

Thank you for the opportunity to provide evidence to the Economy, Infrastructure and Skills Committee on the development of the Wales and Borders Rail Franchise and South Wales Metro.

As a Chartered Civil Engineer and Director for the Civil Engineering Contractors Association (CECA) Wales I feel that this represents a hugely exciting opportunity to develop rail services across Wales, improve the economic prospects of Wales and to further opportunities for our members. We represent 60 of Wales' largest and smallest civil engineering contracting businesses with a cumulative annual turnover in excess of £1bn and employing over 6,000 people. These businesses play a huge part in supporting communities across Wales and make a significant contribution to the economic prosperity of our nation. Our members are also major providers of training and apprenticeship opportunities and, on a more fundamental level, it is our members who will build the infrastructure that our nation needs to prosper - including, most probably, the infrastructure associated with the Rail Franchise.

To avoid straying into too broad a review of the franchise and the expected service benefits to rail users I have largely confined my comments to :

- the procurement processes associated with the letting of the franchise;
- the procurement of infrastructure partners;
- risks associated with the procurement process;
- the opportunities for Welsh SMEs;
- the broader community benefits which could/should accrue from the investment in infrastructure eg supply chains, skills and training, local communities.

#### **The procurement processes associated with the letting of the franchise**

Transport for Wales, as the procurer of the franchise, has elected to pursue a procurement process for its Operational Development Partner (ODP) based on the competitive dialogue process. Given the complexities associated with this franchise this would appear to be a very sensible approach. It is a recommended process for contracts which are particularly complex and where a client or purchaser is unable to clearly define a technical solution (and/or financial/legal solutions) to meet their needs or objectives. The process is also helpful where greater market innovation is required as it allows the buyer and suppliers to share knowledge and expertise to deliver specific outcomes. Many would say it takes collaboration to a far more mature level where greater benefits can be achieved. Given the particular circumstances surrounding this franchise, the current pace of technological change, potential changes in customer/citizen expectations, continuing uncertainties over future responsibilities and the lessons learnt from the inflexibility of the previous franchise this approach, whilst open to certain risks, offers a practical and flexible way forward.

## **The procurement of infrastructure delivery partners (separate to the franchise)**

Whilst a competitive dialogue process is being followed to appoint an ODP (including a preferred infrastructure partner) this is unlikely to be appropriate for appointing other infrastructure partners to either support the “ODP infrastructure partner” to deliver the initial improvements or to be commissioned separately during the term of the franchise to deliver further improvements or maintenance work.

The proposal by TfW is that separate framework agreements (also referred to as “call off” contracts) be established with other infrastructure delivery partners for a range of services. These frameworks would also be open to those infrastructure partners bidding as part of the ODP process. This provides an opportunity for contractors based in Wales to directly engage with TfW to undertake works across Wales over the 15-year period. For these arrangements to be successful they need to be procured and managed in a collaborative manner following industry good practice and compliant with the Welsh Government’s Procurement Policy Statements. Forms of contract should be collaborative with the NEC form of contract providing a well-established template.

## **The risks associated with the procurement process for the ODP?**

Whilst the process of competitive dialogue would be considered appropriate in these circumstances the approach would not be considered “routine” and, as far as I am aware, has not been pursued previously in the UK rail sector. The obvious risk arising from this is that there is no previous experience to learn from. However, the approach has been used in other sectors and the process is relatively well understood.

In addition to the risk of being a “trailblazer” in this sector the following risks also need further consideration :

1. The availability of skilled personnel within the public sector to manage the process, particularly in the rail environment;
2. The ongoing uncertainty in areas such as :
  - a. the devolution of powers for the rail sector in Wales;
  - b. electrification of the mainline to Swansea;
  - c. the availability of suitable rolling stock;
3. Difficulties in estimating costs;
4. The relatively tight timescales.

### **1. Skilled personnel**

Given the significant demand for skilled personnel in the rail sector plus the specific procurement expertise needed in this area the resources available to TfW need to be carefully scrutinised to ensure that agreed timescales are maintained and value for public money is delivered. Their current establishment appears “light” although it is recognised that they have some experienced and competent individuals in place. However, serious consideration should be given to strengthening the TfW team with “contracting” expertise to support assessment of “buildability” of any proposals from the potential franchisees, to commercially assess risks and to quality assure/reality check cost proposals (to avoid unrealistic budgeting).

### **2. Ongoing uncertainty in a number of areas**

There are a number of fundamental ongoing uncertainties with this project which need to be brought to a conclusion quickly if the process is to continue. TfW is unlikely to be able to fully

control these uncertainties and is probably highly dependent on the cooperation of others to address them.

The potential impacts on Network Rail arising from the considerable changes which will arise from this project (loss of control, authority, influence, etc) could, if not sensitively managed, create a culture of non/limited cooperation which may impact timescales and costs.

Uncertainty over future investment in electrification of the main line to Swansea will make it difficult for potential franchisees and TfW to plan ahead/make effective decisions particularly in terms of rolling stock.

### 3. Difficulties in estimating costs

Projects of this scale and nature are often susceptible to cost differentials and the complexity and risk associated with this project will need careful management and constant scrutiny. As mentioned in point 1 I feel that consideration should be given to introduce a “contractor” presence within the TfW team to support assessments of “buildability” of any proposals from the potential franchisees, to commercially assess risks and to quality assure/reality check cost proposals (to avoid unrealistic budgeting).

### 4. Timescales

The process for competitive dialogue is essentially based on 4 key stages :

- Pre-qualification stage - to identify a “select list” of potential bidders
- Invitation to dialogue - to develop a shortlist of bidders
- Invitation to continue to dialogue - to refine the shortlist
- Final tender - to identify the preferred bidder

However, considerable resource is needed early in the programme, particularly during the dialogue stages, to ensure that bidders proposals are adequately scrutinised. This risk follows on from the availability of skilled personnel and ongoing uncertainties/indecision. Timescales are likely to be compromised unless both issues are addressed.

Note. There is less risk associated with the procurement process for other infrastructure delivery partners (outside the franchise arrangements) as the procurement proposals are well understood and practiced. However, as mentioned throughout this correspondence it is important that arrangements be progressed on a collaborative basis utilising good industry practices.

### **The opportunities for Welsh SMEs - through “sensitive” procurement**

As this project progresses we would hope to see significant opportunities for Welsh suppliers both in infrastructure and other sectors. We would hope to see the principles set out in the Welsh Government’s Procurement Policy Statements fully applied and would recommend that this be reviewed in the context of the construction sector.

CECA Wales and its partners across the UK recently produced its “CECA Procurement Report - Directions in Policy for the UK Construction Sector” which we have shared with a number of major infrastructure clients across Wales. The report contains recommendations for improving the procurement process which continues to be far too bureaucratic and costly across the UK.

We would be very happy to share this with the Committee and with TfW with a view to influencing better outcomes for Welsh SMEs from this process.

**What are the wider benefits we should expect to see?**

A range of broader community benefits could/should accrue from the investment in infrastructure eg growing supply chains, extending skills and training opportunities, direct benefits to local communities and employment opportunities for disadvantaged groups. Whilst the Welsh Government's Procurement Policy Statements and associated guidance set out how much of this can be achieved there is an opportunity, via this project, to develop a multi-agency approach to properly coordinate activities. This should be established in advance of any contract awards to proactively support those delivering infrastructure to maximise these wider benefits. It should not be seen by TfW or the successful ODP as a means of transferring these responsibilities down the supply chain - otherwise the full benefits will be lost.

We would like to see greater engagement of the civil engineering contracting sector by TfW in assessing the implications for the procurement process from the Wellbeing of Future Generations Act. This could take the form of a joint workshop involving Welsh Government officers, TfW, the civil engineering contracting sector and the Future Generations Commissioner to test opportunities via the procurement process.

**Wider concerns**

A further concern which needs to be considered relates to the longer-term liabilities associated with the existing infrastructure assets, particularly if TfW adopt the Infrastructure Manager role from Network Rail. The rail network in Wales, and the Valley Lines in particular, are very old and it is probable that maintenance expenditure on many assets in Wales will have been reduced in anticipation of potential capital improvements to these assets. To avoid acceptance of unintended liabilities recent levels of rail funding in Wales should be examined to see if this is the case and appropriate budgetary adjustments should be made/sought to compensate.

I trust that these views and observations are helpful to you and your Committee but please contact me should you wish to discuss these matters in greater detail.

Yours sincerely

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**Director, CECA Wales/Cymru**