

**GLA Oversight Committee, 17 September 2015****Transcript of Item 8: Garden Bridge Design Procurement**

**Len Duvall AM (Chair):** Now let us turn to our main business and welcome our guests. Thank you for being very patient. If I can just say for the purpose of the webcast, the guests before us are Richard de Cani, Managing Director (MD) of Planning at Transport for London (TfL); Will Hurst, the Deputy Editor of the *Architects' Journal*; and Walter Menteth, who is the Director of Walter Menteth Architects and also a Royal Institute of British Architects (RIBA) national councillor and former chair of RIBA's procurement reform group. We welcome you here today.

Before we begin our questions; the information and briefing notes we have got from TfL show this is not your greatest moment in procurement exercises. The tone of the questions will reflect some of those issues. Richard [de Cani], I sought clarification earlier today because there are issues in the commercial department involved here. We have had access to your internal audit report. If there any questions here today that you feel you cannot answer, rather than you trying to defend - which I think might be a difficult situation - if you say that maybe you would prefer to take some counsel we will follow up with a written question.

Be very clear today that we drafted in terms of our timetable this one hearing but if we feel it requires a further hearing we will adjust our timetable to do that. This is very important in terms of these processes. I was saying in jest today to some of your colleagues here at the Greater London Authority (GLA) - who have also had some procurement difficulties on other projects - that they must be very grateful they are not the only ones that seem to have procedures that do not appear to be followed. As the questioning starts you will get the drift from where Members from all political parties are coming from in terms of those issues.

**Andrew Boff AM:** Mr de Cani, why did you decide against an open procurement process for the design of the Garden Bridge?

**Richard de Cani (Managing Director of Planning, TfL):** Thank you for inviting me. To answer that question I need to - if you will let me - give you a minute or so of background as to why TfL is involved in this project in the first place. I think that provides helpful context to the Committee in answering that question.

TfL is responsible for the day-to-day running of the transport network and the long-term Transport Strategy for the city. We work closely with the GLA on the development of the London Plan. The biggest challenge we face in London is around growth. We have a whole strategy in place to deal with that growth: investing in the rail network; the road network; cycling; and the public realm. One of the big elements of the Mayor's Transport Strategy we need to deliver is improving facilities for pedestrians and getting more people walking, particularly in central London. Therefore one of our main policy thrusts in central London is to get people out of the Tube and out of the bus for short journeys, and to encourage them to walk. That is good for congestion, good for the environment, and it is good for the health of the city.

Garden Bridge - and the idea of a bridge connecting the North and South Bank of the Thames in central London - is a very sound transport proposition in helping to encourage people to walk. When you think about the geography of London - how it is changing and where the growth is taking place - we have got places like Waterloo which is one of our biggest arrival points in the morning peak. Over 50% of people who arrive there take the Tube short distances to their ultimate destination. We have got a growing employment market in central London. If all of those people carry on travelling by Tube we will not have enough space. The idea of

connecting across the river, between North and South Bank in that particular location, is a very sound transport proposition and helps meet the overall objectives of the Mayor's Transport Strategy.

We decided to do some further work on this in light of there being a lot of ideas already in existence about bridges in central London. Over the last 20 years there have been ideas for living bridges and there have been different thoughts of what you can do with the river to address some of those barriers. We wanted to look at the possibility of a bridge in that location between North and South Bank - a quite specific location - to help address those future challenges. It was an initial piece of work. It was a very small and focused piece of work where we wanted a design adviser to work with us to develop those concepts. We were fully aware that there were concepts out there in the public domain. We were aware of the Garden Bridge and Thomas Heatherwick's [CBE, founder of Heatherwick Studios] proposal. There were other ideas as well.

We wanted to do an initial design study, not to commission at that stage the design from start to finish because that was not our remit which was to investigate an idea. We invited three architects and designers who were known to us, whom we had worked with before. We did not have a framework in place at the time that had suitable expertise to do that job. We invited Wilkinson Eyre, who has worked with us before. It has got great experience with bridges. It has worked with TfL on the cable car [Emirates Air Line]. We invited Heatherwick [Studios] whom we knew had a bridge idea and also fantastic design experience in London. We also invited Marks Barfield, of course, whom developed the London Eye for its South Bank knowledge. We were quite focused about the companies that we wanted to invite for that initial phase to develop the idea with us.

It was a small study. It was focused and the brief reflects that. We wanted to someone to help and work with us on our particular thoughts around South Bank. At that point we were not embarking on progressing the whole project through to the point it is now, towards delivery. It was initial stage 1. It was a small and focused design exercise.

One of the issues that has been raised in the press and questions is about how that procurement was conducted and the value of the bids. We were very clear in our tender documentation - and all of that information has been in the public domain - that what we were looking for, at that point, was a small amount of information from those three designers in terms of experience of design, their appreciation of what we were asking for in terms of the issues around the South Bank, and details of people and day rates. We knew this was a very, very difficult thing to price for that first phase as a fixed fee which is why we were clear that we did not want a fixed fee. The fixed fee had no part to play in our evaluation. It was day rates. That first contract was capped at £60,000.

Heatherwick [Studios] was the best designer to meet the brief in terms of its understanding of the brief, what we were looking for and the expertise we wanted to work with us. All of the three submissions were extremely close in terms of their day rates, within 4% of the highest to the lowest so they all scored the same. Heatherwick [Studios] got a lower score because it had designed fewer bridges, but got a higher score because it understood the issues we were trying to address on the South Bank more closely. That is all reflected in the evaluation work that we did.

What this audit has confirmed is that that initial procurement was robust. It did offer value for money and it was acceptable for the job that we were doing at that time. If we had known at that stage that we were going to be involved two years later - and that this bridge would have progressed from an initial idea to something that went through planning and was now being delivered by a charitable trust - then we might have adopted a different procurement process. We did not. We have done this in stages, in increments, as we progressed along.

Hopefully that explains some of the background to why we did what we did.

**Andrew Boff AM:** Could I just ask therefore, the original tender was published on 13 February 2013?

**Richard de Cani (Managing Director of Planning, TfL):** Yes.

**Andrew Boff AM:** Are you saying to me you already had in mind, or had published, the limit of £60,000 which you have just referred to?

**Richard de Cani (Managing Director of Planning, TfL):** No. If you look at the invitation to tender (ITT) document which the designers were responding to and the specification in schedule 3, we were asking for tenderers to submit details of CVs along with day rates, two pages of relevant experience, and a short statement outlining their overall approach to the work, limited to six pages in total. It was quite specific in that brief what we were looking for and how we were going to evaluate those bids, which was based on day rates and not a fixed fee. We did not ask for a fixed fee.

**Andrew Boff AM:** Remind me - I may not have been paying sufficient attention - the £60,000 you alluded to, that was not --

**Richard de Cani (Managing Director of Planning, TfL):** That did not form part of the brief, no. To do the work that we identified in the specification, based on the submissions we received, we capped it at £60,000 because that met the requirements of our brief. It was our decision to do that.

**Andrew Boff AM:** Subsequent to the tender you capped it at £60,000?

**Richard de Cani (Managing Director of Planning, TfL):** The tender did not refer to a £60,000 cap.

**Andrew Boff AM:** I understand that. It is about the decision in TfL. At what point, in TfL, did you decide that the cap was going to be £60,000?

**Richard de Cani (Managing Director of Planning, TfL):** Once we had received the tenders and their proposals, to do the work that we had outlined and that we wanted to buy at that first stage we decided the best thing to do in terms of value for money was to cap it at £60,000. That would meet the requirements of our specification. That was our decision.

**Andrew Boff AM:** It was subsequent to the tender returns that you decided there would be a cap of £60,000?

**Richard de Cani (Director of Strategy and Policy, Transport for London):** Yes.

**Andrew Boff AM:** That is where I was trying to get to.

Why did TfL decide to go against the initial advice of its legal department and not run a design competition for the bridge?

**Richard de Cani (Managing Director of Planning, TfL):** We had some initial advice from the legal department. You may have seen reference to that in the audit. That looked at a whole range of different scenarios as to what TfL's involvement might be in this project. That looked at a scenario where TfL may be

actually delivering the bridge from start to finish: if we were the designer, we were progressing it through planning, procurement and construction. In that scenario it looked at what would be the best way to do it. The advice was saying, in that scenario, probably a design competition is the best way to do it. We decided to split it because we were not involved, at that point, to that level and we are not involved now. It was an initial study.

Then the stage 2 procurement we dealt with through our existing frameworks once we had clarification of what we were going to do next.

**Andrew Boff AM:** You reflected that back to TfL's legal team, and TfL's legal team said, "In that case you probably do not need it"?

**Richard de Cani (Managing Director of Planning, TfL):** Yes.

**Andrew Boff AM:** If we then move on to the selection of those three designers, run us through how you decided upon those again?

**Richard de Cani (Managing Director of Planning, TfL):** We did not have a framework in place at the time where we had the right people with the right experience to do that. Working with our legal and commercial colleagues we knew roughly what the value of this exercise was going to be. We did not know it was exactly £60,000 but we knew it was - for this first phase of work and what we were asking for in the specification - a relatively low value piece of work for TfL in terms of the quantum of money that were going to spend.

We invited three designers whom were known to us and whom had the right skills, knowledge, experience and track record of doing things in London. They had the design expertise and also an appreciation of the issues we were trying to address around crossing the river, the South Bank and the barriers we were trying to overcome. We picked it based on those criteria.

**Andrew Boff AM:** When you say designers known to yourself, do you have a list?

**Len Duvall AM (Chair):** Can I just come in? Our understanding is actually two of them were on your list of people you do business with and the third one was not on your list. Is that some sort of contract compliance issue?

**Richard de Cani (Managing Director of Planning, TfL):** No. I think, Chair, when you say "our list" you are referring to a particular framework. Just to explain, we have a framework approach to different suppliers where we go through the Official Journal of the European Union (OJEU) process to basically pre-qualify particular sets of suppliers. When we want to commission work we go off those frameworks. We have a lot of frameworks in TfL and they are changing all the time. We do not always have a framework with the right suppliers with the right skills. If we do not have that then we have to identify a set of suppliers that can work with us. Not all of our frameworks have the right people on to do the jobs that we do because of the breadth of what we do.

**Andrew Boff AM:** When you say a 'framework', what is a 'framework'?

**Richard de Cani (Managing Director of Planning, TfL):** A framework is a pre-existing list of suppliers whom have already been through our procurement process, if you like, to pre-qualify. If you look back at the audit we are talking about two procurement processes here. The second procurement process, which is the Arup procurement [went through] our framework. We had 13 engineering consultancies with the right kind of

skills and knowledge that could tender for that work. We went straight to that framework and asked all 13 to bid.

When we did the first design exercise - the £60,000 exercise - we did not have a framework with the right suppliers on it. We do now actually because we were going through the process of putting that framework in place at the time. If we were doing this again we would use the framework we have now got. At the time we did not have the right framework.

**Andrew Boff AM:** If you had the opportunity to do it again you would do it differently? You would go to a different list?

**Richard de Cani (Managing Director of Planning, TfL):** If we were starting this project now - with knowledge of what our role was going to be, which has evolved over time - then we would have adopted a different procurement approach. That is not to say that the approach we adopted - in the circumstances in which we adopted it - is a bad one. The audit confirms that. It says it was value for money and appropriate for what we were trying to do.

