

Alternatives to Traditional Tendering



2,739 Words – *excluding quotes*

Student Name: James Lloyd
Student ID: 1900878
Module ID: ACBA5006
Module: Project Control & Contract Administration
Lecturer: Lindsay Richards
lindsay.richards@uwtsd.ac.uk

Alternatives to Traditional Tendering
Contents

		<u>Page</u>
<u>Assignment Task</u>		
<i>As per Assessment Specification</i>	:	3
<u>Procurement in the Construction Industry</u>		
Procurement	:	4
'The Golden Triangle'	:	4
Procurement Routes	:	5
The Benefits of Procurement	:	6
<u>The Building Engineer Report – 'The Perfect Storm'</u>		
The Custom of the Sea	:	7
The Downward Spiral	:	7
<u>Alternative Approaches to Procurement in the Construction Industry</u>		
Moving Away from Lowest Cost Tendering	:	9
Tendering/ Procurement Approach: Partnering	:	9
Obstacles to Procurement	:	10
<u>Conclusion</u>		
Closing Words	:	12
<u>Reference & Bibliography</u>		
References	:	13
Bibliography	:	13

Alternatives to Traditional Tendering
Assignment Task

Task Description

In a recent article in The Building Engineering Journal, 2021. James Cash wrote, *“Evidence that the procurement eco-system is distressed is compelling. Top tier suppliers’ race to the bottom on price in order to win business to the detriment of those further down the supply chain. Profits and liquidity are consumed by over-competitiveness cost-cutting at every level as suppliers gnaw away at each other’s profits”*

There is a need for the UK Construction Industry to move away from lowest cost tendering. Suggest an alternative approach to procurement and tendering, which considers other factors other than lowest cost.

Discuss perceived obstacles that may obstruct the move to a different approach to tendering in the UK and comment on the article.

Alternatives to Traditional Tendering
Procurement in the Construction Industry

Procurement

Procurement is a process recognised by a wide range of industries across the UK and the greater world. In broad terms, it can be defined by the act of acquiring something such as a product or service. Addressing the Construction Industry specifically, procurement can be described as *“the strategic process of how contracts for construction work are created, managed and fulfilled”*¹. Essentially, procurement is the course used to obtain construction projects. Contractual framework should be selected that distinguishes the responsibilities and authorities for participants within the projects construction. There are various procurement methods to considered, with various benefits available to the projects participants and stakeholders. Client ambitions and requirements fluctuate greatly across the industry and various projects, with considerations to price, time constraints, complexity of design, etc. – to be touched on later.

Continuing on, procurement is a process that is also utilized further into a project's construction the awarded main contractor acquiring goods and services. This is in the form of subcontract orders, of which the process involves issuing tender enquiries, gathering quotations, negotiating designs, prices and possible responsibilities for a variety of subcontract trades or agreeing the supply of materials.

‘The Golden Triangle’

There are considerable constraints that present themselves throughout the course of project management. To illustrate these constraints, the concept ‘The Golden Triangle’ was modelled. Within the iron triangle, also commonly referred to as ‘The Project Management Triangle’ in the industry, is a model that illustrates the imbalance between the three noteworthy constraints that present themselves with every construction project. These consisting of:

Time	:	The project programme
Cost	:	The cost of the project
Quality	:	The Quality of project

Despite being three constraints, time, cost and quality are heavily interrelated. If a project was to focus more-so on one of these constraints, there will be a noticeable deterioration in meeting the objectives set for the others. An example of this would be to prioritise quality, which would conclusively increase cost and potentially the project programme too. This therefore allows the constraints to be distinct benchmarks against which project participants can judge success. Failure to establishing a clear prioritisation of the golden triangle and its objectives can lead to failing to deliver a project tailored to a clients requirements and satisfaction.

