

The PPC2000 and PPC International forms of contract in public sector building procurement – how, why and when?

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PPC2000 “process contracts” and early contractor involvement

- Findings of five years doctoral research (I should get out more)
- A black hole revealing very little legal/project management analysis of early contractor involvement
- Limited attention to early contractor involvement processes in contracts other than PPC2000/PPC International
- More often early contractor involvement during negotiation or under “letters of intent” without clear conditionality or contractual systems



Why is this an issue?

- Predominant use of single stage contractor appointments (often on lowest price) = connected to claims-based culture identified by Latham at the end of the last recession
- Kumaraswamy identified top ten causes of construction claims to include inaccurate/inadequate design information, inadequate site investigations, slow client decisions, poor communications, incomplete tender information, unrealistic time targets and unclear risk allocation



Why is this an issue?

- Professor John Uff identified causes of UK construction disputes as including poor planning, inadequate identification of work scope and unsatisfactory design/detailing/ specifications
- So there **are** claims/problems arising from the early stages of projects, but how will early contractor involvement help?



How will early contractor involvement help avoid claims/disputes?

- Linking contractors (and subcontractors) to the design, planning and programming stages of a project can test consultant designs/site investigations, can programme designs, pricing and client approvals, can establish full communications strategy, can pre-agree construction programme, can unpack tender information to back up prices and can ensure joint risk management to iron out misunderstandings/unnecessary contingencies
- The challenge is how to achieve these benefits without extending/duplicating preconstruction activities and without losing cost certainty – PPC2000/PPC International offer the answers



Can't all this be done in negotiation?

- **No**, because negotiation underlines (and may polarise) differing commercial interests
- Negotiation after single stage tendering means contractors already selected on basis of pricing/risk assumptions with possible errors/omissions in client/consultant brief – is there time/motivation for contractors to close the gap by sharing sensitive information at this late stage?



Can't all this be done in negotiation?

- Negotiation after single stage tendering means that any contractor contributions to design/programming/risk management will cause delayed start on site and may also be interpreted as self-serving tactics
- Trick of PPC2000/PPC International is to align interests through processes that build up information (e.g. second tier supply chain tendering after pre-agreement of main contractor profit/overheads) to create joint project planning and minimise negotiation



What is a more systematic approach?

- Conditional contractor appointment under PPC2000/ PPC International during the preconstruction phase after selection based on appropriate criteria
- 1998 CIRIA report *“Selecting Contractors by Value”* suggests selection according to technical skills, management skills, internal organisation, collaborative culture, human resources, supply chain management and financial resources
- Also suggest select on profit/overheads/anything pre-designed and capable of pricing



What is a more systematic approach?

- Agree programmed activities of client/consultant/main contractor to complete designs, joint risk management, programming and finalisation of prices **before** unconditional appointment of main contractor and **before** authority to start work on site = PPC two stage structure
- Create fully integrated contractual preconstruction programme of activities of all team members to minimise delays and to clarify roles, responsibilities and interfaces = PPC Partnering Timetable



Does early contractor involvement bring proven benefits?

- 1973 NEDO report says early contractor involvement two stage tendering is most likely to produce predictable cost results (82% of projects successfully completed within plus/minus 5% of contract price)
- 2005 National Audit Office report includes early contractor involvement case studies (e.g. Milton Keynes treatment centre where three months of early joint working reduced £15m budget to £12m outturn cost without compromising design or causing delays)
- 2007 Nicholls report on Highways Agency projects confirmed that early contractor involvement can reduce project preparation time by 30-40%



Does early contractor involvement under PPC contracts give the client a fixed price?

- **Yes**
- Pre-agreed profit and overhead (possibly linked to incentives for cost reduction) to clarify the main contractors' interest and motivate other cost reductions
- Compilation (working with pre-agreed main contractor) to establish fixed prices for each element of the project through demonstrable business cases or second tier competitive processes to select required subcontractors/suppliers



Does early contractor involvement under PPC contracts give the client a fixed price?

