

# ALTERNATIVE TO TRADITIONAL TENDERING.

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## **Introduction**

The tendering process in the construction industry has followed the same pattern for decades (Constructing Excellence, 2011). Year after year, industry professionals, clients and contractors have all given way to the lowest-cost tendering which has proven to be detrimental to all parties involved. Cutting cost has proven itself to be a less sustainable as well as a less consumer-friendly form of tendering which barely benefits even the top-tier suppliers. With waves changing throughout the construction industry there is less and less room for errors in how we live, build, and consume (Nicholl, 2019). Alternative strategies will need to consider the ever-changing factors surrounding the construction industry.

## **Current Tendering Strategies**

At the beginning of any procurement process there is a client with needs and requirements. A design team is assembled to help create and build the project by hitting all the clients' objectives. With current tendering strategies the idea of best value for money is key and agreed upon by all parties. However, when the tendering process begins the pressure and competitive markets almost force contractors to make a tender more attractive to clients' and their teams by cutting costs and lowering their perception of 'value for money'. In return, clients will see a cheap tender and perceive this as best value, as the contractors have delivered on the build specification, without the client's knowledge or understanding of what has been lost. When majority of risk and accountability of a project falls on the tendering contractors, clients can feel more at ease when serious issues may not fall to them during build. Low-cost tendering has dominated the tendering process for years, not only damaging companies profit margins, ultimately damaging what consumers believe to be best quality (Green, 2018). The constant fight over low-cost tendering has resulted in a change of consumers perception of good quality. Clients and contractors no longer aim for long lasting, closed circle buildings that can be re-used and refurbished (CEW, 2017), but instead concentrating on profit margins and faster results. As a chain reaction to this, consumers have followed suit and see no value in what they are purchasing but rather how cheap they can get it. (Latham, 1994), analysed a survey in his report that was carried out by the Association of Consulting Engineers (ACE) which highlighted that 94% of responders have utilised low-cost tendering and low bids to retain capital. For an opportunity at the larger contracts, even top-tier suppliers are cutting corners on efficiency and quality to lower their tender. These cost cutting strategies usually end with the suppliers further down in the chain repeating the same process, which then creates a

culture of price over quality. This circular motion of low-cost tendering has now created a process that no longer benefits the individuals within the construction industry, the larger population, or the planet (Glass, 2021). It is evident that it is no longer a sustainable form of tendering and not a feasible tendering strategy moving forward. Following research carried out by (Hawkes, 2010) as part of a study with CIOB, it was apparent that procurement is at the core of ensuring projects remain on time, within budget and to high standard with most participants (87%) agreeing the right method of tendering being crucial to obtain these objectives. Commonly used routes include Traditional, Build and Design, Construction Management and Management Contracts (Tower Eight, 2019). When following the Traditional route, there is a clear and defined line between design and build. A design team is appointed first and then a tender is put out for contractors to bid for the project. With such competitive markets this gives an opportunity for low-cost tendering to overpower other bids. Traditional procurement has been established the longest of all other routes and is frequently used by long term industry professionals as it is familiar (Vita Architecture, 2020). Design and Build however sees a much earlier engagement between the design team and the appointed contractor. A contractor is appointed much sooner in the RIBA Plan of Works, usually around Stage 2 dependant on employer's requirements (RIBA, 2021). Meaning the contractor will have some, if not a large input into the design prior to build. In principle, this should allow for better communication (CIOB, 2010). Individually, Construction Management (CM) contracts use multiple sub-contractors as opposed to one chosen main contractor for the works. Some suggest that this procurement route supporting projects looking for best value rather than lowest cost (Heming, 2022a). Others suggest CM favours other aspects, such as speed and flexibility and that its success is based on the client's skill and ability to manage (Langdon & Rawlinson, 2006). The fundamentals of CM and Management Contracts can be similar, the notable difference being that the chosen main contractor is not obligated to build the project. Their role is to fully manage the sub-contractors for the client (Heming, 2022b). With responsibility and risk assigned to the chosen managing contractor it cannot always be assured that low-cost tendering is not at play.

