



INTERNAL AUDIT SERVICE

Isles of Scilly Link - Scillonian Project

2009/2010 Audit Report

DRAFT

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1. Management Summary.

Internal Audit reviewed the tendering and budgetary control processes in place as linked to the Scillonian Ferry Procurement Project, since October 2008. The control areas covered were:

- That contract tendering processes are adequately controlled and documented;
- That contract accounting and budgetary processes enable management to accurately cost project expenditure incurred.

The standard of the tendering and budgetary control processes in place, as applied to the Scillonian Ferry operator and vessel construction contracts reviewed is considered in 'Need of Improvement'. Two weaknesses in control have been identified.

In general terms, the processes adopted by the Scillonian Ferry Project Team are considered both robust and effective, which is reflected in the standard of the tendering data on file in respect of both the contracts reviewed. Similarly, the standard of the budgetary data reviewed was satisfactory as all necessary substantive financial data to support the financial data produced was available for review purposes.

It is noted however that unless the contract award process is completed by 31/01/2010, there is the potential for the Department for Transport (DfT) to withdraw funding for the project in February 2010. The failure to obtain funding could result in the termination of the project, which has major implications in respect of the future economic regeneration of Cornwall and the Isles of Scilly.

(a) Contract Tendering Processes

The Isles of Scilly Link, Ferry Construction contract and the Route Operator contract were tendered as part of a multiple pre-qualification and main tender invitation process. A review of the tender data on file in respect of these contracts, has confirmed that fully documented pre-tender / tender specification, receipting and evaluation data was available for audit purposes, which is considered to be of the necessary standard to support the contract letting process in place. In particular:

Specification of Tenders

(i) Operators Contract

The operator's contract forms part of a multiple tender process in three defined stages comprising a pre-qualification tender invitation, a pre-qualification questionnaire (PQQ) evaluation process, followed by a formal tendering process. The tendering process was split into three distinct stages comprising a:

1. Management Summary.

(a) Contract Tendering Processes (cont)

Specification of Tenders (cont.)

- Stage 1 dialogue process to reduce the number of tenderers from six to four;
- Stage 2 dialogue process to reduce the number of tenderers from four to three, resulting in a formal invitation to tender to the three shortlisted tenderers;
- Stage 3 further dialogue process with the shortlisted tenderers plus a financial evaluation of their bids.

(ii) Vessel Construction Contract

The vessel construction contract was originally pre-tendered / tendered and evaluated during the period January 2008 to September 2008 (see previous Audit Report 2008/09-29) which resulted in only a single tender being submitted on 22/09/2009. The Isles of Scilly Route Partnership agreed that the process should be repeated to the widest possible global audience in early October 2009. The revised tender process comprised a new PQQ submission, followed by a PQQ evaluation resulting in a formal tender invitation process.

Both contracts were tendered as part of an OJEU contract notice process and copies of the notices were on file for review and reference purposes. Similarly, all PQQ data was on file for both contracts and comprised of fully complete tender invitation documents together with financial assessment data and quality assessment data. The PQQ assessment process was considered complete and complied with normal pre-qualification process requirements.

Receipt of Tenders

(i) Operators Contract

The First Stage dialogue process: comprised both an interview process followed by a formal indicative charter fee submission from the six shortlisted companies. In terms of this formal submission stage, submissions were required by the 07/05/2009 at 1530 hours. A file containing all first stage submission data received from five of the six shortlisted potential operators was available for review purposes, which was complete and contained all necessary data. There was no requirement to produce a register of tenders received.

The Second Stage dialogue process: comprised further interviews with the tenderers concerned, together with the submission of more in-depth operator specification data. All data had to be provided prior to the interview process on 17/6/09.

1. Management Summary.

(a) Contract Tendering Processes (cont)

A file containing all second stage submission data received from the four shortlisted operators from the first stage was available for review purposes, which was complete and contained all necessary data. There was no requirement to produce a register of tenders received.

The Third Stage dialogue process: was a further stage of dialogue focusing on value engineering and the financial submission from tenderers. The value engineering dialogue process ran from 08/09/2009 to 16/09/2009. Interviews with the three shortlisted tenders were undertaken between the 14/09/2009 and 16/09/2009.

