

How-to Guide to **Best Practice Procurement**



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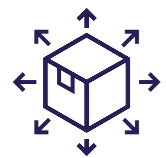
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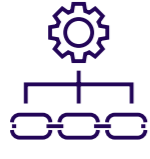


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How-to Guide to Best Practice Procurement

Introduction

Since the inception of Constructing Excellence in 2003, bringing together the many 'best practice' organisations that were borne out of the 1998 *Rethinking Construction* report, it has been widely known that procurement is at the heart of all behaviours and culture within the UK construction sector. If the contract enables traditional adversarial relationships that is exactly what you'll get.

For many years those within CE have tried to change the agenda to one that provides a collaborative culture through integrated supply chains working with aligned objectives. To some extent it has been successful and there have been pockets of excellence as shown by the CE Awards across the length and breadth of the UK.

These examples have been all too rare, unfortunately, and so I was delighted when I took on the role of Chief Executive of CE Midlands in 2018 that the newly formed Procurement & Productivity Thought

Leadership Theme Group, under the chairmanship of Michael Hiscock of Wright Hassall, decided to build on the success of the *Outcome Led Procurement Guides* (below) created by our CESW colleagues and create a Best Practice Procurement Guide.

Despite the human impacts of COVID-19 these unprecedented challenges have brought our industry together to find imaginative solutions to the challenges faced. The ability to collaborate for the greater good has been shown to be both possible and efficient.

With COVID-19 and the Roadmap to Recovery we have the chance to practice what we preach and ensure the industry we left behind pre COVID-19 is not the same one to which we will return. The Government's Build, Build, Build mantra to Build Back Better, Build Back Faster and Build Back Greener must start with procurement and this guide sets out to provide the roadmap to procurement.

To ensure we meet the higher standards to which we all aspire and understand the milestones we must all meet, this guide is an essential publication for all procurement professionals. It considers issues such as Net Zero, Social Value, Quality & Compliance and Health & Wellbeing, all subjects that I suggest would not have been considered back in 1998. The industry has moved on and the coronavirus will accelerate the improvement agenda. *The Value Toolkit*, put together by the Construction Industry Hub and supported by the Construction Leadership Council, is promoted by CE, and sits perfectly with this Procurement Best Practice Guide.

I would like to thank the Procurement & Productivity team for their knowledge and effort in putting this essential guide together for the benefit of our members and supporters.

Thank you.

Andrew Carpenter
Chief Executive, CE Midlands

Constructing Excellence South West's Outcome Led Procurement Guides



Overview

The development of a construction project is often a very complex process and clients must examine their priorities at the outset of the project brief. To avoid any abortive cost or projects being shelved, it is important to separate the actual needs from desired needs and identifying the purpose of the project, building function aesthetics, flexibility of use, specification, location and size. We would urge everyone to review project critical criteria such as time, cost, and quality and to develop a robust business case supported by market analysis and appropriate value propositions.

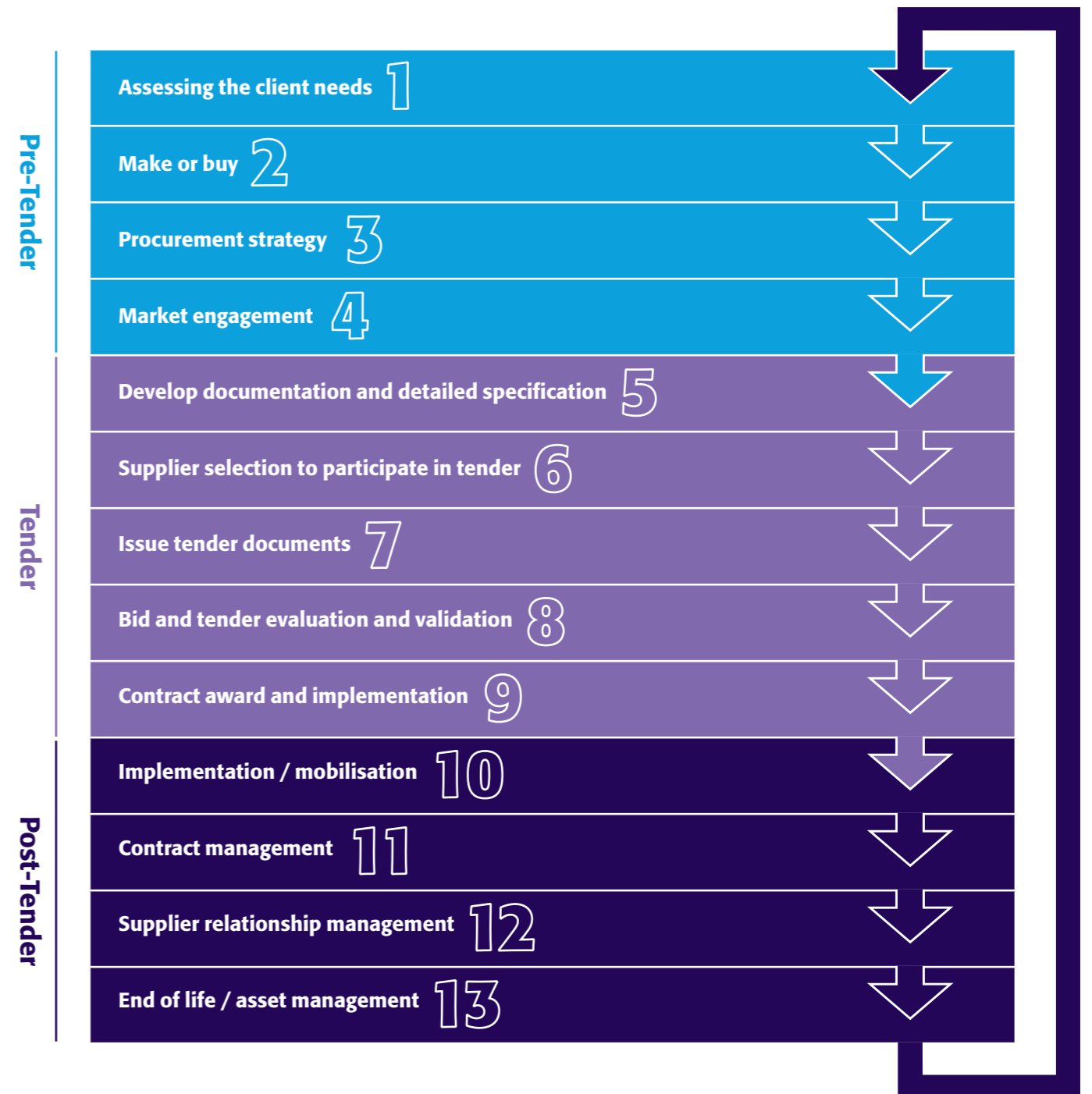
Prior to the commencement of any procurement, key activities must be undertaken to ensure the needs of the organisation are met. Decisions need to be made as to whether organisational needs can be met by internal investment or whether outsourcing would be more beneficial.

Gaining a thorough understanding of the market, key suppliers, understanding risk and optioneering will all help to inform the procurement strategy. Ultimately, actively engaging with and testing market appetite, being flexible and acting collaboratively, will contribute to a successful outcome.

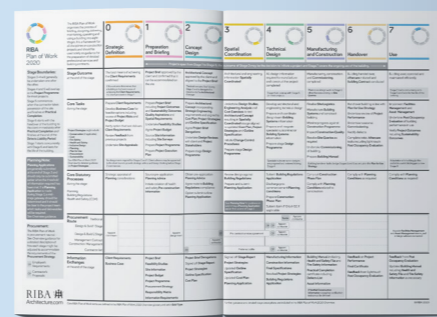
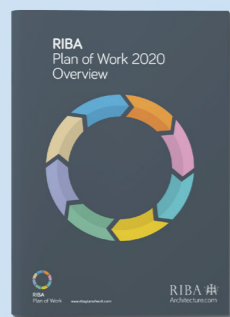
The tender process is largely driven by the Public Contracts Regulations 2015 and the Public Contracts Regulations (Scotland) Regulations 2015. Key decisions are around the best procurement process to meet your preferred procurement route, aligned to the *RIBA Plan of Work* stages, and ensuring that the tender documentation clearly defines your requirements to meet the project or programme outcomes.