¹ Hughes et al., 2015, p. 11)

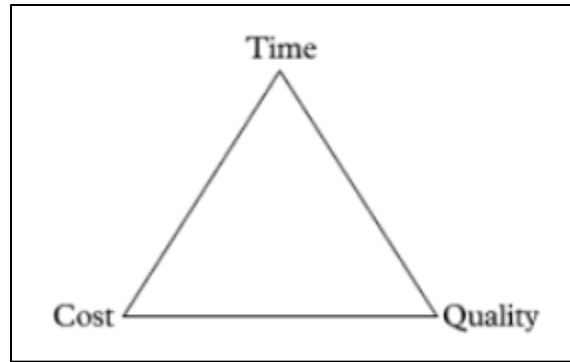


Figure 1. 'The Golden Triangle' model.

Procurement Routes

Within the construction industry, the term Procurement Routes relates to the method of which a construction project is run and managed. There are three very common approaches that can be recognised when analysing the UK Construction Sector, with each method having its own varying advantages and disadvantages that align with a projects objectives and aspirations. These being:

- Traditional Procurement
- Design and Build Procurement
- Contract Management

The tradition procurement route aims to distinctly divide the designing phase of a construction project from its actual construction. The client initially appoints the design consultants team on an individual basis, prior to reaching any agreement with the main contractor, with their competitive tender. The responsibility for the design of the project is therefore not with the main contractor, allowing them to focus on the coordination of the relevant sub-contractors and work packages to complete the works. This procurement route is the most common in the current UK Construction Industry with the majority of sub-contractors being familiar with its processes, therefore encouraging its popularity to continue into the future. This advantage is strengthened with the quality of the projects delivery is at the forefront in regards to 'The Golden Triangle'. As a result of the divide between the design and construction, the main disadvantage is that it can be a lengthy process.

An alternative approach which offers great contrast to the Traditional method is to explore the Design and Build route, where team collaboration and integration is encouraged. This process starts off with an appointment of a main contractor, before any design consultants. This is the opposite to the earlier approach as it now the main contractor's responsibility to negotiate and appoint the design team, and act as the main point of contact. This of course results with the encouragement of communication and teamwork, however does not involve the client to be so involved as before. From a client's perspective, this approach sees the associated risks of the project and general processes such as procurement, payments and design issues, being the responsibility of the main contractor, instead of themselves. However, the contractor takes cost and

time into consideration when analysing the three main constraints previously discussed, so the quality of the build will suffer in contrast to the traditional approach.

Contract Management is the route undertaken that eliminates the requirement of a main contractor across all processes. This method is frequently undertaken by development clients who are renowned for having a large team who are experienced and capable at undertaking the majority of the works. Work that the developer is not so familiar with or is capable of undertaking is then 'subbed-out' to specialised sub-contractors – a process undertaken by the main contractor in other procurement routes. Cost will greatly decrease and benefit the client, but unfortunately with the workloads increasing, the project programme could be extensive.

The Benefits of Procurement

Although at first, the process of procurement between a client and a main contractor can sound time-consuming, complex and overall, an exaggerated procedure. It does in fact offer a multitude of benefits to be reaped by various stakeholders involved.

To begin with, starting with the main client, possibly the most obvious advantage to adopting procurement processes into projects is that competition between main contractors, issuing bids and tender sums for the work, result with client receiving better value quotations. Main contractors "race to the bottom on price in order to win business"², trying to undercut value where possible whilst still meeting the client's expectations specified. Furthermore, rather than accelerating into appointing a main contractor at haste, procurement processes allow a client time to assess a contractor's reputation, business and personnel prior to reaching any sort of agreement. It is within this benefit that clients can notably review the experience of the main contractor through similar previous work and particularly the quality/standard of such.

Briefly addressing another stakeholder, the main contractor, it is evident that a substantial amount of the client's decision to proceed with a contractor is made on its reputation and experience, not only the price. Because of this, contractors are encouraged to uphold a strong reputation of their standards of service and maintain a robust client relationship.

