in this work.

- 3.7 The manner in which the lowest contractor has approached pricing the activity schedule warrants attention and IIPAG has seen some evidence that the Project Team are questioning items which are zero priced and some other anomalies. This might be extended to this Contractor's policy of putting little money into the direct cost of the construction work and much into lump sum and time-related items such as Project and Commercial, Risk and Management.
- 3.8 The "normalisation" of the bids added between £164m and £250m to give Project Prices which included property costs, inflation, LU management costs and LU's quantification of project risk and work by Utilities. The sums are large and did affect the order of price preference. The major determinant of the different additions for each bidder was Risk and Utilities. IIPAG has seen enough of the output to confirm that the process has been conducted with sufficient rigour.
- 3.9 The Project Team have produced a new make-up for an up-dated project Estimated Final Cost of £580m. This compares favourably with the January 2012 target of £625 but it appears that the full saving on the Design and Construction of the Works has not been carried to the EFC.
- 3.10 It is evident that the proposed EFC contains significantly larger sums for Design, Project Management and Risk than promulgated in January 2012. Design costs are now a tendered sum so can serve only as a benchmark for future schemes and TWA costs are relatively small.
- 3.11 It is surprising to see that the Project Management cost is showing a large increase against the January 2012 estimate. A comparison with the Contractor's management staff numbers and cost may be helpful. Care has to be taken in comparing cost because of differing allocations of overhead staff and employment overheads. IIPAG would expect that as a result of the shorter Contract duration the LU Management Costs would reduce relative to January 2012 estimates. Also since there will shortly be an agreed Target Cost, the sum attributed to estimating risk should be reduced. The Contractors have also given their confirmation of the residual value of the site for office and retail development further reducing risk.
- 3.12 Risk allowances appear in two guises. The first is the result of a Quantified Risk Assessment and the second is in addition and is applied as a percentage uplift on the Contractors prices. Together these allowances against risk are in excess of the norms. IIPAG believe that the Risk allowances should be revisited when many of the ambiguities in the tenders have been resolved.
- 3.13 This Review was not a full Gate D review and cannot result in a Gate D pass. There is much work to be done in understanding and eradicating ambiguities in content, pricing, risk and securing agreements to concessions on standards with the asset

INDEPENDENT INVESTMENT PROGRAMME ADVISORY GROUP

managers before this could be given. It would be sensible to present a new EFC at that time.

4. RECOMMENDATIONS

- 4.1 IIPAG recommend that the Project Team takes the negotiations to closure with the two best value bidders and resolves the assumptions, qualifications and concessions on LU standards and major issues for stakeholders so that one tender can be recommended for acceptance at a full Gate D Review.
- 4.2 Under this form of procurement it is the Contractor's technical submission which defines the product which will be constructed and provide the basis for safe and efficient train operations thereafter. It is essential that the Project Team and Asset Managers scrutinise the bid documents with rigour and resolve omissions and ambiguities between the contractor's offer and the Sponsor and Asset Manager's requirements. IIPAG recommends that adequate resource and time are allocated to this pre-contract.
- 4.3 IIPAG recommends that the Project Team confirm that the engineering solutions contained in the lowest bids have been checked for compliance against the Technical Requirements in the Contract and that no charge of unfairness can be made.
- 4.4 IIPAG recommends that the risk allocation between the parties to the contract is understood and agreed. Following this, the Quantified Risk Assessment should be re-run on completion of due diligence to establish the provision for the future to be made in the Estimated Final Cost. Any general allowance should be substantiated at that time.
- 4.5 We recommend that the LU management costs are recast to match the shorter contract durations offered and benchmarked across the rail industry and other major public sector projects.
- 4.6 The ICE process has been shown to be of value on this project and has been well executed. The lessons learned should be captured during the latter part of 2013. IIPAG would be happy to contribute to that exercise.

Nigel Quick, IIPAG

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