Best practice procurement does not stop once the contract is awarded. Good contract management should be thought about when tender documentation is being prepared, as well as throughout the life of the construction project (including the defects period); it must be proactive and collaborative. Managing supplier relationships is key here, and for this to be effective it must be considered at all stages of the project and be built on trust and good communication throughout the supply chain.

Importantly, the contract and relationships do not end at handover. Clients and contractors can adopt a Soft Landings Protocol to ensure operational performance is optimised. Once a building is reaching the end of its life i.e. when its use changes for example, the business need once again should be evaluated, and the stages of good procurement practice considered afresh.



RIBA Plan of Work 2020 Overview





Assessing the client needs

Client types and their priorities

- a public body (broadly split between central government departments and local authorities): will need a building that lasts a long time, is efficient use of tax payers' money, is within yearly budget and is low cost to run. The client is also a secondary client. Such clients have a use-value proposition. Projects typically may be commissioned by the military, law enforcement, infrastructure (public roads, bridges, tunnels, water supply, sewers, electrical grids, telecommunications, etc.), public transit, public education and health care.
- a private sector: projects are mainly independently financed.

Brief

- before any large sums of money are spent, the first stage should be the client or developer preparing an outline brief of the proposals
- this can include an analysis of market potential and the costs of the development in broad terms
- site selection and preliminary evaluation should be considered, together with preliminary discussions with the local planning authority
- consideration should be made to who is financing the scheme i.e. short term finance covers the cost of the development until the project is disposed of (generally once built) OR long term finance which covers building and owning the development over a long time period.

Strategic briefing

- having expressed a desire to undertake a construction project, the client's requirements now need to be translated into project requirements
- the question of what does the client want (in terms project goals) and why (in terms of the client's objectives / goals) is addressed in the strategic brief
- project requirements specified in the strategic brief will be the basis for designing, costing and building the scheme.

Briefing process: prioritisation of client objectives

To achieve client satisfaction there is a need to define and prioritise the primary objectives of the project:

- Time** – either certainty or speed
- Cost** – either certainty or level of price
- Performance** – building function or quality / design issues

The outcome will set the parameters for the project team, a process can be unfamiliar for inexperienced clients.

Consideration of the risks associated with the project (including ownership) and their potential impact on non-achievement of the project objective.

Dr Amrit Sagoo and John Simons, authors of steps 1-4.



Checklist for producing strategic brief

- **Time**
 - what is important about time?
 - does the client require project as soon as possible?
 - is there a specific deadline date for when the project must be completed?
 - is the client only interested in certainty of time?
- **Cost**
 - is the client concerned with initial capital cost?
 - is client concerned about life cycle cost?
 - does client have a fixed budget which must not be exceeded?

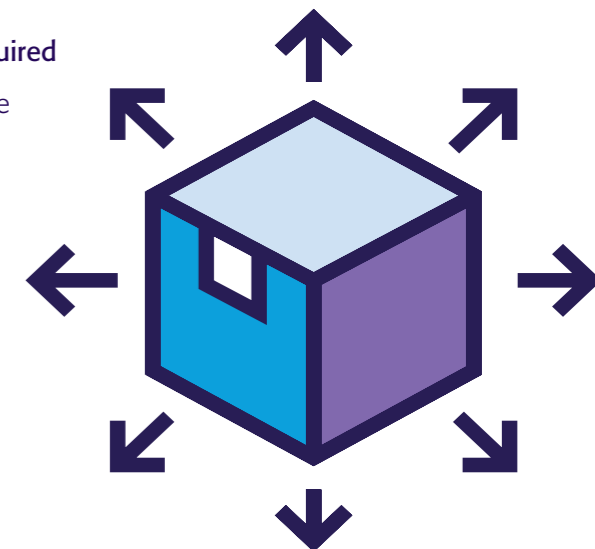
Does client simply want certainty of price i.e. once project definition and budget has been agreed?

Checklist for determining client type

- **Quality**
 - is the client concerned with image and building style?
 - is the client concerned with quality of building in terms of building finishings and fittings?
 - are quality standards required in terms of materials and workmanship?
 - are quality assurance procedures required?
- **Likelihood of post-contract client changes**
 - is the client able to articulate their need?
 - what is the likelihood that the client's needs will change before the project is completed?
- **Degree of accountability required**
 - to whom does the client have to justify expenditure?

One of the first activities that is performed during the initiation of construction projects is the assessment of the business case. During the assessment of the business case for projects, the underlying client's needs, time, cost, affordability of options, benefits or investment returns, are all evaluated and should all be used to decide if it is worth progressing with one of the options that has been evaluated.

So, what exactly does the assessment of the business case for projects entail?





Construction projects are responses to 'business needs' identified by clients. The decision to construct a new facility is usually taken as part of a strategy which has considered alternatives such as renting, leasing, extending, or adapting existing property. The business case is therefore driven by a thorough **assessment of the client's needs**. The development of a business case is an essential activity for project success.

A business case provides the justification / rationale for the project based on expected benefits, estimated costs and risks. It represents the optimum mix of information used to judge whether the project is (and remains) desirable, viable, and achievable, and therefore worthwhile investing in.

It is also used to obtain management commitment and approval for investment in business change including projects and programmes, through rationale for the investment. The business case must be developed at the inception of the project and the ongoing viability of the project must be assessed against it at key stages. If at any point the business case ceases to be valid, the project may have to be stopped or changed. As such, the business case is not static. It must be continually updated with current information on costs, risks and benefits.

The Chartered Institute of Building (CIOB) has recommended that a sound business case should:

- be driven by needs
- be based on sound information and reasonable estimation
- contain rational processes
- factor in associated risks
- have flexibility
- maximise the scope of obtaining best value from resources
- utilise previous experiences.

Morledge and Smith (2013) have proposed that the following questions should be addressed as part of business case development:

Strategic fit: how does the proposed project meet the organisation's objectives, anticipated markets and current priorities? How reliable are future market or use forecasts? Why it is needed now? Key benefits to be realised and any dis-benefits?

Payback: how will the project pay back the client's capital investment and will this be enough and achieved in an acceptable time? Issues of value and business gain.

Options: have a wide range of alternative options been explored? Will these meet the functional or strategic business needs of the client?

Commercial aspects: what proposed sourcing options and rationale for its selection, key features of proposed commercial arrangements (e.g. contract terms, contract length, payment mechanisms and performance incentives), procurement approach / strategy with supporting rationale.

Achievability: can the client firm cope with the project? Can this project be achieved within the parameters established for time and cost? Can the client organisation cope with the project given its current capability and capacity?

Affordability: is the budget available sufficient to enable the delivery of a suitable project? What will be the effect on the client organisation of a significant spend e.g. liquidity and ability to service loans? Can the client organisation afford to take the associated risks of a new project?

Value determines the business case and incentive to act which will drive business decisions and as such, the business case is made if it can be shown that an investment or venture:

- promises a return above the investor's hurdle rate of return (in the case of private sector project) or
- represents value for money (in the case of public sector projects).

Several methods are available for development appraisal to determine if the business case for a project is strong. The choice of method depends on type of project or purpose of the assessment e.g. developments to be sold (e.g. homes) or developments that would deliver annual profits (e.g. car showroom) and whether it is assessing viability of one project or comparing between alternative projects. Some examples of methods for assessing the business case for a proposed development have been presented in the table below.