**Andrew Boff AM:** What it says to me, and please correct me, is that the brief was inadequately specified to you so that you did not take the most appropriate course of action. If - with the benefit of hindsight, which I recognise is a very great benefit - the brief had been clearer you may have taken a different course of action?

**Richard de Cani (Managing Director of Planning, TfL):** The brief for that first procurement is quite specific about what we were looking for. If you look at what we asked for in schedule 3, with the specification, and you look at what we had returned from the three suppliers you can see that some followed the brief quite closely and others less so. We were asking for very specific things in that first procurement; about CVs, relative experience and a statement about the overall approach. We even specified the number of pages. It was quite specific what we were looking for at that stage.

**Andrew Boff AM:** The three people that were there, all of them were in your framework?

**Richard de Cani (Managing Director of Planning, TfL):** We did not have the framework at the time.

**Andrew Boff AM:** You did not have a framework?

**Richard de Cani (Managing Director of Planning, TfL):** No, that is the point. We did not have the framework at the time that we could use. We identified three suppliers whom we knew had the right expertise to do this job. That is not unusual for us if we do not have a framework.

**Andrew Boff AM:** I get that. I am just trying to figure out how you did that, how you made the decision about whom were the most appropriate people to approach.

**Richard de Cani (Managing Director of Planning, TfL):** Given the breadth of what we do it will depend what we are trying to procure. Just to give you a very different example, if we are procuring rolling stock for a railway there will be a limited number of suppliers we would go out to. In this instance we were looking for designers and architects. We were looking for a first phase piece of work.

**Andrew Boff AM:** There are a lot of them around.

**Richard de Cani (Managing Director of Planning, TfL):** There are a lot of them around. It was a first phase piece of work with a relatively low value. We went to three that we knew had the right approach, expertise and knowledge to bid for the work we were asking for. You could argue we should have gone to five or six. We chose three which is an appropriate number for the value that we commissioned the work for.

**Andrew Boff AM:** To a degree I am trying to think inside the head of the person that said, "They will do. They will do. They will do." Bearing in mind one of these people had only designed one bridge before and they were on the list, whereas two others were quite rightly on the list whom had designed loads. How did we end up in a situation where there was such a disparity between the experience of the three bidders?

**Richard de Cani (Managing Director of Planning, TfL):** If you look back at the specification, which is really what we were procuring, that sets out what we wanted to buy at that stage. It talks a great deal about the context. It talks about the South Bank and it talks about London. What we wanted was someone who understood that context and could work with us to help deliver what we were looking for to address those issues. It does not just talk about people that had built bridges. It talks about someone who appreciates and understands the context of the problems we were trying to solve, which is why we went to a range of suppliers with a range of expertise.

**Andrew Boff AM:** I get it if it is a small contract. It is not lost on me. If it is a small contract you do not want to spend more on the procurement process than you do on the value of the contract.

**Richard de Cani (Managing Director of Planning, TfL):** Yes.

**Andrew Boff AM:** I get that. It was how you then got that list together. It sounds to me like there are an awful lot of designers out there who understand the context of London and the context of the river. That is what I am struggling with. How you got this very small list from a very, very big pool of expertise that there is there.

**Richard de Cani (Managing Director of Planning, TfL):** There are two elements to that. One, for the value of work was three the right number or should it have been more? For that value of work getting three bids in - whatever the subject matter is - is appropriate because that gives competition. Did the three that we chose have the right blend between them of skills, knowledge and experience to meet what we wanted in the specification? Yes. That was our judgement and we will stand by that.

**Len Duvall AM (Chair):** Before I bring in other colleagues - many who are champing at the bit to come in - I am going to quote to you what your audit report actually said to put it in context with what you have told this Committee. Just to be fair:

*"The audit did not find any evidence that would suggest that the final recommendation did not provide value for money for the winning bidders."*

Which I think is what you told us. On the second bit I could not quite recognise the process in terms of TfL's position when they entered into this. The internal audit report says,

*"However, TfL's role in the project was unclear from the outset and there was a strong factor of there not being an agreed procurement strategy in place. It is clear that the project would have benefitted from a procurement strategy... Two different procurement approaches were adopted. In both procurements there were some instances where TfL policy and procedure with regard to communication with bidders and tender evaluation were not fully complied with."*

Let us put that in context with what you have told this Committee. We will read that into the minutes and might come back on our final analysis and compare it to what you said to us.

**Valerie Shawcross CBE AM:** Can I go back to the beginning in your opening background statement there, Richard. You talked about the bridge fitting into TfL's Walking Strategy. Was there any kind of analysis done of the pedestrian desire lines and the demand projections for this bridge to be located exactly where it is? Was there some sort of strategic analysis that we can see?

**Richard de Cani (Managing Director of Planning, TfL):** As part of the development of the business case for the bridge, we have done that analysis. Prior to the commencement of the procurement had we done the analysis on that particular desire line? No, but we had identified the need to improve conditions for pedestrians across the whole of central London. One of the challenges that we were facing - which we needed to address - was the growth in people arriving at National Rail stations, how to accommodate those people on the Tube network and how we could get them onto other routes, particularly walking. Waterloo was one of our biggest challenges. We had identified the problem at Waterloo. We had identified the growth in arrivals. We had not identified, for example, in the Transport Strategy a specific desire line at that point. It was a general policy objective to improve conditions for walking in central London.

**Valerie Shawcross CBE AM:** In an area where we are relatively rich in bridges there was an aspiration to put a bridge there, before it was retrospectively justified by an analysis done quite late on in the process from what you have told us?

**Richard de Cani (Managing Director of Planning, TfL):** Yes. For us to commission that first phase of work there was sufficient awareness and understanding of what this could do, in terms of meeting the policy objectives, for us to progress it to that first phase to do some further investigations to see what it would do and would it meet some of those policy objectives.

**Valerie Shawcross CBE AM:** In terms of the rigour of the process of development, there was not an early stage analysis done of pedestrian desire lines and where there was demand for pedestrians to be able to cross the river across the entire central section?

**Richard de Cani (Managing Director of Planning, TfL):** Not at that level of detail. It was a general issue.

**Valerie Shawcross CBE AM:** Not at that stage. Thank you, that is fine.

**Tom Copley AM:** If you could enlighten me on this point, when you were scoring designs you have got relevant design experience and relevant experience. What is the difference between the two?

**Richard de Cani (Managing Director of Planning, TfL):** A simple way to describe it is that relevant experience would be related more to bridges and that sort of infrastructure. Design experience would be more to do with design in the round; appreciation of design issues and design in the wider context. Which is why the scores reflect a lower mark for Heatherwick [Studios] on the bridge than the other two whom clearly had more bridge experience.

**Tom Copley AM:** Why have you only got a marginally lower score for Heatherwick [Studios] therefore when the other two have designed 25 bridges and it has only designed one bridge?

**Richard de Cani (Managing Director of Planning, TfL):** It is not necessarily fair that the quantum of experience is going to be reflected in the difference in the score. Heatherwick [Studios] has designed bridges. It already had an idea for a bridge in this location which we were aware of before we started the procurement. It had knowledge and experience of a particular proposal which got it that score.

**Tom Copley AM:** Is the one bridge it designed already so fantastic it almost outweighs the 25 bridges the other two have designed between them?

**Richard de Cani (Managing Director of Planning, TfL):** If you look at the scoring table, it is three in terms of the rating. Nought is unacceptable, one is poor, two is fair, three is good, four is very good. To score a company which can clearly demonstrate it has got experience in that field – albeit to a lesser degree – less than ‘good’ would be unacceptable.

**Tom Copley AM:** You have not just scored it three, you scored it 3.5. You bumped it up slightly. Again, I find it very, very difficult to believe there was not some sort of favouritism going on here in order to give them that extra little bit.

**Richard de Cani (Managing Director of Planning, TfL):** It was not favouritism. We assessed what we were presented with in terms of the bids and the information they gave back to us to meet our specification. We were fully aware that Heatherwick [Studios] had a proposal on the table for a bridge in this location before we started that procurement. Part of its submission reflected its specific proposal. Some of the other designers did not have a proposal but they had a different level of experience.

**Tom Copley AM:** Of course, the other designers did not know it was going to be a garden bridge either. Only Heatherwick [Studios] knew it was submitting a design specifically for a garden bridge. The other two were told it was for a pedestrian footbridge. Why were the other two kept in the dark about the nature of the design?

**Richard de Cani (Managing Director of Planning, TfL):** If you look back at the tender and what we asked for in the specification, we do not talk about a garden bridge. We talk about a footbridge but something that can contribute more widely to broader London Plan policies about London’s development.

**Tom Copley AM:** You knew the Mayor wanted a garden bridge, did you not?

**Richard de Cani (Managing Director of Planning, TfL):** We were doing the tender. We were evaluating the bids against the requirements we asked for. We were not specifically asking for people who could design a garden bridge. What we wanted was something that could meet requirement 3 in our schedule 3 which is all about meeting London’s future growth, not just from a transport perspective but meeting the wider economic development and regeneration aspirations as well.

**Tom Copley AM:** As Andrew [Boff AM] said, hindsight is a wonderful thing. Looking at that at the time – given you knew the Mayor wanted a garden bridge and you were putting forward a proposal for a footbridge in this location – surely someone must have said, “This gives Heatherwick [Studios] an unfair advantage because it is aware of information that the other designers are not”. That is not fair, is it?

**Richard de Cani (Managing Director of Planning, TfL):** I do not agree it is unfair. If you look back at what we were asking them to provide it is very specific about the requirements. In section 8 of our tender we were asking for a short statement outlining their overall approach to the work. What we were looking for was a company which could really understand what we were trying to address around the future of London and the



South Bank. You look at what came back from Heatherwick [Studios] and the other two and Heatherwick [Studios] - perhaps because it had spent more time on its own looking at the subject - provided us with a much greater level of detail about those issues.

**Tom Copley AM:** Perhaps because they spent time with the Mayor and Joanna Lumley OBE who had made it clear that this was a political thing the Mayor had decided he wanted which he was going to direct TfL to do. This is astonishing that you can say that this is not giving an unfair advantage to a company. Let us not forget this is a company TfL seems to favour. It also got the contract for the design of the New Bus for London. I find it astonishing you do not see this as some sort of favouritism. If I were these other two companies that had spent money putting in bids I would be pretty angry.

**Richard de Cani (Managing Director of Planning, TfL):** If you look at what they provided in terms of that short statement outlining their overall approach to the work, in the other two submissions it was lacking. Their understanding and presentation back to us, to demonstrate to us that they had an appreciation of what we were trying to do, just was not there. What they were selling us was experience in bridges all over the country.

**Tom Copley AM:** Which is what you had asked them for. This is the point.

**Richard de Cani (Managing Director of Planning, TfL):** That was not what we asked them for.

**Tom Copley AM:** You had asked them for this.

**Richard de Cani (Managing Director of Planning, TfL):** If you look back at the specification, it is very clear what we were asking for. We were looking for a bridge but we were also looking for an appreciation and understanding of this whole area and how it is changing. Those two suppliers did not provide that.

**Tom Copley AM:** You say "appreciation and understanding". Heatherwick [Studios] had an appreciation and understanding of what the Mayor wanted. This seems to have been 'crowbarred' in. I find this absolutely astonishing. You were asking three people to design something when you are expecting something else, and one of the companies had been tipped off that it is this extra thing that you actually wanted. I am sorry I should probably stop here. I just cannot believe you can sit there and say this is not advantaging a particular company that TfL, the Mayor or people around the Mayor seem to have a particular affinity for.