² James Cash. (2021). The Perfect Storm. *The Building Engineer*. January 2021

Alternatives to Traditional Tendering
The Building Engineer - The Perfect Storm

The Custom of the Sea

In the January 2021 edition of The Building Engineer, James Cash wrote an extensive piece articulating the current procurement practices in the UK Construction Industry. The article first opens up with a descriptive essay into the comparison between ‘the Perfect Storm’, a maritime law concerning the acceptance of a “grisly” cannibalism custom of marooned and shipwrecked survivors, against the comparable current construction sector with “its own perfect storm revelations” and “survivalist model”. Firstly, looking into the general comparison Cash has used here, the construction industry being compared to the ‘traitorous’ and ‘survival of the fittest’-esq act of survivors, desperate and in despair, portrays the construction sector as a cruel and dire industry to operate in.

“Evidence that the procurement eco-system is distressed is compelling. Top tier suppliers’ race to the bottom on price in order to win business to the detriment of those further down the supply chain. Profits and liquidity are consumed by over-competitiveness cost-cutting at every level as suppliers gnaw away at each other’s profits. And clients continue to incentivise these models of behaviour by overly relying on the cheapest option as an indicator of best value.”³

It continues to elaborate on the fierce and hostile competition by describing how suppliers “race to the bottom” regarding pricing as the act is seen as a competition which ultimately is to the “detriment of those further down the supply chain”. However, when the competition is so intense and often relentless as to then create risks to their own suppliers, further down the food chain and “creating their own risks of insolvency”. The exaggerated survivalist description of the industry continues where Cash presents evidence of techniques where this survivalist description is evident through saying “profits and liquidity are consumed” and “over-competitive cost-cutting at every level”. This implies that the industry sees an exaggerated level of cost cutting in order to out-compete competitors, all of which is to the collapse of winning the contract, and accelerating one’s downfall.

The Downward Spiral

After Cash’s vivid introductory description of the Construction Industry, the attention moves onto the definition of value within the industry and the “vicious circle” that procurement processes are currently trapped within. Rather than associating the term value to the cost and finance of a project, Cash promotes the concept of identifying value elsewhere. Clients can be encouraged to identify what is most important to them and the project. A couple of examples that were rattled off in the report were a contractor’s or consultant’s competence, human value, quality, risk control and the list goes on. The basis of his argument is that “Value can be defined. It’s not easy, but its not impossible”.

³ James Cash. (2021). The Perfect Storm. *The Building Engineer*. January 2021

The most interesting opinion quoted within the article in my opinion came from Richard Harral, a Technical Director at CABE. He made the following statement when commenting on the industry “An unprofitable sector cannot deliver the safe and sustainable buildings we need; and it cannot improve to deliver genuine improvements in efficiency and productivity that can lead to meaningful reductions in cost and programme, which help meet housing supply targets”⁴.

⁴ James Cash. (2021). The Perfect Storm. *The Building Engineer*. January 2021 (p.g. 6)

Alternatives to Traditional Tendering
Alternative Approaches to Procurement in the Construction Industry

Moving Away from Lowest Cost Tendering

In today's day and age, there are more calls than ever for the UK Construction Industry to move away from Lowest Cost Tendering trends. Unfortunately, despite these calls from leading industry experts, lowest cost tendering still seems to dominate the landscape for main contractors and procurement methods. Rupert Prince, who went on to write a short blog on the topic opened his account by stating "It's a well-known saying that you pay what you get for intimating that cheapest is not always the best"⁵. Below I will propose alternative approaches how tenders can be awarded rather than narrowing down the focus on the bottom line figure.

Approach Option 1: Partnering

An adoptable approach between two or more organisations, that I believe could be utilised productively in the industry, is Partnering. Partnering is a management method, which when applied appropriately, the organisations and businesses involved utilise their individual strengths and resources to assist one-another, working in unity to achieve a specific common objective. In particular, the UK Construction Industry contributors have explored partnering, coming to the conclusion that the benefits are far more fruitful when it is based on a long term commitment, such as a phased housing development. This is called Strategic Partnering, rather than the singular project equivalent, Project Partnering.