Method	Key features	Where used
Payback method	This method determines how quickly the gross capital invested in a project can be recovered by the net cash flowing in	Used for comparing alternatives under conditions of risk where it is desirable to get one's money back as soon as possible
Discounted cash flow / Net present value (NPV)	All future receipts or payments from an investment project are converted to a present value using an appropriate interest rate	Useful for evaluating competing long term projects
Internal rate of return (IRR)	Calculated by dividing the annual net profit by the capital invested	Readily applied to evaluate the worth of a single project or to confirm the choice of one of a number of alternatives
Residual valuation method	The method estimates the value of developable properties as the surplus of market value for proposed development after making allowance for all cost items and developer's profit.	Used mainly to determine the latent value of land where it is difficult to come by evidence of sales or rents of similar properties

Make or buy?

A key decision for any procurement activity is to understand whether to in source or outsource the goods, services or works. In order to make effective decisions in this regard, we need to consider what affects our decision making, namely:

- overall business strategy
- risk
- commercial reality or economics

Strategy

- are the goods, service or works of strategic importance to the operation of the organisation?
- do you have the necessary skills, resources and technologies in house?
- define organisation needs?
- importance of competitive advantage?
- is there an alternative use of existing resources?

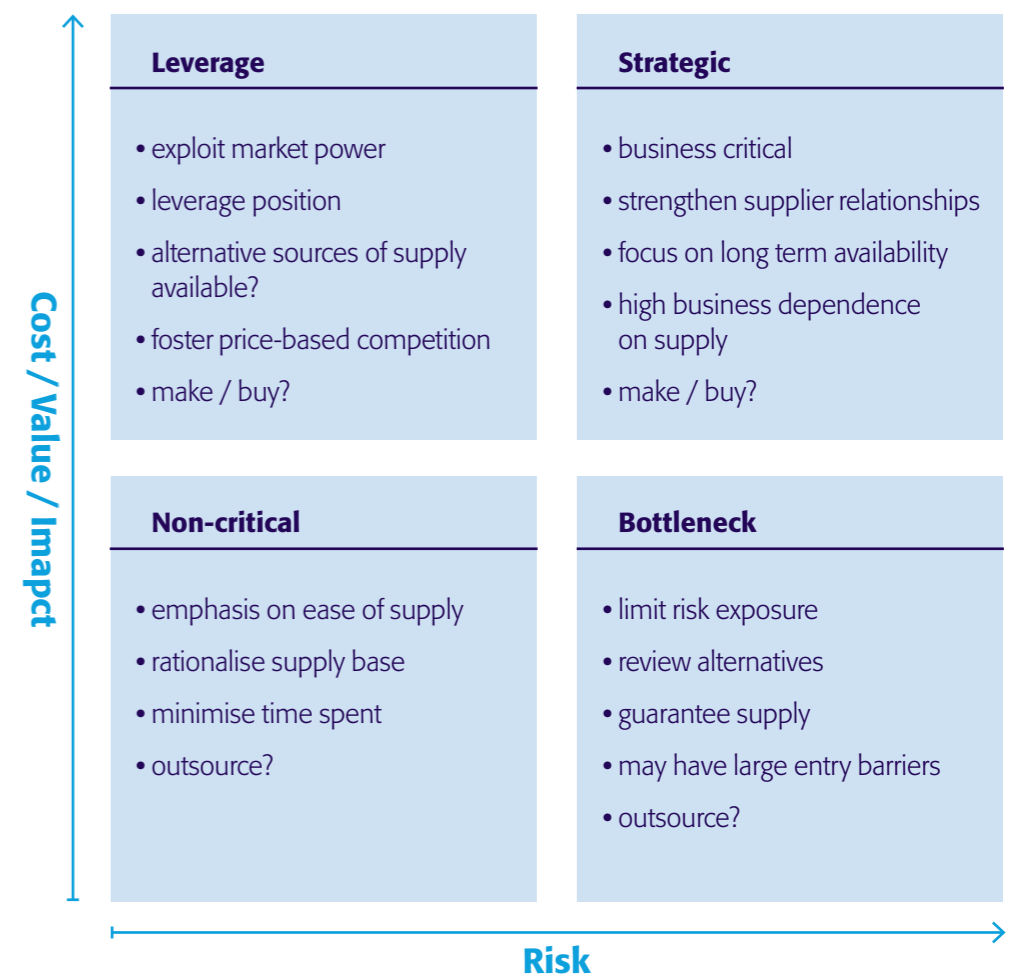
Risks

- can you control quality (internal or external)?
- is reliability of concern?
- do you need to control design?
- is the predictability of supply important?
- do you have the core competencies in house?
- what are the manufacturing risks?
- redundancy?

Commercial considerations

- understand financial impact of decision e.g. funding
- is return on investment important?
- will the initial investment guarantee long term gains?
- will fixed overhead costs be avoided?

In addition to the above, it is also useful to categorise purchases in terms of cost and risk. A number of models have been produced in this regard and an example is provided here to help you understand the thought process.



What is a procurement strategy?

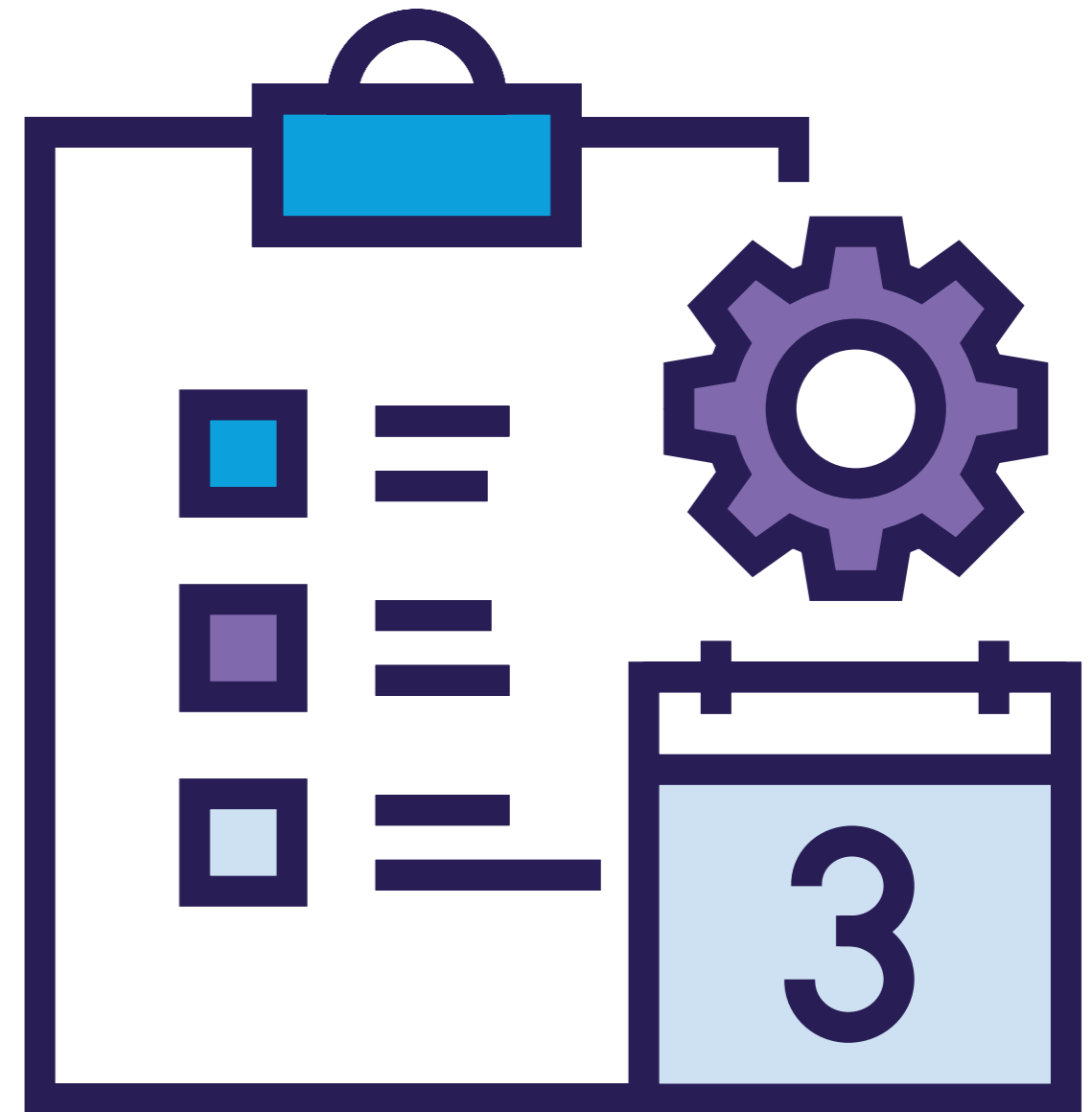
A procurement strategy can be defined as a plan to effectively manage the purchase of works, services or supplies. Typically, a procurement strategy will depend on a number of factors, for instance purchase timeline, available budget, total cost of ownership (TCO), business risk as well as non-commercial considerations such as environmental, sustainability and social value.

