

Marmaray Project: contract strategy and minor tactics

R. Harrison

Assistant Project Manager, (Contracts, Cost and Planning) Pacific Consultants International, Tokyo, Japan

S. Lykke

Project Manager, Pacific Consultants International, Tokyo, Japan

H. Sakaeda

Assistant Project Manager, (Bosphorus Crossing) Pacific Consultants International, Tokyo, Japan

M. Çilingir

Former Deputy Project Manager, Yüksel Proje, Turkey

ABSTRACT: This paper focuses on the way the principal decisions on contract strategy were made on the Marmaray Project, and the influence of the type of contract on those decisions. It also touches upon risk allocation, the use of the FIDIC Silver Book and the structure and drafting of design-build contracts.

1 INTRODUCTION

This paper looks very briefly at the strategic decisions that were made with respect to the contractual aspects of implementing the Marmaray Project. The terms “Employer” and “Contractor” are as used in FIDIC contracts; however, the term “Consultant” is used to refer to the firm employed to assist the Employer.

2 STRATEGIC DECISIONS

The overall contractual strategy was decided in February 1999 and it originated from the first International Funding Institution (IFI1) involved, not the Employer. The Employer proposed a single contract covering the whole project because:

1. “if a juridical problem occurs in one part of the Project the other parts could not be operated although they are completed properly.
2. In case of a problem occurring in the whole system it would be difficult to find the responsible authority.
3. if synchronization could not be managed for any reason, the parts completed would not be taken into the commissioning tests without the completion of the other parts (and) this might cause juridical problems.”

The IFI1 proposed financing one contract and indicated that the remainder of the project be split into two contracts because:

1. “the amount in the case of one lot is too huge.
2. division of procurement is technically possible, because the nature of each procurement is different from (the) others.
3. (the) consultant will ensure the synchronization of several procurement lots.
4. by dividing procurement (into) lots, more opportunity for competition among competent bidders can be provided.”

The Employer accepted packaging and financing of one contract (the Bosphorus Crossing or BC1), with packaging of the balance of the project (the upgrading of the commuter rail and the procurement of the rolling stock) to be decided.

Both the Employer and the IFI1 agreed that the form of the contracts would be “design and build”. This decision was partially reflected in the terms of reference upon which the Consultant was hired to assist the Employer in implementing the project.

The next strategic decision again related to financing. The Employer proposed that the commuter rail and the rolling stock be procured as a single contract because the Employer, and the Consultant in this instance, sought not to dilute the liability for fitness