The process of Partnering is a relatively straight-forward process for those that are involved. The principle of ensuring a sustainable partnership can form is that the selected partners are suitable. In broader terms, the suitability can be measured by the size and competence of a company to ensure that they are capable in completing the work and to do so to the expectations and specifications of the client. A contractor's past experience, financial stability, management style and extent of resources are all factors that contribute to one's suitability. In addition, the partnership once formed, relies heavily on the integration and teamwork between both parties. Hence when key executives and figures of the organisations share objectives and expectations, a more positive and robust strategy and agreement can be made to put desires into practice.

The Partnering approach is applicable to all three procurement routes mentioned before, therefore encouraging its integration into the UK Construction Industries practices. In terms of traditional tendering, clients may find it necessary to conduct interviews or request tenders, to review before contacting over potentially sealing any partnership. In other cases, clients may present a contractor with the project partnering approach with a smaller project, before establishing a more structured strategic partnership.

⁵ Rupert Prince. (2020). *Lowest cost tendering – the industry should know better*. Available: <https://ellisfox.co.uk/lowest-cost-tendering-the-industry-should-know-better/>. Last accessed 4th Feb 2021.

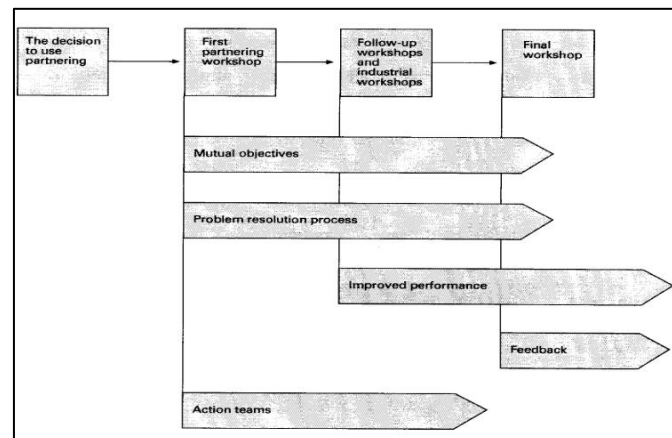


Figure 2. The Partnering Process

Of course, due to Partnering requiring more than one party to be involved to actually begin being utilised as a sustainable procurement method, it has to offer benefits for both parties participating. This can be divided into two groups, benefits to the client, and the main contractor. Beginning with the client, the most obvious benefit is the more transparent and improved communication channels within the project. When conducting effective teamwork, it is paramount that all communication is clear and available to all those that are required to be involved. This allows problems to be identified and mitigated better and a better understanding of the project is obtained by all those involved. This communication also benefits the programme of the construction, as decisions, issues and conflicts are resolved and made quicker, therefore reducing the amount of time the project will take to construct. The transparency also allows the client to understand the true value of any investments into the project, therefore improving the value for money, whilst at the same time reaping the same benefits with quality. Confrontation is less likely through a more approachable communication system, again mitigating any extensions of time whilst the risks of the project are shared due to the similar objectives. As for the main contractor, the advantages available by forming a partnership are relatively similar. Of-course the benefits associated with the improved communication channels work both ways with the reduction in the project programme concerning time, quality being improved and risks being shared between both/all parties. Where the benefits differentiate is that the contractor can achieve a better understanding and certainty of the workloads. With the client being heavily involved with decision making and problem solving, contractors can redirect resources to addressing aspects of 'the golden triangle' such as quality, cost or time. Moreover, the engagement of a partnership sees a great potential for profit throughout aspects of the work as the competitive atmosphere for tendering is removed, resulting as reducing overheads. Lastly, to recognise the designers, the improved communication system grants a more reliable flow of design information and details to both clients and contractors.

Obstacles to Procurement

As with all methods of procurement, there are potential problems that the client and contractor can encounter when trying to meet an agreement. In particular, I will be investigating the problems that can arise when adopting my suggested partnership approach, as a way of moving away from Lowest Value Tendering.

