



Accounting Officer Memorandum

Glen Parva Operator Competition – Outline Business Case (OBC)

It is normal practice for accounting officers to scrutinise significant policy proposals or plans to start or vary major projects, and then assess whether they measure up to the standards set out in Managing Public Money. From April 2017, the government has committed to make a summary of the key points from these assessments available to Parliament when an accounting officer has agreed an assessment of projects within the Government's Major Projects Portfolio.

Programme Background and Context

The new prison at Glen Parva (subsequently named HMP Fosse Way) is currently being constructed and is scheduled to be completed in spring 2023. In recognition of the value for money that competition can deliver it was announced by Ministers in November 2018, that the new prison would be privately operated. HMPPS therefore needed to run a competition to ensure an operator was selected and awarded a contract within the relevant timescales. By using the Prison Operator Services Framework (POSF), which requires the prequalification of operators, HMPPS were confident a suitable operator would be awarded the contract. This competition built on the successful process to procure an operator for the new prison at Wellingborough (now named "HMP Five Wells") by applying relevant lessons learned to improve value for money.

Due to a combination of activity across the wider criminal justice system (including the recruitment of 20,000 additional police officers and impacts of sentencing reform) the prison population is forecast to rise significantly during the 2020s. To mitigate the risk of running out of places it was essential to ensure the new prison at Glen Parva is operational as soon as possible.

Assessment against the accounting officer standards

I considered that this OBC met the four accounting officer tests.

Regularity

The Prison Act 1952 includes that all expenses incurred in the maintenance of prisons and in the maintenance of prisoners and all other expenses of the Secretary of State incurred under this Act shall be defrayed out of moneys provided by Parliament.



The approach in the OBC to operator competition was assessed as being fully compliant with procurement regulations, related legal requirements and has obtained legal input throughout. The OBC set out that Glen Parva Operator Contract was being procured under the Operator Framework and was therefore compliant with procurement law. The Glen Parva operator contract will be similar to that of HMP Five Wells and key lessons learnt from were addressed in the contract, tender documentation, and evaluation criteria and process.

Propriety

Glen Parva formed part of the Prison Estate Transformation Programme (PETP) and following approval of the Glen Parva (construction) FBC, construction has started on the new prison. This OBC was developed with regard to the Glen Parva Operator Competition, for which approval is required to launch the operator competition using the Prison Operator Services Framework (POSF). It was produced by an experienced team with the relevant professional expertise. The OBC has passed our internal project and departmental governance (including Project Board and Keyholder Review). I was therefore satisfied that all relevant governance and assurance procedures had been completed.

One of the competition's key parameters was the Affordability Threshold which was benchmarked against the Public Sector Comparator (PSC) - i.e. the estimated 'standard' cost of running the prison within the public sector, and therefore the default cost. This Affordability Threshold also allowed for the cost of managing and exiting from the proposed contract, and running the proposed competition, to ensure the overall cost of the outsourcing arrangement was no more than the PSC. Therefore, given that the cost resulting from a successful competition could be no more than that comparator, and would in fact be lower due to the tax efficiency associated with outsourcing, I was assured that the competition outcome would be affordable from a departmental perspective.

Value for Money

The Finance case demonstrates circumstances whereby the preferred option, to compete a contract to manage and maintain the new Resettlement Prison at Glen Parva, is likely to be both the best value for money and the most affordable option open to the Authority. The case sets out the competition costs (those specifically resulting from the option to compete) and the cost of the alternative option of running the prison in the public sector (the Public Sector Comparator). In order to be cost effective and deliver value for money the competition must deliver savings compared with the Public Sector Comparator (PSC) that are at least equal to the cost of both running the competition and managing and exiting from the subsequent contract.

The competition will incentivise bidders to invest in enhancements and innovations which are important to HMPPS in terms of maximising the new resettlement prison's potential is intended to deliver further Value for Money (VfM) through reductions to reoffending. This means that the success of the competition is dependent on / will be judged on that as much as any specific cost reduction compared to the affordability threshold. Lessons learned from the HMP Five Wells competition will help refine and better target this approach.

Based on the cost estimates included within the OBC, private operators needed to provide a compliant bid which was lower than the PSC value. This was broadly the same as for the HMP Five Wells competition where the Authority received several high-quality bids which were under the affordability threshold - meaning they delivered more than the minimum required saving to cover competition and subsequent contract management costs, while also providing additional quality. The project team were therefore confident this competition would deliver savings that at least covered the cost of running the competition.

The OBC proposed that the competition would be set up to incentivise bidders to 're-invest' some of their cost efficiency (compared to the PSC) in enhancements and innovations which were / are important to the Authority in terms of maximising the new resettlement prison's potential in terms of delivering value for money through reductions to reoffending. Lessons learned from the HMP Five Wells competition were being used to refine and better target this approach.

The key parameters in delivering value for money at an affordable price were the 'Affordability Threshold' and the 'Quality Curve', as they would set the maximum price the Authority was willing to pay and the reward that operators would receive regarding the quality of their proposals. It was however intended that these would be set after this OBC but before the competition was due to commence in February 2021. Further details of how these will be reviewed and agreed were set out in the OBC which in summary were that the project team's recommended approach, including any lessons learned from the last competition, were to be reviewed by relevant Keyholders (on behalf of the department's Investment Committee) to ensure they were calculated correctly and would incentivise value for money submissions from bidders

There is also potential for any private sector innovation and operational efficiencies realised through this type of competition to be replicated across the public sector adding to its overall value for money. This view was/is supported by qualitative evidence which suggests competition has a positive effect on performance by encouraging the public sector to think differently about the way in which it delivers services. It was also considered that competition may also inspire incumbent private operators to think more innovatively about their service delivery models to improve outcomes, which would also be of more general benefit.

Feasibility

MoJ has extensive experience of working with the market to procure private operator services and directly through the equivalent competition of HMP Five Wells. This project was therefore assessed as being feasible.

It was however noted that the impact Covid-19 could have on the project's delivery was not fully known at that time. The design of the competition did however mean some or all of the activity could be undertaken virtually, as had been the case towards the end of the HMP Five Wells Competition in March 2020. Whilst unavailability of staff and technology could not be ruled out, there was some contingency available as the competition had been brought forward to allow for some re-sequencing of events if necessary. Engagement with the market also highlighted some benefits in undertaking at least

some competition activities remotely. It was however recognised that prolonged periods of lockdown across the UK and globally could result in delays.

Conclusion

As the accounting officer I considered this assessment of the Glen Parva Operator Competition OBC and endorsed it in December 2020. I have prepared this summary to set out the key points which informed my decision. If any of these factors change materially during the lifetime of this project, I undertake to prepare a revised summary, setting out my assessment of them. This summary will be published on the government's website (GOV.UK). Copies will be deposited in the Library of the House of Commons and sent to the Comptroller and Auditor General and Treasury Officer of Account.

Dr. Jo Farrar

HMPPS Chief Executive and Ministry of Justice Second Permanent Secretary