An agenda for the meetings was retained on file for review purposes together with an evaluation document plus a final interview report document. The evaluation document comprised notes of the meetings by the two evaluators, together with a series of questions and answers as raised by the preferred tenders. A clarification table in terms of the questions asked and the CC responses given was also on file to tabulate the interview process.

As a result of the dialogue process, invitations were remitted to the three preferred tenders on the 30/09/2009 with regard to the formal financial evaluation. The closing date and time for the receipting and opening of the tenders was 20/10/2009 at 1530 hours.

(ii) Vessel Construction Contract

Receipt of Tenders

A file containing all tender submission data received from the shortlisted vessel constructors was available for review purposes, which was complete and contained all necessary data. There was no requirement to produce a register of tenders received. Eight shipyards were shortlisted for tender purposes.

Security of Tenders

All Officers who were part of the operator and the vessel construction contract, tender receipting process were made aware of the number of invitations received together with the names of the contractors at all stages of the tender process adopted for both contracts. All unopened operator / shipbuilder submissions were held within a secure environment within the E,P&E Structure's office at Threemilestone.

1. Management Summary.

(a) Contract Tendering Processes (cont)

Evaluation of Tenders

(i) Operators Contract

First Stage dialogue process: A fully documented first stage tender submission opening form, dated 07/05/2009 at 1535 hours has been retained on file. The opening form has been fully signed and dated and contains the signatures of both the tender opener and the Officer reviewing the process, together with all necessary closing date and times (07/05/2009 at 1500 hours). The officer opening the tenders was not part of the tendering team. A review of the submission process has confirmed that all five tenders contained all relevant data including method statements to support the fifteen required assessment criteria headings as listed within the tender invitation document, together with all quality data and indicative charter fee values. Five operators sent in stage one submissions.

Fully documented competitive evaluation assessment data was on file dated 22/05/2009, together with an overview summary spreadsheet listing all weighted and evaluated scores over the 15 criteria headings. After the first stage evaluation, the six preferred builders were reduced to four. Both successful and unsuccessful letters were on file dated 22/05/2009, notifying the bidders of their inclusion or non-inclusion into the second competitive dialogue stage. In addition to the evaluation data held, a competitive dialogue file was also kept to record issues raised and questions asked by the operators, together with the replies given. A listing of all session meeting minutes with the operators concerned was on file.

Second Stage Dialogue Process: A fully documented second stage tender submission opening form, dated 17/08/2009 at 1545 hours has been retained on file. The opening form has been fully signed and dated and contains the signatures of both the tender opener and the Officer reviewing the process, together with all necessary closing date and times (17/08/2009 at 1530 hours). The officer opening the tenders was not part of the tendering team. There were four operators who sent submissions. The process comprised a quality submission by the potential operators only. There was no requirement for a signed form of tender as part of the second stage process.

Fully documented and tabulated second stage tender evaluation data was on file as related to the four submissions received comprising interviews with the potential operators, individual assessments for each operator which had been marked in accordance with the 15 criteria headers required, together with an overview summary matrix and an evaluation report, all of which have been signed and dated.

1. Management Summary.

(a) Contract Tendering Processes (cont)

Evaluation of Tenders (cont)

An agenda for the interview meetings was retained on file for review purposes together with an evaluation document plus a final interview report document. The evaluation document comprised notes of the meetings by the two evaluators, together with a series of questions and answers as raised by the preferred tenders. In addition, a clarification table in terms of the questions asked and the CC responses given is on file to tabulate the interview process. The evaluation process ran from 18/08/2009 to 08/09/2009. As a result three potential operators were shortlisted for the third and final stage of the process.

Third Stage Dialogue Process: The Third Stage process was simply a further stage of dialogue focusing on value engineering and the financial submission. The value engineering dialogue process ran from 08/09/2009 to 16/09/2009. Interviews with the three shortlisted tenders were undertaken between the 14/09/2009 and 16/09/2009.