**Richard de Cani (Managing Director of Planning, TfL):** If you look at all three submissions - and you look at Wilkinson Eyre and Marks Barfield - and how they responded to what we were asking for, they provided less detail on their understanding of our brief which is why they scored less.

**Caroline Pidgeon MBE AM:** Because they could not read the magic ink!

**Tom Copley AM:** Thank you Caroline: you've found the right words. Because they could not read the magic ink. If you do not tell a company that is what you are looking for in a brief they are not going to provide what you are looking for. This is astonishing.

**Richard de Cani (Managing Director of Planning, TfL):** If you go back to our specification, it is quite clear. This is a general point. This whole issue about bridges in London is not a monopoly that Heatherwick [Studios] has. Lots of designers look at this. There have been competitions in the past. There have been exhibitions on it. It was very clear in our brief to these three designers that we were looking for something that met those kinds of objectives. It was for them to convince us they were the best people to work with us.

Heatherwick [Studios] convinced us it was the best because of what it submitted, possibly because it had spent more time itself doing it off its own back. The other two suppliers did not do that at all. They just talked about, “our experience in bridges in other cities”. What we were looking for was something bespoke to our brief.

**Tom Copley AM:** What is so different about putting a bridge across the Thames in that particular place than putting a bridge across the Thames in another place?

**Richard de Cani (Managing Director of Planning, TfL):** A huge amount of difference. Unless you get the context right and you plan it in the right context it will not work.

**Tom Copley AM:** I will stop it there. Due to the fact that one company you approached had more information than was in the brief that went to the other companies I do not see how this was a fair procurement.

**Navin Shah AM:** From where I am sitting I find the whole process flawed. I will not go as far as calling it corrupt – some people will do so – but there are signs of that here.

How much confidence do you have in the quality of your tender process? When you look at the figures there is 91% difference between the highest and lower bid. It is unusual for any tendering process to throw up such a huge variation. I think the tender itself is flawed and we will put those specific questions later on. When you also look at the information which was publicly available, or not, to the three bidders: could that be why you ended up with such a huge variation in the bids by the three bidders?

Given that you were embarking upon a visionary landmark project, why did you not seek external advice from professional bodies – for example from RIBA or the Royal Town Planning Institute (RTPI) – who could have advised you on possibly drawing up a list of prominent designers or architects and also advised you on a proper tendering process including evaluation?

When you look at the whole exercise it is completely flawed and completely hopeless. This is not the best use of the public purse.

**Richard de Cani (Managing Director of Planning, TfL):** I have to disagree with your statement about the process being flawed. This was a competition with three designers for a first phase of work at a value of £60,000. You have misunderstood the point about price. As I explained, we did not ask for a fixed fee from any of the providers. That did not form part of the evaluation. We asked for day rates. It was the day rates that we used to evaluate the commercial bid. Our tender is very, very clear.

**Navin Shah AM:** There is 91% fluctuation.

**Richard de Cani (Managing Director of Planning, TfL):** No, there is not. That is the fixed fee.

**Navin Shah AM:** There is when you look at the figures.

**Richard de Cani (Managing Director of Planning, TfL):** No. I am sorry, this is a really important point that is just wrong. We said in the tender we will do the commercial evaluation on the day rates of individuals. The variance between the highest and the lowest day rate submission was 4% which is why they all scored the same. You are talking about the fixed fee submissions which we did not ask for and formed no part of the

evaluation whatsoever. All suppliers chose to put a fixed fee in. We did not ask for it and we ignored it. That was information that had no value to us and was not used. It was evaluated purely on day rates and they were practically the same for all three which is why they scored the same. That is a really important point to get across. That has been misunderstood throughout this whole process. Those figures that have been quoted formed no part of this whatsoever.

**Navin Shah AM:** Can you explain, please: TfL certainly has not got any expertise in design.

**Richard de Cani (Managing Director of Planning, TfL):** Yes, we do.

**Navin Shah AM:** Architectural engineering design?

**Richard de Cani (Managing Director of Planning, TfL):** Yes. We procure all sorts of --

**Navin Shah AM:** Should you not have, for a major strategic project like this, an external adviser? For a project of this nature - when you have got major expert designers available nationally and internationally - to limit it to three makes no sense.

**Richard de Cani (Managing Director of Planning, TfL):** I disagree entirely. TfL has a huge amount of in-house experience in terms of commissioning design: whether it is railway stations, line extensions, rolling stock, buses, bridges, cable cars. We have got a wealth of experience. We draw on expert advice where we need it. We have an independent advisory group through the Independent Investment Programme Advisory Group (IIPAG) which advises on key issues. We have that expertise in-house.

This was a £60,000 commission where we went to three proven designers - some of the United Kingdom's (UK's) best designers - to respond to our brief. We did not need anybody like the RTPI or RIBA to advise us. We went to three of the best. I do not think there is any argument that the three we chose are not good quality. The question that has been put is should we have gone to a bigger number than three at that initial stage? For that small amount of work we are satisfied that three was the right number.

**Caroline Pidgeon MBE AM:** I wanted to pick up a few things from the discussion so far. We are talking a lot about the specification. I have been reading the specification. Your reading of it is very different to most of our reading of it. It is quite clear from the audit report we have had that in early 2013, and it must have been between 1 and 8 January,

*"...the [then] Commissioner [for Transport, Sir Peter Hendy] and Managing Director of Planning met with the Mayor following a presentation he had had from Thomas Heatherwick Studio regarding the proposal for a garden bridge. The Mayor stated his desire to TfL to consider whether an innovative and novel design based around a living bridge would be feasible".*

Within that time you have then sought some legal advice on 8 January about the process. So you very quickly got onto it. It is quite clear this was not just, "I want to put a footbridge here". It was, "I want something really creative, innovative and different". That does not feature at all in your specification. It just keeps talking about a new footbridge with high quality design. Nowhere in this does it mention a garden. That is the issue. If it said, "We want to look at ideas of a garden from X to Y" that might have meant it was more of a level playing field. That is the point we are getting at. Why was the desire from the Mayor not reflected in that specification?

**Tom Copley AM:** Exactly.

**Richard de Cani (Managing Director of Planning, TfL):** For the avoidance of doubt I was not the Managing Director of Planning you have referred to, Caroline, at that time so I cannot speak as I was not in that room.

**Caroline Pidgeon MBE AM:** Yes. I appreciate you are representing this today.

**Richard de Cani (Managing Director of Planning, TfL):** What we did is we wrote a specification for a bridge, recognising that we wanted high quality design that responded to the challenges of that area. Yes, we knew there was a proposal for a garden on a bridge. We were open to other ideas that delivered the specification in a different way. What we got back were proposals from the three with a clear winner, with a particular proposition with a garden.

In hindsight, we could have made the specification clearer that we were looking for a bridge with other elements to it that responded differently to the challenges of the local context and public realm etc. At that point we were not specifically looking for a bridge with a garden. It was a high quality design and something that would meet the wider objectives for the area that, clearly, a bridge with a garden does.

**Caroline Pidgeon MBE AM:** I think you have clearly admitted there that, from what the Mayor asked you to do, you were not clear in the brief. I personally do not understand how a garden responds to the challenges in that area or the objectives. That makes no sense to me at all. The objective is you need to get people to cross the river. It is not to meander in a garden. That may be my interpretation.

A very specific question: the tender requirement asked the tenderers to submit CVs, day rates, two-pages of experience and six pages in total. Did each of the three only submit exactly what was requested?

**Richard de Cani (Managing Director of Planning, TfL):** No.

**Caroline Pidgeon MBE AM:** Some people went over and above that. Did you consider beyond the six pages? You know if are asked to write 500 words or something they will cut you off at 500 words. Did you do that?

**Richard de Cani (Managing Director of Planning, TfL):** We did consider beyond that. You have probably got the submissions because they are in the public domain.

**Caroline Pidgeon MBE AM:** I have seen them, yes. I wanted it on record.

**Richard de Cani (Managing Director of Planning, TfL):** When you look at the length of them they are quite different. From memory I believe Wilkinson Eyre had more than two pages in terms of experience with a particular appendix. Marks Barfield similarly.

**Caroline Pidgeon MBE AM:** Despite your very specific instructions, you ignored that as well because everyone sent in more?

**Richard de Cani (Managing Director of Planning, TfL):** We did not enforce that as a penalty for those that provided more. What we were really looking for in those submissions was the ability to assess them against our criteria, in particular their understanding of the brief and how they responded to the specification. When you look at them, two of the submissions we got back did not do that at all. It just provided almost like a printout of previous experience. What we were looking for were designers that said, "We have done this

before and actually we think based on that we should do this here for these reasons and these are our ideas". We did not get that as strongly from Wilkinson Eyre and Marks Barfield as Heatherwick [Studios].

**Caroline Pidgeon MBE AM:** As part of the ITT there was a process for tenderers to submit clarification questions. Were any such questions submitted and did anyone seek clarification on the brief?

**Richard de Cani (Managing Director of Planning, TfL):** I cannot remember that, Caroline. It may be picked up in the audit report.

**Caroline Pidgeon MBE AM:** Perhaps that can be added to our list for written answer

**Richard de Cani (Managing Director of Planning, TfL):** It would not necessarily have come through to me so I cannot remember.

**Caroline Pidgeon MBE AM:** When did it become clear there was confusion over the brief? Did any action then follow up, such as a clarification note to the three bidders?

**Richard de Cani (Managing Director of Planning, TfL):** Normally if there is confusion with a brief you hear about it very quickly from the suppliers and the people bidding for it. Their general motivation is to try to win it so confusion is generally seen as a bad thing for them. They will normally pick up the phone straightaway and say, "What did you mean by that, that and that?" Confusion is normally addressed quite quickly and it is rectified through clarification questions. From memory we did not have that confusion with this first round of procurement.

**Caroline Pidgeon MBE AM:** Yes, everyone thought it was a straightforward footbridge. OK. I have finished my section there. I will come back in a bit.

**Len Duvall AM (Chair):** Before we move on to the next set of questions, is there anything the other guests would like to comment on so far in terms of the line of questioning we have taken or shall we just continue with our questions?

**Walter Menteth (Director, Walter Menteth Architects):** If I could raise one point in particular which needs to be rectified very early on. In making a bid submission the reason there was no confusion amongst those responding is that those who were responding were responding to a specific question in the specification, which is question 7. They were asked to undertake an appraising study which is described in these terms,

*"The initial study will help examine the potential for a footbridge in this area, considering a number of different locations and taking into account a range of constraints in the area. The appointed designer would work with TfL to identify and test broad options and to help identify a potential preferred option that could be considered further."*

That is what people were responding to. There was entire clarity, and it comes across very clearly, in the two bidding responses made by the two unsuccessful tenderers. In reality, the person who did not respond to that question - and therefore should have got the lowest mark - in fact got the highest mark. It proposed a singular specific solution which was not described in that question. It offered the public purse a solution which the public purse had not asked for.

**Len Duvall AM (Chair):** Thank you for that clarity. Will, is there anything you want to say at this moment or shall we continue on with our line of questioning?

**Will Hurst (Deputy Editor, *Architects' Journal*):** Just a note on the total costs that the three bidders submitted. Eventually - through Freedom of Information (FOI) - we at *Architects' Journal* discovered that Heatherwick's bid was far, far above the other two, I believe £173,000. That is the only thing we have got to go on because the day rates themselves have been redacted. In fact, that figure of £173,000 was initially redacted in the reply [to the FOI request]. This was quite an embarrassing figure. When it was subsequently divulged it was described that an error had been made. I found it very suspicious.

