

## 5. COMMERCIAL CASE

### INTRODUCTION

This section provides evidence on the commercial viability of the proposed package of interventions, the requirement in terms of outputs and the procurement strategy that will be used to engage the market.

The key points from the Commercial Case are as follows:

- All aspects of the TCF programme are commercially viable.
- The elements of the TCF programme have a clear set of outputs, all of which will help accelerate planned economic growth and improve productivity across the SCR through targeted investment in public transport and active travel connectivity, particularly in areas of transport poverty.
- A range of alternative approaches to procurement have been considered but is thought preferable that the majority of the interventions within the TCF programme will be delivered by the South Yorkshire Local Authorities and SYPTE, with Northern Rail procuring the improvements at local rail stations.
- Each procuring authority has identified a preferred procurement route, with an alternative if needed, making use of existing arrangements where possible.

### COMMERCIAL VIABILITY

The schemes within this TCF programme are all commercially viable as the SCR, SYPTE and the South Yorkshire Local Authorities have considered whole life costs during the development of the programme and the production of scheme costs. The scope of the individual schemes included within the programme have been tailored to ensure that it is entirely deliverable within the timescales within which funding is available.

Approval has been sought from each of the individual authorities to the stated local contributions and each has also confirmed an acceptance of responsibility for meeting any ongoing revenue and capital requirements for the elements of the programme.

The TCF programme predominantly comprises new or upgraded transport infrastructure that will be maintained by the relevant local highway authority once constructed. There are no other ongoing costs that will affect the commercial viability of these improvements.

There is planned investment in new and expanded park and ride facilities at Parkgate and Magna. The work done to support this SOBC by SYPTE that indicates the improvements can be commercially viable given existing latent demand and likely attraction of additional users to the tram-train service.

Some of the bus priority measures within the TCF programme will benefit commercial bus operators in terms of reduced journey times and improved reliability of services. This should have the effect of reducing bus operating costs for services using the facilities, as well as increasing passenger numbers and revenue. Previous investment in such facilities has

shown this to be the case, but it is often difficult to attribute specific commercial returns in isolation.

The main commercial bus operators have been involved in the preparation of this SOBC and their input will continue as the design process moves forward. At the appropriate time, SCR and SYPTTE will discuss with bus operators to determine whether and how commitments to complementary improvements, such as new vehicles, improved service levels and reduced fares, could be delivered. This will be done through the existing bus partnership arrangements, which requires any savings made by the bus operators as a result of public sector investment to be re-invested in services within the SCR.

A separate assessment is being undertaken to confirm the commercial viability of the low emissions bus trial that is part of the TCF programme, but as this is a trial, should the return on investment envisaged not materialise, then there will be no ongoing liability.

Northern Rail as Station Facility Owner (SFO) is responsible for operation and maintenance of the rail stations across the SCR. It is party to various existing contracts to execute these obligations and the expectation is that the station enhancements planned in the TCF programme would be added to this portfolio, offset by the increased revenue from an uplift in patronage. The improved facilities would then become part of the baseline asset register for the next Northern Rail franchisee and SFO.

No specific market engagement has yet taken place on the SCR TCF programme, but given the nature of the works involved, there is expected to be a good level of market interest given previous experience of schemes of the type included within the programme.

## OUTPUT-BASED SPECIFICATION

The anticipated outputs from each of the interventions within the preferred TCF programme are set out in Appendix D, and these will be refined and updated as more design work is undertaken. At a high level across the SCR, the consolidated outputs of this programme are:

- XXkm of improved walking and cycling infrastructure
- XXkm of new walking and cycling infrastructure
- XXkm of new infrastructure to benefit buses
- XXkm of new bus lanes
- XX junction improvements to benefit non-car modes
- Improvements to the facilities at 13 local rail stations
- Deployment of XX low emission buses for the period of the TCF programme.

As noted in the Strategic Case, the overall aim of the TCF programme is to promote a series of interventions that contribute towards the SCR's objective to improve intra-city region connections that either:

- Connect areas of deprivation/transport poverty to areas of economic opportunity by public and sustainable transport modes; or
- Seek to achieve significant mode shift away from the private car on key corridors that could stifle future growth ambitions.

The planned economic growth in the SCR can be accelerated through targeted investment in public and sustainable transport connectivity. The TCF programme will improve the speed and reliability of existing journeys on sustainable transport modes, encourage journeys to

switch from the private car to sustainable modes and encourage new journeys to be made using those modes.

The overall outcomes of the TCF programme are described in the Economic Case and are aligned to the Measures for Success set out in the SCR Transport Strategy.

## PROCUREMENT STRATEGY

The preferred TCF programme involves seven partners – SCR, SYPTE, the four South Yorkshire Local Authorities and Northern Rail, where there are works at local rail stations. Bearing in mind that each of these partners has their own existing procurement procedures, the establishment of a robust procurement strategy for the TCF programme was the subject of a discussion at the TCF Programme Board in September 2019.

