

THE TWO STAGE OPEN BOOK PROCESS – WHAT CAN WE DO TO MAKE IT WORK BETTER

By Dominic Somerville, Chair of FBE

This report is based on a workshop comprising 41 construction professionals from a mix of construction roles and experience from both the public and private sector. It was held at Bristol Beacon, 20th November 2024 and co-hosted by Kingsley Clarke, Chair of CESW & Dominic Somerville, Chair of FBE.

Executive Summary

The four topics addressed by the forum were: Client Considerations, Design, Commercial Considerations, and Sustainability.

Consistent feedback from the working groups noted that frameworks that engage the contractor early, as part of the design team, are shown to deliver more consistent, high quality and on-budget projects. ProCure 23 (Dept. of Health) was referenced several times as were other Gold Standard frameworks like Southern Construction Framework (SCF).

Before I go into any detail, I would like to summarise the key actions and solutions we identified, and that I hope will help your projects run smoothly:

- **Client Considerations Summary** – There is a need to adopt integrated risk management and use consultant appointments that are integrated/co-ordinated for all disciplines with clear outputs at specific milestones.
- **Design Summary** – Clear consultant appointments, CDP packages appointed during the PCSA stage and programmes that reflect the reviews for design, cost and risk that always arise are required.
- **Commercial Summary** – The benefits of creating specific KPIs for the budget, engaging the market about procurement plans, and clarity about the expectations of the PCSA and payment of realistic fees are vital.
- **Sustainability Summary** – The use of numeric targets rather than words for sustainability targets is recommended. Whole life costing is an area the industry has to get better at and use risk management tools to protect the sustainability budget.

Client Considerations

Market conditions were identified as a major risk for clients and there needs to be a better understanding in general about market conditions, with the industry in a better position to advise clients. The use of tools provides better benchmarking and issuing of information. We need to constantly monitor the tools that we all have and use appropriate frameworks which all helps address this issue.

Therefore, this consensus - because quite often you get a range of market conditions, - is arrived at from different perspectives from various organisations, sharing the risk and improving understanding. This is a big piece; it is around the risk appetite that the client demonstrates. Clients can benefit from the industry perspective about what the risk appetite is and therefore setting scenarios to provide a context and an idea of what two stage procurement could offer, in terms of delivering specific commercial outcomes is important.

A useful tool – an example of a ‘pain game’ mechanism - is **integrated project insurance**, which, if you haven't come across, I suggest you read up on because it is a way to bring all of the team members from client design and contract, under one umbrella and one contract, sharing the payment and sharing the risk. Then, having the combined risk register provides incentives that can be used for the common good across all parties with the client paying for full-service engagement of all team members, which also links to the client's knowledge of **consultant scope and appointment**.

This is about clarifying what people's duties are, what their roles are, or there may be a situation where there may be a de-escalation of involvement at RIBA stage one leading to the minimum input in terms of cost. So, to address this, consider using the Construction Industry Council (CIC) scope of service (rather than our IBA or SIBC or the CIC), is a fully coordinated Construction Industry Council scope of service. if you have not seen it, I recommend that you have a look at it. It addresses every single party, every single deliverable, every single stage. Therefore, a client can quite easily set the benchmark of what they want, tick the boxes of what they want, and measure back activity against it, identifying whether a particular person has delivered, and everyone has an understanding what each and all members of the team are delivering. It provides a checkpoint against all disciplines and deliverables.

ProCure 23, and SCF are both examples of frameworks whose processes support team integration at all stages of a project with formal processes at key points.

There are five key areas the industry can engage with clients about to help them get the best from their projects:

1. Market Conditions

- Better benchmarking
- Issue quarterly updates
- Constantly monitor through use of tools or framework

2. Risk – Share & Understanding

- ‘Pain Gain’ mechanisms
- Integrated project insurance/Project bank accounts
- Combined Risk Register
- Incentives

- Risk Appetite – set scenarios etc
3. Client Pay for Full-Service Engagement of All Team Members
 - Use CIC Scope of Services or similar. Define specialist services that may be needed.
 - Have a checkpoint against all discipline’s deliverables from the outset
 4. Client Knowledge of Consultant Scope & Appointment
 - As above (CIC)
 - Use Industry Standards from the outset
 5. Viability of Pipeline & Future Ops. Client Exit Strategy if Contract Cannot be Agreed at Stage 1
 - Clarity of gateway process (Flow diagram detailing exit point)
 - Regular review of the brief
 - IPI – Success criteria is an example
 - Contract mechanisms for termination
 - SCF Reviews at set points
 - End Stage reports
 - Risk appetite

Design

In relation to design, a key element requiring attention is programme. It needs to be more intelligently planned so that the design risk mitigation, cost, design responsibility and also change management can actually be embedded within realistic timescales for design. In this way it is clear what needs to be done from project inception and activity is constantly reviewed as things progress.