Effective strategies often focus on cost reduction, mitigation of risk, surety of supply, but which also reflect the organisations aims and objectives. You need to understand your own organisation aims and objects to ensure you align you procurement activity to the overall organisational requirements. However, be aware that there will likely be competing requirements and you may need to decide to focus on a single priority or more than one, depending on their business requirements.

Types of strategies to consider

- reduction of cost
- risk management
- supplier management
- supply optimisation
- environmental / ethical purchasing
- social value considerations
- quality management

An effective procurement strategy will look to identify saving opportunities, eliminate maverick spend, maximise economies of scale, reflect the organisations values and ensure compliance. In formulating the strategy, organisations will need to ensure they understand the needs of the organisation, assess and understand the relevant market, set clear objectives and prioritise procurement activity.



We noted in section one that consideration needs to be given to certain key criteria, such as time, cost, quality, project risks and budget. These elements form the golden thread, which should run throughout the project.

Discussions thus far have centred on a more generic approach to procurement strategy and whilst relevant, we now need to turn our attention to strategies related to construction.

There are four main procurement routes recognised across the construction industry, namely;

- **Traditional**
- **Design and build**
- **Construction management**
- **Management contracting**

Traditional

This approach is where the client and / or their consultants, work to develop a design. Once the design has been concluded and agreed, the project is tendered in order to appoint a delivery partner (contractor). In this case, the contractor may have no involvement with design, although the design team may be novated to the contractor after their appointment.

Design and build

As the name suggests, procurement commences to appoint a single main contractor who will be responsible for both design and construction. However, clients have two options to consider:

- **Single stage**
- **Two stage**

Single stage is when the contractor submits a tender for delivery of the whole project, including price. Depending on the procurement route used (open / restricted) it can be an efficient way to appoint a delivery partner.

The second option is to adopt a two-stage approach, where initially (first stage) the contractor submits details under a pre-construction services delivery agreement; project preliminaries, method statements, design, overhead and profit for example.

The second stage involves a pricing exercise for the criteria agreed in the first stage. Not all items may be able to be priced at this stage, so further negotiation may be necessary.

This route enables early contractor involvement and allows the client to transfer risk where appropriate. However, care must be taken in appointing a contractor under two stage and the use of frameworks is particularly helpful in this regard.

Construction management

This option involves the appointment of a management team, including a construction manager who will be responsible for the delivery of the project on a fee basis. The important point to note with this option is that the client has no direct contractual relationship with the delivery partners.

Management contracting

Management contracting is where construction of the project is undertaken by a number of contractors under a management contract. The contracts manager is usually appointed by the client and their early appointment means they can become involved with the design process to advise on buildability, risks and works packages.

It is worth noting that in legal terms a management contractor is appointed by the client and acts as principal, whereas the construction manager is acting as agent. The key point for the client being that under the former, the client has a single contract to manager, whereas under construction management the client will have multiple contracts to manage.

Collaboration

The *Latham Report* published almost 25 years ago, recommended the sector moved away from an adversarial approach to contracting and to adopt a more collaborative approach.

Constructing Excellence advocates that whichever procurement option is chosen, collaboration is paramount for the successful delivery of any construction project. Some of the options listed above are more suited to collaboration than others, design and build (two stage) for example. Early contractor involvement and risk sharing are key elements to collaboration as are the use of partnering contracts such as the NEC Early Contract Engagement (ECI).

Alliancing

No discussion on collaboration would be complete without some reference to alliancing. In simple terms an alliancing contract is an agreement between multiple parties who agree to act in a certain way to achieve a common goal. It can work very well on high value of long-term and complex projects.

HM Treasury's Alliancing Best Practice in Infrastructure Delivery defines alliancing as:

"an arrangement where a collaborative and integrated team is brought together from across the extended supply chain. The team shares a set of common goals which meet client requirements and work under common incentives."

Extract taken from:
Infrastructure Client Group, Improving Infrastructure Delivery: Alliancing Best Practice in Infrastructure Delivery

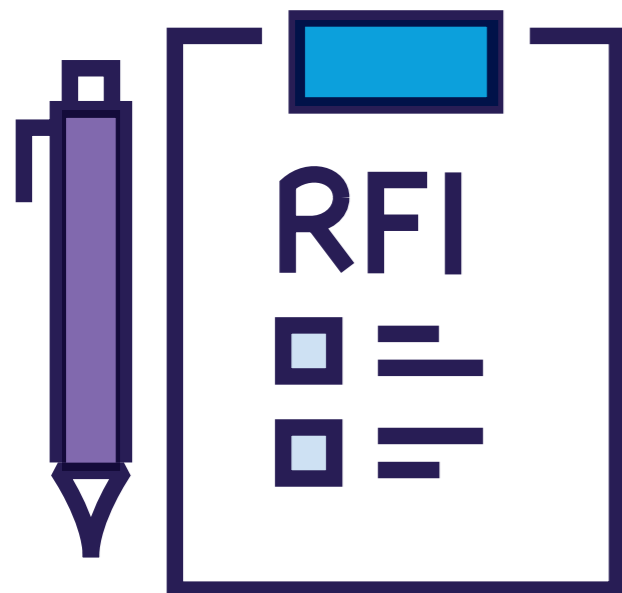
What is market engagement?

Market engagement is a process which enables you to:

- stimulate market interest
- communicate your needs and / or requirements to potential suppliers
- discuss the opportunity openly and transparently to optimise possible options and solutions
- identify size, composition and nature of the supply market
- identify new developments, emerging technologies and stimulates innovation.

Why bother?

- market engagement can help improve the way you plan and manage procurement
- provides an opportunity for the contracting authority to test the procurement strategy, its appropriateness and effectiveness
- improves our understanding of the market, enabling us to become a more intelligent buyer
- increases trust and credibility with suppliers
- enables the market to better understand your business and needs
- helps create the market conditions needed to deliver the best solution
- enables the purchaser to discuss and get feedback on their requirements, which can help inform the development of the final specification
- enables suppliers time to plan, prepare and resource a team in order to respond to the contract opportunity
- ensures you plan the optimal approach-to-market strategy.



When?

