

**COMPETITION AND MARKETS AUTHORITY
CIVIL ENGINEERING IN RAIL AND ROAD MARKET STUDY**

RESPONSE TO CMA INVITATION TO COMMENT

INTRODUCTION

This response to the CMA's invitation to comment on its 19 June 2025 statement of scope outlining the matters it intends to examine in its market study into civil engineering in rail and road is submitted on behalf of Ringway Infrastructure Limited ("**Ringway**").

Ringway is a highways maintenance provider working across Local Government, National Highways and Transport for London. Ringway have supported the UK highways maintenance market since its first Contract with West Berkshire Council in 1993. Delivering the full range of highway infrastructure maintenance, asset management, network management and major maintenance renewal type activities, our services are designed to enhance sustainability, social value, and digital innovation in the local communities which we serve.

QUESTIONS

1 Do you agree with our articulation of the characteristics of a well-functioning market as set out in paragraph 1.11? If not, what could be changed and why?

- *We agree with the current definition for the characteristics of a well-functioning market. We would suggest however that included within the scope is ensuring that the 'Contracting Authority' retains sufficient skill and expertise in-house to execute a procurement or have access to adjacent Authorities' expert highway team(s) to augment skills.*
- *There is currently considerable reliance in the market on external procurement and contract advisors in addition or separate to the client delivery teams. This can cause a disconnect between procurement and in-contract services (as these advisors do not have the same expertise as client delivery teams), resulting in poorer understanding among the client delivery teams as to how the contract should function, leading to additional consultant costs down the line to manage the contract.*
- *In England, there are over 150 highway commissioning Authorities, and there should be some scope for rationalisation in client / contracting services with Local Government Reorganisation at present – we would recommend this is considered by the CMA.*

2 Do you agree with our proposed scope (both the product and geographic scope) and themes for this market study, as set out in Section 3. If not, what areas would you suggest we include, exclude or prioritise, and why?

We concur with the scope of the study as set out in Section 3. Under 3.5 (b) we would suggest that the CMA clarify what is deemed as 'roads', i.e. whether this is for the

design and build of new assets, or for the existing substantial capital renewal and major / minor maintenance programmes that are undertaken across the country, part-funded by Central Government, part funded by Local Government across over 150 Highway Authorities.

- 3 What, if any, are the key differences in the markets for the supply of roads and railways across the 4 nations of the UK that should be reflected in our analysis?**

Ringway only provide highway infrastructure related asset & network management services, and long-term contracting type highway infrastructure services in England. We are not involved with any Railway infrastructure, so have no comment here.

- 4 Please suggest any rail and road infrastructure projects across the UK that could be useful case studies to inform our market study. We are particularly interested in understanding where:**

- a) The project realised good outcomes in terms of cost, quality and innovation (including some explanation of the factors driving this in each area); or**

Hounslow Highways is a Highway pathfinder PFI contract for London Borough of Hounslow. We consider this to be an exemplary example of where the Client and Service Provider were aligned on customer outcomes, long-term asset management, functional life asset investments driven by demonstrable outcomes. The parties looked for opportunities that realised collective success, improvements and innovations in all aspects of Streetscene, public realm and highways that have taken the Borough from lowest quartile to highest quartile in London and driving inward Private investment in the Borough.

Hertfordshire County Council have just concluded a major long-term procurement of their Highway service, procuring long-term highway infrastructure consultant services, and a highway infrastructure service contract partner, in addition to frameworks for major maintenance. They have a “mixed economy” model, favoured by ADEPT and Proving Services, and seek to have a collaboration under a “One Service” ethos, with retained client functions for asset management and certain network management.

- b) The project realised poor outcomes in terms of cost, quality and innovation (including some explanation of the factors driving this in each area); and/or**

We have no suggestions at this stage.

- c) The project yielded important lessons that could inform improvements in the operation of the market.**

London Borough of Hounslow procured a Highway and Streetscene Pathfinder PFI. We consider this to be an exemplar where the client and customer outcomes are aligned, to drive long-term asset management and network management with a whole-life cost with service levels and demonstrable outcome standards. This engenders innovation and effective long-term collaboration that has been recognised by various CIHT awards, and the London Borough has moved from lowest quartile in London asset pavement standard, to upper quartile in six years. The Borough has also managed

to attract greater private sector inward investment that has helped the local economy and social value outperform its peers in Greater London.

5 How does public procurement and contracting in the markets for the supply of roads and railways contribute to, or undermine, the characteristics of a well-functioning market? In your answer, please comment on:

a) Engagement between the procuring body and potential suppliers during the early stages of project design.

Early engagement is critical in ensuring that the scope, proposed procurement route and contractual mechanisms are proportionate and appropriate to the desired outcomes. It enables the market to provide relevant advice including feedback from other activities to enable Contracting Authorities to determine the optimum approach. This is often undertaken as a Market Sounding Questionnaire albeit often the approach comes across as a requirement of a central procurement team as opposed to a real desire to learn from the market.

b) The use of different types of procedures (eg open competition, frameworks).

In respect of highway maintenance, we typically see two forms of procedure. The first, which has become the most common, is the Competitive Negotiation procedure. Pre-2015, the Competitive Dialogue procedure was a common approach that we were strong advocates of, as it enabled both parties to develop a more comprehensive understanding of each other and their respective requirements, reducing ambiguity and building confidence.

