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1. Main aspects of Risk, Safety and Procurement

- 1.1. Translink must ensure that the Procurement Process includes aspects of safety and this complies with the Translink the Safety Management System. This Standard is in relation to all Contractors and suppliers (Contractor(s)) and in particular those Contractors entering Translink property for the purposes of carrying out specialist work on behalf of Translink.
- 1.2. The performance of Contractors is within the scope of safety monitoring and auditing processes and as such the responsibility for managing Contractors in the area of safety falls directly under the remit of the person accountable for the contract management in the Project Sponsors area, this is usually the Accountable or Senior Person responsible on the site.

2. Definitions

Accountable person: For the purposes of this paper this will mean the Project Sponsor, Accountable Person or his/her nominated deputy.

3. Risk associated with the Use of Contractors

- 3.1. Translink recognises the potential risks that can be imported by the employment of Contractors, and seeks to control these risks by the implementation of robust Procurement Standards. It is Translink's policy to employ only pre qualified Contractors who can demonstrate both in theory and practice that they meet, understand and manage their business to the standards set for the company as a whole.
- 3.2. A Contractors use of subcontractors: Ideally the responsibility of the main Contractor for the work that is done by its subcontractors will be no different from that which the main Contractor accepts when using its own employees to carry out the work. It should be noted that it must be expressly stated in the contract if Translink would like to prevent the main Contractor from subcontracting parts of the contract.
- 3.3. The greater the extent of subcontracted work the greater the risks will be in the performance of the contract. Translink conditions should always state that the Contractor will ensure that subcontractors must comply with all the internal policies of Translink (this is usually listed under the condition of Personnel). The conditions should also state that the Contractor is responsible for performing the contract as if he had not subcontracted it at all and that the contract will apply as if the subcontractor's employees and equipment were the Contractors.
- 3.4. Translink may from time to time wish to standardise the use of subcontractors in its supply chain. In order to accomplish this Translink may insert a contract condition which prevents subcontracting out any part of the contract without the prior consent of Translink.

4. Translink's safety related arrangements for the selection & management of Contractors includes:

4.1. Request for Contract Action (RCA) and new supplier set up for low values

- 4.1.1. The completion of a RCA Form by the Accountable Person establishes the main areas of risk and insurance cover associated with a particular contract in a project. This form identifies if the contracted supplies, works and/or services in a project are classed as

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safety critical or safety related. The Accountable Person must also highlight any legislative requirements over and above those specified in the Health and Safety at Work Order (NI) 1978 and associated regulations or Translink Divisional Standards and Procedures that will apply to the work. The Accountable Person must ensure these are included from the outset when starting the pre-qualification process.

4.1.2. Part 1 of the Pre-Qualification Questionnaire is a New Supplier Set Up form, this form is used to set up suppliers on the Agresso system. The form can act as a check on the required insurances and business standing of Contractors that supply items which are not procured through the full tendering process and therefore escape the need to complete the entire PQQ. The Accountable Person must approve that the content on the form is adequate to ensure that Translink's risk is kept to a minimum in relation to their requirement.

4.2. Pre-Qualification Questionnaire (PQQ)

4.2.1. The Purchasing Department provides a process of assessment on supplier competence to undertake the work, based on an evaluation of their previous performance and safety record amongst other areas. The use of a PQQ as a selection tool is an established method for highlighting safety issues for examination. At this stage the Contractor must demonstrate that they hold the required insurances and competency to carry out the requirement. For example it may be a mandatory requirement of any resulting contract that the Contractor's staff on site hold a Personal Track Safety Certificate for work on or near a railway and therefore compliance to this must be checked at the outset of a tendering process.

4.2.2. **Insurance** – Employers' Liability Compulsory Insurance (ELCI) It is a legal obligation on employers to insure against the costs of providing compensation for those employees who are injured or made ill at work through the fault of the employer. The sum insured must be at least £10 million. The client should ask to see a copy of the EL insurance policy and a copy of the certificate of insurance that the employer is required to display in the workplace under the Employer's Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972. The other insurance levels and any limits on liability should be determined by the nature and location of the work. For further information please refer to the CPD guidance on Liability in Government Contracts.