Regulation 40 of the Public Contracts Regulations (primary market consultations) confirms you can engage with the market provided that it does not have the effect of distorting competition, namely;

- abide by the principals of procurement (Regulation 18)
- be fair, open and transparent
- record discussions for future reference
- take steps to ensure your integrity, for example, giving the same information to all suppliers
- give equal access to all suppliers and treat all suppliers the same.

Where?

There is nothing prescribed and no standard process for engaging with the market. It's up to you to design an engagement plan that will get the best results for the type of procurement you are doing. Options include:

- publish forward procurement plan
- attend trade shows
- attend 'Meet the Buyer' event for any interested suppliers
- issue a Request for Information (RFI) or Prior Information Notice (PIN)
- meet with industry bodies
- meet with a group of key suppliers or a range of suppliers individually
- provide a pre-tender briefing to suppliers who are interested in a contract opportunity.

How – meet the buyer

Before publishing a Notice of Procurement an agency can hold a pre-tender briefing or suppliers. This is intended to give advance notice and promote the contract opportunity. It allows suppliers to ask questions and better understand your needs.

Because you are asking suppliers to talk about their ideas, which may be commercially sensitive, you should plan how to engage with stakeholders throughout and manage the process properly. Consider meeting suppliers in a group or individually, whichever is appropriate.

Promote supplier networking by encouraging or facilitating meetings for potential suppliers to meet one another. This allows them to explore joint bids, partnering arrangements or sub-contracting opportunities.

Depending on the size of the market it could be unmanageable or even impossible to speak to all suppliers. Try to adopt a balanced approach, but this will depend on the nature and type of your procurement. Ensure, if possible, that you speak to key suppliers or those with relevant offerings and ensure you engage with small businesses (SMEs).

Develop documentation and detailed specification

The documentation and detailed specification will depend on your procurement route decision in step 2.

The procurement exercise – stages 5 to 9

- the procurement exercise will be designed and executed to achieve the strategy and precise procurement outcomes defined in steps 1 to 4. (See [Outcome Led Procurement](#), Constructing Excellence South West)
- at each of the gateway reviews, a check is made to ensure the results of each step in the cycle align to the strategy and delivery of outcomes.

If you are using a pre-tendered framework (through a call-off contract) you will need to check:

- that your procurement outcomes can be delivered through the framework i.e. that the companies appointed to the framework have been evaluated against the outcome criteria you want to achieve.
- that the framework covers your specification requirements
- whether the framework prescribes the documentation to be used for the call-off contract
- whether any opportunities exist through the framework to collaborate on your procurement to achieve better value through efficiencies, shared learning and reduced risk
- many framework providers including Crown Commercial Services and LHC set up frameworks using collaborative or alliancing forms of contract to encourage collaboration between clients and appointed companies. Scape and Pagabo tender frameworks on the NEC Form of Contract to foster innovation and collaboration
- as a general rule, it is recommended that you use standard forms of construction contracts where possible with minimum variations
- in any case the framework provider will be able to advise you on the documentation to be used to achieve best results from the call-off contract
- a pre-tendered framework will allow you quick and easy access to the appointed companies to ensure early stakeholder involvement
- you will need to ensure that you engage with the framework appointed companies on an open, fair and non-discriminatory basis.



John Skivington and Andy Stamps, authors of steps 5-9.

If you are procuring your own framework, contract or dynamic purchasing system (DPS):

- engage as early as possible with the whole supply chain to inform your documentation and specification development
- consider using collaborative or alliancing forms of contract to accommodate collaboration between the supply chain to ensure shared learning and reduced risk
- allocate risk to those in the project team who can best mitigate and manage it. Consider using Project Bank Accounts or Integrated Project Insurance
- in terms of the procurement process, select one of the six mechanisms identified in the Public Contracts Regulations:
 - **open procedure**, where there is a limited supply market
 - **restricted procedure**, where you may want to reduce the supply market through pre-qualification and issue a tender to invite fully priced bids without the need for any further negotiation
 - **competitive dialogue**, for complex procurements where specifications, pricing and risk cannot be easily prescribed
 - **competitive with negotiation**, which gives flexibility about whether to negotiate or award only on the initial bids but not recommended for a collaborative partnership approach
 - **innovation partnership**, where there is no established supply market
 - **dynamic purchasing system**, a completely electronic method for simple procurements with a large and diverse supply chain, many of which may be small and medium-sized enterprises (SMEs).
- make the documentation simple and clear to understand
 - include in the documentation a clear procurement timeline to align with the RIBA Plan of Work stages
 - use standard forms where possible (see steps 6 and 7 below)
 - clearly articulate the criteria to achieve the required outcomes
 - clearly identify weightings and sub weightings
 - provide a scoring guide to show how responses will be scored
 - consider dividing large projects into smaller lots to encourage SMEs
 - clearly articulate the lotting structure and any limitations on bidding for different lots
 - consider interviews and site visits alongside the written submissions, either as an additional scoring requirement or to validate scores given for the written submissions
 - for a DPS, the documentation trail has to be easily accessible and navigable electronically.



6

Supplier selection to participate in tender

- carefully select and brief your evaluation team
 - ensure you have a range of expertise to be able to evaluate all the key criteria to achieve the desired outcomes
 - clearly brief all team members and allow time for moderation
- a Contract Notice will need to be prepared setting out the requirements and the structure of the procurement exercise and published through certain portals depending on the value of the procurement
- for construction projects, the following thresholds apply (July 2020)
 - publication through the Official Journal of the European Union (OJEU), Public Contracts Scotland and Sell2Wales:
 - works contracts above £4.7m
 - services contracts above £180,000
 - publication through Contracts Finder
 - contracts over £25,000
- it is recommended that the draft Contract Notice is submitted with the documentation and specification for gateway review.

Gateway review – step 5

- check that the documents and specifications are aligned to the strategy and will deliver the desired outcomes.
- check that they comply with the requirements of the Public Contracts Regulations 2015 and any relevant case law or guidance notes.
- check that the document and specification is clearly set out and easy to understand.
- check that all relevant and accurate information is included in the draft Contract Notice. Omissions or errors in the Contract Notice risk legal challenge to the procurement process.
- will applicants know what you are trying to achieve and how best they can demonstrate their ability to service your requirements?
- only when you are completely satisfied with all the above should you finalise the documentation pack for issue along with the publication of the Contract Notice.

If you are using a pre-tendered framework

- your supplier list will have been pre-selected
- engagement with the framework suppliers will be via a mini-competition or direct award procedure without competition (see step 7 below).

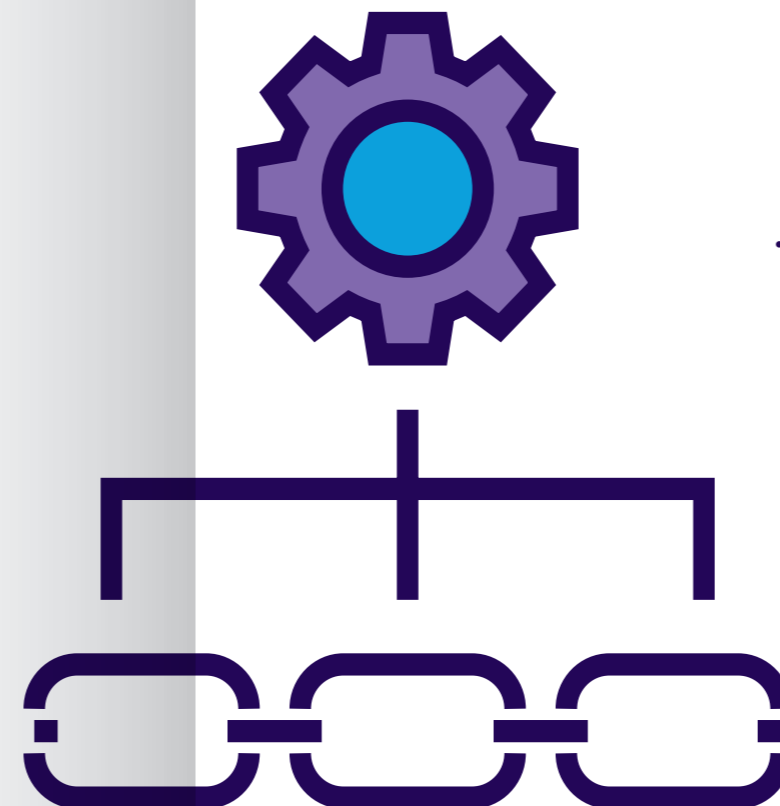
If you are procuring your own framework or contract

