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Australian Institute of Architects

5 May 2014

Subject AIA BEMPQ Speech by Richard Kirk FRAIA

Design as the focus

Maximising the use of public funds by design - the role and responsibility of Government as expert client

Construction as a Foundation Industry for the State's Prosperity
The construction industry is one of the few industries that interface with every other industry in the State – from mining to health, education and infrastructure – it provides the framework for each industry and the importance of optimizing the outcome is crucial and self-evident. This Government recognizes this by identifying the construction industry as one of the four pillars of the economy.

Design is fundamental to optimizing the value from all of these construction programs - the value of design in the construction industry is fundamental to the prosperity of the State – Shane Thompson last year enumerated how high quality well managed design can provide substantial gains in operational and long term ownership efficiencies. Good design is good business.

The built environment in our cities and towns is a physical expression of the shared capabilities of the industry and the skill and leadership of the Government and its agencies. The built-environment is the only enduring legacy of our shared governance skills – and it is critical that this community presents itself as a sophisticated place in the competitive arena of new-age Cities in South East Asia. Good design is fundamental to our international competitiveness.

Aspirations to use public procurement as a lever of government reform
It has been recognised in UK government practice that procurement should be more strategic within government (HM Treasury/ Cabinet Office, 1998). In a recent speech by Gordon Brown, Chancellor of the Exchequer, it was demonstrated that public procurement is now high on the agenda of senior ministers.

> *"I think most of you would agree that 50, 20 or even 10 years ago the idea that the Treasury would be interested in issues like public space, the design quality of public procurement, environmental standards, devolution, regionalism and social exclusion would be almost unthinkable. But we know that not only are these questions vital to successful, economically vibrant communities but they are at the heart of the agenda for social and economic progress."*
>
> - Gordon Brown, 2005

For the purposes of this presentation I will over simplify the numerous forms of procurement that are broadly described as traditional or non-traditional.

Traditional
design – tender – build

Non-traditional
preliminary design – tender – complete design – build

Procurement of buildings and procurement of design services are intrinsically linked but need to be understood as different processes and will be discussed separately.

BUILDING PROCUREMENT

The Productivity Commission in 2014 singled out the construction industry as a poor performer in terms of productivity gains since 1991.

> *"Over the last two decades, labour productivity growth in construction has been sluggish compared with the rest of the economy…*
>
> *While government clients have sought to continuously improve their procurement practices, the Commission's consultations suggest that there are substantial dividends from reforms to project scoping and design, appropriate due diligence and probity management, avoidance of overloading tenders with unnecessary obligations and, as an overarching requirement, increasing their sophistication as buyers…"*
>
> - Productivity Commission Report March 2014 - Page 36

Why is it that construction productivity is identified like this when we know the industry has made significant strides in recent years in developing safer work sites, shorter construction time lines, more resilient products and systems that make the built environment more productive and efficient. In fact places like Singapore, with it's over reliance on imported labour, see that they have much to learn from the Australian construction industry in reducing reliance on labour intensive construction activities.

Lack of productivity is in our view due to the non-building aspects of construction – contemporary procurement habits which are predisposed to non-traditional systems are over managing the process and adding layers of non-productivity unnecessarily. The rise historically of non-traditional procurement methods coincidently aligns with the recorded lack of progress in productivity and clearly an area that should be studied in detail.

The public sector needs to re-examine the best ways to drive efficiencies to ensure the public procurement system functions in the best interests of all those it serves. We over manage our processes by automatically adopting novel and non-traditional procurement systems due to perceived presence of risk.

The excess of management occurs in both the procurement processes of design services and building construction.

Why does Australian public sector automatically adopt non-traditional forms of procurement when some of our Asian neighbours strictly follow traditional procurement for reasons of probity and maintaining quality?

Singapore, often recognised for its first class governance structures adopts as a rule traditional forms of procurement for all public sector works – that is, it is mandatory or the norm and is used irrespective of complexity or scale of project.

As one of our clients in Singapore commented, "Why would you ever knowingly lose control of your project with non-traditional forms of procurement."

That question is more than speculation (or anecdotal), as the productivity commission's findings have been recently supported by the largest and most detailed study (July 2011) ever completed in Australia into procurement methods and measured outcomes.

The Report completed in July 2011:

- analysed 10,000 projects broadly working in the same period and economic environment across Australia
- 3,700 directly were compared
- 460 projects were visited for a detailed study

The report confirmed managing architects using traditional procurement systems delivered greater value for public money and its key findings are:

1.0 Managing architects procure projects by traditional methods of full documentation; competitive tendering that ensures probity and competitive pricing and then administering the contract to ensure compliance with design and industry standards. The report stated the projects delivered by managing architects the greatest value for money and quality:

1.1 on average an increase in net floor area (in cases more than 30% greater in floor area)
1.2 delivered greater overall quality
1.3 program compliance was higher
1.4 greater sustainability performance
1.5 significantly fewer construction defects

2.0 Quality is value for money that meets the specific requirements of the project and produces a building and place that meets community expectations for sustainability and the built environment. The community does expect publicly funded buildings to represent value for money but also demonstrate excellence in design.