**Richard de Cani (Managing Director of Planning, TfL):** It was not used, that is my point. This is a really, really important point of clarification.

**Will Hurst (Deputy Editor, *Architects' Journal*):** Why would you not use it?

**Len Duvall AM (Chair):** It is a very powerful case you are making about the day rates. My colleagues are going to ask some further questions around that. Why would potential candidates submit other figures if they did not think they were important? You might not have used it. I am not sure at what time you chose to exclude or not exclude it in the process.

**Richard de Cani (Managing Director of Planning, TfL):** It is very clear, Chair. From the brief that we put out it was very clear what we were asking for in terms of financial response.

**Len Duvall AM (Chair):** Why did all three submit those global sums that weren't needed? Why did they do that then? If it was very clear why would I, if I am bidding for something, submit that global figure which all three various bid did?

**Richard de Cani (Managing Director of Planning, TfL):** If you are in a competition like that often suppliers will put things forward that you are not asking for to try to present themselves as a more attractive proposition. That happens all the time, which is why we write specifications and why we are very clear about what we are asking for in terms of financial information.

If you look at the contract with Heathwick [Studios] and the value in that, it is very clear it was a £60,000 capped study. The response that the Commissioner wrote back to you, Caroline, was very clear that the variance between the day rates was 4%.

**Len Duvall AM (Chair):** Your £60,000 capped figure only appears after you receive your evaluations, not before. You do not say that in the beginning.

**Richard de Cani (Managing Director of Planning, TfL):** We evaluated it on day rates.

**Len Duvall AM (Chair):** At the start of the process you do not say, "It is up to £60,000". It is after you have had all the information that you decide on a cap.

**Richard de Cani (Managing Director of Planning, TfL):** Another way to think about this, whoever we would have appointed - any of the three - their day rates were the same. We would have capped the value at £60,000 whoever it was because that is what we wanted to do for that first phase.

**Len Duvall AM (Chair):** Where we are coming from is the process you entered into. Was it a fair and transparent process? Was everyone being treated the same? Were we clear in what we were procuring?

**Richard de Cani (Managing Director of Planning, TfL):** I do not think the brief can be any clearer on that, Chair.

**Len Duvall AM (Chair):** We are going to come back to that.

**Navin Shah AM:** Will, you mentioned *Architects' Journal* FOI request. What was the driving force behind your initial FOI?

**Will Hurst (Deputy Editor, *Architects' Journal*):** This was a very interesting project that had been proposed. We had heard quite a lot about lobbying going on behind the scenes prior to this happening. Of course, initially it was not going to involve taxpayer funding or very, very limited taxpayer funding. When we discovered there had actually been a TfL contest at that point - and that was subsequent to the injection of public funding of a very large amount - we wanted to find out the facts. We wanted to find out was this really a fair and open contest, given what we had heard about Joanna Lumley OBE, Thomas Heatherwick and Arup pushing this proposal for a large number of years.

**Navin Shah AM:** Walter, if I can pose questions to you. We have heard the defence from TfL in terms of their tendering process, the figures and so on. From your experience and expertise, how do you rate TfL's tender document for a design contract?

**Walter Menteth (Director, Walter Menteth Architects):** For a design contract it is highly unlikely and unusual. The way this contract has been put is extremely aberrant. In my experience I have never come across anything that is similar. For a major piece of infrastructure, for its exploration and appraisal within a location within a capital city in Europe, I can think of nothing comparable. In the normal case one would be seeking to achieve best value by going to the widest possible competition for the broadest range of creative and inventive ideas that could fully explore all the parameters of the requirements being sought by both the authorities and the public. One would do it as transparently and openly as was possible. We do not see that in this. For that reason it raises a lot of questions which, when once explored them in terms of the evaluation, seem to throw up some odd outputs.

**Navin Shah AM:** I understand RIBA provides, for example, client advisers. If a body or client approached, for example, RIBA for a strategic project of this nature what do you think would be the recommendation in terms of the tendering process evaluation? How could they have done better?

Can you also comment whether a short design exercise is sufficient to find a designer for a project of this significance?

**Walter Menteth (Director, Walter Menteth Architects):** In this specific case, of course, there never was a short design exercise that was in competition between different designers. The question of whether it was appropriate historically is not an issue.

Going forward, however, it is important for democratic accountability that designs should be tested in the public domain. That can be best done by holding design contests, which is one of the procurement routes available to public authorities under the European Directive of the Public Contract Regulations. That is the best, and most transparent, democratically accountable process that is available to those public authorities for high prestige jobs.

The RIBA has an extremely good client advisory service that can advise on how strategically to place the briefs for those contests into the public domain to allow for that form of competition. It can draw in all the resources, advisers and consultants that may be necessary. For large public authorities - like the GLA and TfL - it is quite normal for them to have within their establishments well-oiled machines that can also provide, by the direct employment of people of that calibre, similar things. The question that arises here is why that lack of deployment was actually in place before those decisions were made, and why overall appraising of the need for greater connectivity in central London was not underpinning the briefing in the first place.

**Navin Shah AM:** Will, would you like to comment on this whole issue as well?

**Will Hurst (Deputy Editor, *Architects' Journal*):** I am not a procurement expert but a journalist. I have worked in architectural journalism for more than ten years. I also have never seen a process quite like this. It was particularly at the point I saw the scoring that I became concerned as to how these decisions could have been reached, other than the idea that what was really being tendered for was a garden bridge and - as you have pointed out - that is not what was in the brief.

**Walter Menteth (Director, Walter Menteth Architects):** Could I have a small point in answer? I am not sure how many of you are aware of the context within which the European legislation is applied. Within Britain we actually procure less than 1% of the architectural design commissions in this country through the specific procurement route provided through the design contest procedure. 99% are provided through the other procedures. Our European competitors, however, are tendering up to a third of their architectural design commissions through the design contest procedure. They are achieving, in my opinion, better quality and better value outputs far more successfully.

It is my recommendation to you here at the GLA that you consider changing your procurement standing orders to better embed the design contest procedures into the methods by which you procure architectural design services.

**Will Hurst (Deputy Editor, *Architects' Journal*):** I have another point to make on that. I have spoken to many experts in this area; procurement experts and bridge architects. Nobody that I have spoken to so far thinks this is a regular process. As I say, I have talked to quite a few people. One person - apart from Walter [Menteth] - whom I have been talking to, and is a real procurement expert, is Professor Christopher Bovis [Professor of Business Law, University of Hull]. *Architects'* These are the two experts. One here with is and another one that I have been in correspondence with for a number of months, and particularly over the last day or two since we received this audit review. Professor Christopher Bovis at the University Hull is a professor of business law but he is an expert in OJEU and these sorts of things. He gave evidence to the House of Commons Select Committee in the wake of the Bombardier scandal, if you remember that, about Bombardier not winning that large train contract for Thameslink.

I was very interested to know what he made of this review. He says,

*"My overall comment is that the procurement process for both exercises, for the design concept contract and the technical and planning contract, leave much to be desired. They represent bad practice and in many instances are breaching procurement rules."*

Then he goes through the document step-by-step. There are a number of things he says that are quite strong. For example, in terms of the rates submitted for the three bidders varying significantly and this decision to cap the fixed fee at £60,000 he says,



*“The contracting authority appears to have changed the award criteria after the submission of bids. This is prohibited.”*

In terms of the decision to contact Arup to ask them to review their fees he says,

*“Why did the contracting authority bypass equality of treatment requirements vis-à-vis all candidates at such a crucial point of the tendering procedure. This is a clear breach of EU and UK procurement rules, and in many instances has resulted in legal proceedings against the defaulting contracting authority.”*

He also goes on to say that in terms of the small error in the analysis of Arup’s commercial submission which is talked about in this review,

*“An error is an error and at such a stage and level of the process it should have been noticed before the overall evaluation of tenders. The burden is on the contracting authority to evaluate accurately and precisely the tenders for the principle of legal certainty and legitimate expectation of the participants. This error is clearly a ground for legal action by a person having an interest in obtaining a public contract.”*

Finally, in terms of the manner in which the evaluation process of both procurement bids was undertaken and the not following of TfL procurement policy and procedure in a number of instances, he says,

*“If the procedural integrity of the procurement has been compromised and potentially has allowed for legal challenges against the contracting authority, how has value for money been achieved?”*

**Richard de Cani (Managing Director of Planning, TfL):** Chair, I must protest slightly. Will has admitted he is a journalist. He has just talked through some material, which I have not seen at all, from an academic.

**Len Duvall AM (Chair):** No one is asking you to comment on it. In our pre-meeting this did come up. Not that we had Will’s information, but I raised the point that I thought that your audit report almost certainly left TfL open to the other contractors making a claim for the work that they did on behalf of that contract. In a former life I have been involved in contracts and procurement. I raised that and I was going to ask you a question. I am not going to put you on the spot, we are going to follow up already with some written questions to you along those lines. I understand, but we are not going to put you on the spot around whether this is legally challenged. We will write to you further on that.

This is quite useful information from another expert. No doubt we will exchange a copy of the correspondence.

**Richard de Cani (Managing Director of Planning, TfL):** Which, with the greatest respect, we have not seen. There were various statements that were made there about the lawfulness and robustness --

**Will Hurst (Deputy Editor, *Architects’ Journal*):** I have quoted him before actually --

**Richard de Cani (Managing Director of Planning, TfL):** -- which we would disagree with and would like the opportunity to comment on properly.

**Len Duvall AM (Chair):** We would allow a comment. That is why we will write to you. There are some legitimate issues about starting on one process and ending up with X and Y processes. It does raise some certain questions in terms of this procurement. We will give you a chance, in writing, to respond to this.

Will, do you want to continue, you were in good quote mode.

**Will Hurst (Deputy Editor, *Architects' Journal*):** There is not much more to say on [Professor] Christopher Bovis so just bear with me. I asked him a question you have raised this afternoon, about how unusual is it to have a landmark project like this procured in such a way. I guess this is a conclusion of everything that I have already said. He says,

*"The Garden Bridge is a landmark project of which its design contract was procured in the same way as office supplies."*

**Darren Johnson AM:** One quick question to Richard. Assuming TfL approached this entire process in good faith, did you not find it odd that two of the bidders responded in a fairly generic way looking at various options, and one bidder responded in a completely different way looking at one site-specific option with a very, very specific function as a garden bridge?

**Richard de Cani (Managing Director of Planning, TfL):** When you look at the submissions we received and you look at the criteria we set out, they all responded to different elements of the criteria with a different emphasis on different parts of it. Some focused on their track record of bridges. Some focused on their experience and understanding of the wider context, and some their wider design experience. We looked across all of those things and evaluated them all independently.

If you look at the range of scores, the two that we did not select scored higher in some areas than Heatherwick [Studios] did which scored higher in other areas. We did look at each element of the bid and score them separately based on how they responded. Then the commercial score was, again, dealt with separately based on the day rates that we asked for.

**Darren Johnson AM:** You did not find it at all odd that two of them responded in an entirely different way to the question and actually - as one of the other witnesses said - answered the question directly and the other bidder, Heatherwick [Studios], took it in a completely different way and submitted their garden bridge proposal.

**Richard de Cani (Managing Director of Planning, TfL):** It is not unusual in procurements to have different suppliers give a different emphasis on their interpretation of the brief. It was not particularly odd, no. We scored them based on their particular strengths and weaknesses they presented us with.