- use a standard selection questionnaire such as the CCS Standard Selection Questionnaire (SQ), European Single Procurement Document (ESPD) or PAS91
- most of the questions are for information only or pass / fail questions
- additional scored and weighted questions may be asked at the selection stage to enable you to set a benchmark for screening applicants at this stage according to your key criteria designed to deliver your outcomes
- these questions cannot be repeated in the Invitation to Tender (ITT) document. They are 'looking back' questions focusing on company policies, expertise and experience
 - once evaluation of the questions is complete moderation may be required, particularly if there has been scored, qualitative questions such as case study reviews

- on finalisation of the results it is recommended that an evaluation report is prepared for gateway review with proposals for supplier selection
 - after gateway review, it is recommended that unsuccessful applicants are informed immediately with an invitation to a debriefing
- if you are procuring a dynamic purchasing system (DPS)
 - an Invitation To Participate (ITP) is issued similar to a pre-qualification questionnaire to identify a range of suppliers
 - evaluation is carried out in the same way as a supplier selection process
 - unlike a framework or contract, unsuccessful candidates can reapply to join the DPS at any time.

Gateway review – step 6

- check that selected suppliers collectively and individually have the capability to deliver the desired outcomes in accordance with the procurement strategy
- approve the supplier selection and issue letters to the successful and unsuccessful applicants.





Issue tender documents



If you are procuring through a framework

- for a self-procured framework follow the process set out in your framework terms
- for a pre-tendered framework by others, the documentation may be clearly prescribed, or you may have a high degree of flexibility on how to call-off from the framework. The framework provider will be able to advise you
- the mechanism for issuing a tender to the appointed companies will also be set out in the framework terms
- most frameworks will allow for both a mini-competition and a direct award without further competition. Some allow only one or the other of the methodologies, not both
- for a direct award, it's important, to mitigate risk of a legal challenge, to follow the instructions set out in the framework document
- for an audit trail it is recommended that the documents are issued through a procurement portal and all communication with the tenderers recorded on that portal.

If you are procuring your own framework or contract

- often large construction procurement projects involve issuing tender addendum (i.e. revised drawings for example). Through the course of the live tender it is good practise to ensure contractors confirm receipt and inclusion in their submissions
- it is recommended that you use documents that promotes collaboration between your supply partners
- the Framework Alliance Contract FAC-1 is one such tool for framework creation and for partnering contracts such as the PPCSuite Contracts
- as with supplier selection, the tender documents should clearly set out the evaluation criteria which will result in the procurement outcomes being achieved
- design of the evaluation criteria in the ITT is one of the most critical factors in determining procurement outcomes and cannot be underestimated (see step 8 below)
- site visits may be used as part of the evaluation exercise. Where mid-tender Q&A sessions are held, all queries and responses need to be logged and issued to all
- for an audit trail it is recommended that the documents are issued through a procurement portal and all communication with the tenderers recorded on that portal.

If you are procuring through a dynamic purchasing system (DPS)

- an Invitation to Tender should be issued to all capable suppliers on the DPS qualified to offer the service required in your specified location
- direct awards without further competition are not allowed via a DPS
- the communication with the suppliers can only be conducted electronically, usually through a portal specifically designed to accommodate the DPS.

Gateway review – step 7

- The activities of the gateway review of step 7 are the same as those for step 5.

Bid and tender evaluation and validation

- whatever type of procurement route you have followed the key principles of the bid and tender evaluation and validation will be very similar
- a key difference with the competitive dialogue, competitive with negotiation and innovation partnerships is that further evaluation can take place after the initial bids have been received
- the regulations stipulate that evaluation of tenders should be conducted on a MEAT basis, the most economically advantageous tender. This essentially involves balancing price criteria versus quality criteria to achieve the desired outcomes
- the post-Grenfell, Covid-recovery environment has shone a spotlight on the inadequacies of the price / quality equation and demanded a greater consideration of the total value of the specific procurement outcomes. (See: *Procuring for Value*, Construction Leadership Council, July 2018)
- the construction industry is moving towards a more comprehensive Value Toolkit to help housing associations and other commissioning organisations to more precisely articulate the outcomes of a procurement across a range of value measures. (See: *An Introduction to the Value Toolkit*, Construction Innovation Hub, July 2020)
- although this is work in progress, construction procurers are in a position today to consider more carefully their procurement outcomes not only in terms of price and quality but also in terms of social, economic and environmental impact across the full investment life cycle
- critically the assembly of the evaluation team needs to reflect the relative importance of each of the criteria and ensure expertise in objective evaluation of each, all in accordance with the guidance set out in the tender documents
- on finalisation of the results it is recommended that an evaluation report is prepared for Gateway Review with proposals for the award to successful tenderers
- it is good practice to set up a moderation panel to ensure consistency in the scoring. This can be useful as supporting evidence particularly where external project funding is being used.

Gateway review – step 8

- check the evaluation mechanism has been applied in accordance with the tender documents
- check that successful companies collectively and individually have the capability to deliver the desired outcomes in accordance with the procurement strategy
- any variation that may have been reasonably implemented (for example to ensure sufficient competition in certain lots) needs to be considered through a risk management process
- approve the award decision.



Contract award and implementation



If you are using a pre-tendered framework

- it is good practice, but not a legal requirement, to inform all unsuccessful tenderers and issue a contract award notice on Contracts Finder
- arrange a pre-contract meeting with successful parties to commence the contract.

If you are procuring your own framework or contract

- award notices should be sent to all successful and unsuccessful tenderers detailing the relative advantages and disadvantages of the winning and losing bids
- offer tenderers the option of a debrief
- allow for the regulatory 10-day standstill period for feedback from tenderers
- on expiry of the standstill period – after 10 calendar days or longer to allow for satisfactory debriefing if required – issue award confirmation notices to all successful tenderers
- contract award notices should be published through OJEU within 30 calendar days and on Contracts Finder within 90 calendar days
- for a framework, particularly one established through a collaborative or alliancing contract, arrange a meeting of the successful parties.

Gateway review – step 9

- check that procedures have been undertaken in accordance with the Public Contracts Regulations and relevant case law and guidance notes
- make available the final tender report
- it is costly for contractors to put together bids and they should always be provided with robust feedback within their award decision letters on their bids to increase their capability and knowledge for the next scheme.

Implementation / mobilisation

What

Fundamentally, mobilisation is about protecting project progress and productivity by coordinating desired actions. Mobilisation gets the project team ready to start by focusing minds on the end of life / asset management requirements defined during initial phases. Mobilisation helps make tasks and teams ready through a collaborative approach to risk, constraint, opportunity and production management.

When mobilising, a shared understanding of purpose, shared goals, conditions of satisfaction, contractual requirements, scope,

commitments, strategies (e.g. commissioning), meeting ground rules and governance processes etc. helps the project flow by leveraging the experience and knowledge of the wider team by identifying and removing spanners that typically slow progress down.

The Designing Buildings Wiki describes typical mobilisation as ‘the activities that should be carried out after the client has selected the contractor, but before the contractor commences work on site. It is a preparatory stage during which the majority of activities are managed by the contractor’.