An agenda for the meetings was retained on file for review purposes together with an evaluation document plus a final interview report document. The evaluation document comprised notes of the meetings by the two evaluators, together with a series of questions and answers as raised by the preferred tenders. A clarification table in terms of the questions asked and the CC responses given was on file to tabulate the interview process. As a result of the dialogue process, invitations were remitted to the three preferred tenders on the 30/09/2009 with regard to the formal financial evaluation. The closing date and time for receipting of tenders was 20/10/2009 at 1530 hours.

(ii) Vessel Construction Contract

A fully documented tender submission opening form dated 23/06/2009 had been retained on file. The opening form has been fully signed and dated and contains the signatures of both the tender opener and the independent Officer reviewing the process. The opening form contains the names of the tender, the name of the four ship builders submitting the tender and the closing date and time of the tender submission (23/06/2009 at 1530 hours). It is noted that the officer opening the tenders was not part of the tendering team.

Four tenders were received on the 23/06/2009. A review of the preferred bidder submission data on file has confirmed that it is complete, contains all relevant data and is of a satisfactory standard.

1. Management Summary.

(a) Contract Tendering Processes (cont)

Evaluation of Tenders (cont)

In addition there are further quality data files relating to design, noise reduction, environmental enhancements and plans for dealing with main areas of risk. Also there is a fully documented financial tender submission together with all relevant shipbuilder indemnity insurance certificates. The data is complete and to date. Appendix 1 of the preferred bidder submitted tender contains a fully signed and dated tender offer (dated 19/06/2009) together with a delayed contract award letter in the event that the award date is delayed by a number of months. Attached to the formal tender are all current indemnity insurance certificates.

Fully documented quality and financial assessment evaluation data was on file and is dated July 2009 to October 2009. Attached to the evaluation data is all relevant correspondence with the four tenderers submitting a bid. It is noted that the evaluation comprised an initial check of the tender submissions to confirm that they were complete and free from any qualifications, together with a review of all insurance data. The evaluation comprised both a quality review and a financial review which was weighted in the proportion 70% quality and 30% price.

The tender evaluation comprised individual evaluator quality and pricing scores, together with a quality/price summary sheet. In respect of the four submitted tender bids, the two preferred bidders were, in order of precedent, [REDACTED] and [REDACTED].

Award of Tenders

No decision has been taken in terms of the award of the harbour construction tender, the ferry construction tender and the operator tender to date. The award process in respect of all three contracts has to be made by 31st January 2010, as DfT funding will be withdrawn by February 2010 if the award process is not completed.

Of necessity the award of the harbour works contract at Penzance and St Mary's, together with the vessel construction and operator contracts must be concluded in the shortest timescale possible to ensure that DfT funding is provided by February 2010. As a consequence every effort must be made to resolve the current planning application objection impasse in respect of the Penzance Harbour upgrade works, which is currently slowing the award process down.

1. Management Summary.

Contract Accounting and Budgetary Control Processes

Comprehensively produced budgetary and accounting data is compiled by the E,P&E Group Accountant and remitted to the E,P&E Client / Budget Holder responsible for the Isles of Scilly Link contracts on a period basis. A review of the accounting data presented for audit purposes has confirmed the following:

- That the accounting data comprises a fully documented and period produced Isles of Scilly Link - Capital Monitoring Report in respect of the phase 1 harbour design works and associated vessel construction and operator tender costs to date.
- That the report contains a funding stream section which provides budgetary data in respect of income budgeted and received from named providers.

As an adjunct to this overview budget report there are two separate sub-reports pertaining to the harbours and the vessel individually, which are split into defined cost and income headers for the period in question and comprise the following:

Harbours

- Expenditure specifically budgeted and spent to date in respect of Penzance and St Mary's Harbours shown in an individual and combined format. In addition there is income budgeted / received from the DfT, Duchy of Cornwall, Penwith DC and CCC Revenue funding.

Vessel

- Expenditure specifically budgeted and spent to date in respect of the vessel build and operation charges. Income budgeted / received from supported borrowing, grants and contributions, and RDA additional convergence funding.