**Caroline Pidgeon MBE AM:** Let us try to move slightly further on. I am going to start with Walter. Do you believe that the contract was prejudged on the basis of approaches made by the bridge's promoters prior to the tender process?

**Walter Menteth (Director, Walter Menteth Architects):** Caroline, in answering that in some cases, no doubt, I will be repeating information that some of you already are aware of but others may not be. In essence, the key point to remember - and as all you know - is that public procurement is required to be entirely transparent. The decision process should therefore be logical. In this case - when I came to examine these documents, as others have too - there appeared to be no apparent logic to the assessment evaluations that were consistent with the specification and the briefing given to the bidders.

How would I explain that best to you? On the question of relevant design experience and relevant experience, you have a situation where Wilkinson Eyre actually highlighted 20 bridges as being built and over 100 extra additional bridges were referenced in its report. They are a multi-award winning international practice of enormous repute which is extremely successful. They got three points in terms of the relevant design experience and four for the relevant experience, a total of seven points.

Marks Barfield had 12 bridges highlighted in their submission, five those are actually built. It has 18 projects in total which had specific relevance to London, the context of accessibility, the river and the location. They included the Thames Gateway Bridge, Kew Garden Treetop walk - which is a bridge of types, through a garden believe it or not - and White Horse Bridge at Wembley. It did not know anything about the garden bridge but it has this experience. It is a multi-award winning practice equally of enormously high stature and repute. Of course, it did the London Eye.

You have Heatherwick Studio. Heatherwick Studio, in its submission, submitted only five pieces to evidence both its relevant design experience and relevant experience: an extension to a distillery which is somehow relevant to a bridge in central London; a park project in Abu Dhabi, which may or may not be scheduled for completion in 2018; a bus; a temporary expo pavilion in Shanghai; also a small, short bridge in Paddington which is absolutely fabulous. These are great design works but comparatively it is extremely difficult to see how for that it achieves a weighting of 0.5 more out of the two scores than the others.

Although all three are brilliant designers - and there should be very many more on this list that we are looking at - it remains to me incomprehensible how this decision has arisen.

When I look at the question as well of understanding of the brief, we have to be clear that people have to be marked in an assessment on the question that is presented to them. The question that is presented to them, in essence, is the question at point 7 in the specification; 'examine the potential', 'identify and test broad options', 'help identify our preferred option'. "Help" is the operative here.

Wilkinson Eyre get 2.5 in the weighting on this. It identifies the resources, the methodologies and approaches to developing, appraising, studying and examination. It also included within its submission - unlike either of the other two - engineers. Generally to get across a river you need an engineer. What an intelligent thing to do. It gets the lowest mark.

Then you have Marks Barfield which specifically states in their ITT response that it will help examine the potential, identify and test broad options, help to identify the potential and alignments that could be considered further. It identifies - or has a go at identifying - all the issues to be addressed and the methodologies it would go about deploying to do the work. It also identifies stakeholder consultees, including the public.

In the Heatherwick Studio's understanding of the brief, what it does - in responding to the question that is raised - is posit a single solution, illustrated by a garden bridge. Of course, the method it then presents is how to deliver this specific solution. It is not to appraise the need for the solution, the location of the solution, the possibility of the solution or such. In normal procurement practice where one has been fair and transparent that is the bid that should have received the lowest mark and not what it did receive which is the highest mark.

When one goes onto the financial bids - as with Will [Hurst] - on the information I received the three day rates had been redacted. I notice in the audit report that what we have is a situation where on 26 February an email was submitted to Heatherwick [Studio] which was not transparently declared to the others, requesting which

rates apply to which people. This, of course, affected considerably the value that could be attached in the weighting of the day rate assessments. Why was this a private exchange? Why was it needed? Why was it unclear which day rates were being applied to which people? When I look at the day rate schedule, which is here from the ITT submission, I can understand that a studio principal for Heatherwick Studio would be Thomas Heatherwick; that the project designer would be the project leader; and the architect, who is described within the bid, would be an architect and designer. Therefore what was that email about?

If you read the audit report there is a note which specifies that some of this material is currently missing. I believe it should be sought, recovered and explored further. It is extremely important that effectively the criteria that appears to have been applied to this particular assessment skews it. By skewing it in the way it has the outcome has favoured one of the bidders. That bidder is the only bidder who had made a pre-submission.

**Caroline Pidgeon MBE AM:** That is very helpful, Walter, and I think very, very clear to help us in our analysis of all this.

**Richard de Cani (Managing Director of Planning, TfL):** Can I respond on that last point?

**Caroline Pidgeon MBE AM:** I will come to you in a second, Richard, and you will be able to respond. It seems to me it is quite clear that the specification was not clear enough from the start so that not everyone was starting from the same point. Those that then replied to what they were specifically asked – and not, as I said earlier, reading the magic ink between the lines – actually bid on the basis of what was written. Yet clearly it seems TfL was assessing it from a different point of view and therefore scored things very differently. It had an idea it wanted this bridge to become a destination in itself, a garden and so on and that shaped its thinking.

Do you think that once all the tenders had come back in TfL should have reissued the specification or gone back to all the firms to clarify what it is was seeking?

**Walter Menteth (Director, Walter Menteth Architects):** It is extremely difficult in these sorts of bids. I have to say, from our experience and the research we have done, skews within the system are not uncommon. A lot more needs to be done in this country to resolve these issues fundamentally.

In this specific situation it clearly should have recognised in the financial bids that were made for the total cost that a bid which is 11 times, at the top-end of it, – and just marginally below the OJEU thresholds – and the lowest bid was clearly indicative of a misunderstanding of the brief between parties who were making a submission. If there was such a divergence in that understanding it should possibly have been considered to be re-procured and retendered.

**Caroline Pidgeon MBE AM:** Let us bring Will in now and then I have got a series of questions, Richard, to follow all this up.

**Will Hurst (Deputy Editor, *Architects' Journal*):** On the value for money question – which is the very limited question that the review has looked at and none of the other questions about fairness and scoring – we do know that the actual value of work undertaken by Heatherwick [Studios] cost TfL £52,000. Obviously the cap was £60,000. That is above either of the two bids. The Wilkinson Eyre bid was just below £50,000. Again, even on this limited question of value for money it ended up paying Heatherwick [Studios] more than the other two had said that they would do it for, as a total.

The other thing I wanted to say was to give you a little bit more of an insight into why we have picked up on this because maybe I was not particularly clear earlier. The *Architects' Journal* is the leading weekly in the UK

for architects. As well as championing great design, great infrastructure and great architecture, we obviously champion the needs and interests of our own readership who are professional architects.

Competitions are a massively important thing for architects. The idea that they are fair, open and transparent is absolutely crucial to their interests. This is why we have pursued this. We have been asking the same questions now for nine months. I wrote the first story about this in December last year. We have never had a satisfactory answer back from TfL. As I touched on earlier, we felt their own review following this audit did not actually answer our main allegations at all.

There is a wider public interest. We are very glad that some of the wider media – people like the *Financial Times* (FT), *The Guardian*, *The Observer* and ITV have picked up on this. It is also to do with taxpayers' money and clearly not just the interests of architects.

That is probably as much as I want to say. I just wanted to give you a little bit more of an idea about why we have been so focused on this.

**Caroline Pidgeon MBE AM:** That is helpful, thank you, Will.

If I could bring in Richard now, perhaps you could pick up the issue of the really bizarre, it would appear, scoring that you gave to these bids. Also perhaps first you could pick up this point about this communication with the bidders. What specific issues were raised by staff at TfL Commercial regarding communication with bidders which came out in the audit? Who have they been raised to and why were they not acted upon? It seems very irregular to me.

**Richard de Cani (Managing Director of Planning, TfL):** Can I come to that, just to deal with Walter's [Menteth] comment about the financial evaluation, the day rates and the way it was put about the mysterious communication with Heatherwick? First of all, it would be normal practice out of any tender to redact commercial information from suppliers. It is commercial and competitive, so we do that in any tender. We would not release day rates.

**Will Hurst (Deputy Editor, *Architects' Journal*):** That is not the issue.

**Richard de Cani (Managing Director of Planning, TfL):** People would be horrified if we did, so the redaction is normal practice to protect their commercial position, not ours. When we did the evaluation, again, the fixed fee was irrelevant. We did it on day rates. The way we do that is try to make sure we are comparing like with like. When we are comparing an architect from firm A it is the equivalent architect in firm B we are comparing, so no one has got an unfair advantage.

When you look at the way the different firms describe their staff, they use different terminology. Heatherwick [Studios], for some reason, uses a different kind of terminology to the other practices. The clarification was, "When you talk about someone as" whatever it was, "designer or visualiser, do you mean somebody at that grade?" so we can compare it to the equivalent with the other bids. It was a clarification to make sure we had that consistent level playing field, so it is not at all as Walter is suggesting to you. It was about understanding what they meant in their bids so we could do that fair assessment on the day rates.

Will [Hurst] suggested that the Heatherwick [Studio] total, £52,000, was more than the fixed fee of Wilkinson Eyre. That is clearly comparing apples with pears. As I have said – whoever we would have appointed – we would have done a fixed fee at £60,000 because we wanted to cap the money we were spending, and because we wanted to work closely with the designer. We would have worked with them up to that limit. You cannot

compare a fixed fee from one bid we did not ask for and that was not used with the eventual value of work that Heatherwick [Studio] did. They are just not comparable. I think it is important that point is got across. I am sorry, Caroline, I have forgotten the question you asked me.

**Caroline Pidgeon MBE AM:** I was asking about the specific communication. Staff at TfL Commercial raised concerns about this. Why were they not acted upon?

**Richard de Cani (Managing Director of Planning, TfL):** The recommendation – which is absolutely fair and right, and is for my team to act on – is that when you are dealing with these kind of procurements all of the communication should be through the formal procurement channels. Now, in the case of this procurement – because of speed and ease where it is a simple thing to clarify – there was communication outside of those channels. What the recommendation is from the audit is that should not happen so we put measures in place to make sure that does not happen in the future. It is about who was communicating with the bidders. It was about the ease and speed and to get things clarified quickly so you can do the right evaluation. Clearly it should not have happened and that is something that will not happen in the future.

**Caroline Pidgeon MBE AM:** Were you involved in this evaluation?

**Richard de Cani (Managing Director of Planning, TfL):** Yes.

**Caroline Pidgeon MBE AM:** Would it have been you or one of your team who spoke to or emailed Thomas Heatherwick Studio?

**Richard de Cani (Managing Director of Planning, TfL):** That was me.

**Caroline Pidgeon MBE AM:** That was you?

**Richard de Cani (Managing Director of Planning, TfL):** Yes.

**Caroline Pidgeon MBE AM:** You were the one who made contact with them about this?

**Richard de Cani (Managing Director of Planning, TfL):** I was the one who clarified, “Is that person that rate?” because it was not clear from their submission.

**Caroline Pidgeon MBE AM:** OK. The audit does say that it is inappropriate really and should not have been done.

**Richard de Cani (Managing Director of Planning, TfL):** Yes. That should have been done through the formal procurement channels, yes.

**Caroline Pidgeon MBE AM:** That is one finding that you do agree with.

**Richard de Cani (Managing Director of Planning, TfL):** Absolutely.

**Andrew Boff AM:** Just very specifically; when you go on about assessing the contracts on the basis of day rate, day rates of individuals or day rates of the company?

