Procurement options' 'pros and cons'

The existing ProCure21+ (P21+) framework deal for delivering healthcare construction projects for the NHS is due to end this September, and will be replaced by ProCure22, which could see a spend of £2 bn - £5 bn over four years. Against this backdrop, Ian Nunn ICIOB, a senior associate at multidisciplinary design, property, and construction consultancy solutions business, Pellings, reviews the different types of procurement options open to NHS Trusts, and considers their 'pros and cons'.

The key drivers with all NHS Trust procurement decisions are, as one would imagine, largely based upon cost, speed of delivery, control, and expertise, and are as follows:

- Is speed of delivery the critical factor?
- What is your attitude to risk and risk transfer?
- How much control do you want?
- What in-house project management resources and expertise do you have?
- How critical is cost?

The P21+ National Framework is a framework agreement with six Principal Supply Chain Partners (PSCPs) and their supply chains, selected by OJEU tender process for capital investment construction schemes. Any NHS client or joint-venture may use the framework for a capital construction scheme without having to go through the OJEU process themselves. These partners have considerable expertise in delivering healthcare projects, as well as the opportunity to share designs and other information.

P21 and its successor, P21+, have been in existence since October 2003. Time, cost, and quality performance were vastly improved in NHS construction through the use of both frameworks. Some £4.5 bn was registered with the P21 framework, and £4.2 bn with P21+.

P21+ is compliant with the Government Construction Strategy, and has been working with the Cabinet Office to deliver 15% cost savings. This was achieved in 2015. P22 will largely be based on P21+, and will adopt the principles of the Government Construction Strategy's 2010 and 2015-2020 specific requirements, including:

- Delivery of cost efficiency savings substantiated by benchmarking costs.
- Collaborative working through Building Information Modelling.
- Standardisation.
- Fair payment practices.
- Government Soft Landings.

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How critical is cost? – one of the NHS procurement decisions.

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Building on P21+ successes

The P22 framework will build on the benefits and successes that the P21+ framework has delivered over the past five years, while satisfying the core objective of delivering value for money in healthcare capital projects. If using ProCure 21+, it is very much based around the NEC form of contract, which is a partnering design and build contract. The contractor is appointed early, and the client gets the benefit of its input early, which includes a design team developing the scheme.

The advantage of this is that the scheme is likely to have good buildability and a fixed maximum price, but, because of the risk transfer to the contractor, the client will pay a premium for this.

Partnering contracts arose out of the

Brown/Blair era, when it was all about delivering schemes in volume, rapidly without delays. At that time the construction industry had a terrible record in delivering schemes on time. Partnering largely eliminated the adversarial nature of going with the lowest tender, followed by legal action and substantial legal fees.

Potential 'overkill'?

However, many NHS Trusts have to have a capital programme agreed 12 months in advance, so they know what is coming up, which may include a number of smaller/medium projects of say £500,000 - £1 m in value, which in any event fall outside the OJEU minimum threshold. In this context the P21+ route may be considered overkill. With such projects, the benefit a Trust gets out of P21 is not so critical; all it wants is to deliver the project on time and on budget. In this scenario the Trust has more time to fully design and tender a project, and it may have local contractors and consultants who know the hospital well, and are capable of delivering it. This ensures that the Trust maintains full control, and doesn't pay a main contractor's mark-up.

Pellings has been working on several projects with an NHS Trust, and has undertaken a study on the benefits of P21+ as against the traditional procurement route. The Trust was using P21+ for projects valued at between £500,000 and £1 m. We used the traditional procurement route for two £500,000 projects, and proved that we could deliver it at half the cost, and in half the time, it would have taken under the P21+ route.

The 'traditional' route

We see the value in using P21+ for new-build works, and at a contract value of, say, £1.5 m plus, but below that the traditional route is the preferred method. In fact we are aware of one project with a budget of £3 m which was earmarked for the P21+ route, but, due to its refurbishment nature, and the knowledge that the costs and timescales would be excessive to deliver under P21+, it was decided to use the traditional route.

As well as considerations of risk, it is also about resources. With public sector cuts in recent years, estates departments have been cut back, meaning a Trust may want to go down the P21+ route if it doesn't have the staff with the right experience and skills on board. Alternatively, they may want to bring in external consultants through a framework or consultants who they know.

Conversely, there may be a great many stakeholders – the medical staff, nursing staff, and other medical practitioners – who want input into the design, so it may well be that in this case there is the need for a full design route to maintain more control.

If the project is a ward refurbishment, there may be a need to change toilets and sanitary facilities, and cubicle layouts, and then generally renew floor, wall, and ceiling finishes, because some of the building services are old, and need refreshing. This is fairly straightforward, and should be capable of being undertaken by local contractors and consultants.

No need to go through OJEU process

In terms of OJEU, the advantage of contractor frameworks is that above the £4.3 m threshold you don't have to go through the OJEU process, which will add 3-4 months to a programme.

If a Trust is building, say, a £10 million ward block, it can go straight to P21+ and get the design and build contractor on board straight away, which means that it could start part of the project immediately. For example, in a corner of the site it can be building the foundations, while the supply chain architects are finishing the design, and if it is a block that is not too dissimilar to a block built elsewhere, it can benefit from standardised design.

The normal procedure with P21+ is for a Trust to set a budget and then to go out on a mini-tender to two or three contractors who quote on the basis of a percentage uplift on overheads and profit. Once the contractor is appointed, its design team will work with the Trust to design a project. In parallel with the design, the contractor will be packaging up the different construction elements. So, it might go out to sub-contractors on a groundwork package, get 2-3 quotes for groundwork, and then agree with the client which one to accept.

It will work with the quantity surveyor to obtain the package prices within the budget, and there may be some value engineering taking place at the same time.

A different concept

This is a completely different concept to competitive tendering, where a Trust appoints its own architects and other consultants, designs it, and puts all the packages out to tender, but, as already indicated, this will require the in-house skills to oversee such a project.

Some Trusts appoint their own consultants, or set up consultants' frameworks. Also, there are several regional consultants' frameworks, as well as local authorities who set up consultant frameworks, which allow NHS Trusts to buy into them, presenting a huge range of options.

Sometimes there is a pain/gain agreement, where if the contractor can make a 10 per cent saving, it keeps a percentage of that saving, which gets added to its profit, and the remainder is handed back to the Trust.

Numerous options

In conclusion, there are numerous options open to the hospital Trust in deciding how to deliver capital projects, and no one route fits all. The Trust needs to be very clear on its objectives, clear on its capabilities, and clear on how much control it wants to take in delivering the project.

Ian Nunn ICIOB

Ian Nunn ICIOB is a senior associate at Pellings, a multidisciplinary design, property, and construction consultancy solutions business operating throughout London and the south-east of England for clients in the public and private sectors.

He has extensive experience in the healthcare sector, predominantly acting as contract administrator and lead surveyor with regard to the preparation of planned maintenance programmes, refurbishment, and remodelling projects, for healthcare clients including Hertfordshire Partnership University NHS Foundation Trust, Hertfordshire Community NHS Trust, St George's University Hospitals NHS Foundation Trust, and various private healthcare providers. Ian Pelling has particular knowledge of the requirements of HTMs and HBNs, and of ligature audits and their implementation, and has recently completed a major window replacement project for Kingston Hospital NHS Foundation Trust.

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