When

Depending on the type of contract (e.g. NEC3 or NEC4) there may be staged mobilisation followed by structured on-boarding. However, the earlier the integrated team is mobilised the greater the opportunity to identify and leverage opportunities for innovation that generates the most value for the available budget.

Typical two stage D&B contracts effectively have two mobilisation sessions. For example, if the contractor and / or specialist contractors were appointed following the tender process at RIBA Stage 3, there would be a mobilisation period following award to start co-developing schematic designs under a Pre-Construction Services Agreement (PCSA).

Once the design is developed and a contract sum is agreed, there would need to be a further mobilisation session in advance of the ‘start on site’ but this should always be with enough time to remove any known or emergent constraints, mitigate risks, realise opportunities and collaboratively develop production plans.

Ideally, mobilisation workshops occur 4-6 weeks prior to ‘start on site’ is scheduled following contract award. However, note that a mandatory standstill period is often required (typically 14 days – Regulation 85-87) unless you use a framework that does not mandate a standstill period.

Why

The common denominator in projects is people. Establishing the environment for ‘a spirit of collaboration and mutual trust’ (NEC3) is critical to project success. Successful mobilisation is about creating and maintaining the collaborative culture required for the team to gel.

Aligning on a shared purpose and establishing win / win goals, issues / dispute and decision protocols along with collaborative and transparent ways of coordinating (e.g. collaborative production planning and control) helps the team develop a shared understanding of project, scope, stakeholder requirements, roles and responsibilities (obligations) and delivery / commissioning strategies.

How

Creating a shared understanding of what project success looks, feels and sounds like, sets the team and project up for success. This is achieved through collaborative cross-functional mobilisation workshops with key stakeholders central to production and asset management.

Mobilisation is supported by co-creating delivery approaches through documents such as project charters, stakeholder management and communication plans / matrices, risk and early warning registers, collaborative production plans and project / BIM execution plans.

Who

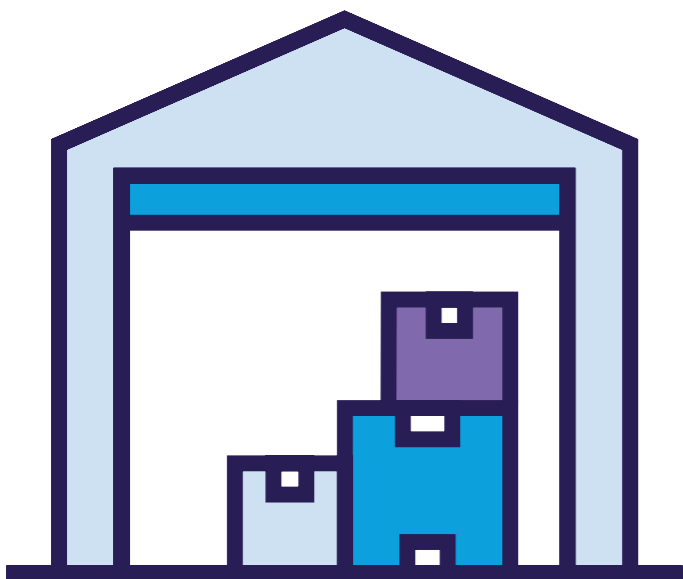
Protecting project progress and productivity requires the input and coordination of many stakeholders. As a rule of thumb, the stakeholders involved in mobilisation should be at a level in their respective organisations where they can contribute to the delivery strategies supported by the contract and commit the required resources to coordinate activities between project partners. For example, where a project has significant MEPH involvement the trade supervisors along with relevant design, procurement, project management and client reps will co-create collaborative phase plans during mobilisation to facilitate the conversations required to coordinate desired action during mobilisation and during the initial months on-site.

Key spanners

- identifying what is going to cause issues / stop mobilising as per programme / aligning
- utilities, purchase orders, planning conditions / consents / risk
- contract still not being signed and grey areas between discrete contracts...



Paul Ebbs and Emma Hesbrook, authors of steps 10-13.





Contract management

What

Contract management is effectively ensuring suppliers are aware of and adhere to their contractual obligations.

Construction projects typically use model forms of contract such as those within the NEC Suite or JCT Suite for example. Contract management, post-award and implementation of the project, involves managing and administering the Contract in line with the Form of Contract.

The NEC contracts, for example, explicitly outline via the clauses within the contracts how the contract is to be managed. The first clause in the NEC4 Engineering & Construction

Contract (ECC) explicitly states that individuals involved in the contract and its delivery 'shall act as stated in this contract'.

Contract management should also be viewed as a supportive tool to facilitate good relationship management. The NEC contracts in fact highlight this through a clause within the contract that instructs those involved in its management to 'act in a spirit of mutual trust and co-operation'.

Managing contracts and relationships in this way will ensure successful project outcomes.

When

All parties to the contract and its delivery should be aware of their contractual obligations before the project hits this contract management stage.

Contract management essentially begins pre-contract when tender documentation is being prepared, when any post-award negotiations take place, and when the final contract documentation is being prepared.

Once the contract is being administered and the project hits site, contract management must be proactive and collaborative. Contract management will also take place once the project is handed over, for example there is often a timescale under which a contractor is liable to rectify any defects from completion of the works.

Contract management effectively needs to be constant throughout the life of the project.

Why

Contract management is required to achieve project objectives and outcomes, and also reduce misunderstandings and disputes. Effective contract management should ultimately mean that project objectives are fully understood and works are delivered in line with the contract. Where contract management isn't undertaken successfully, change can arise as well as disputes, both of which can be disruptive and costly. Relationships will be damaged and trust eroded.

Where change does occur on a project, for example unforeseen programme delays, good contract management will ensure this is dealt with proactively, as soon as either the client team or contractor is aware of the issue, and both will do whatever is possible to resolve and mitigate the effect on objectives.

How

Ultimately good contract management involves ensuring the right people know what their duties and obligations are; managing and administering in line with the contract itself; and ensuring good relationships.

A common thread through all of these aspects is good communication that is proactive, clear and consistent. Most construction projects will have a Project Execution Plan (PEP) that will outline people's roles on the project and its governance mechanisms, this can then be extended to create checklists of duties for all involved for example.

Communication and contract management can be supported via sophisticated software / systems that use their technologies to ensure the contract provisions are followed, tasks assigned, and project communications held centrally for example. All of which will help the client team and contractor to work as collaboratively and efficiently as possible.

Who

Contracts must be managed by those with the relevant skills and knowledge to be able to do so.

It is of paramount importance that a construction contracts manager for example understands construction activities and how time, cost and risk can be managed under the form of contract being utilised. Contracts may be managed by individuals or teams; roles and responsibilities must be outlined.

The roles and responsibilities for managing the NEC4 ECC for example are clearly set out within the contract and the names of individuals carrying out those roles are detailed in the contract data.

The Project Manager is the key individual involved in the management of the contract from the client's perspective. The Project Manager's duties and authority are described in the clauses of the contract, and they are a named individual in the contract data.

All contractual parties however need to be aware of their responsibilities to ensuring the contract is managed effectively and project objectives are met.



Supplier relationship management

What

Trust makes projects flow. Trust is the foundation of a high performance team and managing supplier relationships is the foundation of contract management.

Building and maintaining trust and relationships with and across the supply chain is a critical on-going process rather than a discrete step in the procurement cycle. Nowadays, clients often ask tenders for examples of how they create and maintain supplier relationships and high performance teams as part of pre-qualification and / or tender question in order to establish the environment that elevates people to the heart of project delivery.

In this way the contract supports collaborative relationships, behaviours and processes required to help new teams form and gel.