- Bidding subcontractors/suppliers will offer better deals to a pre-agreed main contractor than to one of a number of main contractor bidders
- All costs will be supported by transparent build up of information, assisting change management
- In addition (under PPC) exclusion of profit and overhead from main contractor extension of time claims in return for early contractor involvement appointment



What are the “must haves” of early contractor involvement?

- **Conditional two stage contract** under PPC2000, **not** two successive contracts, other EU procurement problems and lack of continuity/commitment
- Preconstruction phase processes set out in contractually binding timetable = PPC2000 **Partnering Timetable**
- Early declaration of risks and agreed actions to reduce risk contingencies = PPC2000 **Risk Register**
- **If possible, long-term relationships** to build improved efficiencies/lean systems over successive tasks/projects (note also TPC2005 Term Partnering Contract)

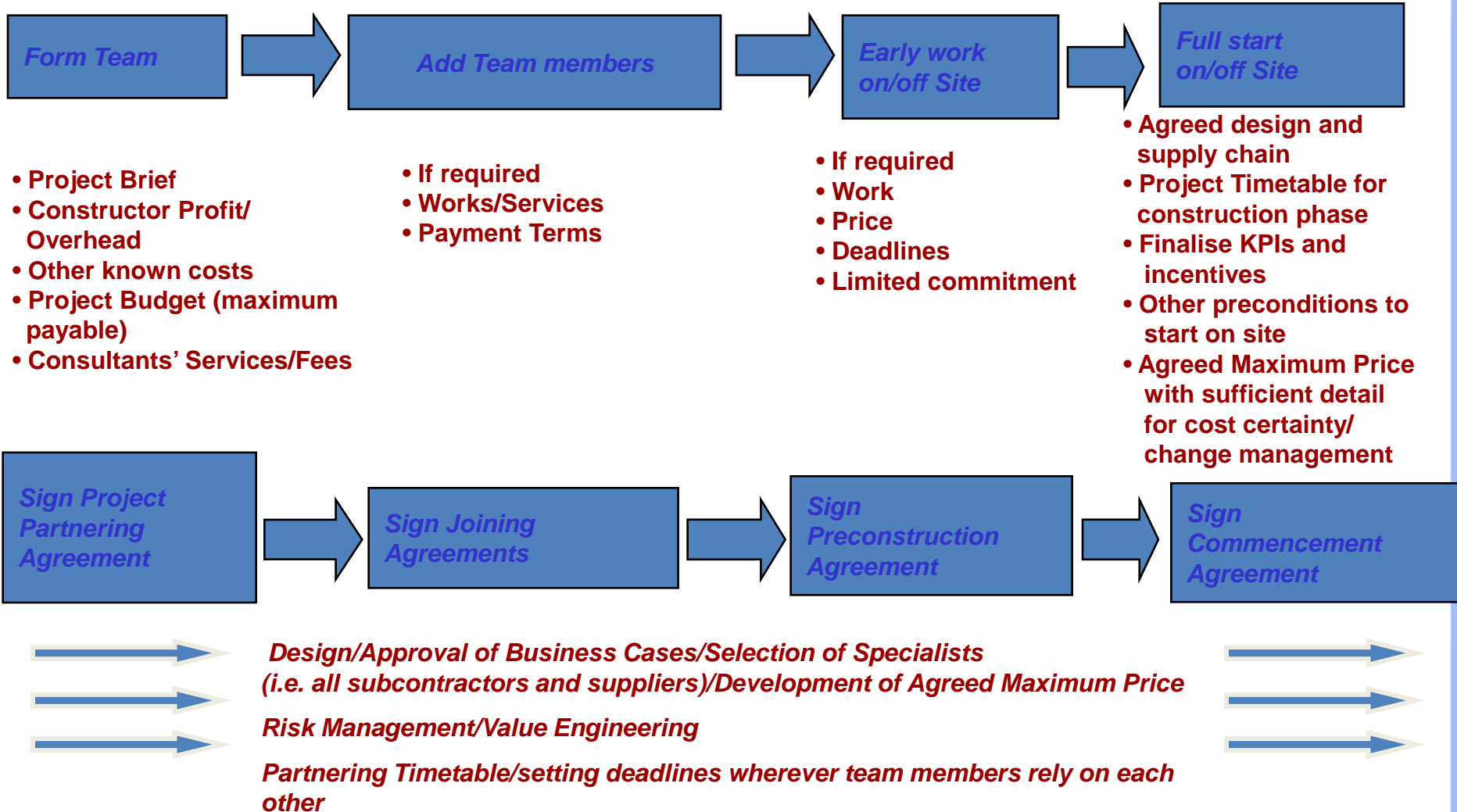


What are the “must haves” of early contractor involvement?