Post-2015, that mechanism appeared to fall out of favour, most likely due to a lack of resources in Local Government and a return to single action tenders. We are pleased to see the use of the new Negotiated Procedure under the new UK procurement rules. Whilst not quite as beneficial as Competitive Dialogue, it does afford the Contracting Authority the opportunity to engage with bidders in a more effective manner.

The other common trend is for the establishment of frameworks. Frameworks in the early years were an excellent way of procuring specialist suppliers but unfortunately have now become excessively used. There are too many regional / local frameworks in the UK now, with too many appointees on each framework and significantly reduced spend compared to that procured. As a result, frameworks have effectively become preferred supplier lists. The frameworks can often be advertised with projected contract values that are hugely overstated, they are now adding unnecessary cost into the supply chain through expansive bids, and perceived contract organisation demands that are not recovered in practice and as such not providing Contracting Authorities with any real in-framework benefits. We would advocate that frameworks are maintained but with clear and committed values and fully published pipelines for complete transparency and potentially regionalised to degrees, to suit local markets and resources.

c) The design of tenders, including the number and type of requirements and the use of quantitative (eg price) and qualitative evaluation criteria.

Typically, most tenders are now more focussed on qualitative evaluation criteria, which are given a higher weighting than the quantitative element.

We would advocate that this trend continues, as price-driven contracts have a clear track record of under delivering. That said, the qualitative requirements are becoming ever more extensive. Often the evaluation weighting of each question becomes disproportionate to what is actually important to the Contracting Authority.

Finally, each tender is always evaluated for the submission alone and past performance as an incumbent or a provider of similar services regionally rarely features, which in our view creates significant incentives for challengers to incumbents to make excessive tender commitments that fail to materialise once a contract has been awarded to that challenger.

- d) The approach to risk allocation across different parties; and e) the use of contract mechanisms (eg insurance provisions) and pricing mechanisms (eg fixed price, cost plus).**

Most Contracting Authorities take a balanced approach to the transfer of risk. We have seen the highways sector mature in recent years meaning that we no longer see unreasonable requests such as uncapped liabilities. Typically, pricing mechanisms are also quite mature now, but our one recommendation would be that Contracting Authorities try to stick to the core suite of published template contracts and minimise adding additional contract clauses of their own drafting, as this is what often creates ambiguity. NEC4 Term Service Contracts are well utilised in the market and should form the baseline standard for procurement.

If an authority uses a bespoke contract, it is usually necessary to think carefully on whether to participate, due to the risk of such procurement specific tools being of limited efficacy once a contract goes live.

- 6 To what extent do you think the structure of the industry contributes to, or undermines, the outcomes of a well-functioning market? In your response, please comment on:**

- a) Differences in the size and degree of specialism of different companies.**

The supply of services to UK highways is already highly competitive with a blend of national and local contractors taking part in procurements.

We do however see a challenge for Contracting Authorities in achieving their desired outcomes with the continued dilution of the supply chain, as noted by the CMA in paragraph 2.3(c), citing the NIC October 2024 report, and excessive use of frameworks for 'specialist activities'. The supply of infrastructure services in the UK is not productive enough. Increasing the speed in which we are able to innovate, consolidating the countless procurement routes and mechanisms is a vital step towards this.

- b) The tiered nature of the supply chain and use of subcontracting; and**

As a contractor working across multiple strategic and local Authorities, we engage with local supply chain partners to supplement as appropriate in the delivery of services. It is fundamental though to understand the reasons behind this. Often, Contracting

Authorities demand the use of ‘local businesses’ not recognising that the people we employ to deliver the services within a region are also local, and therefore already achieving the same goal.

We often explore this point with clients but there is a confused desire to utilise SMEs without actually understanding the reasons for doing so. Excessive dilution of the market reduces the ability for contractors to invest in research and development whilst having a negative effect on consistency and ultimately leading to hundreds of different variations of services which is inefficient and costly for the exchequer.

There is a need for management to act intelligently, and not simply contract on a “black box” basis. There must be balance in having locally employed well-trained employees, invested in the local economy, and not just Tier 2 and Tier 3 supply chains – balance must be found that delivers sustainable local services with retained network knowledge.

c) Financial arrangements, such as payment periods and the use of retentions.

We would suggest that financial arrangements are proportionate and appropriate to the contracts that are procured. We do not often see the use of retention in the highway maintenance market.

Ringway are often required to invest heavily in plant, equipment and digital assets, that need long-term service to give efficient service lives and competitive pricing to our clients – if short term contracts are used, then this will drive less investment at a time when our sector needs greater investment in people and innovation.

7 What, if any, are the significant procurement, planning or other regulatory barriers that inhibit the performance of this market? What could be changed and why?

Ringway believe that the legal duties placed on a Highway Authority should be explored, to find more apportioned and appropriate requirements for highway assets and services of a Highway Authority, spanning the assets on strategic, major and local highways use today and to ensure it is fit for service tomorrow.

8 What are the opportunities for further innovation in the markets for the supply of roads and railways across the UK? If yes, what are the barriers to achieving these and how might they be overcome?

In addition to the response regarding the tiered nature of the supply chain, we often see different requirements regarding standards and specifications between Contracting Authorities. We would suggest that more commonalities are encouraged. This would allow for a faster rate of innovation, by enabling businesses to prepare tender submissions at scale as opposed to having to redesign their offers for every new tender.