**Richard de Cani (Managing Director of Planning, TfL):** It is – as Walter [Menteth] describes – by grade. Each company will say, “Director, principal, senior” and they will put different day rates in. What we are

generally trying to do is assess the rate for those people who are doing the majority of the work because that is where you spend the money. When we are assessing firm A and have got “principal” we want to make sure we are comparing it with firm B’s principal and firm C’s principal. As they describe their staff differently that is the thing that we were clarifying.

**Andrew Boff AM:** So the day rate is not the overall amount it is costing you per day for the work being done. You drill down in a granular fashion to the different members of staff that are working on the work?

**Richard de Cani (Managing Director of Planning, TfL):** Yes. I am probably not making myself very clear. For something like this, where people are working with us, we want to cap our exposure financially. That is the reason for the cap, so we will spend no more than £60,000. The majority of the work will be done by a small number of people in each of those firms. It will be done by the associate level rather than the top boss. We want to make sure we have got the right rate for the associate we are comparing from firm A to firm B. It is not always easy to see, from the bids, the way they describe their staff.

**Caroline Pidgeon MBE AM:** Did you want to come in on that point, Walter, specifically?

**Walter Menteth (Director, Walter Menteth Architects):** I would like to highlight for the Committee one of the issues that arises there. If you evaluate a bid on the lowest day rate cost you are incentivising unemployment in this country by people sending their visualisation services abroad. You are also incentivising the lowest cost tender. What that is doing is driving internship within the industry and it is driving a whole range of employment issues that the design profession are having. That is the implications of that former strategy that TfL is adopting.

**Richard de Cani (Managing Director of Planning, TfL):** That is not what we are doing. From our evaluation, 75% of the score was based on the non-commercial element and 25% was on the commercial. If we were doing as Walter suggests we would have 75% on the lowest day rates and 25% on the other aspects. It absolutely is not that so it is a level playing field.

**Caroline Pidgeon MBE AM:** OK. The final thing I wanted to pick up with you is it says here,

*“The technical and commercial evaluations of the three bids were undertaken by the same person.”*

You are saying that was you?

**Richard de Cani (Managing Director of Planning, TfL):** Yes.

**Caroline Pidgeon MBE AM:** That is inconsistent with TfL’s procedures and guidance. That obviously should not have happened and should not happen again.

**Richard de Cani (Managing Director of Planning, TfL):** No.

**Caroline Pidgeon MBE AM:** The supporting documentation could not be located?

**Richard de Cani (Managing Director of Planning, TfL):** For this particular tender, the first tender, the commercial evaluation was a very simple evaluation of simple bits of information on day rates.

**Caroline Pidgeon MBE AM:** OK. Where is all the paperwork, surely it would be saved on your computer system?

**Richard de Cani (Managing Director of Planning, TfL):** The overall scoring of that - which has been made available through FOI - summarises the outcome of that process.

**Caroline Pidgeon MBE AM:** Yes, we have seen that. The supporting documentation behind that seems to have vanished in an office move.

**Richard de Cani (Managing Director of Planning, TfL):** No, that is referring to it. It is a different procurement that section is referring to.

**Caroline Pidgeon MBE AM:** OK. In the design services bit is saying it could not be located,

*"The commercial analysis of the day rates using the evaluation could not be located at the time of the audit".*

Have they come forward since?

**Richard de Cani (Managing Director of Planning, TfL):** No.

**Caroline Pidgeon MBE AM:** Where are they?

**Richard de Cani (Managing Director of Planning, TfL):** The day rates are in the submissions.

**Caroline Pidgeon MBE AM:** Yes, but the commercial analysis that you did, where is that?

**Richard de Cani (Managing Director of Planning, TfL):** The commercial analysis is fed into the summary of the scores which you have seen.

**Caroline Pidgeon MBE AM:** The background, the commercial analysis the auditor could not find, where is it?

**Richard de Cani (Managing Director of Planning, TfL):** There is very little commercial analysis required of day rates. Once you have confirmed which rate applies to what person they are broadly the same. They all get the same score.

**Caroline Pidgeon MBE AM:** Then later on we saw somewhere in here that other documentation had been destroyed.

**Richard de Cani (Managing Director of Planning, TfL):** Not destroyed. That is the second stage procurement. That is the Arup procurement through the engineering framework.

**Caroline Pidgeon MBE AM:** It was not destroyed, so where is the rest of that information?

**Richard de Cani (Managing Director of Planning, TfL):** Just to explain that procurement, this is not the same as the Heatherwick [Studios] contract. This went through our framework. It is to appoint the engineering consultants for phase 2 of the work and this is the contract that Arup were awarded through our framework. We went off our framework and asked 13 suppliers to tender. We interviewed four and we were very clear about the technical and the commercial elements of those. Arup was one of the four. It had the



best technical bid before the interview, and after its interview its technical bid became stronger. It is the handwritten notes from those interviews that is the material that is no longer available two years on.

**Caroline Pidgeon MBE AM:** Where is that?

**Richard de Cani (Managing Director of Planning, TfL):** That was available until quite recently.

**Caroline Pidgeon MBE AM:** Would you not just keep that on record? You must keep procurement stuff.

**Richard de Cani (Managing Director of Planning, TfL):** I accept this entirely. One of the recommendations is about clarity on record-keeping. We had assumed that information was kept with our commercial colleagues and they had assumed we had kept it. They are the handwritten notes of those interviews. The actual analysis of the scores has been kept. It is just the notes of the interviews which are no longer available.

**Caroline Pidgeon MBE AM:** That is helpful clarification. Will is indicating. Is it on that specific point?

**Will Hurst (Deputy Editor, *Architects' Journal*):** I guess so, yes. It was just to point out that there is quite a coincidence here, if you think it is coincidence. Obviously we know this lobbying of the Mayor took place back in 2012. There were then these two separate tender processes which have been described, one for the designer of this concept for the bridge and the other the technical designer or the engineer. Both of them just so happened to come out with the two firms that were already on this team that Joanna Lumley OBE was backing and that the Mayor had been lobbied to back.

**Caroline Pidgeon MBE AM:** That is helpful.

**Richard de Cani (Managing Director of Planning, TfL):** *Architects*<sup>1</sup> do not know. I am not sure Arup were involved early on.

**Will Hurst (Deputy Editor, *Architects' Journal*):** Yes, they were. It is on the record.

**Walter Menteth (Director, Walter Menteth Architects):** Can I just also highlight one other point. We have heard how assessments are made on day rates, but we have it from the auditors that TfL Planning made a direct request by telephone to Arup to reduce their day rates. This was not transparent practice. Was that opportunity given to anyone else?

**Richard de Cani (Managing Director of Planning, TfL):** To explain that point, we invited 13 firms to bid off our framework. Arup was the best technically from that 13 but they were more expensive. We interviewed four, including Arup, and its technical score improved. We came out of the interviews with someone who technically was streets ahead of everybody else but were more expensive. Arup was asked if it would consider reducing its rates and it did. That meant the submission was better value for money.

**Caroline Pidgeon MBE AM:** I have finished my questions. I want to say that you keep stressing that this audit, which only happened because of my letter --

**Richard de Cani (Managing Director of Planning, TfL):** Indeed, yes.

**Caroline Pidgeon MBE AM:** -- with the help of Martin Clarke [Executive Director, Greater London Authority] to get an answer to some of these specific questions. I also wrote to

[Sir] Peter Hendy [former Commissioner of Transport for London]. It happened because of that. It may say it did not find any evidence that would suggest the final recommendations did not provide value for money but it also did not find any evidence that said it does provide value for money. This really should have been looking at whether the selection fair. This report does not address that and our questioning today is looking at that. Thank you.

**Richard de Cani (Managing Director of Planning, TfL):** I am sorry, Caroline, I think it says on page 1 of the executive summary,

*"The audit identified no issues in either procurement with regard to the selection of bidders."*

**Caroline Pidgeon MBE AM:** You are saying it is about value for money.

**Will Hurst (Deputy Editor, *Architects' Journal*):** It does not evidence that. I am just reading from the -- It is just one point that is not proven.

**Tom Copley AM:** Caroline asked something, Richard, that I do not think you answered and you might have missed it. It was just to respond to what Walter [Menteth] had said about the reasoning behind the various scores, and particularly in terms of design experience. A vast amount of experience had been put into the first two bids and very little for the Heatherwick [Studios] bid. I am interested to know the rationale behind the scoring on that.

**Richard de Cani (Managing Director of Planning, TfL):** Yes, apologies. The scores Walter [Menteth] is referring to were the difference between 7 and 7.5 so, clearly, from the evaluation of experience they were very close. Heatherwick [Studio] scored slightly higher because the information it presented in its submission about its design experience and its experience of the bridge better met our brief. That was our judgement that led to that scoring.

**Tom Copley AM:** As Walter [Menteth] said, Heatherwick [Studios] put in five things, including an extension to a brewery, which seemed to be utterly irrelevant to a bridge. The other two companies put in a vast amount of experience related to bridges and yet on the first one, "Relevant design experience" you have actually scored Heatherwick [Studios] higher and the other one only marginally lower. I still find this very strange.

**Richard de Cani (Managing Director of Planning, TfL):** I explained one of those is broader design and one is specific to bridges where Heatherwick [Studios] did score lower. When you look at our specification and what we asked for, we were quite specific about what we were looking for in terms of evidence from those bidders.

**Tom Copley AM:** Do you make notes when you are scoring? Are notes made during the scoring?

**Richard de Cani (Managing Director of Planning, TfL):** If necessary and if they are long submissions, yes.

**Tom Copley AM:** Do you have those notes, are they available?

**Richard de Cani (Managing Director of Planning, TfL):** Not from this, no.

**Tom Copley AM:** It would be useful if we could get hold of any notes that were made during the scoring process.

**Will Hurst (Deputy Editor, *Architects' Journal*):** Yes, I was interested in what you said about the design criteria. Maybe the Committee would like to raise this, but why did Heatherwick [Studio] score higher on design than the other two? I think we are all agreed that these are three great firms of designers. However, Wilkinson Eyre have won the Stirling Prize twice, the UK's premier architecture award. I find it quite hard to understand why all of a sudden Heatherwick [Studio] would get scored higher, even though they are great designers.

**Richard de Cani (Managing Director of Planning, TfL):** Clearly they are all great designers and the scores were close in that respect. We made a judgment that Heatherwick [Studio], based on the information they presented us with in their bid - and their experience around broader design issues, whether it is to do with things they have done directly for us or elsewhere in London - got a higher score.

**Tom Copley AM:** [For] relevant design experience, which is bridges: you have scored them slightly lower but you said only slightly lower because they had come up with things that were specific to the context of that area of London. Let us just go with that for a moment. Relevant design experience overall, I cannot understand why you scored them a whole point higher than the other two given the information that we have heard about the other two companies.

**Richard de Cani (Managing Director of Planning, TfL):** That was our judgement based on what we were presented with. They have clearly all got great experience, but what we were presented with by Heatherwick [Studio] - in terms of their experience as world-class designers doing work for us on other projects and also elsewhere in London - gave them a higher score.

**Tom Copley AM:** Who scores it? Is it one person that makes the score? Was it you that scored it?

**Richard de Cani (Managing Director of Planning, TfL):** Yes.

**Tom Copley AM:** It would be good if we could get hold of any notes that you made during the scoring. Is this audited? Does anyone within TfL audit the decision that you made?