- Same rules of appointment/programming for the client, consultants, main contractor and key subcontractors = PPC2000/PPC International
- Delegated authority for sign-off by team members at each stage and for brainstorming/ problem-solving under clear terms of reference = PPC2000/PPC International
- Unconditional contractor appointment only **after** enough design/price/programme information for client approval = PPC two stage appointment



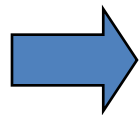
Early contractor involvement under PPC2000 as a “process contract” (Preconstruction Phase)



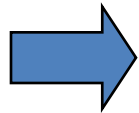
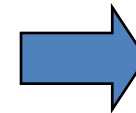
Early contractor involvement under PPC2000 as a “process contract” (Construction phase)

Commencement Agreement

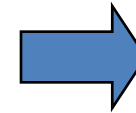
Project Completion



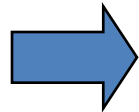
Any outstanding Designs/Supply Chain Packages/Prices for provisional sums



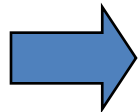
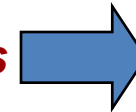
Early Warning/Advance Evaluation of Changes and Delay and Disruption



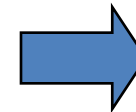
Agreed warranty/ Defects Liability Period/Period of Limitations



Assessment of KPI Performance/ Incentives



Project Timetable setting deadlines wherever team members rely on each other



Bermondsey City Academy – Early contractor involvement under PPC2000



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Early contractor involvement case study 1 - Bermondsey Academy

- £22m new build academy under PPC2000
- Preconstruction contributions by Willmott Dixon achieved joint risk management of cost/time impact following major changes in temporary school site
- Also successful management of risk from on-site contamination and site constraints



Case study 1 - Bermondsey Academy

- Integration of preconstruction phase design development with finalisation of open-book prices achieved robust fixed price within budget, supported by commercial incentives to seek shared savings
- Prime Minister's Better Public Building Award 2006
- Client (City of London Corporation) have used early contractor involvement under PPC2000 on two further academies plus a major office development in West London



Early contractor involvement under PPC International - University Hospital Dubai



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Early contractor involvement case study 2

– University Hospital Dubai

- £500m new build university hospital under PPC International
- Preconstruction contributions by Laing O'Rourke and Balfour Kilpatrick working with design consultants achieved fully programmed design phase and early enabling works
- Also successful management of risk arising from budget constraints in economic downturn, by means of joint value engineering and reprogramming



Other PPC public sector results

- Department of Work and Pensions - £737m fast-track programme for refurbishment and creation of 969 Job Centres/Benefits Offices using PPC2000 with main contractor and subcontractor framework agreements – achieved 24.8% cost savings against budget and won awards for procurement and health and safety



Other PPC public sector results

- Hackney Homes (council housing organisation) - £240m housing refurbishment programme – achieved savings of 20% against budget using long-term supplier/subcontractor framework agreements with PPC2000



Other PPC public sector results

- National Change Agent programme – set up by Department for Communities and Local Government for consortia of social landlords, predominantly using PPC2000 and achieving average savings of 11% plus extensive training/skills/ community initiatives



What next?

- A systematic and 'forensic' approach should link procurement/contracts/project management to allow a deeper client examination of underlying costs and related value –achieved through a two stage process under PPC2000/PPC International
- 1998 CIRIA report concluded that early contractor involvement results in better teamwork, programming, design, specification, care of the environment, budgeting and management of risk/value
- PPC2000/PPC International contain the team structure and lean processes to deliver these benefits and TPC2005 develops structure/process to deliver greater efficiencies over long-term relationships

