Notes on the SAFESPUR Workshop on Contracts, Procurement and Competition, London, 19 September 2006

This was the second SAFESPUR forum event on a specific topic. It focused on contracting, procurement and competition issues within the emerging nuclear decommissioning market in the UK. The first half of the meeting consisted of three presentations to set the scene and highlight questions that were likely to be of interest to participants. The second half was mainly facilitated discussions.

NDA Procurement Strategy

Ron Gorham, Head of Competition and Procurement at the Nuclear Decommissioning Authority (NDA), outlined the current status of the decommissioning market at the twenty sites for which the NDA is responsible and summarised the NDA's approach to procurement and competition. Over the next few years the NDA expects to put about £2 billion per year into the supply chain. Most of this money will go to the 'tier 1' contractors who run the NDA sites (at present BNG, UKAEA and Westinghouse) but the NDA also lets contracts to other organisations for specialist pieces of work. The amount of work that is in turn contracted out by the tier 1 contractors is increasing and is about 80% at some sites. The NDA publishes its overall strategy and its annual plans. The sites publish lifetime plans, near-term workplans and annual procurement plans. Procedures recommended by the Office of Government Commerce (OGC) are used throughout the NDA and tier 1 procurement processes, which are open and transparent.

The NDA focuses on results, rather than specifying the solutions to be used at every site. It aims to facilitate international participation. It expects contractors to take risks and has a number of risk-reward mechanisms in use. Its focus will increasingly be on the lifecycle of sites and on longer term strategic issues, and it expects to achieve a smoother rate of spending in due course. The first competition for a tier 1 contract began this year. It is for the low level waste repository (LLWR) at Drigg and to provide a LLW management solution for all NDA sites. Future environmental challenges for which tier 2 and tier 3 assistance will be particularly required include characterisation and remediation of contaminated land at the Magnox sites, Sellafield and Drigg.

Collaborative Working

Andy Mountain of Franklin & Andrews drew on his experience in the nuclear, oil and gas and rail industries to describe the benefits of collaborative working with clients and other contractors, and to explain how these benefits can be realised. Collaborative working makes it more likely that work will be completed to time and budget, and that it will be profitable. It also leads to new opportunities because it builds trust and good relationships with clients. It involves more open communications with clients and suppliers, which save time and money. Such communications make it easier to agree and absorb changes in scope, budgets and deadlines, easier to challenge late decisions by clients when necessary and easier to avoid sub-contractors failing to deliver. Especially in large projects, collaborative working leads to clearer interfaces between the organisations and people involved and better management of these interfaces. The trust engendered by collaborative working can help in the introduction of new technologies. More generally, it reduces the number of disputes so that more time is spent on solving problems and less on apportioning blame.

There are a number of ways to make collaborative working a success. One is to achieve the right relationship before discussing contractual issues and another is to agree principles first, before tackling details. It is preferable to accept from the start that people may be out of their comfort zone. Rewarding new behaviours and asking people to desist from old behaviours are important and it can be helpful to bring in an external person or organisation to achieve behavioural changes. Constant care of relationships is needed and risk-taking should be

encouraged. Most of all, it is essential to collaborate whole-heartedly in order to gain all the benefits of this way of working.

Contractor Experience

Trevor Jones of NUKEM discussed his organisation's experience as a tier 2 contractor in the UK decommissioning market since the NDA came into being. His presentation was partly based on an analysis of the invitations to tender (ITTs) received and tenders submitted by NUKEM for projects above about £50k, excluding work in progress. The analysis showed that there had been a large increase in the number of ITTs issued by tier 1 contractors in June, July and August 2006 and at the same time a big increase in the value of the projects being put out to tender. (The average value has risen from about £0.5 million in 2004 to over £3 million as of August 2006.) UKAEA was the major procurer in 2005, but in 2006 BNG has taken over this position and has already put more work out to public tender than all the tier 1 contractors did in previous years.

Another trend is that tier 2 contractors are being forced to put more effort into deciding whether to bid and into preparing tenders. The reasons for this are that more ITTs have a poorly specified scope of work, pricing and contractual mechanisms are complex (and no two are the same), and tier 2 contractors are being asked to take on significant risks. Tier 1 contractors appear not to appreciate the problems this causes, and have not increased the time allowed to prepare tenders. Nor are they phasing the issue of ITTs to spread the workload more evenly. They are, however, taking longer to assess tenders and the numbers of clarifications required during the tender period and requests to revalidate tenders or re-tender work are increasing. By monetary value, contracts have yet to be let for over 90% of the work for which tenders have been invited in 2006. Vague specifications and, in some cases, unrealistic budgets and timetables seem to be the main reasons for the lengthening of tendering processes. A further concern is the attempt by tier 1 contractors to pass on too many risks to tier 2, which will either lead to higher tender values (as tier 2 contractors price in the risk), or to suppliers declining to bid. Similarly, incentivisation mechanisms proposed by tier 1 contractors are frequently punitive and one way – all pain and little or no gain for the tier 2 contractors.

