Defence Infrastructure Organisation – Soft Market Testing

A Summary of Soft Market Testing Responses

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1.1. Prior Information Notice

Defence Infrastructure Organisation (“DIO”) issued a Prior Information Notice (“PIN”) on 04 January 2012 as part of a soft market testing exercise to get Industry’s view on some of the options DIO was considering as part of its wider transformation programme.

Some of the concepts set out in the PIN were:

- That DIO transfers its operational activities into a Government Owned Contractor Operated (GOCO) organisation; and
- To form a Joint Venture (JV) or partnership with one or more private sector partners in specific areas.

In issuing the PIN, DIO was looking to explore prospective roles for the private sector, test some of the commercial principles being considered, and understand the likely interest from Industry, to help inform its options appraisal.

1.2. Areas of focus for soft market testing process

DIO obtained a good response to the PIN and, following an evaluation of relevant experience, DIO selected a broad cross-section of Industry to participate in the process. As part of this process DIO issued a questionnaire which sought views on a number of issues for both options, and in particular focused on the relative merits of:

- DIO contracting with a private sector partner to manage all of the existing operational activities on behalf of DIO; or
- DIO entering into a number of different contracts with the private sector to support the DIO in managing a number of its existing activities (such as soft FM management contracts, construction projects and asset management of the MOD estate).
2. Summary of feedback from soft market testing process

It was agreed with those respondents who participated in this process, that DIO would publish the common themes emerging on a non attributable basis. The common themes are aligned with the areas that were tested with the respondents. These are set out below:

**Section A: DIO Objectives, Obligations and Private Sector Role**

**DIO Objectives**

Industry largely agreed with DIO’s overall intention to appoint a Strategic Business Partner to assist it in meeting its vision and wider objectives:

i. To provide infrastructure to enable success in Afghanistan and other operations and standing commitments
ii. To provide coherent and affordable infrastructure solutions
iii. To implement infrastructure solutions to meet Strategic Defence and Security Review/ Comprehensive Spending Review outcomes
iv. To transform the DIO into a world-class public sector infrastructure delivery organisation, as measured against industry benchmarks
v. Provide effective, efficient, safe, legal and sustainable infrastructure to Defence

Industry’s preference was for DIO to contract with a private sector partner to manage all of the existing operational activities on behalf of DIO. It was widely considered that, in adopting such a model, DIO would meet its stated objectives; in particular this would enable a transition into “a world-class public sector infrastructure delivery organisation”.

It was considered by Industry that, by having an arrangement that involved a number of differing contractual relationships with the private sector, DIO would be disadvantaged through having to manage interface issues with the organisation operating in silos which had the potential to create a multi-tier organisation and significant financial inefficiencies.

There was a strong interest from Industry to be involved in DIO’s transformation as set out above.

**Obligations**

Industry broadly agreed with DIO’s intention to translate its stated objectives into contractor obligations in any arrangement.

Industry also provided comments on what would be expected from MOD for Industry to be content with the industry obligations that they would be reviewed against. This included strong leadership from DIO and a clear senior management approval process.

**Private sector roles and requirements**

The majority of Industry agreed that any issues that may arise if the private sector manages DIO’s existing future operational activities can be overcome through contract arrangements and being provided with clear outputs that are linked to operational needs.
DIO envisages that any private sector arrangement will be managed so as to allow appropriate freedom for the private sector, subject to protecting military outputs. Industry noted that it will be important for the private sector to be able to interface with supply chains, but the majority of Industry did not consider this involving Strategic Business Partner taking over existing contracts.

**Section B: Contract Duration and Asset Transfer**

*Contract Duration*

Industry’s strong preference was for a contract term in excess of five years, and some Industry participants suggested a term of 10 years. The feedback was that a term shorter than this would be insufficient to allow Industry to fully transform the business and transform the size and shape of the estate. A longer term contract was also considered by Industry to demonstrate serious commitment from DIO and MOD to the transformation.

*Assets*

Industry agreed with DIO’s intention not to transfer any assets to the private sector, and reflected that such a transfer would not achieve value for money. Some respondents, however, noted that there may be opportunities in the future to transfer one or more assets into Joint Venture vehicles that are designed specifically to develop these assets.

**Section C: Conflicts of Interest and Fee Mechanisms**

*Conflicts of interest*

There was a range of views from Industry on whether or not an organisation managing DIO’s activities could also participate in the supply chain without giving rise to unacceptable conflicts of interest. DIO’s response on conflicts of interest is set out in Section 3.

*Fee mechanisms and remuneration*

Industry was prepared to work to a predominantly incentivised fee basis.

Industry recognised that MOD’s requirements would change over the life of a contract and Industry considered it essential that the financial baseline was adjusted to respond to significant changes in scope, and pricing mechanisms would (in all likelihood) need to be able to accommodate this.

**Section D: Technology and Procurement Route**

*Technology*

Industry agreed that adequate and accurate estate data is a prerequisite to delivering the transformation of the estate, but accepted that this may not be in existence during the procurement process. Industry noted that would be helpful to have data on the DIO estate, operational and financial information and user needs/requirements during the Strategic Business Partner procurement. It would be important to have the ability to access all DIO data once the contract is in place.
The Industry participants were asked their view with regard to DIO requesting payment for their investment to date in the Infrastructure Information Management System (IIMS). The majority of participants were content to invest in IIMS as it is viewed as a “key enabler”, however any investment would be reflected in the fee mechanism. DIO’s IIMS is currently going through a procurement process, in parallel to the Strategic Business Partner process.

Procurement Route

With reference to the procurement route, Industry would seek assurance from DIO on the timescales for commitment, nature and duration of competition and political commitment.

There was a range of views on the level of due diligence that would be expected during the procurement process, mainly because of a dependence on the organisation structure to be adopted with the Strategic Business Partner.
3. Response to feedback and Conclusion

3.1. DIO’s response to soft market testing feedback

DIO is broadly in agreement with the feedback that has been summarised above.

With regard to conflicts of interest DIO’s current view is that where there is a risk that an entity seeking to participate in the procurement has an existing conflict of interest (or potential conflict of interest), it will be a precondition to that entity participating in the procurement (and being appointed, if appropriate) that the entity can demonstrate its ability to effectively manage such conflicts of interest to a fully acceptable standard. Participants’ policies for managing conflicts of interest will also be evaluated as part of the evaluation of their proposals.

Furthermore, it will be a precondition to any participant’s affiliates participating in future supply chain procurements (and being appointed, if appropriate) that the affiliate can demonstrate its ability to effectively manage such conflicts of interest to a fully acceptable standard.

3.2. Conclusion

DIO would like to thank all those who responded to the PIN and those that participated in the soft market testing process. DIO is using the feedback to assist it complete their options analysis and in developing the commercial principles for DIO’s preferred model.

DIO would like to re-affirm that any organisation who did not respond to the PIN or who was not invited to participate in the soft market testing process will not be precluded from participating in any future competition, nor will any parties that participated have any advantage over those that did not participate in this process.