When

Whilst supplier relationships are managed formally during contract, the tender, pre-contract and mobilisation periods can establish the foundation for success and create the environment and mood for real collaboration to thrive.

It is almost inevitable that problems and disputes (challenges) arise on projects as they continue to become more complex. However, challenges can be overcome by creating and maintaining the foundations and characteristics of a high performance team prior to starting on site.

On collaborative projects this is typically done through cross-partner workshops before, during and after mobilisation to ensure the softer side of project delivery is pro-actively managed rather than 'hope' relationships do not break down and disrupt project progress.

Overcoming adversity requires positive moods such as trust, openness, confidence and wonder. These moods and resulting collaborative behaviours help develop the protocols for managing difficult decisions when they arise.

Behavioural workshops during tender (selection process) as well as behaviour related questions are sometimes used by clients to score / weight tenders in favour of teams that 'feel' like they will always collaborate when challenges arise. Post contract it is important to continue to maintain relationships as future opportunities to collaborate may arise.



How

Managing relationships is fundamentally done through conversations and effective multi-party interaction. Stakeholder communication is typically through various mediums such as emails, contract clauses, specifications and meeting minutes. Whilst these are important they can sometimes either contradict each other or not provide the framework or tools to solve emergent problems outside of the contract.

Effective and collaborative approaches to supplier relationship management engages the hearts and minds of project participants by creating the social environment to facilitate and sustain collaboration. Listening for concerns, leveraging experience across the team and supply chain, understanding the root cause of problems, managing expectations, exploring alternatives with empathy, recognition, and making reliable promises contribute to building the trust required to help projects flow.

Other lean tools such as collaborative production planning & control, co-location, team charters, quarterly alignment sessions and team dynamics assessments such as Insights®, Strengthscope® and others support the development of teams. However, nothing is a magic wand and shifting the mood to create the environment for collaboration before or with the tools is the first step.

Why

Avoiding disputes, motivation to achieve / exceed goals...

Supply chain procurement and management in design and construction is often fragmented and can lead to disputes and / or breakdowns in relationships when programmes slip and / or budgets increase.

This happens for a variety of reasons but it can be pro-actively managed through relationships and some of the tools and approaches mentioned here.

Project delivery is fundamentally a team sport. Increased project complexity increases the need for effective relationship management.

Who

Everyone is responsible for ensuring good supplier relationships.

Where team charters have been collaboratively produced, meeting and communication ground-rules, on-boarding and off-boarding modules and decision making / issue resolution protocols can be established. These protocols can help pro-actively manage relationships and help identify the risks, constraints and opportunities that emerge as design and construction unfolds. On-site or during design the Project Manager plays a critical role managing relationships and facilitating effective communication

The Project Manager plays a critical role fostering collaboration and setting the scene for collaborative project delivery i.e. do what I do, not as I say...

End of life / asset management

What

Contracts do not end at handover. Managing defects during the liability period is disruptive, unproductive and costly for all parties. Successful defect free handover implies that asset purpose and functionality, end user requirements, commissioning, maintenance and operation and decommissioning / alteration strategies have been effectively coordinated, managed and implemented. End of life considerations are complete when assets have been altered / decommissioned. Asset management can be considered effective and efficient after the asset passes initial and continuous commissioning standards that helps the asset maintain optimised operational and / or energy performance specifications.

Continuous commissioning in parallel with whole life costing to maximise operational efficiencies is often not given sufficient consideration where lowest first cost is a driver in a procurement strategy.

The term 'soft landings' is also often used to describe this phase. This refers to successful strategy deployment that ensures the transition from construction to occupation is 'bump-free' and that operational performance is optimised. This needs to be considered throughout development of the project for successful project delivery. See the [BSRIA Soft Landings](#) framework for more information.

When

Starting and with the end in mind by considering how an asset will be commissioned, used, altered and decommissioned is best practice. Decisions made at the front end have lasting implications. Therefore asset purpose and functionality is an important focal point that teams must keep front and centre during design production and construction planning. The CIPS cycle is circular by definition which implicitly links this step in particular back to the start. All CIPS cycle steps are interconnected and not necessarily sequential.

Clients often include end of life and asset management requirements in tender specifications and submissions e.g. there may be a requirement to produce an outline soft landings strategy as part of a tender submission which can then be evaluated further during tender interviews / presentations.

During contract management stakeholder engagement and activity coordination through collaborative production planning can help to minimise defects before and after practical completion by helping designers and contractors understand systems before occupation and the quality handoffs required between each other to remove / mitigate defects and snag lists that are managed during the defect liability period. Post occupancy evaluation's are also used to fine tune systems, correct any problems and feed learning back into future projects. In summary, considering end of life and asset management as a starting point will require additional investment of time and capital, however.

Why

The purpose of a project is to make sure the functional and operational needs of the client and end users are met. Clarity of purpose is a trait of high-performance teams. Spending time defining and communicating this at the front end provides a solid foundation for decision making.

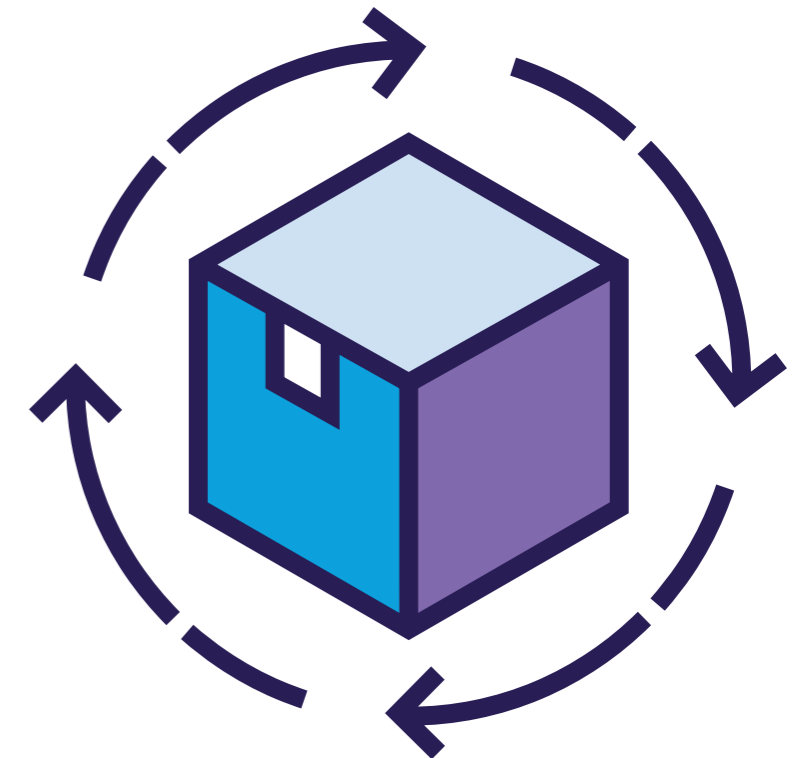
Successful project delivery can be defined by the amount of rework required during design, construction and maintenance. Various studies show this varies between 3 and 30% of total project costs. Front end investment to define desired asset management and end of life outcomes and creating the environment for collaboration to really thrive establishes the shared and reciprocal understanding required to mitigate rework. Approximately 80% of the first cost of assets is locked in at schematic design and the window for innovation decreases the closer construction phases becomes.

How

Research by Dodge Data Analytics (2016) shows that the sooner the supply chain (e.g. specialist MEPH contractors and O&M technicians) are engaged in design the better the outcomes of the project. This allows the construction, operation and maintenance processes to be incorporated into the product design while also leveraging innovative process and product improvement thinking from a critical group of stakeholders.

Who

As a rule of thumb the people who are closest to the work typically know it best and every project has its own nuances. At a minimum the input of those who will use, operate, maintaining and potentially decommission assets will enhance the outcome of this stage.



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