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Standing Committee on Infrastructure, Transport and Cities
Via email - itc.reps@aph.gov.au

Dear Inquiry Secretary,

**INQUIRY INTO PROCUREMENT PRACTICES FOR GOVERNMENT-FUNDED INFRASTRUCTURE
RESPONDENT: GEORGIU GROUP PTY LTD**

We are pleased to have the opportunity to provide the following submission to the Standing Committee.

BACKGROUND AND CONTEXT - GEORGIU

With a vision to be *'the best people to work with'*, Georgiou Group (Georgiou) is proud to be Australian and family owned. Established in 1977, Georgiou is a leading and trusted national construction company that specialises in planning, mobilisation, and logistical management of resources to deliver complex civil and building infrastructure projects in brownfield, greenfield and marine environments. Operating in Western Australia, New South Wales and Queensland, our national portfolio includes projects ranging from \$2 million to over \$500 million (in joint venture), which is supported by a philosophy of collaborative contracting, from conceptualisation and design phase, to the construction and handover phase. Our delivery portfolio is from 80% government agencies and 20% public or private enterprises, with over 85% of new projects being awarded from repeat clients.

As a 'tier 2' or 'mid-tier' contractor, we deliver 40 projects per year and directly employ 800 people.

GEORGIU'S RESPONSE TO THE INQUIRY TERMS OF REFERENCE

- **(a) existing infrastructure pipelines and related supply requirements**
 - Recognising that Australia has a very substantial infrastructure project pipeline planned over the next five years, Georgiou strongly encourages government client organisations to improve the transparency and reliability of published pipeline forward programs, such information include project description, scope outline, expected contract value, planned procurement model and timing. This information is very important to enable contractors to prioritise, prepare and position to bid including partnering arrangements (where appropriate) and supply chain engagement. These factors ultimately have an influence on competition, efficiency of tendering and value to money for government.
 - At present, there is considerable variability across states and government client organisations in terms of how the future pipeline is presented and communicated to industry. For example, in QLD, Department of Transport and Main Roads (TMR) provides a reliable rolling quarterly update - the Major Works to Competitive Tender Report.

- **(b) challenges and opportunities with existing procurement practices, including frameworks, standards, rules and norms, and intersections between tiers of government and the private sector**
 - Risk allocation - there are still too many cases where the client's commercial position on risk allocation is too onerous and inequitable. Fundamentally, contractors should only be



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held contractually responsible for risks that they are able to control - all other risks should sit with the client. It is not fair or reasonable to expect contractors to bear delay risks such as community interface and project approvals unless appropriate extension of time provisions are incorporated in contracts. Risks associated with ground contamination, utility relocation and legacy structures should also be client owned risks. Several Government Departments expect contractors to accept 100% limit of liability or even unlimited liability on contracts which is an unreasonable risk to impose on contractors.

- The NSW State government has made a commitment to industry through its Ten-Point Commitment to the Construction Sector Action Plan. This Plan includes commitments relating to collaboration, partnership approach to risk allocation, transparency and reducing the cost of bidding. While these are commendable principles and objectives, there is still considerable progress required to implement the Plan with effective, practical, and consistent measures.
- Several State Government departments appear reluctant to adopt truly collaborative contracts, instead taking a more conservative approach and using collaborative hybrids that attempt to encourage collaboration under a contractual regime of liquidated damages, high securities, high liabilities, and high contractor risk transfer.
- In QLD, TMR take a proactive and balanced approach to collaboration with the widespread use of their Collaborative Project Agreement, (CPA). This contract provides for dual competitive Early Contractor Involvement (ECI) with cost reimbursement. Georgiou acknowledges the benefits of this contract model which include:
 - Significant interaction between contractor and client enabling the discussion of innovation, design optimisation, construction methodologies, project risks and opportunities.
 - Greatly improved project understanding pre-tender.
 - Confidence that costs will be reimbursed and that there is a one-in-two chance of securing the project, which enables contractors to commit quality resources to the ECI phase.
 - Relationships are established to increase collaboration and opportunity realisation in the project delivery phase.
- In WA, our experience has been that Mains Roads WA successfully applies an alliance contract model for large projects and that this has afforded opportunities for mid-tier contractors like Georgiou.
- Consultation - In our experience, several government departments tend to consult with the construction industry on a lip-service basis in that their key external advisors are third party project managers and law firms whom consult with industry as a process but are not prepared to listen and adopt concerns raised by Contractors.
- Project Delivery - typically, Government clients do not fully empower their project delivery teams which means that major project issues such as scope, cost, timing, claims and variations cannot be quickly approved and directed until internal approvals are sought and obtained through the government delegated authority hierarchy, (which can often be several levels above the project delivery team). Although as contractors we are obliged to pay sub-contractors within prescribed periods, 20-business days, the effect of not empowering the project delivery teams is delaying settlement of variations and creates poor cash flow for the contractors sometime extending many months.
- **(c) challenges and opportunities to enhance Australia's sovereign industry capability, including for Australian owned businesses**
 - Although the project pipeline is very large, the number of viable opportunities accessible to Georgiou, as an Australian owned business, and to other mid-tier contractors is limited