To inform the discussion, each procuring authority (except for Northern Rail) outlined their current position, and it was evident that there is a variety of existing arrangements in place. Although there was considered some merit in exploring ways to let joint framework contracts to help deliver projects across the SCR in the future, such contracts are unlikely to be operational in time for the TCF programme, hence the need to establish a strategy that takes account of the existing arrangements, but sought to provide clarity and certainty within the delivery process and minimise the identified risks.

SYPTE will be responsible for procuring the rail elements of the TCF programme including the number and scope of individual contracts, budget, cost control, programme and relationship management with Northern Rail as SFO. Since the station improvements are largely similar to works undertaken across the network it has been agreed that it would be more efficient to procure individual work packages utilising Northern Rail's existing framework-type arrangements.

SYPTE will also managed the interface between the works at the station and the works undertaken by each Local Authority on the approach to the station.

Therefore, the remainder of the procurement strategy covers the active travel and (non-rail) public transport interventions only.

Establishing a common procurement strategy also needs to be mindful of SCC's current PFI contract with Amey Hallam Highways. Depending on the scope and scale of the works, this could preclude other contractors working within the City without a separate procurement procedure (adding time and cost to any contract), and it is unclear whether the existing arrangement could varied efficiently to allow Amey Hallam Highways to work within other South Yorkshire Local Authorities.

On this basis, the six remaining partners first discussed the options for procuring the necessary design work to progress the interventions within the TCF programme. Given the experiences to date in progressing the designs of individual schemes within the procuring authority responsible, and also with regard to the ability of each authority to call on external support and resources, it was agreed to retain the existing approach for the procurement of the design services through the detailed design and contract preparation stage. This will see the use of both in-house and external resources, the latter being either retained through a framework or procured on a needs basis, as has been done by SCC for the design work to date.

In terms of scheme delivery, the review of procurement options was first discussed in relation to two dimensions in particular:

- Who would be the 'client'? and
- What is the contract scope/length?

It was felt that by exploring these issues, a preferred procurement strategy could be developed.

The options for the 'client' were identified as:

- Each procuring authority individually
- Groups of authorities on a route/corridor basis, or by geographical connections
- All procuring authorities collectively, with a single accountable body
- SCR, on behalf of all procuring authorities.

Although it was acknowledged that either of the latter two would be the most simple, and likely to be preferable to the DfT, current legislation would require various Section 278 Agreements to be in place where other authorities (or SCR) were letting and managing contracts in locations where they were not the local highway authority.

Such a restriction would apply to all but the first option, with the added complication of SCC's existing PFI contract, and was felt to result in an unnecessary layer of administration and agreements that could offset the planned delivery of the scheme. Hence, the agreement from the TCF Programme Board was to pursue the first option, but with the possibility of retaining the second where an overall joint procurement exercise would be better value for money.

In terms of the scope and length of the contract, the following elements were discussed to determine which option best suited the needs of the TCF programme and with a mind to the contracting arrangements with the SCR that would be needed:

- On a corridor basis
- On a geographical basis (by each local highway authority area)
- On a theme basis (by active travel/public transport)
- On a time basis (Year 1, Year 2, Year 3 and Year 4)
- On a value basis (relating to each individual intervention)
- On a whole programme basis.

The advantages and disadvantages of each were discussed, with the key factor being the need to balance the timely delivery of the TCF programme with the drive to maximise efficiency, whilst mindful of existing arrangements. It was agreed, however, that there was an advantage in streamlining the management of the programme delivery and providing the opportunity to reduce the number of contracts and contractors involved.

As a result, the preferred procurement strategy is based on division by a balance of a theme and geographical basis. This mirrors the approach taken on other funding bids with the DfT and other Government departments and will be underpinned by back-to-back agreements between the SCR and the South Yorkshire Local Authorities.

All contracts will be let in line with SCR's, SYPTe's and the South Yorkshire Local Authorities' standing orders to ensure that best value for money is delivered. Evaluation and award of contract will most likely be made on the most economically advantageous tender received by the procuring authority. Every attempt will be made to co-ordinate evaluation

criteria across different authorities by sharing such criteria (and adapting if necessary) before any contracts are awarded.

All tendered contract packages will be let in accord with the contract procedure of the authority letting the contract or the procurement route for any schemes over the OJEU threshold (if this still applies after the UK leaves the EU) will be via the YORCivils framework. As in many cases the design of an individual scheme will be straightforward, a more typical client/designer and contractor/constructor relationship will be deployed. Procurement of larger schemes could be on a design and build basis using the NEC form of contract.

The NEC suite of contracts are well understood and are a tried and tested set of contracts used on large scale construction schemes. In addition, the implementation of NEC contracts has resulted in major benefits for projects both nationally and internationally in terms of time, cost savings and improved quality. The recent update to the NEC4 suite of contracts from NEC3 reflects procurement and project management developments and emerging best practice, with improvements in flexibility, clarity and the ease of administration.

Further details on the approach to procurement are provided in the following paragraphs.

#### *Active Travel Schemes*

Delivery of the works in **Barnsley** will be considered under the terms of the Council's contract procedure rules to ensure best value for money in terms of cost, quality of work and actual delivery timescales to maximise expenditure.

