

Date: 17 July 2014

Item 9: Northern Line Extension to Battersea

**This paper will be considered in public**

## 1 Summary

ID/UIP2033		Northern Line Extension		
Financial Authority	Estimated Final Cost	Existing Project Authority	Additional Authority Requested	Total Authority
£ 1,044m	£ 1,044m	£ 1,044m	£ none	£ 1,044m

### Authority Approval:

This paper requests that the Committee, under delegated authority from the Board, delegate to its Chairman authority to award a contract and grant Procurement Authority, including a P80 risk element, for the Northern Line Extension main works design and build contract.

### Outputs and Schedule:

To award a contract for the main works design and build for the Northern Line Extension. The works include the construction and commissioning of running tunnels, track, stations, power supply, station systems and passenger relief works at Kennington station.

The target date for the award of contract is 26 August 2014.

The commencement date for the extended service to Battersea is 31 December 2019.

- 1.1 On 27 March 2013, the Board approved submission of a draft Transport and Works Act Order (TWAO), seeking the necessary permissions to construct and operate an extension of the Northern line (NLE) from Kennington to a new station at Battersea Power Station (BPS) together with an intermediate station in south Lambeth.
- 1.2 On 6 November 2013, the Board approved Project Authority of £1,044m to deliver the NLE subject to the TWAO being granted. Additionally the Board approved the early acquisition of land required to implement the NLE scheme; authorised TfL officers and subsidiaries to negotiate third party agreements; and authorised the implementation of the NLE funding strategy.
- 1.3 The NLE project is not currently in a position to award the contract. It is proposed that there be a delegation to the Chairman of the Finance and Policy Committee to award the contract which is anticipated in mid August 2014.

## **2 Recommendations**

**2.1 The Committee is asked to note the paper and in accordance with authority delegated from the Board:**

- (a) to delegate to the Committee Chairman, in consultation with available Members of the Committee authority to:**
  - (i) grant Procurement Authority at the value to be advised; and**
  - (ii) approve entering into the main works design and build contract (“the Contract”); and**
- (b) subject to the Chairman granting the approvals described in paragraph 2.1(a) above, to:**
  - (i) delegate to the TfL Officers and the Subsidiaries (as described in paragraph 2.2 below) the authority to agree and finalise the terms of the Contract;**
  - (ii) authorise the agreement and execution (whether by deed or otherwise on behalf of TfL or any Subsidiary (as appropriate)) of any documentation to be entered into in connection with the completion and implementation of the Contract and any of the matters referred to therein (including, without limitation, all agreements, deeds, guarantees, indemnities, property or other licences, announcements, notices, contracts, certificates, letters or other documents); and**
  - (iii) authorise TfL Officers and Subsidiaries to do all such other things as they consider necessary or desirable to facilitate the execution and implementation of the Contract and the matters referred to therein.**

**2.2 The following Officers and Subsidiaries shall have delegated authority:**

- (a) TfL Officers: the Commissioner, Managing Director Finance, Managing Director Rail and Underground and General Counsel; and**
- (b) Subsidiaries: Subsidiaries of TfL including Transport Trading Limited and any other subsidiary (whether existing presently or to be formed) of Transport Trading Limited and any of the directors of the relevant company shall be authorised to act for and on behalf of that company.**

## **3 Programme Status**

- 3.1 The draft TWAO application was submitted on 30 April 2013 and a public inquiry took place during November and December 2013 to consider the proposals. The Secretary of State for Transport’s (SoS’s) decision on whether to grant the Order is expected by autumn 2014.**
- 3.2 A commercial agreement with BPSDC as to the funding and delivery of the NLE, and with the GLA and the impacted London boroughs, was reached earlier this year. Following receipt by BPSDC of bank consent to the commercial agreement**

with TfL (including a Funding and Delivery Agreement, Land and Works Agreement and Long Stop Payment Deed), that agreement became legally binding.

- 3.3 TfL's legal obligation to deliver rests on certain conditions precedent having been met, including a positive TWAO decision, a funding package being in place to meet the cost of the NLE (including the Enterprise Zone regulations having been laid), and BPSDC making a minimum level of progress in relation to funding and delivering the redevelopment of BPS. If the conditions are not met by a longstop date of 31 March 2015 then the BPSDC agreement is terminated. Therefore, the main works design and build contract contains a break clause prior to the commencement of the main works.
- 3.4 The SoS's TWAO decision will be given after the design and build contract is awarded. The award of the contract in August 2014 is designed to ensure that the 31 December 2019 in-service date for the NLE is achieved and to meet a commercially critical Stage 2 handover to BPSDC at BPS to facilitate the commencement of the over site development (both of which milestone dates are legal obligations of TfL under the arrangements with BPSDC).
- 3.5 A procurement notice was placed in March 2013, in the Official Journal of the European Union inviting expressions of interest to design and build the NLE main works. Four consortia were selected to tender. An invitation to tender (ITT) was issued on the 9 December 2013 and four tenders were received on 17 March 2014. Following evaluation, two preferred tenderers were selected on 9 May 2014 and progressed through to a negotiation stage.
- 3.6 The negotiation stage and identification of the preferred tenderer is scheduled for completion by 21 July 2014. A notification of contract award is scheduled for mid August 2014. Contract signature is targeted for 26 August 2014.