To begin with, as previously mentioned, partnering can be massively beneficial when the key executives in both parties have their objectives and desires in line with one another. However, in the event that the relationship sours and key personalities within the agreed partnership fall out, a feeling of bitterness and animosity may become noticeable. If not resolved in a timely manner, the project could end up suffering with elongated programmes due to decision making issues and differences in opinions.

As most partnering approaches utilise a singular contractor, albeit sometimes because a strong relationship has been formed, a feeling of distrust and loyalty may fall between parties. Perhaps the client is beginning to sense that the contractor has gotten a little too comfortable with their relationship and is inflating costs to benefit themselves, putting the client out of pocket. The bottom line is, when introducing a non-competitive market into a contractors procurement approach, they may no longer believe the 'old and familiar' rates are viable anymore and to not disrupt or diminish the relationship, instead try to be devious.

Keeping with the topic of getting comfortable, the main contractor could become overly reliant on the clients work and forthcoming projects. In the event that the client dissolves or closes down, the contractor might then put themselves at great risk with potentially no future projects to undertake, generating no income.

Finally, a note to be made of a potential obstacle to this procurement route is to avoid creating a partnership as per the Partnership Act 1890 where it stipulates "*A relationship which subsists between persons carrying on a business in common with a view to profit*"⁶. In the event that they defy the act, the parties would have agreed joint responsibilities for one-another's debts in relation to any project undertaken by those involved. This can be avoided by implementing a 'No Partnership' clause into the agreement, however in a courtroom can still be overturned given adequate evidence of behaviours in a partnership manner.

⁶ Partnership Act 1892. s 1A: Ins 1991 No 48, Sch 2

Alternatives to Traditional Tendering
Conclusion

Closing Words

Having worked in the industry as a trainee quantity surveyor for nearly three years, I have seen the problems that lowest cost tendering can present to companies and the greater UK Construction Industry. I began my time in the industry with W.R.W. Construction, a main contractor firm based in Llanelli, Carmarthenshire who contracted work across South Wales and South-West England. Unfortunately, having only worked for the company two years before the subsequent administration in July last year, I can say with confidence that I witnessed the damage of what Low Cost Tendering can do to a business. From my trainee perspective, I saw that upon working with Bills of Materials and packaging the work, our successful tenders were evidently tendered at a loss to undercut competitors. Because of this exposure to such environment, I unfortunately learnt the hard way of the potential damage that the industry will see if methods of procurement aren't changed for the better soon.

Alternatives to Traditional Tendering
Bibliography

References

- Hughes, W., Champion, R. and Murdoch, J. (2015) *Construction Contracts*. 5th ed. Oxon: Routledge.
- James Cash. (2021). The Perfect Storm. *The Building Engineer*. January 2021
- Rupert Prince. (2020). *Lowest cost tendering – the industry should know better*. Available: <https://ellisfox.co.uk/lowest-cost-tendering-the-industry-should-know-better/>. Last accessed 4th Feb 2021.
- Partnership Act 1892. s 1A: Ins 1991 No 48, Sch 2

Bibliography

- Martin Lang. (2016). *We must address the issue of lowest-cost tendering*. Available: <https://cif.ie/2018/07/20/we-must-address-the-issue-of-lowest-cost-tendering/>. Last accessed 4th Feb 2021.
- Rebecca Rees & John Forde. (2018). *Lowest cost pricing - end of an era?*. Available: <https://www.trowers.com/insights/2018/june/lowest-cost-pricing-end-of-an-era>. Last accessed 4th Feb 2021.
- Ken Odgers, Steve Rowsell, Kevin Thomas and Don Ward (2011). *The business case for lowest price tendering?*. London: Constructing Excellence.
- Outlaw Guide. (2012). *Partnering*. Available: <https://www.pinsentmasons.com/out-law/guides/partnering>. Last accessed 7th Feb 2021.