CDP and design specialist must be identified and addressed early; it is key to success. During two-stage procurement, appointment for CDP within RIBA Stage 2 through a mini-competition if required, is advisable rather than waiting for the contract to be signed and then appointing the CDP designers.

Specialist designers are brought in part way through that PCSA stage, and the design team know that at the end of it, there is accountable advice being provided, which is important. The design team know that the project can move forward in a more known and managed way.

A clear design responsibilities matrix, with information scheduled and identifying what all those deliverables are, and by when, should be embedded early. Through this process, everyone knows what they are doing.

Top Three SMART Objectives:

1. Programme

- Risk reviews
- Cost reviews
- Transfer of design responsibility
- Change
- The programme needs to more intelligently plan the design/risk mitigation/cost/design responsibility/change management at the beginning and be constantly reviewed

2. CDP/Specialist Design

- Identifying what is needed
- Engaging early when required
- When appointment is needed
- Mini 2nd stage competitions undertaken

3. Design Team Fees & Deliverables

- Ensuring clarity of expectations
- Delivery of information required
- DRM & IR5
- Clarity on above before second stage

Commercial

The big risk to a project is budget, and it is very important that industry engages with the client about it early and helps identify any potential issues before the project gets to the second stage of two stage open book tendering.

Making the budget a measurable aspect of the project through the use of KPIs is an important tool. This might include assessing how much market testing has been carried out, how much contractor engagement there is and getting more input from the design team about the budget, rather than having an isolated piece of work carried out by the commercial team. I must emphasise, this means getting everyone involved, getting contractor buy in and getting consultant buy in and the budget right at that early stage.

Secondly, the procurement route is critical. A way to make this happen is to have formal and potentially anonymous feedback with third parties, at regular stages to check that the market feedback is central to the decision on procurement. This is more likely to result in high quality companies being prepared to bid for work which is a current difficulty. This already happens in some procurement arrangements for example, with Southern Construction Framework.

A third risk - and opportunity is the PCSA. The big risk area with the PCSA is that there may not be the right deliverables for the right cost. The way to get around that is a deliverables matrix that is understood at the start of the PCSA. Many tier one contractors and some frameworks do already recommend these. What comes out then, is an actual list of the design and commercial risks that are going to get settled at that point. And part of that is making sure that the fees for that PCSA align with the deliverables. The common theme running through most PCSAs is that the PCSA fee is not really what it costs a Contractor to undertake the work, so making sure that the scope and the cost of the PCSA is aligned with what the client wants and paying the contractor accordingly.

Top Three SMART Objectives:

1. Budget

- Educate client on budget
- Benchmark and market tested %
- Input of design team and contractor
- Consider some KPIs on the budget

2. Procurement

- Education about routes/options/risk
- Record and reflect on options
- KPI outside of budget
- Honest stage review and lessons learned
- Plan the stage review external to project – i.e. 3rd party

3. PCSA

- Produce deliverables matrix tracker
- Identify risks through PCSA
- Fees align with deliverables

TOPIC 4 – SUSTAINABILITY

It is about helping clients understand the scope of the subject, a lack of understanding around what the definitions are, around sustainability, what will best give the client what they require? And what does it actually cost in the end?

So, rather than producing detailed briefs, developing a set of numeric metrics that could be applied to a project, and then ensuring the context of actually how important sustainability is overall to each project is established is the way forward. This can be referred to after the project has got past the brief stage.

There is a need to understand capital costs in financial terms and for example, against carbon savings in use. While the importance of whole life cycle costing and the accuracy of it is generally understood to be critically important, there is no easy solution – we all know the result we want but have not yet got the definitive tools to drive towards it.

Thirdly, we talked about how this was more about using project specific examples. In trying to achieve sustainability, new technologies are being introduced all the time. So, the industry is innovating. How can you forecast an accurate budget against new technology? It is very difficult, so one solution is a better risk management process to make sure that the contingency of the allowance for that is sufficient for the project to proceed.

Top Three SMART Objectives:

1. BRIEF – For sustainability move away from words to numeric targets/metrics for your sustainability goals and then set out how important sustainability is to the overall project.
2. Understanding capital cost (£) against cost in use. Whole life costing is the answer, but we do not know how to get there yet!
3. How to budget forecast for innovation better risk management process to help build a sufficient contingency budget.