4.2.3. At PQQ stage Translink must have a formal Tender Assessment Panel in place with a minimum of 3 qualified members. Where appropriate either the Corp HSE Manager or Divisional Safety Manager should form part of the Panel. This will be to establish if the Contractor has demonstrated in the PQQ response that the arrangements they have in place comply with relevant legislation, Railway & Bus Standards, Translink's operating procedures, emergency procedures, and relevant work site rules.

4.3. Invitation to Tender (ITT) & Tendering stage

4.3.1. At ITT & Tendering stage the selection of competent Contractors will be through formal Tender Evaluation Panels consisting of a minimum of 3 qualified members who will make an assessment on the level and control of risk associated with each Tenderer. Where appropriate either the Corp HSE Manager or Divisional Safety Manager should form part of the Panel. At Tender stage the ITT must be structured to ensure that Tenders received demonstrate arrangements for safe systems of work & proof of adequate insurance cover is in place.

4.4. Master Contract drafting and acceptance

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4.4.1. Translink's Purchasing Department will support the Accountable Persons to ensure that processes are in place for the management of Contractors in relation to safety through the Master Contract. For example clarifying site access procedures, alcohol and drugs policy, applicable 'due diligence' checks of Contractors by Translink especially in the area of Quality Control process & procedure and monitoring of Contractor performance, including safety records.

4.4.2. Translink's Accountable Person should brief the Contractor on their role in the event of an emergency before they commence any work on or near to parts of an operational railway, or in bus yards or other Translink properties in accordance with the appropriate Translink or Divisional Standard and Procedure.

4.4.3. It should be included in all relevant contracts that Contractors undertaking work at Translink should be in possession of a permit to work. Regular management safety checks of Contractors should be carried out by the Accountable Person for the contract in the Project Sponsors area. This will help to ensure that the Contractors are complying with the requirements of the contract.

4.4.4. Translink recognises that interfaces can exist with a significant number of other organisations and Contractors. Additional co-ordination of these bodies may be required if interaction between them is very high and could impact on safety management, in this situation the contracts may require a Joint Working Agreement to be added.

4.5. Contract Management, changes and amendments

4.5.1. The Accountable Person should monitor the effectiveness of risk control arrangements through reviewing safety performance, comparison with targets, and consideration of additional controls that may be required as a formal amendment to the Master Contract.

4.5.2. When a change is required to a Master Contract the Accountable Person for the contract management in the Project Sponsors area should ensure that proposed changes and their impact on safety is fully assessed before implementation. It is the responsibility of the Accountable Person that the latest version of the Translink or Divisional Standards and Procedures are used. Any additional control measures put in place must be recorded by a formal amendment to the Master Contract to reflect these changes.

4.5.3. Translink and in particular the railway environment are highly regulated. Standards and procedures play a central role in achieving and maintaining the safety of the railway and bus operations. This means that changes to required standards or new ones can from time to time be introduced. It is the responsibility of the Accountable Person that the latest version of Translink or Divisional Standards and Procedures are used. If a change in regulations or standards impacts upon a contract the Accountable Person must ensure that a formal amendment to the Master Contract is conducted to reflect these changes and ensure Contractor compliance to the new or amended regulations/standards.

4.5.4. It is the responsibility of the Accountable Person to ensure the required documentation is provided to the Purchasing Department to support formal contract amendments.

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4.6. Default on Terms and Conditions of Contract

4.6.1. In the event that a Contractor is defaulting on their contractual obligations and in particular their safety obligations to Translink the Accountable Person must immediately send a written record of this default to the Purchasing Department highlighting the safety related nature of the default. The Purchasing Department will then seek to take immediate corrective action with the Contractor.

4.7. Emergency contracting by the Purchasing Department

4.7.1. Pressures of urgency will inevitably be brought to bear on Purchasing staff in crisis situation(s) and it is important to ensure that other members of Translink do not overstep their authority and unwittingly commit Translink or unnecessarily weaken its negotiating position.

4.7.2. It is important from the outset of the emergency a common sense **team** approach is taken and it must be recognised that early consultation with all staff **but particularly with Purchasing Staff**, can achieve a quick conversion of requirements into formal and **properly negotiated** contracts that can enable safety to be considered during the times of an emergency.

4.7.3. Purchasing staff shall act appropriately given each situation without rigid application of normal contractual procedures where these can be relaxed without undue risk.

5. **RELATED DOCUMENTS AND FURTHER READING:**

5.1. CPD Guidance note: 01/06 OGC Guidance Liability in Government Contracts.