**Richard de Cani (Managing Director of Planning, TfL):** It has just been audited.

**Tom Copley AM:** No, I do not mean that sort of audit. Does someone in TfL review your decision?

**Richard de Cani (Managing Director of Planning, TfL):** I was asked to do a job by the Managing Director of Planning. I did the job she asked me to do and she endorsed my recommendation. Ultimately, the decision was made by her based on my recommendation that this is what we were going to go with.

**Tom Copley AM:** Finally - before I move on to my question about the audit itself - on understanding of the brief. Clearly Heatherwick [Studio] did not understand the brief that had been given - besides the fact they had read the magic ink - given paragraph 7 that Walter [Menteth] read out asking for the potential, considering a number of different locations and presenting a very broad picture. It did not do that so why did it get the highest score?

**Richard de Cani (Managing Director of Planning, TfL):** No, I disagree. It did do that. What we were looking for in that specification - providing the context in 3 and 4 - was an appreciation of how it could use its experience and apply it to the particular location we were looking at. It did that very clearly and the other bidders did not do it as well.

**Tom Copley AM:** It provided one option, not a broad range of options. It provided one option which was not what was specified in the brief.

**Richard de Cani (Managing Director of Planning, TfL):** Which related quite specifically to what we were looking at in that specification around South Bank.

**Walter Menteth (Director, Walter Menteth Architects):** Can I make a very broad point? The audit report, to my way of thinking, addresses only one of the evaluation criteria that this assessment really was based on, which is the commercial criteria. I see very little in the auditor's report which actually addresses the technical criteria at all and the questions that you - and we equally - have raised and feel are a concern. There is a shortfall in the audit in not sufficiently addressing those specific issues, which comprise 75% of the score.

**Tom Copley AM:** I am going to come on to the audit report now. Richard, the question I have is: given that TfL has stated the process was robust and fair in March, why did [Sir] Peter Hendy then order a review into the procurement process in July?

**Richard de Cani (Managing Director of Planning, TfL):** Given the level of interest in this and questions that have been asked, including from Assembly Members, the Commissioner wanted to take a step back and satisfy himself that the process was robust, which is what this audit report says. You can see the level of detail that this audit has gone into. It has been quite a forensic audit in terms of the issues that it has looked at. There has been no aspect of the procurement process that it has not considered.

**Tom Copley AM:** You were absolutely convinced in March that the process was robust and fair.

**Richard de Cani (Managing Director of Planning, TfL):** The question you are asking is really a question for the Commissioner. He chose to do that - given the level of interest in this - to satisfy himself that the process was robust. The report that has come out says it is.

**Tom Copley AM:** I disagree on that, actually. It only talks about value for money, does it not? It does not talk about the procedures.

**Andrew Boff AM:** It highlights shortfalls, the audit report.

**Walter Menteth (Director, Walter Menteth Architects):** Best value is different from value for money. Best value is a balance between quality and cost. Value for money is entirely different. That is to do with cost only.

**Len Duvall AM (Chair):** Richard, on this side of the table we are reading the same audit report. Even though we might have a view, there are some very strong recommendations and shortfalls in this process that somehow you do not seem to be acknowledging.

**Richard de Cani (Managing Director of Planning, TfL):** No. I absolutely acknowledge there are very specific management issues here that need to be addressed about the details of how we carry out procurements in the future. The overarching summary of this - and it is just written down in front of me - is,

*"The audit did not find any evidence this would suggest the final recommendations did not provide value for money. The audit identified no issues in either procurement with regard to the selection of bidders, the development of the tender, the procedure used when awarding the contracts or the procedures used by TfL to manage the project."*

It is quite specific on those points.

**Tom Copley AM:** The procedure used is the crucial thing and that is what we have been going through today. It might well be that value for money was obtained. That does not mean that one of the bidders – and it looks like they were – was advantaged, whether intentionally or otherwise, during the process. That is the crucial issue. It could still be value for money. The point is was the process by which it was chosen fair and transparent. Clearly it was not.

**Richard de Cani (Managing Director of Planning, TfL):** If you feel that this audit is not answering the questions --

**Len Duvall AM (Chair):** It does answer the questions. It is very clear about some of those issues and it does point to some of the problems that were earlier raised about some of its findings. I am surprised, even based on the audit findings, why other bidders have not challenged it. It can only be because they have taken a commercial judgment not to challenge the outcome of this because they want future work out of you. That is my conclusion of this because I think they have got a bit of a case against TfL. We will test that further and allow you to consider that.

**Richard de Cani (Managing Director of Planning, TfL):** Of course.

**Len Duvall AM (Chair):** It is quite clear. The audit is quite damning --

**Valerie Shawcross CBE AM:** Yes. It is, if you read it.

**Len Duvall AM (Chair):** -- about some of the processes and procedures and the lack of strategy that you followed from the beginning of the procurement process. It is there. It says it in your own report. It is not my words.

**Richard de Cani (Managing Director of Planning, TfL):** If I may, in hindsight, if we were starting from scratch now we would adopt a different procurement approach to this, without doubt. The audit is very clear on that. This is an unusual project. It has evolved over time and our role in it has evolved over time and in response to a number of Mayoral Directions. Clearly, knowing all that now, we would have done something different in terms of procurement. I absolutely agree with you on that point. It also identifies some very specific management actions that we need to do and which we will adopt. However, it also says that it identified no issues in key areas.

**Tom Copley AM:** Given what we have heard though – and given Members here are very seriously concerned and members of the public have a great interest in it – could you rerun the process under new procurement procedures in light of what has happened?

**Richard de Cani (Managing Director of Planning, TfL):** No. First, we do not need to because this is not what this report is saying. Also the project has moved on. This report identifies no issues in relation to those areas. The issues it has identified are to do with the evolution of the project, which we cannot change, and some very specific management issues, which we will change.

There is a broader point about whether you think the bridge is a good idea or not and whether it is the right thing to do. That is separate to the procurement questions we are asking here. So in response to your point, no, we do not need to rerun the process. That would not be a good use of money and it would not be an

appropriate thing to do at this stage. However, we will take on board the management actions in this and we would do things differently next time.

**Len Duvall AM (Chair):** Can I just be very clear that we may have views around this – and I suspect there are different views around this proposal – but we are looking at the procurement issues and the evidence that has been presented to us --

**Caroline Pidgeon MBE AM:** Yes, that is what we are looking at today.

**Len Duvall AM (Chair):** -- and in terms of your responses. That is how we will judge this part of the scrutiny.

**Valerie Shawcross CBE AM:** Yes. Sorry, just a quick intervention as – like my colleagues – this report reads incredibly negatively. Regardless of what overall procurement strategy and framework you might adopt, it is also the issue of behaviours. Maybe your use of the word “management” is what we are referring to here. For example, this point that was made about going back to Arup about their costs,

*“The gap between Arup’s technical score and those of the other bidders increased further following the interview stage”.*

– that is what you said –

*“None of the other bidders were given the opportunity to revise their submissions and there was no best and final offer stage included in the procurement and this would have been best practice to have done this.”*

Clearly there is an issue about behaviour. The way that reads to a layperson is not just was there no clear framework, overarching strategy or equality of information and tender process provided, but there were specific interventions and tinkering during the process to ensure that a desired outcome happened. That is how it feels when you read this report.

There is a question in my mind that says basically, politically, if the Mayor had decided what he wanted was a garden bridge there, designed and delivered by those particular people, would a more transparent route not have been for him simply to use his enormous powers of direction to have delivered that? While we might feel – personally I would feel – that would be a very foolish and unfair thing to do it certainly would be a transparent process. It would not be open to legal challenge and it would feel more like the Mayor was not compromising other procurement processes by introducing behaviours which are not generally regarded as healthy.

**Richard de Cani (Managing Director of Planning, TfL):** Can I just come back before I answer the last part on the Arup point. Clearly the audit has identified something we should do differently next time there. The context of that is 13 people submitted bids to that and four were interviewed. One was technically the best. It had its position as the best technically improve after the interview. The approach to Arup was, “You are too expensive, but you are the best”. The response from them was to reduce their rates in response to a request whether they would consider reducing their rates. That actually led to an outcome that was better value for money.

Clearly what this is saying is that should have gone back to all bidders. The rationale at the time was Arup was so far ahead of the others in terms of its technical submission that no matter what the other bidders did they would not improve on their technical position.

**Valerie Shawcross CBE AM:** They were not given an opportunity to.

**Navin Shah AM:** But this was not a level playing field, was it?

**Richard de Cani (Managing Director of Planning, TfL):** It was a level playing field.

**Navin Shah AM:** No. How can it be?

**Richard de Cani (Managing Director of Planning, TfL):** It was a level playing field. It was about the behaviours at the time of how we approached Arup - which we would do differently next time - but it was a level playing field.

Sorry, Val, the point you made about Mayoral directions. Clearly there are three Mayoral directions for this project that we are operating under as TfL. We did do an initial procurement to develop the design. In hindsight - knowing what we know now about how this project has evolved - as I have said, we would have done a different procurement strategy. I do not quite know what that procurement strategy would be but it would not have been the way we have done this. Our role has grown incrementally due to TfL's involvement in response to a number of factors.

**Valerie Shawcross CBE AM:** The Mayor did do, basically, informal discussion briefings with Heatherwick [Studios], did he not?

**Richard de Cani (Managing Director of Planning, TfL):** It is clear from the information that you have got that the idea of a garden bridge had been around for some time, yes. It is information that you have seen that shows the Mayor was aware of that.

**Valerie Shawcross CBE AM:** During the process were the other two bidders offered any informal pre-application --

**Richard de Cani (Managing Director of Planning, TfL):** It is not a question for me.

**Tom Copley AM:** Going back to the audit report, given the huge public interest in this, why was this an internal review and not an external review?

**Richard de Cani (Managing Director of Planning, TfL):** We have an internal audit team at TfL, quite a large specialised internal audit team that does all of our audit work. The Commissioner was satisfied that they had the right skills, independence and separation to do that work fairly. It is clear when you look at this as to the points that have been raised. They have done a very thorough audit and identified a number of issues that need to change. I do not think that you could suggest from this that the audit has somehow been skewed towards a positive outcome: it has not. It has been a very thorough audit. It has identified some things that should have been done differently and it has looked at all aspects of the procurement processes. From someone who was not part of that audit, but being audited, it has been a very thorough process. You would have had a more thorough process if it was done any differently.

**Tom Copley AM:** There is a general perception that if a review is done externally it is more likely to be fair and also, as Val [Shawcross CBE AM] said, is seen to be fair.

**Richard de Cani (Managing Director of Planning, TfL):** We have an established process of doing audit work and assurance that feeds through to our [TfL] Board. This is just part of that business as usual. It is very independent and it gets to the level of detail that you can see here.

**Tom Copley AM:** Do you ever do an external audit? Do you have an organisation that will audit things externally?

**Richard de Cani (Managing Director of Planning, TfL):** I am not aware of any external audit that has been involved but it is possible there could have been.

**Walter Menteth (Director, Walter Menteth Architects):** Can I just raise a concern that arises here. I have not seen the tender submissions for the technical work but it strikes me that Arup - who was part of the Garden Bridge team prior to making its submission - appear to have had the best technical submission. Was it because the technical submission was in any way assessed according to its response to a design which was for a garden bridge on information that was not available to the other bidders? Unfortunately, I have not seen that. However, from what I am hearing beside me, it seems to me it was were so far away from all the other competent engineers around and so far ahead in the technical assessment - I know it is extremely good engineers - that it seems again somewhat aberrant for normal bidding practice.