by virtue of numerous projects being let as very large or 'mega' projects with contract values in excess of \$500 million.

- The top-tier segment of civil construction companies operating in Australia are all foreign-owned, principally by companies from United Kingdom, USA, France, Spain, China, Italy, New Zealand, Korea, and Malaysia.
- Because these companies come with a considerable bank balance behind them guaranteed by international parent companies, they deliver the bulk of major infrastructure projects around Australia and therefore most of the profits migrate offshore.
- On the other hand, most mid-tier contractors are Australian owned, however, because of this, they often do not have parent companies who can provide parent company guarantees typically demanded by government.
- Delivery risk profiles are unacceptably high given the 'company killer' limits of liability specified under contracts.
- Contracts for large infrastructure projects often specify a requirement for security bonding over 5% of the contract sum, which severely strains mid-tier bonding facilities.
- Unacceptably high liquidated damages for delayed completion are often specified. For example, a recent rail contract specified liquidated damages aggregated across multiple separate portions, potentially totalling well over \$250,000 per day, with such damages potentially incurred for matters totally beyond the contractor's control i.e. access under the control of the rail operator.
- Some advantages of engaging with mid-tier civil contractors as head contractors include:
 - More infrastructure delivered by Australian-owned companies.
 - Flexible and agile approach to delivery - can react faster to change.
 - Better subcontractor management - mid-tier contractors recognise the value of subcontractors and tend to value their relationships better as delivery partners i.e. engage them on fair subcontracts and provide better payment terms than most top-tier contractors. We have long standing and trusted subcontractor and supply chain relationships.
 - Access to quality personnel who are more rounded, balanced, experienced, and capable than many top-tier employees who tend to have limited experience with responsibilities limited to parts of a project rather than the project as a whole.
 - Efficient decision making due to lean organisation structures and less internal process.
 - Immediate access to the top management and owners of the company.
- Consideration should be given, for large or mega-projects, of mandating mid-tier participation, potentially through joint venture arrangements with other mid-tier or tier 1 contractors while considering alternative solutions to some of these participation barriers to mid-tier contractors. The Gateway and Bunbury Ring Road projects by Main Roads WA specified tier 2 participation within the team as a criterion to shortlist for the tender, encouraging tier 1s to JV with tier 2/3s on these projects.
- For example, following a Market Interactive Process (MIP) there is a project in NSW that has announced that the project will be one large scope of work which will be tendered as a Design and Construct contract. While this project is only suitable for tier 1 contractors, the Government Department stated that 'Strong encouragement for the collaboration and involvement of tier 2/3 contractors' would apply. However, subsequently clarified that tier 2/3 involvement is not mandated, and no quantitative targets or tender evaluation criteria will be applied.