All risks identified for each topic, leading to the top-rated risks:

1. Client Considerations

Risks discussed to identify the top five:

- Client knowledge of consultant scope and appointment
 - Can be wasteful – fees and time
- Demarcation of stages and design
- Clients get “sold a dream” by architect who is appointed first
- Visibility of pipeline and future operations – client exit strategy if contract cannot be agreed at RIBA stage 1
- Client must have realistic budget to attract contractors to want to tender as single stage tendering is not profitable and contractor cannot influence cost.
- Contractor pipeline and workload influences whether they will tender
- Lack of knowledge/understanding of client
 - Wait to RIBA Stage 3 to engage contractor

- Procurement teams drive procurement on projects that they do not understand
- Contractors push to come into project early with their own team and take advantage
- Client should be prepared to pay for the full-service engagement of the teams.
- Contractors need to have the right skill set to support client through early engagement
- Clients need to procure people with right skills to undertake the procurement
- Perceptions about two stage tendering
- Market conditions
- Knowledge of outcomes
- Is it sold by contractors to clients as good product?
- Too difficult/understanding
- Clients 'Don't know what they don't know'
- Insufficient brief – context
- Risk – share? Understanding
- At what stage do you start two stage procurement
- Client governance/approvals

2. Design

Risks discussed to identify the top three:

- Design aspiration meets affordability → at inception and through gateways
- How mature is the design to be in relation to the sector?
- Integration of sustainability requirements to be identified early
- Novate or not? Continuity and accountability is important
- Engaging specialist design early in the design to explore limitations and cost
- Design not to develop into specialist detail – define the specialist input early, be honest and enable that in procurement
- Realistic + clear + design fees, in relation to design deliverables
- Clients not willing to pay for the design and specialist advice
- Rigour in producing design to RIBA design stages – defining deliverables and details at each stage and specialists required
- CDP design not appointed in pre-construction normally
 - Second stage mini tenders – MEP/Facades
- Design programme is not realistic
 - Risk mitigation
 - Cost reviews
- Identifying the correct time for transfer of design responsibility

3. Commercial:

Risks discussed to identify the top three:

- Overspend
 - Budget
 - Inflation
 - Aspirations

- Client does not understand brief
 - Unrealistic budget (known)
- Design scope
- Insufficient budget/Incorrect budget
 - Flexibility
 - Design brief
- Change
 - Remeasure
- Contract
- Risk and unknowns
- PCSA
 - Expectations
 - Deliverables
- Risk transfer – programme
 - How much
 - Risk Premium
 - Understanding benefit
- Risk Aversion
- Budget to design stage
- Design deliverables
 - Time
 - Varying design stages
- Understanding and education
- Cashflow & Expenditure
 - Supply chain
- Design to Cost vs. Cost to Design
- Managing expectations
- Trust
- Unsustainable margins
- Interest rates
- National Insurance
- BSA
- Planning
 - Early engagement with planners
- PSCA Resource
- QS to QS
- Transparency
- Unquantifiable risk
- Incentivise behaviour
 - Client
 - Consultant
 - Contractor
- Ring fence profit
 - Client
 - Consultant
 - Contractor
- Duplicating design

- Specialist design requirement
- Honesty
 - Footings
 - First budget risk (range)
- Understanding quality
- Bidding tactics
- Stakeholder accountability
- Stage of a cost consultant
 - Confidence in a cost consultant
 - Scope in – when
 - Review
- Should cost model
 - Contingency
 - Site specific abnormal
- Data and reliance
- Culture
 - Client and contractors and design contractor
- Changing Technology
- Cost of sustainability
- Lifecycle considerations
 - CAPEX
 - OPEX
- Operation
 - Role of FM in construction

4. Sustainability

Risks discussed to get the top Three:

- Not understanding all of the extra benefits sustainability can bring i.e. better rents
- Lack of a clear understanding of what the brief is for sustainability
- Lack of understanding of the cost impact of the brief (sustainability).
- Low priority for some clients and would prefer to spend money elsewhere
- Often the first thing to be value engineered out
- Clients will not invest early enough in developing sustainability options
- Cost plans are based on capital cost and cannot factor in cost in use
- Accreditations to BREEAM are not broad enough in sustainability terms
- More education for Clients on how whole life costing works
- Embodied carbon value and benefits are not well delivered
- Keeping clients up to date with a fast-emerging sector is tricky, sometimes do not even understand basic terminology
- Need legislation to help drive outputs, as targets can be too soft. Pooling and sharing of knowledge.
- Over ambitious designs to link in with heating networks that do not always end up being used/built in time.
- Funding application budgets are not road tested enough prior to submission

- Lack of understanding on whether strategy is to off-set or do on site
 - Is social value included in sustainability?
 - Need better data shared on building performance to improve accuracy in whole life costings.
 - Cannot engage with end users all the time for new builds as they are not always in post
 - More fee in 1st stage to develop requirements for the end user.
 - Lack of understanding and standardisation for what is good (for an office, retail etc).
 - Developers will only ever do the statutory bear minimum
 - Lack of defining what sustainability is to each individual client or project
 - If you are being innovative then how can you accurately forecast a budget if it has never been done before!
 - Clients do not always know what the ultimate end goal/desired output is for their sustainability brief.
 - Fee for post occupancy eval and GSL is often insufficient.
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