## **4 Main Works Design and Build Contract Procurement**

### **Strategy**

- 4.1 The procurement strategy for the main works delivery is to package the civils, tunnelling, stations, track and power works into a main works design and build contract, this is in the form of a single-stage NEC3 Option C contract, under a target price with a 50:50 pain/gain share mechanism.
- 4.2 The contract includes a step down provision on contract fees that limits additional contractor payments when the target cost is exceeded or if cost variations are agreed. London Underground has successfully employed this incentive approach for the Northern line upgrade works.
- 4.3 For assets not included in the design and build contract – including signalling, additional rolling stock and train-station radio – direct contracts will be placed either as variations to existing contracts, new contracts with existing framework suppliers or as completely new procurements, but the design and build Contractor will be responsible for co-ordination of the works.

## Schedule

4.4 The key procurement milestones are indicated in the table below.

Procurement Milestone	Date
Issue ITT	9 December 2013
Tenders Submitted	17 March 2014
Complete Tender Evaluation	9 May 2014
Select Two Preferred Tenders	9 May 2014
Complete Negotiation with Bidders	21 July 2014
Recommendation to Award to Chairman of the Finance and Policy Committee	Mid August 2014
Contract Signature	26 August 2014

4.5 Prequalification responses were submitted by six major construction consortia and following evaluation, a shortlist of four bidders was agreed in June 2013. The technical dialogue phase of the procurement commenced on 4 July 2013, with a series of structured sessions with the shortlisted bidders, the objective of which was to introduce cost efficiencies and innovative design and delivery proposals. The contractor engagement process entailed the following aspects:

- (a) the development of a base case design which satisfies the requirements;
- (b) the use of a confidentiality agreement to protect tenderers' intellectual property during negotiations;
- (c) extensive discussion with the supply chain about the requirements of the scheme;
- (d) tender evaluation by reference to the base case, looking for improvements; and
- (e) procurement based on the project requirements contained in work instructions as opposed to the pricing of a client design.

## Opportunities, Risks and Issues

4.6 The key opportunities, risks and issues related to the proposed procurement approach are indicated in the table below together with their effect, impact and available mitigations.

Description	Effect and Impact	Mitigation or Alternative
Opportunity – place contract before TWAO award and before conditions precedent to BPSDC agreements are met, with TfL at risk on costs	Provides the advantages described in 4.7 below.	Wait until the TWAO is awarded and/or conditions precedent are met or provision in contract for a break clause

Description	Effect and Impact	Mitigation or Alternative
Risk – The TWAO award embodies extensive and unexpected conditions	Potential scope, cost and time impacts	Break clause in the contract, TfL will bear cost of abortive work if it chooses not to proceed
Risk – The TWAO decision is delayed and/or conditions precedent satisfaction is delayed beyond long stop date	Re-work and programme delays with possible unwillingness of TfL to proceed at risk. Most likely delay two months with cost impact of £800k.	Set potential date for project stand down Break clause in the contract
Issue – There are changes to the BPSDC plans at Battersea	Layout of station alters, entrance point changes, need for revised structural support.	Detailed discussions with BPSDC to agree revised designs. Issue a planned variation to the preferred bidder post-award. Under agreements with BPSDC TfL will be held harmless to any cost/schedule impacts arising from a variation.

- 4.7 Awarding the main works design and build contract in advance of the TWAO decision (and before the conditions precedent to BPSDC funding are met) will help to mitigate significantly schedule risk relating to both the handover to BPSDC of the Battersea station structure and the NLE in-service date. It will also assist the project in securing access to essential design, tunnelling and construction skills in what is an increasingly competitive global market.
- 4.8 The public inquiry in support of the TWAO submission elicited much support for the NLE scheme. However, there remains a risk that onerous conditions may be applied to any Order given by either the Inquiry Inspector or the SoS, which could impact on the timing, scope of works or costs of the infrastructure design and build contract. The main mitigation against this risk is the inclusion in the main works design and build contract of a break clause intended to facilitate renegotiation should major scope or timing changes emerge.

## 5 Assurance

### TfL Programme Management Office (PMO) Stage Gate

- 5.1 An integrated assurance review (IAR) stage gate meeting was held by TfL PMO on 2 April 2014 to consider the arrangements put in place for the tender evaluation, the approach to risk, project management, governance and contract management. The services of an external expert were employed for the fact finding stage of the review.
- 5.2 The PMO findings relating to the tender evaluation identified that a well trained and resourced team is in place to undertake the tender evaluation.

- 5.3 Roles and responsibilities for controlling risk are clearly defined but the active risk register should be extended to include reputational and property risks. The NLE programme is managed in compliance with the TfL Pathway requirements with the need highlighted by the PMO report for a project level Pathway management plan for the main works design and build contract.
- 5.4 The contract management plans were found to be comprehensive.

### **Independent Investment Programme Advisory Group (IIPAG)**

- 5.6 The IIPAG advised at the 2 April 2014 review that the arrangements for programme delivery and the procurement of the main works design and build contract are achievable. IIPAG has noted that the tender evaluation process is robust. However, the timeline to the planned and July contract award date is a tight one. There remains some risk of minor slippage, this is being carefully monitored and a verbal update will be provided at the meeting. The IIPAG carried out a further review on 18 June 2014.

### **Management Response**

- 5.7 The project team has reviewed the recommendations emerging from the 2 April 2014 IAR and the IIPAG report. Detailed responses have been set out and actions implemented.

### **List of appendices to this paper:**

None

### **List of background papers:**

Board papers on 27 March and 6 November 2013  
Reports from the TfL Programme Management Office and the Independent Investment Programme Advisory Group and the management response to those reports.

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