- Bid costs - for mid-tier contractors to be able to participate and compete, reimbursement of a substantial proportion of bid costs is essential, particularly for Design and Construct or ECI phases of projects where tender design costs can be very substantial. At present there is considerable variability across states.
- Georgiou has the capacity to deliver contracts up to \$250 million independently or \$1.5 billion in joint venture with a tier 1 or another mid-tier contractor. If governments can provide a framework to genuinely require mid-tier contractor engagement, this will result in a far more sustainable and competitive sovereign industry. This could be mandated by Federal government which would make it a condition of funding.
- Best Practice Industry Conditions (BPIC) for Transport Civil Construction Projects - As part of the Queensland Government's Procurement Policy: Best Practice Principles, tenderers are being required 'to use their best endeavours' to adopt and apply the BPIC conditions, which is essentially an enterprise agreement that contains specific employment conditions. As this concept is new to the QLD civil construction industry, rules of application have been unclear.
- **(d) lessons from other Australian jurisdictions and other portfolio areas, including Defence's industry capability approaches**
 - In Victoria the state government delivery agency Major Road Projects Victoria (MRPV) has implemented a contractor delivery panel arrangement to deliver a substantial road program of road projects. This panel provides opportunities for mid-tier and tier 1 contractors through a layered project value system whereby contractors are panel pre-qualified based on capability and previous experience for a specific value range. The MRPV model has other attractive features including bid cost payment and incentivised target cost. This arrangement is relatively new however early indications are that it is delivering positive outcomes.
- **(e) how Australia can balance its international obligations with maximising local content opportunities, including by leveraging foreign direct investment**
 - Georgiou has no particular observations regarding this point but would emphasise our well established track-record in local procurement. Georgiou operates with a 'Buy Local' approach for all projects, which includes targeting procurement of goods and services from within the local area of a project's post code.
 - We aim to source of goods and services from local suppliers and ensure at the tender preparation stage that tenders are packaged in a manner that optimises local industry participation. We apply a price and non-price criteria weighting system to quantify the method for determining best value for our clients and the project.
- **(f) alternative procurement models, including reference to international examples**
 - New Engineering Contract (NEC) - this form of contract from the UK and now increasingly used internationally takes a collaborative, project management-based approach to construction projects, which is very different to the other standard forms of construction contract. It was successfully applied for the London 2012 Olympic and Paralympic Games and the £14.5 billion Crossrail project. In Australia this contact model has been adopted by Sydney Water for its \$10 billion regional programs, trialled by Main Roads WA on Mitchell Widening project in Perth and by Santos for upstream gas infrastructure development. The benefits of NEC include:
 - Application of global best practice for construction and infrastructure procurement. They bring plain English and a collaborative way of working upfront in relationships with the supply chain. The simple contract structure reduces disputes between parties and enhances project outcomes.

- Provide a comprehensive range of compatible agreements and payment options for procuring works, services and supplies across major regional infrastructure systems.
- Foster a 'spirit of mutual trust and co-operation' in commercial relationships with suppliers. NEC4 option X22 facilitates early contractor involvement, helping to improve working relationships and project outcomes.
- Option C and D target cost contracts have pain/gain mechanisms to incentivise suppliers and ensure fair and appropriate risk allocation.
- Key performance indicators and early warning mechanism, which mitigates risk by encouraging issues to be addressed proactively and collaboratively.
- The Construction Playbook - UK Government has published guidance on sourcing and contracting public works projects and programs - this guidance was developed through extensive consultation between public and private sectors. It provides several cross-cutting themes and policies which aim to:
 - Set clear and appropriate outcome-based specifications that are designed with the input of industry to drive continuous improvement and innovation.
 - Favour longer term contracting across portfolios.
 - Standardise designs, components, and interfaces as much as is possible.
 - Drive Innovation and Modern Methods of Construction.
 - Create sustainable, win-win contracting arrangements that incentivise better outcomes, improve risk management and promote the general financial health of the sector.
 - Strengthen financial assessment of suppliers.
- **(g) other relevant matters.**
 - Interface risk - Government clients often raise concerns over interface risks, and this appears to be a key driver in decisions to procure projects as large packages i.e. to avoid perceived interface risk. Our view is that contractors are highly experienced and capable of managing interfaces so this should not be a limiting factor when considering procurement of packages of work suitably sized for mid-tier contractors.

CONCLUSION

We hope that the Committee's Inquiry finds our comments and observations helpful, positive, and constructive. Georgiou is committed to supporting the Australian infrastructure market's long-term viability, sustainability, and sovereign capability. Please direct any request for follow up information to Phil Larson - Business Development Manager

Yours sincerely,

Robert Monaci
CEO



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