## **The Perfect Storm**

Published in the Building Engineer journal in January 2021 the article by (Cash, 2021a) considers the current methodology behind low-cost tendering, it's long-term effects on the construction industry and even delves into possible routes out of current practises. The 7-page article begins with a metaphor, of mariners having to make life or death decision following

their ship capsizing. The reader is pushed into understanding that using a tally of what or who might be considered more favourable to endure is necessary when in certain circumstances. Pushing further, the article creates a bridge between this worst-case scenario to our current living structure and perfectly explains that even when the external factors such as life or death are taken away from this situation, we continue to use this tally of what is considered admissible. Homing in on how the construction industry cemented the idea that quality can be quite easily ‘cut-out’ to save on time and money, depending on client’s needs. Thus, changing how the user perceives value and quality on the finished product. This cut-throat idea that the mariners had very little choice in participating in has now become a natural and first choice for tendering to keep their costs low and profit margins at a maximum. Walking away from creating productive, sustainable, and re-usable structures and instead focusing on smaller picture issues. The article examines the reasons behind this, such as competitive markets, perception of value in addition to under-performance throughout the industry and considers possible solutions. Discussing the newer form of collaborative working with assistance from ideas such as Integrated Project Insurance (IPI). (Cash, 2021b) concludes the article by focusing on the pressures low-cost tendering has on the industry by emphasizing on current factors such as COVID-19 he writes that contractors should consider “early-stage engagement to help their clients accurately price projects in a way that benefits all”.

Finally, the author reflects on how collaborative working from start to end of a project will not only create a more sustainable and feasible playing field for contractors and alike but will additionally “no longer feel like pulling straws in a lifeboat”. The journal is part of a larger conversation that seems to be picking up speed within the construction industry.

## **Alternative Approach**

The drive for an alternative tendering process no longer comes solely from within the industry. With external factors such as political, financial, and economical pressures continuously play a part in influencing the construction industry, therefore it is important to understand how responsive the industry is to these components (Ratnasabapathy, et al., 2004). When majority of risk and accountability of a project falls on the tendering contractors, clients can feel more at ease when serious issues during build may not fall to them. Following tragedies such as the Grenfell tower in London in 2017, and its non-compliant exterior construction, the industry can no longer play a blame game. One method encouraging a collaborative industry is partnering.

Introduced as early as the 1990's in the infamous Latham and Egan reports, partnering is seen as a modern and efficient tendering strategy. Echoed by Mark Farmer in his report 'Modernise or Die' (2016), discussing his report at (Western Sydney University, 2018) Farmer explains how partnering has been acknowledged as an affective and reliable tendering strategy that not only hold benefits for the clients, but all involved. The fundamentals of partnering consist of two or more companies mutually setting out to not only achieve their objectives but to strive for a relationship with continuous problem solving, and actively working towards tangible improvements. By partnering the involved parties legally and willingly agree to not only collaborate but to be open to a new form of sharing, planning, and trusting one another (Schultzel & Unruh, 1996). Partnering encourages the idea of no longer separating design teams and contractors but instead extending the entire process throughout the supply chain. This can not only maximise benefits for all organisations involved but can increase the likelihood of better value. Overall, due to partnering structure and early supply chain involvement it can effectively lead to gains in productivity, reduced period of delivery in addition to a better understanding of time and cost (HM Government, 2020). A successful case study of partnering can be seen in The Perfect Storm article. (Cash, 2021c) discusses the Sheffield Hallam University Campus where it was announced they had successfully assigned three suppliers to form 'Hallam Alliance'. The goal set out in 2020 was the create a partnering approach that compliments all three suppliers, their ethos and bring together a more efficient and productive development. In addition to an increase in demand for a more sustainable and efficient tendering form, the technology surrounding the construction industry now heavily supports the idea.

## **Stumbling Blocks**

As with the introduction of any new system or procedure there are stumbling blocks and risks and that is no different when considering partnering in the tendering process. With a process which includes high levels of management and a lot of trust by the agreeing parties there is a vulnerability in partnering. Part in parcel with that trust and workmanship comes risks such as overestimating the alliancing companies' willingness to cooperate. Certain situations might find that relationships built between the parties can grow and possibly overshadow the aspect of sharing an ethos and can results in overinvolvement. It is vital to understand that from the outset, partnering is to create a more valuable and sustainable form of tendering, and as a result create a more effective and efficient project. To ensure a successful partnering scheme, it must be kept as a professional work-related process (Constructing Excellence, 2015). Other

risks to consider when choosing this method of tendering is that the term partnering might allude to companies or participants assuming there will be further work, which is not a guaranteed outcome. However, partnering does allow a platform for organisations to showcase their ability to collaborate and doing so successfully can often lead to further opportunities. Additionally, partnering is not always going to be the best route. With its demand for controlled and strong management, partnering can outweigh the needs of the client or contractor. For projects that do not require large sums of energy and regulation, partnering may be too costly to consider as a tendering strategy.