**Tom Copley AM:** In the same way that the designers were not aware it was a garden bridge, the other companies bidding in the technical procurement were not aware that it was a garden bridge?

**Walter Menteth (Director, Walter Menteth Architects):** I am not saying that. What I am hearing is that one of the bids was far in excess in technical capacity than all the other bids from 13 people. The question I would ask therefore is was there different information made accessible to those people who were bidding, was it based on a specific design and was it therefore not transparent?

**Tom Copley AM:** Richard, would you like to come back on that?

**Richard de Cani (Managing Director of Planning, TfL):** Yes. We have focused a lot this afternoon on the first tender. The second tender was a different specification on a different brief. That is available in the public domain and has been for some months and released under FOI. That was very specific about the proposition. It contained a lot of detailed information about the Garden Bridge. It was a very clear level playing field. All of those suppliers had the same information about the project. We just have to be a little careful that we do need to recognise that we are dealing with some very, very good quality specialists and designers here. You would expect to get good bids from some of these firms and I am sure they would confirm that if they were here. All of that information was consistent for all 13 who went for that and that was done through our e-procurement portal as part of our normal business. That information is available, if people have not seen it, on our website.

**Will Hurst (Deputy Editor, *Architects' Journal*):** Yes. Actually, I wanted to make a point going back to the Heatherwick [Studio] contest. It seems to me that there is a conflict between the aims of a pedestrian bridge - which is what was set out in the brief, in the invitation to tender - and the aims of a garden bridge. We know - because we have not just focused on the procurement of this project and we have also looked at the Garden Bridge in all kinds of other ways - that the proposal is that it is closed at night, for example, it may become overcrowded and that groups of eight or more cannot cross the bridge without prior permission. All of those things seem to conflict with the brief that was sent to these three firms in terms of a great pedestrian



access bridge that would relieve Waterloo and other congested parts of the capital. My question is how did Heatherwick [Studio] therefore come out as technically the best if it directly contradicted that brief?

**Tom Copley AM:** This is one of the questions that we have been trying to shed some light on. It seems to me that Heatherwick [Studio] have had an inferior brief on almost all of the design criteria and yet have been scored higher. Perhaps Richard wants to come back on those points that you just made.

**Richard de Cani (Managing Director of Planning, TfL):** Will has introduced some broader points there about the public benefit of this proposal. This came up at a discussion in 2014 with the Assembly Budget and Performance Committee. Quite rightly there were some very serious points raised about public benefit, how we secure public benefit in this bridge through our contribution, and the public benefit that is derived from the public accessibility to and from it. In response to that – and again the information has been available for a number of months – you can see from the funding agreement with the [Garden Bridge] Trust that the money that we are contributing alongside the Government is conditional on certain conditions being met relating to public access which deliver the benefits in the business case.

Some of what Will said is not quite true. Yes, the opening hours for the bridge are from 6.00am to midnight. It is the local authorities, Lambeth and Westminster, that have insisted on that. That is where most of the demand is and you do not get many trains in and out of Waterloo outside of those hours. Also, it is a public park and space and you need to protect the amenity at night. The hours are defined by the local planning authority. From our perspective and the business case that we produced, that the [HM] Treasury authorised, that delivers the public benefit that we are looking for, being open between those hours.

The other issue about eight people is wrong. There is no requirement at all for any groups of eight or more to book. It is about bylaws for the bridge and how that will be enforced, the ability to deal with crowd management and demonstrations – which any authority managing a public space would have in their suite of bylaws and rules – because if you cannot you cannot manage a public space effectively. There is no requirement under normal circumstances for large groups to book to use this bridge. That is just wrong. The funding agreement does safeguard, we believe, the public benefit that we are seeking to acquire through the contribution we are making. That is reflected in the funding agreement, which follows the points that you made at your earlier committee last year.

**Tom Copley AM:** It does seem like common sense, does it not, that there is a clash between a pedestrian bridge and a visitor attraction on the Thames? This is straying into the question of whether TfL or perhaps one of the Mayor's other agencies should be paying for it.

However, we need to focus specifically on the issue we are looking at with the design procurement rather than a general debate about the bridge.

**Darren Johnson AM:** To Richard, how confident are you that the bridge will be built?

**Richard de Cani (Managing Director of Planning, TfL):** There are a number of elements to that. The bridge has planning permission. The funding that we are providing alongside the Government is to be matched by funding that has got to be raised from the private sector. There is a funding question that is close to being satisfied but not fully satisfied yet. There is a requirement for the Trust to raise some more money. The planning conditions have largely been addressed, in accordance with the planning permission. Based on where we are at the moment in terms of the fundraising work the Trust is doing and the contribution we and the Government are giving, I am quite confident this bridge will be built, yes.

**Darren Johnson AM:** When do you expect the Garden Bridge Trust to have secured the £175 million that their contribution is?

**Richard de Cani (Managing Director of Planning, TfL):** The actual cost – to briefly explain – of building it in terms of the construction element is around £100 million. The remainder of that cost is a combination of other things to do with risk, Value Added Tax (VAT) which is around £20 million, land and all the kind of fees you incur in progressing a project. The actual construction is around £100 million. It publishes its accounts. It is a registered charity. You can access its information. I understand it is around £127 million at the moment with a lot of fundraising underway, so clearly some way to go. However, we are confident – as supporters and part-funders – that it will raise the money to complete that and to commit to the construction.

**Darren Johnson AM:** What will happen if the Trust does not secure the £175 million?

**Richard de Cani (Managing Director of Planning, TfL):** In the funding agreement that we have in place with [the Trust], the money that we would contribute towards the construction contract is conditional on it demonstrating to us that it has got sufficient money to build and deliver the bridge, alongside all the maintenance obligations. If it does not raise all the money it needs to satisfy those conditions then they do not draw down on the money from TfL and the Government.

**Darren Johnson AM:** If in a few months' time the next mayor comes along and says he does not want to see TfL funding going into this that is the end of it, is it not?

**Richard de Cani (Managing Director of Planning, TfL):** It is clearly a matter for a future mayor. However, we do have a legal funding agreement with the Garden Bridge Trust – which is publicly available and has been on our website since July – which sets out the conditions. We do have a binding legal contract with them which sets out the conditions within which it can secure the funding from us. Clearly that commitment is there. If they meet those conditions, which it expects to do so, it will have started construction of this bridge by Easter next year.

**Valerie Shawcross CBE AM:** Just a quick issue/question relating to viability of the project. I understood Lambeth had, under public pressure in opposition to the bridge, declared the green land that this is going to take up on the south side an asset of community value.

**Richard de Cani (Managing Director of Planning, TfL):** Yes, that is correct.

**Valerie Shawcross CBE AM:** There will be therefore public intervention, trying to prevent the land being released for this project. What stage is that at then?

**Richard de Cani (Managing Director of Planning, TfL):** What that does is the land has been designated an asset of community value. That designation means before Lambeth do any disposals of it to a commercial partner they need to allow the community to put their own bid forward. As it happens, the disposal is not to a commercial partner, it is to a charity so that means it is outside the rules as Coin Street and the Garden Bridge Trust are both charities.

**Valerie Shawcross CBE AM:** That is shocking.

**Richard de Cani (Managing Director of Planning, TfL):** The land at the moment is on a long lease from Lambeth to Coin Street --

**Valerie Shawcross CBE AM:** Yes, I know.

**Richard de Cani (Managing Director of Planning, TfL):** -- Coin Street have the right to use that space for a range of activities. That will change from that to a building. Lambeth have given planning permission for a building on that space anyway.

**Caroline Pidgeon MBE AM:** A final question. TfL has spent £9 million on this project so far. Are you hoping to get that money back from the Garden Bridge Trust or are you just writing that off?

**Richard de Cani (Managing Director of Planning, TfL):** That is part of our contribution to the project.

**Caroline Pidgeon MBE AM:** That is part of the £30 million?

**Richard de Cani (Managing Director of Planning, TfL):** Yes.

**Caroline Pidgeon MBE AM:** OK.

**Richard de Cani (Managing Director of Planning, TfL):** If you look at the funding agreement it is clear that the money has been paid in chunks. Part of our funding is upfront funding towards development costs.

**Caroline Pidgeon MBE AM:** So the development work, your time you have been charging to this project effectively, is coming off the £30 million. The public contribution in some ways is reduced. We just heard £20 million VAT goes back to the Treasury. George Osborne [Chancellor of the Exchequer] puts in £30 million and gets £20 million back in VAT and you are putting in --

**Richard de Cani (Managing Director of Planning, TfL):** Yes, at least £20 million.

**Caroline Pidgeon MBE AM:** -- £20 million actual cash, by the sound of it.

**Richard de Cani (Managing Director of Planning, TfL):** For the construction, yes. If you have a look at the funding agreement it has got a schedule at the back --

**Caroline Pidgeon MBE AM:** That is interesting. I had not twigged that.

**Richard de Cani (Managing Director of Planning, TfL):** -- that sets it out. You could see the Government's contribution as compensating for VAT.

**Caroline Pidgeon MBE AM:** OK, thank you.

**Len Duvall AM (Chair):** The Government's contribution, let us say it is £10 million, when does that come into TfL's coffers?

**Richard de Cani (Managing Director of Planning, TfL):** We received the Department for Transport (DfT) funding some time ago.

**Len Duvall AM (Chair):** You have?

**Richard de Cani (Managing Director of Planning, TfL):** The funding agreement that we have entered into - through agreement with DfT - is on the public sector's behalf. We have a separate funding agreement

with DfT that has passed the money to us. Then we are releasing that to the Trust in accordance with the conditions they need to meet.

**Len Duvall AM (Chair):** I was going to give you an opportunity just to say if there is anything you think we have missed in terms of some of the questions that we have raised today or any final comments that you wish to make.

Will, if we start with you first, is there anything you want to say, a final summing up, or that you think that you have not had the opportunity to tell us about?

**Will Hurst (Deputy Editor, *Architects' Journal*):** No, thanks.

**Walter Menteth (Director, Walter Menteth Architects):** I would just want to add that there is a need to review procurement standing orders amongst the GLA to make sure that such events do not happen again. In doing so I would certainly recommend you consider embedding design contests into that process.

Also I would like to say how much all three of the design bidders, in my view, are excellent designers in all respects. However, in each procurement the briefing has to be correct and consistent, transparent. Assessments have to be made on that basis.

**Richard de Cani (Managing Director of Planning, TfL):** I would like to say that, looking back, if we knew how this project was going to develop we would have adopted a different procurement approach and done things differently. There are clearly lessons from this that we will learn for future projects which have been challenging, but valuable. That does not say that what we have done today is not robust and we will defend what we have done. In accordance with the audit report it is robust and represents value for money. We are satisfied with that. There are lessons that we have learnt and things that we would do differently next time, without a doubt.

**Len Duvall AM (Chair):** What happens next? We are going to go away and consider what you have said to us. I am going to ask the Secretariat to contact every Member of this Committee and ask them for any additional questions. We will come back to you on the legal issue. We would very much like to see in writing the expert that you quoted, Will [Hurst], during this session. There are some issues around the Arup process that we would like to follow up and have some further information on but that is not exclusive. There may well be some further issues arising from Members.

Of course, once we walk away from here, there may well be some other things that you think, "Hold on, that has come up. You really ought to know that". Please contact our Secretariat and do a written submission for us if, once we walk away from the Chamber that you think, "Oh, I wish I had said that".

Thank you very much for the way that you have engaged with us this afternoon. It has been long and I am very grateful for the way that you have participated.