A separate budgetary control report is produced in a narrative format, which provides an overview of budgetary progress in respect of the project to date and also highlights cost areas needing further investigation. The report is certified and authorised by responsible E,P&E Accounting Officers prior to its submission to the budget holder.

A review of the monitoring report for the period to 01/11/2009 has confirmed that it is complete, contains all necessary budgetary data and is supported by substantive SUN accounting data for review and authentication purposes. It is noted that the budgetary control report for the same period has been signed and dated for authentication purposes.

1. Management Summary.

Contract Accounting and Budgetary Control Processes (cont)

As at 01/11/2009, £1.875 million had been expended in respect of the harbours and the vessel projects, against a budget of £1.742 million for the years 2007/08, 2008/09 and 2009/10 combined. This represents a total spend of 107.61% against budget at that date. Presently the budget does not include a further £215K of monies allocated by the RDA for additional vessel, consultant and phase 1 alternative costs which have yet to be formally confirmed in writing by the RDA. It is noted that further expenditure against these cost headers has already been incurred.

If the additional budget allocation is added the total percentage spend to date then amounts to 95.8% of the budget allocated. Of necessity written approval from the RDA should be sort as quickly as possible for the provisionally granted additional funds, to ensure that an updated budget for associated harbours, vessels and operation expenditure is shown on the period produced budgetary monitoring reports. As a consequence the true percentage spend against budget can then be identified.

An ongoing contract budgetary monitoring process has been instigated as part of an informal minuted Isles of Scilly Link financial meeting, held on a monthly basis between the Senior Project Manager and the E,P&E Accountant responsible for the Scillonian Project. A review of the written minutes of the meeting held on the 05/10/2009 has confirmed they are complete, contain all actions and the officer responsible for the action.

As an adjunct to this process any meetings held with the DfT, Regional Development Agency (RDA) and other funders are attended by both these Officers when necessary, together with any other interested Route Partnership Officers. The Accounting Officers responsible for budgetary reporting have access to the CC Financial Regulations document as produced by the Corporate Support Directorate. A copy of the document can be found on the CC Intranet for review and reference purposes.

Overall Opinion: **Needs Improvement**

Two recommendations have been raised in this report, one of which is in the severe category and one in the moderate category.

Acknowledgement.

We would like to take this opportunity to thank all of the staff who assisted us in the course of this audit.

Audit Opinion and Recommendation Categories

To assist management we have categorised our audit opinion definitions and recommendation categories as follows: -

1. Management Summary.

Audit Opinion and Recommendation Categories (cont)

Audit Opinion Definitions (Sections 1):

Good - We found that there was a strong internal control which addressed the risks.

Needs Improvement - We found that there was no immediate problem.

However, we have made recommendations to improve existing controls.

Poor - We found that control is weak and there is serious exposure to risk. We have made recommendations which should be implemented.

Audit Recommendation Categories (Section 4):

Severe - Major issues that we consider should be brought to the attention of senior management.

Moderate - Important issues that should be addressed by management in their areas of responsibility.

Light - Detailed issues of a minor nature that can be resolved by local management.

Disclaimer

The matters arising in this report are only those that came to our attention during the course of the audit and are not necessarily a comprehensive statement of all the weaknesses that exist or all the improvements that might be made. The responsibility for a sound system of internal control rests with the management and work performed by internal audit should not be relied upon to identify all strengths and weaknesses.

2. Background.

The sea-going vessels serving the freight and passenger needs of the Isles of Scilly are reaching the end of their operational life, (the passenger vessel is due to be de-commissioned by 2014). As a consequence a bid by the Isles of Scilly Route Partnership (which includes Cornwall Council) for Department of Transport (DfT) capital funding, for the construction of a new ferry and associated harbour works improvements was submitted and accepted by the DfT in 2007. Cornwall Council have been designated the lead authority as the Council has been deemed to have the necessary experience of developing bids for, and delivering, major transport schemes.