The introduction of partnering also paves the way for legal risks. Defined as “a relationship which subsists between persons carrying on a business in common with view to profit” under the Partnership Act 1890. Without the correct disclosures, parties involved could risk the chance of becoming liable for on another’s potential debts (Pinsent Masons, 2012). Even with sufficient clauses in a contract, it is not always guaranteed to withstand a case therefore it is essential to understand this risk when undertaking in a partnering agreement. In an industry based on adversarial culture, it is possible that the largest concern with regards to partnering is implementing a method of work that contradicts its current practices. The concept of partnering completely refutes current customs. (Charlett, 1996) has summarised in his ‘Review of partnering arrangements’ that the industries current habits directly contrast as seen in Figure 1.

| <b>ADVERSARIAL CULTURE</b> | <b>PARTNERING CULTURE</b> |
|----------------------------|---------------------------|
| Information is power       | Openness                  |
| Exclusivity                | Inclusivity               |
| Poor communication         | Good communication        |
| Hidden agendas             | Straight talking          |
| Setting people up          | Helping people            |
| Working against            | Working with              |
| Preventing                 | Enabling                  |
| Independence               | Interdependence           |

Figure 1: Table from *A Review of Partnering Arrangements Within the Construction Industry and Their Influence on Performance* (Charlett, 1996).

## Best Practice

Since its first introduction in the early 1990’s, the idea of partnering has proven its capability with various case studies. An article from the Construction Management and

Economics journal printed in 1999 by (Bresnen & Marshall, 2000a) confirms this, following an inquiry into the positive results of collaborative working across a range of projects from Civil to Off-shore. In total, 9 projects were examined during 1997 – 1999. Following each projects negotiation process, design and construct integration and depth of collaboration the article was able to consider contrasting factors within the individual contracts that might influence the outcome. Focusing on one assessed project, named project B an engineering civil job carried out at an Airfield. The fundamentals had been agreed upon such as cost, completion date, the contractual arrangements and confirming risks and incentives early on. Project B established their £20m budget on a 5 years NECC contract with an additional risk/reward incentives put in place. The article continues to assess the informal and formal involvement throughout the project cycle and concluding on the outcome following their arrangements and management approach. It is apparent that communication and collaborative work was consistent from the selection process to completion. It's stated that meetings, teambuilding exercises and heavy involvement from all management teams were in line continuously from start to end of the project. A projected performance concludes that the project was "on time and on cost" additionally noting that a possible claim was recognised but under the chosen contract not viable. Overall, the report concludes on the bulk of the assessed projects as successful and efficient in terms of hitting cost, time and furthermore all but one avoiding claims between clients and main contractors. Closing the article, (Bresnen & Marshall, 2000b) acknowledge the benefits found within their research and asses the realistic use of partnering and collaborative works in construction. Understanding the positive outcomes from each project is a result of hard work and continuous management and that this is possible in traditional contracts. Encouraging a more communicative workforce versus pushing a more collaborative design team seems to yield the same results such as introducing financial incentives and building relationships that might result in further work.

Further research suggests that partnering is not as successful in practise. Not only in the UK, but globally the success rate of partnering is 1 in 2, with around 50% of partnerships failing (CIOB, 2011). Contrary to both the Latham (1994) and Farmer (2016) reports, the partnering theory is much more applicable in theory rather than application. According to (Gadde & Dubois, 2010), "deep-rooted cost agendas" continue to drive and influence even within partnering projects. The paper further explores how current construction behaviours and relationships do not coincide with the required levels of trust and communication for successful partnering. Multiple articles including one by (IvyPanda, 2020) have delved into the larger issues at play within the construction industry which make partnering a non-feasible method

of tendering. These issues include possible corruption, investment risk and the likelihood of management costing more than the projects worth. Although the article is considering issues based in Australia, many of the mentioned obstructions can also be found within the UK construction industry. A case study in America also found a recent attempt at partnering unsuccessful due to “severe leadership deficit” highlighting well established behaviours within the industry hindering efforts for a successful partnership (Gouaux, 2014).

## **Conclusion**

Striving for a more trusting and productive work force is within everyone’s interest. Not only does pushing aside low-cost tendering allow space for more innovative work but also creates a more efficient and sustainable way forward for the construction industry. With more care and thought put in to how we work together as a team rather than as individuals it can have direct implications on our value. Partnering directly contributes to the industries demand for higher performing projects and workforce.

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