Facilitated Discussions

How can clients improve their procurement processes?

Participants from several tier 2 contractors had experienced the same difficulties as NUKEM, so discussions tended to focus on tier 1 contractors as clients. Unfortunately there were no representatives of tier 1 contractors at the meeting so the suggestions made were mainly from the points of view of tiers 2 and 3. They included the following.

- There should be more pre-tender discussions and consultations on the scope of large contracts before the issue of ITTs. Better use might be made of 'expression of interest' stages to refine the scope of large and complex projects. For very large projects, consideration should be given to paying some of the costs of tenderers. Only relevant data should be provided to tenderers and they should be given enough time to assimilate these data thoroughly.
- There is a need for firm, realistic procurement plans at NDA sites. It would be helpful if these plans were for several years, so that tier 2 and tier 3 contractors could better match their staffing levels to future workloads.
- It would be preferable for the NDA to issue guidance to tier 1 contractors on procurement procedures. This would help to ensure consistency between sites, both when establishing new procedures and when using existing ones. Ideally, the guidance would emphasise the need for more consistency between tier 1 and tier 2 contracts on matters such as risk-reward.

- An approved list of tier 2 (and perhaps lower tier) contractors could be set-up (pre-qualified against standard requirements) to avoid the unnecessary duplication of standard elements within tenders and allow competing organisations to concentrate on the project specifics.
- There should be feedback throughout the supply chain so that common difficulties can be identified quickly and rectified by the supply chain itself, without the assistance of the NDA.
- The NDA should talk to other large clients with whom it shares a supply chain, for example those commissioning construction work for the 2012 Olympics and those interested in nuclear new build. This would help to avoid making too many demands on the supply chain at one time.

How can contractors respond to changes in the decommissioning market?
The issue here was what tier 2 and tier 3 contractors could do to meet the challenges of an expanding UK decommissioning market. The points made included the following.

- There is a need to build relationships with potential clients, partners and suppliers. It is valuable to have enabling agreements in place with possible partners and suppliers before invitations to express interest or to tender are issued.
- Tier 2 and tier 3 contractors should gain a good understanding of the lifetime and near-term plans of NDA sites. This is essential market information that will help contractors to prepare for the future.
- The advantages of working with international partners should be recognised. Sharing work at NDA sites with overseas companies would help to overcome UK skill shortages. Once partnerships had been established there would be opportunities to work together in other countries.
- It is important to keep the costs of tendering under review throughout the supply chain. Steps can then be taken to streamline procurement procedures if the costs of competition seem to be in danger of outweighing its advantages.

What are the advantages of a track record in SAFEGROUNDS and SD:SPUR?
NDA and its tier 1 contractors regard the SAFEGROUNDS and SD:SPUR good practice guidance as very valuable and are committed to following it. The question here was how experience of working with this guidance and participating in the two learning networks might be advantageous to tier 2 and tier 3 contractors. The points made included the following.

- A track record in SAFEGROUNDS and SD:SPUR leads to a good understanding of how tier 1 contractors work, improved ability to comment on the scope of proposed projects and better identification of risks. All this can help in winning work and delivering it to time, budget and the satisfaction of clients.
- It would be preferable for the whole supply chain to be familiar with SAFEGROUNDS and SD:SPUR guidance because this would facilitate collaborative working. It could also lead to better relationships with stakeholders at NDA sites.
- Case studies are one way to demonstrate a track record. Another is to use the guidance as a benchmark and compare performance in past projects to it.

Conclusions
This meeting was extremely timely. It identified problems that have arisen over the past few months in the NDA supply chain and was held at a time when the NDA was considering how to obtain feedback from tier 2 and tier 3 contractors. The meeting provided some of this feedback and made some suggestions about how the situation could be improved. Participants agreed that there should be discussions between the NDA and its tier 1 and tier 2 contractors (and perhaps tier 3 and tier 4 contractors as well) about resolving existing and

potential problems in the supply chain. This seems to be essential if the UK decommissioning market is to evolve in the way envisaged when the NDA was set up. The NDA agreed to take the matter forward, with the assistance of CIRIA and SAFESPUR participants as and when required.

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