The total cost of the project originally stood at £41.5 million but was increased in 2009/10 to £57.414 million, to provide for increased harbour works and vessel construction costs. It currently comprises of:

- A budget of £33.307 million for harbour re-construction works at Penzance and at St Mary's, jointly funded by the DfT and from convergence funding;
- A budget of £24.107 million for the vessel's construction, funded by the acquisition of a prudential loan currently to the value of £10.5 million and funding from the DfT.

To date a pre-tendering / tendering process has been instigated for the appointment of a contractor responsible for the harbour re-construction works, the vessel's construction and the appointment of a route operator. The contractor for the harbour works (BIRSE) was appointed on 16/03/2008 (See audit report 2008/09-29 for a detailed review). All ship construction tenders were received on 20/06/2009, which have been subject to an ongoing tender evaluation process since that date.

The contract for the operator is expected to be between 8 to 12 years in length and must comply with public service obligations (PSO), as no PSO procedures are currently working on the route. It is noted that quality submissions in terms of this contract were received on the 17/08/2009, which have been assessed, whilst financial submissions are expected on 20/10/2009 which will then be evaluated. All related contract tendering and award processes must be completed by February 2010, to ensure that continued funding for the project is secured.

The audit is part of the 2009/10 planned programme allocation and is one of a series of audits to be undertaken by Internal Audit Services in respect of the project. This report highlights the key aspects arising from a review of the tendering processes linked to the appointment of a ship constructor and a route operator, together with the related accounting and budgetary processes in place. Future audits will review the monitoring of the harbours and vessel construction works processes to completion, the vessel commissioning processes in place, and the route operator contractual monitoring processes required.

3. Scope and Objective(s).

Scope.

Interviews and testing were selected and directed so as to focus on the contractual processes currently in place as detailed in the objectives below, with visits to the EP&E Special Projects section at Threemilestone who have responsibility for project administration and control.

Objective(s).

The audit objectives were to review the contract system in place and to provide assurance that each stage of the contractual process has been accurately and comprehensively controlled. The objectives were to ensure that:

- Contract tendering processes are adequately controlled and documented;
- Contract accounting and budgetary processes enable management to accurately cost project expenditure incurred.

4. Findings and Recommendations.

4.1 Contract Tendering Processes (Contract Award Procedures).

Type: Compliance Issue.

Impact: Severe.

Category: Compliance.

Finding:

No decision has been taken in terms of the award of the harbour works contract, the ferry construction tender and the operator tender to date. The award process in respect of all three contracts has to be made by 31st January 2010, as DfT funding will be withdrawn by February 2010 if the award process is not completed.

Recommendation:

Of necessity the award of the harbour works contract at Penzance and St Mary's, together with the vessel construction and operator contracts must be concluded in the shortest timescale possible to ensure that DfT funding is provided by February 2010. As a consequence every effort must be made to resolve the current planning application objection impasse in respect of the Penzance Harbour upgrade works, which is currently slowing the award process down.

Management Response:

Person Responsible / Target Date:

4.2 Contract Accounting a Budgetary Processes (RDA Approval of additional Grant Monies).

Type: Compliance Issue.

Impact: Moderate.

Category: Financial.

Finding:

As at 01/11/2009, £1.875 million had been expended in respect of the harbours and the vessel projects, against a budget of £1.742 million for the years 2007/08, 2008/09 and 2009/10 combined. This represents a total spend of 107.61% against budget to date. Presently the budget does not include a further £215K of monies allocated by the RDA for additional vessel, consultant and phase 1 alternative costs which have yet to be formally confirmed in writing by the RDA. It is noted that further expenditure against these cost headers has already occurred however. If the additional budget allocation is added, the total percentage spend to date then amounts to 95.8% of the budget allocated.

4. Findings and Recommendations.

4.2 Contract Accounting a Budgetary Processes (RDA Approval of additional Grant Monies). (cont)

Recommendation:

Of necessity written approval from the RDA should be sort as quickly as possible for the provisionally granted additional funds, to ensure that an updated budget for associated harbours, vessels and operation expenditure is shown on the period produced budgetary monitoring reports. As a consequence the true percentage spend against budget can then be identified.

Management Response:

Person Responsible / Target Date: