

<b>Meeting:</b>	NuLeAF Steering Group, 21 October 2011
<b>Agenda Item:</b>	7
<b>Subject:</b>	NDA Strategy for Contracting, Competition and Supply Chain Development
<b>Author:</b>	Fred Barker
<b>Purpose:</b>	To report on representations about the nature of contracts to be let by Sellafield Ltd

## **Introduction**

This report provides an overview of:

- NDA strategy for contracting, competition and supply chain development;
- representations about the nature of contracts to be let by Sellafield Ltd; and
- the outcome of an NDA workshop on Small and Medium Enterprise (SME) access to SLC contracts.

## **Recommendation**

That the Steering Group consider what further initiatives it may wish to take.

## **Contribution to Achieving Strategic Objectives**

NuLeAF does not currently have a strategic objective that relates directly to this issue.

## **1 NDA Strategy**

The objective of the NDA's strategy on contracting is: "to secure and manage effective and efficient procurement contracts which are affordable, provide value for money and deliver the NDA's mission through appropriate incentivisation."

Contracts for the procurement of goods and services currently account for more than 95% of the NDA's annual expenditure. The highest value contracts are the multi-billion pound Parent Body Organisation (PBO) contracts. The PBOs are employed to manage the Site Licence Companies (SLCs) on NDA's behalf. NDA categorises the PBO contracts as 'strategic critical', which it characterises as high value and high risk, "requiring complex, innovative and bespoke contracts with intensive lifecycle contract management".

The objective of the NDA's strategy on competition is: "to bring the best capabilities the market has to offer, at the best price, to deliver our mission."

The PBO competition strategy includes the following:

- a staggered and open competition programme;
- an SLC contract model which protects develops the capability and independence of the SLC but allows a PBO to provide direction, leadership and management through ownership;
- competitions and contracts designed to attract suppliers who will work in partnership with the NDA; and
- an appropriate and progressive transfer of risk to the private sector.

To date, NDA has delivered LLWR and Sellafield competitions and the Dounreay competition is underway. Remaining competitions are programmed to start by the end of 2012.

Sitting underneath the PBO/SLC contracts, the SLCs are then responsible for letting contracts to what are known as Tier 2 contractors, who in turn can contract to other companies including, in principle, SMEs (defined as companies with 250 or less employees).

In the context of the contracting and competition strategies, NDA also has the following supply chain development objective: "to optimise the NDA supply chain to develop an affordable, cost-effective, innovative and dynamic market to deliver our mission." NDA strategy states that a "vibrant supply chain is vital to secure value for money, reduce risk and optimise delivery of our mission".

## **2 Representations about the Nature of Contracts to be let by Sellafield Ltd**

In the summer, NuLeAF's attention was drawn to the nature of the Tier 2 contracts to be let by Sellafield Ltd, the SLC for the Sellafield site. These contracts are divided into a small number of very high value long-term contracts that would exclude all but a small number of very large companies or consortia from competing. Other players - particularly SMEs - would then have to pursue a difficult path of winning smaller scale contracts from these large-scale players, arguably with limited prospects for success and reduced prospects for beneficial local socio-economic impacts.

On the authority of the Chair and Vice Chair, a letter was sent to DECC on 12 August, outlining this concern, and requesting clarification of how it may be possible to reconcile this approach with Government commitments to increase the proportion of public sector work carried out by SMEs, and with EU procurement policy that seeks to enhance, rather than restrict, SME involvement in public procurement.

DECC replied on 7 September, stating that NDA recognises the need to respond to the Government's aspiration for wider access for the SME community. It added that:

“Government supports the steps that the NDA have undertaken to improve SME involvement, specifically, a survey was completed ... on how the Tier 2 contractors employed by SLCs use the SME community. This highlighted the importance that SMEs have to the Tier 2 community, the SLCs and indeed NDA.

A workshop was held (July 2011) attended by the NDA as sponsors, the SLCs as the contracting authorities, and the major Tier 2 contractors who are the direct clients for the SME contractors. That workshop concluded that there are a range of potential activities that could be introduced to support the aspiration for wider SME opportunities. A further workshop has been arranged for 15 September, this time targeted specifically at the SME community. The objective of this workshop is to hear first hand what the SME representatives believe are the issues and potential solutions, and then hopefully to align those into a series of activities to meet the various aspirations.

If these workshops deliver as expected, then the result will meet not only Government's aspirations, but also deliver tangible improvements to enable the SME community to access the whole NDA estate from Dounreay, to Dungeness and Sizewell to Sellafield. This will increase SME access to the £1.36 billion per annum of NDA estate wide expenditure and will offer significantly greater opportunities for the SME communities in these areas.”

In his capacity as Cumbria County Council Cabinet member for Transport and the Environment, NuLeAF's Chair, Councillor Tim Knowles, has also written to the Chair of the Parliamentary Select Committee on Public Administration, setting out a case for examining whether Sellafield Ltd's procurement policy is likely to generate the best value for UK taxpayers.

In his letter to the Chair of the Select Committee, Councillor Knowles pointed out that the situation in the publicly funded nuclear sector is similar to that outlined in the Select Committee's recent report on “Government & IT – ‘A Recipe for Rip Offs’”. The summary to that report states that: “We found that Government is currently over-reliant on a small ‘oligopoly’ of large suppliers, which some witnesses referred to as a ‘cartel’. Whether or not this constitutes a cartel in legal terms, current arrangements have led to a perverse situation in which governments have wasted an obscene amount of public money.”

Councillor Knowles added that:

“Tender documentation currently includes no socio-economic criteria to encourage SMEs locally or nationally to apply for contracts. I am concerned that very substantial contracts could be lost to large National and International corporations further consolidating the nuclear sector supply chain and reducing the prospects for new start activity – particularly in this region. There seems little effort to “...widen the supplier base by promoting fair and open competition and engaging with innovative SMEs...” as you have recommended for the IT industry. SMEs will be left to compete for smaller scale contracts from another small ‘oligopoly’ of larger scale players, not dissimilar to that within the IT industry which you have described.”

I have challenged Sellafeld Ltd’s procurement policy but the Company cites in their defence the need to comply with EU legislation. I am not convinced that Sellafeld Ltd’s procurement policy is required by EU competition law and I am certainly not convinced it is in the interests of the UK or its business community. I also note that Frances Maude, in evidence to your Committee, stated that ‘...there was a presumption that no projects should have a lifetime value of more than £100 million although this is still large by international standards.’ The contracts that Sellafeld Ltd is currently processing are between £1bn – to £4bn, and total £8.5bn, all scheduled to be let by the end of 2012.

Given the levels of public funding that currently supports the UK nuclear decommissioning and clean up task, I believe that there is a case for examining whether Sellafeld Ltd’s procurement policy is likely to generate the best value for UK taxpayers.”

### **3 Outcome of the 15 September SME Workshop**

The workshop and outcome is reported on the NDA website at [New measures to support smaller businesses](#). The NDA’s coverage includes the following points:

- The workshop was attended by around 60 delegates representing a range of organisations including the NDA, SMEs, business support groups, Site Licence Companies (SLCs) and some Tier 2 contractors.
- Discussion focused around the challenges facing SMEs wishing to access decommissioning opportunities including geographic limitations, difficulties of competing against existing relationships, lack of manpower resources for lengthy tender processes, complex and time-consuming nuclear protocols, regulatory procedures and impenetrable nuclear language.
- Delegates developed a series of principles covering the use of SMEs and went on to suggest a wide range of possible improvements.
- Among the suggestions were: a standardised, transferable pre-qualification questionnaire for the estate; a single web portal containing providing information on tender opportunities, future procurement plans, guidance on procedures, contact details, etc; possible formation of an SME board; a cross-estate supply chain event; further workshops; and a web-based questionnaire to further seek views of SMEs.

- Ron Gorham, the NDA's Head of Supply Chain Optimisation, said: "We were pleased to hear a wide range of views expressed by SMEs at the workshop, we acknowledge that some of the frustrations of working in the decommissioning sector, but I was extremely impressed at the positive suggestions that came forward. We all need a healthy supply chain as our suppliers are key to delivering the clean-up and decommissioning mission. The SME community has specific needs but suggested possible interventions look as though they will deliver benefits to all and hence improve the attractiveness of the civil nuclear sector but also provide a vital springboard to other nuclear work regionally, nationally and internationally."
- The NDA, along with its Site Licence Companies, main contractors and Small and Medium Enterprises (SMEs) will be developing practical measures over the coming months. Volunteers are now being sought to assist with work on the practical design of some of the initiatives.