This will include a combination of the following (depending on the nature of the works and the availability of resources):

- The procurement of the works via the YORCivils framework contract which has already been established and complies with OJEU regulations, allowing the Council to minimise the procurement timescales once approval for a scheme is granted – appointment will be on the most economically advantageous bid
- The delivery of the works being provided in-house by Barnsley Metropolitan Borough Council (BMBC), subject to approval by the Executive Director of Place, and if so, subject to value for money considerations, progress all works.

In **Doncaster**, the majority of the work is likely to be carried out by Doncaster Council Officers – this includes design, feasibility and delivery of the works. If required, contractors will be procured via framework community partnering arrangements for the works, initially in an ECI role (for design development/buildability input and to maximise value engineering opportunity and help develop robust baseline programme and cost data).

In **Rotherham**, the majority of the works will be also undertaken by RMBC's in-house Highway Delivery Team. The costs associated with the Highway Delivery Team have been commercially tested and offer value for money compared to other similar organisations. However, the Council is a member of the Midlands Highway Alliance Framework which enables the appointment of design and construction contracts. If there are any issues with design or delivery, the Council can utilise this framework to procure services. This framework builds on previous experience and includes a series of KPIs to ensure that the contractor performance is constantly revised and fed back into contractor selection models. Contractors are therefore incentivised to continue to deliver schemes on time and within budget. Membership also gives access to a professional services framework contract for design services.

In **Sheffield**, SCC has an existing competitively tendered highways PFI contract with Amey Hallam Highways that contains two different types of service 'core' and 'non-core'. 'Core' works cover the investment and maintenance in highway infrastructure. 'Non-core' works cover the design and construction of capital works for both highway and off-highway schemes. Amey will be engaged under the 'non-core' element of the contract for schemes that are below OJEU threshold as this is the fastest route to delivery as the need to tender the works is negated. For works over the OJEU threshold, works will be tendered through existing framework arrangements, such as the YORCivils framework.

### *Public Transport Schemes*

The public transport schemes will be delivered in a similar way to the recent successful Better Bus Area (BBA) Fund schemes, where design has been undertaken 'in house' and construction awarded to Amey under the (non-core) PFI contract and integrated into ongoing work with the South Yorkshire bus partnership arrangements. The details for delivery will vary depending on the type, size and location of the scheme. For larger schemes this will include:

- The use of consultants for design from existing frameworks where there is no in-house capacity
- Competitively procured works contractors or as noted above in Sheffield, the current PFI contractor Amey Hallam Highways where schemes are classed as 'non-core' elements of the existing PFI contract.

For smaller schemes the current process for dealing with South Yorkshire Bus Partnership works will be used (for example, hotspot groups in each Local Authority area).

The relevant bus and train operators will be involved in the Project Teams, as set out in the Management Case.

The low emission bus trial element of the TCF programme will require more bespoke contractual arrangements – these are being designed in discussion with SYPTTE's Legal Department.

### *Consequences*

As a result of the preferred procurement strategy, it is currently envisaged that there will be around 30 separate contracts to deliver the interventions within the TCF programme over the four year period. As this TCF Tranche 2 bid is being submitted by SCR, there will be back-to-back funding arrangements and contracts put in place with each of the relevant procuring authorities. This is similar to the process for the LGF programme and so is already well understood.

Whilst it is acknowledged that this is not a particularly straightforward procurement strategy (such as one contract for the whole of the programme), it is hoped that the DfT appreciate that the TCF programme is significantly different to a single road or public transport scheme, and hence the procurement strategy has been developed to suit the particulars of the programme and the local circumstances in the SCR.

There is a need for time, cost and quality issues to be managed and their inevitable tensions balanced as part of the implementation of the preferred procurement strategy. The strong governance arrangements that are set out in the Management Case have been designed to address this potential issue.

## RISK ALLOCATION AND TRANSFER

The construction contracts will include clauses to facilitate the transfer of appropriate risks from the procuring authority to the contractor, such as risks associated with construction costs increasing above those predicted in the Financial Case.

The scheme costs currently include a level contingency associated with risk, following the Quantified Risk Assessment, the outcome of which is described in the Management Case. At this stage of the development of the TCF programme and prior to the appointment of contractors, the cost estimate contains a greater proportion of risk borne by the SCR and its partners than will remain after the contractor appointment. The risk of the final scheme costs being higher than currently predicted remains until the tendering process is complete, at which point this risk can be transferred to the relevant contractor.

## HUMAN RESOURCES ISSUES

No significant human resources issues have been identified that could affect the deliverability of the SCR TCF programme, although it is recognised that it has a considerable human resources requirement, across the SCR, SYPT, South Yorkshire Local Authorities, the design teams and the contractor teams. At this time, resources have been identified to deliver the TCF programme, but the resource requirement will be kept under review by the TCF Programme Board and, if necessary, additional resources brought in, particularly in the area of programme and project management.

It should be noted, however, that the SCR retains an in-house programme and project assurance capabilities to guide the process centrally and ensure that the Senior Responsible Owner (SRO) will be in control of delivery and risks throughout the delivery process.