3.0 The public sector commonly procures projects that are not managed by architects and they use non-traditional methods. Non-traditional procurement methods were heavily criticised by the report as not delivering value for money.

So when we talk of quality in relation to procurement methodology it is very tangible and measurable.

With such evidence and the importance of achieving value for money we should be very concerned as to why non-traditional forms of procurement remain the norm rather than the exception.

The problems tend to start at the beginning – that projects lack a proper governance structure – with lines of responsibility confused and unclear – risk (and the uncertainty of who is responsible for what) results in multiple layers of management.

> *"The UK Government lists "decision making failures" as one of the top 5 causes of project failure. Victorian Treasury which runs the Victorian Gateway Review Process lists project governance and stakeholder management as the second and third most common causes of project failure. Effective project governance underpins project success and results in efficient and timely project decision making.*
>
> *And yet, project governance appears to be a haphazard affair with few, if any, established principles, let alone common structures….Few organisations have a principles based project governance policy that defines a common and structured approach to project governance."*
>
> \- Ross Garland

The AIA would concur strongly with Garland's findings that project governance structures are rarely outcome focused and this is why project procurement tends to focus on process and its management.

DESIGN SERVICES PROCUREMENT

Although not particular to the architecture discipline, the cost of bidding for design service contracts in the public sector is disproportionately high to that of the potential fees earned. There is not any local data on this but a recent UK study in 2011 had one government program where the cost to bid from the profession was 29% of the total fees earned. We would find similar percentages in Australia on projects. *Reference CABE website*

Given the significant unsustainable costs, there does need to be a serious re-consideration to the manner of project bids.

Like Building Procurement, Australia is out of step with other countries and there are some salutary lessons to be learned about how Quality Based Selection is treated in other places.

In the United States the Brooks Act 1939 (Also known as *The Six Percent Fee Limitation on Federal Design Contracts*) was proposed to cover all Federal Agency projects with the aim to ensure quality outcomes:

1. Public Announcement of all tenders over $25,000
2. Statement of Qualifications which are registered annually:
   A completed form furnishes the federal agency with general information on the size, capabilities, personnel, and past experience of an interested firm
3. Evaluation of Statements
   The evaluation/selection process for A/E begins with evaluation boards composed of members who, collectively, have experience in architecture, engineering, construction, and government and related acquisition matters. The members of the boards are usually appointed from among the professional employees of the agency or other agencies. In some situations, private practitioners sit on these boards if authorized by agency procedures.
4. Development of a Short-List
   Following the evaluation of the statements of qualifications, the boards prepare reports that recommend the firms to be named to the short-list. The report ranks at least three of the firms for the purpose of discussing the project with them. The boards are not limited in the number of firms that they can select; it is left to their discretion.
5. Interviews/Discussions with Firms
   The interviews usually involve discussions on project concepts and the relative utility of alternative methods of furnishing the required services. Before the interview, some agencies send detailed selection criteria and other information about the project to the firms recommended for further consideration. Under the system established by QBS, the architect-engineer designer does not produce any design product in competing for the project.
6. Ranking the "Top Three" Firms
7. Negotiation with the Top-Ranked Firm
   When the final selection is made by the agency head, the contracting officer is authorized to begin negotiations with the top-ranked firm. Contract negotiations are conducted following an evaluation of the fee proposal and an audit when the proposed design fee is more than $100,000.

The key elements of the US system is

- *A low cost up front selection process;*
- *Reliance on the interview process rather than one-off and costly (to both prepare and submit – which are also difficult to assess) documented submissions;*
- *Reliance on selection panels who are expert*
- *Fee is not a factor and is capped thereby reinforcing the focus on quality of service*
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Reference http://www.aia.org/advocacy/federal/AIAS078527

SUMMARY

Procurement of design services is costing the industry a significant proportion of the total fees earned and is entirely unsustainable. There are alternative working models, such as the USA's Brooks system we can study and trial if we are serious about Quality Based Selection and ensuring quality is a fundamental consideration.

Productivity has fallen since 1991 in the construction sector and this is largely attributed by adding non-productive layers of management.

It is no secret that we live in an environment in which public funds need to go further than ever before - and rightly so. The Queensland community expects publicly funded buildings to not only demonstrate excellence in design but to also provide the best value for money. As a State, we need to ensure we maximize the value for every construction dollar spent. The evidence supports a major shift back towards a traditional approach to building procurement methods, and will deliver the greatest value for public money and the highest quality outcome for the people of Queensland, now and in the future.

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