

Contract & procurement models

- 5Q 17.** How much use is made of Public Private Partnerships (PPP) to fund and deliver road infrastructure and maintenance in Europe? Do PPP impact on the types of products used and the contractual relationships w.r.t. performance and warranties?

The PDF below contains a briefing which gives a brief overview of the Highways Agency's DBFO projects and hopefully addresses the first part of question 5Q17.



PFI Briefing

Please see below for the information relating to the second part of the question:

The DBFO company maintains and operates the route for 30 years. In that period it is their liability to maintain the route in accordance with maintenance standards as set down in the contract. It is up to the DBFO company to fund, plan and programme their maintenance work over the life of the contract. The DBFO company take the risk for maintaining the route in accordance with the standards set down in the contract. When the route is handed back to the Highways Agency at the end of the 30 years there are firm requirements set down in the contract for the condition of the asset at handback which the DBFO Co must meet.

DBFO companies should be in a position to plan maintenance better as they have a longer term view and more control over long term budgets. Currently, many of the first Tranche of DBFO projects are approaching the stage where the DBFO Company needs to consider major maintenance for the first time. This has resulted in them exploring potentially innovative alternatives to major maintenance, such as the use of Rhinophalt, which acts as a carriageway surfacing preservative and extends the life of the surface, delaying the need for major maintenance. This will see them "sweating" the asset to get the maximum from it and timing their major maintenance to meet handback requirements.

- 5Q 18.** What are the dominant contract models used for purchasing products & services from the road sector? Are non-price criteria used and if so how big an environmental component is included?

The Highways Agency primarily uses a model of directly contracting with a main contractor for the provision of its roads maintenance and construction projects. Maintenance is procured using a Term Service

Contract and Major Projects are procured using an Engineering and Construction Works Contract. Both of these forms of contract are based on the NEC 3 form of model contract published by the Institution of Civil Engineers.

As the Agency is a public body supplier selection is governed by the Public Contracts Regulations. These prescribe a formal framework of procedures and processes. The Agency ordinarily employs a "Restricted Procedure". This entails advertising the contract throughout Europe and employing a pre-qualification process to arrive at a tender list of typically 5 Companies. Prequalification will assess and score capability, technical ability, financial capacity, health & safety performance and may seek access to reference projects.

The 5 highest scoring suppliers are then invited to tender. The tender process is designed to identify the Most Economically Advantageous Tender. This is an assessment based on price and quality. The ratio of price to quality is varied based upon the risk profile of the particular procurement. Typically values vary from 50:50 to 20:80 (price:quality). The quality submission is divided into 6 main topic areas, Product, Service, Right First Time, Cost & Time, Health & Safety and Sustainability. Depending upon the specific procurement different emphasis can be placed on each of the criteria. Note that the same topic areas are measured as Key Performance Indicators during execution of the project.

5Q 19. What contract models are used to purchase proprietary products?

The Agency does not normally purchase such products directly. They are normally procured through the Main Contractor. However, as part of a Category Management initiative a Pavements & Concrete national framework has been awarded in spring 2012 directly to "Tier 2" suppliers. The framework will enable the Agency to benefit from aggregated demand across its Tier 1 Contractors, both for Maintenance and Major Projects. It is unlikely that the Agency will itself award contracts under the framework, the framework allows the Tier One Contractors to directly contract with the framework suppliers.

5Q 20. When contract arrangements are used to procure network management services, how is a culture of ownership or stewardship of the network encouraged?

The Agency's maintenance contracts are based on a quality management approach which ensures that the Service Provider must have a Quality Plan in place to deliver key Agency objectives through processes and procedures. There are a number of provisions in the contract which ensures both ownership and stewardship such as:

Provider's organisation is accountable for ensuring that all processes are implemented as designed in the Service Providers Quality Plan.

Watchman Role – The Service Provider has to carry out a Watchman Role function which is specifically designed at encouraging ownership and stewardship by overseeing activities to monitor, collect data, analyse and provide performance intelligence across all Maintenance and Operational Requirements relevant to the performance of the Area Network. This requirement encourages Service Providers to organise their management resource on a 'route' basis which fosters local ownership and stewardship

Joint ownership between the Agency and Service Providers is encouraged through the Network Board (joint representation) and there are shared savings from process improvements and innovation. The Network Board can set improvement targets in respect of network performance

Extensions of time are available to the Service Provider based in part on performance of the network

- 5Q 21.** Under contracted network management, how do road agencies retain expertise to remain an informed client? PM

This is achieved through the day to day involvement with the Service Provider, regular progress and performance meetings and through the Watchman role.

The Agency owns the Asset Management systems that the Service Provider populates and so the data and information necessary to remain an informed client

The Agency scrutinises and formally accepts the Service Providers Quality Plan and monitors compliance – the Quality Plans are presented in a consistent format nationally by means of an Agency developed Business Process Model which allows the Agency to retain expertise on a national basis rather than via disparate approaches across Areas

Performance Data is reported to and retained by the Agency including the raw data that drives performance rather than simply the out-turn metric

Extensive reports on all matters relating to network management are provided to the Agency as part of the contracts

Continual Improvement and Innovation is managed through the Agency with shared benefit

- 5Q 22.** From the procurement aspect I would be interested if there is an experience or case studies that demonstrate a definitive cost impact from a change in procurement type or contractor. PM

The Agency's procurement strategy has evolved since its formation in the early 1990s. It has always used a model of "outsourcing" the vast majority (>90%) of its expenditure.

Maintenance has evolved from Managing Agent/Term Maintenance (MA/TMC) to Managing Agent Contractor (MAC) through to the current model being used in the Asset Support Contract (ASC). MA/TMC contracts were based on the ICE 5th edition and were used by the Agency up until the late 1990s when the Agency moved from two separate contracts to a single MAC contract combining the roles of the MA/TMC. The benefits of moving to a MAC included early creation of the delivery team, clear points of responsibility, with no unnecessary layers of supervision, selecting suppliers on the basis of best value and performance measurement with continual improvement. The Agency has recently developed the new ASC which is expected to deliver substantial savings over the current arrangements. This will be achieved through new asset maintenance and operational requirements which are 'outcome-based' and less prescriptive about how and when work is delivered, without compromising safety. Other changes include a higher threshold for directly delivered works, to allow more procurement through the asset support contract rather than by separate tender and clearer incentives for innovation and efficiency, including the opportunity for contract extensions based on good performance. The move to the new ASC starts from July 2012 as part of a rolling programme that will be complete in July 2015.

Major Projects have moved from ICE design and build through Early Contractor Involvement and "standard" NEC works design and build contracts. The current Managed Motorways programme is being delivered through a National Framework utilising NEC target cost construction contracts. The strategy is to have a number of contractual options available. Specific contract strategy can then be adopted for the particular project in question. It is believed that this strategy can deliver best value rather than adopting a "one size fits all" contracting strategy.