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**Contract & procurement for
Whitegates hotel & country club development**

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1. Introduction

Our firm has been appointed by Heriot Developments (HDs) to seek advice addressing their concerns about the Hotel and country club development in term of design and construction management.

This paper is to determine appropriate procurement option that will deliver best value for money for the project, recommendations for implementing a partnering approach for the procurement, and to set a suitable contractual arrangement for all individual and organisation involved in the project to compliment the recommended procurement option.

2. Client's requirements and objectives

In order to determine an appropriate procurement method, we should look at the options that are most suitable in satisfying client's priority. The client unveiled the main criteria that must be achieved, and that can be concluded as:

- prestigious, high quality development
- meet the financial costs
- control the project cost
- complete all the parts of the project at the same time and as soon as possible
- use the development stage to create a positive image within the immediate community

In addition, the type and the complexity of the project should be considered before evaluate the procurements methods. The project contains various kinds of works; hotel, country club, lounge bar, restaurants golf course, etc, and that tend to be large project and need multiple specialists and suppliers. The area of the ground of the project is 141645 square meters, which gives a clear picture of the project size

Other important points might be the client's capability to involve in managing the suppliers and is it foreseen to alter the project in any way once it has begun on site? HDs directors are all experienced in the catering and leisure industry, which enables them to give accurate details about the quality and specifications that they want. "As a general rule, the more detailed and prescriptive the description of the facility and its components, the grater the cost will be" (HM Treasury June 1999, p. 5) HDs directors do not have the necessary skills to successfully manage the design and construction of the project. They might be able to mange tow or three parties but not more, still, need to employ an external consultant to advise on the preparation of the requirements, design, and cost, choice of the Contractors. In a project with this size and requires high quality developments, it is foreseen to alter the project in any way once it has begun on site. At the time it is not clear if the client willing to share or retain the risk, yet, it appears that the client wouldn't hold all the responsibilities of the project.

3. Procurement

Now, it is appropriate to make a judgment on the procurement methods based on the defined requirements and objectives. Basically, the procurement methods will be examined in the points that related to client's requirements. However, investigation will be done on the main three procurements, after that, chose the appropriate procurement methods and seek in the different types of this procurement.

In the traditional procurement the client can control the design to large extent, also traditional procurement offers "certainty on cost and time before commitment to build, clear accountability and cost control at all stages" (Cox, S. and Clamp, H 2003, p. 39), however, "it has become increasingly difficult for designers to be responsible for all aspects of design of a large project, and also act as contract administrators" (Latham, M 1994, p. 47). In addition, "the traditional arrangement tends to have longer project delivery time due to the separation of the design and construction phases" (Nahapiet, cited in Siddiqui, W 1991, p. 4).

Design and build procurement is likely to save the time and that as a result of earlier contractor involvement. Also the risk can lie almost wholly with the contractor. Furthermore, "the client has certainty as to the final price of the facility" (OGC, 2003, p. 16) and "there is guaranteed cost and completion date" (Cox, S. and Clamp, H 2003, p. 38). Nevertheless, it is difficult to achieve prestigious project using design and build method., Siddiqui reported " the reduced time for design and completion, however, is achieved at the expense of not having independent design advice and responsibility to ensure that the building is design to suite the owner's specific needs" (1991, p. 5). Additionally, "transferring all risk to the integrated supply team may not be cost-effective, as the client still carries the risk to their business of the new facility not being available when required" (OGC, 2003, p. 16). In design and build procurement alteration the project in someway once it has begun on site can be very expensive and destroy price certainty.

"For `fast-track` projects where the employer still wants the overall design, specification and contract administration left in the hands of an independent professional team, management contracts are one solution" (Cox, S. and Clamp, H 2003, p. 263). The client takes delivery of the building earlier because the project completion period is reduced. He thus obtains a return on this investment more quickly. Management procurement used when the client has a considerable degree of flexibility on design matters, the design can be adjusted as construction proceeds, without sacrificing cost control. "The client whose commercial requirements demand an early start on site and sequential design during the course of the work should choose a procurement route which will accommodate those wishes in a flexible manner and which avoids adversarial attitudes. Construction management or management contracting will be most appropriate. A lump sum contract such as JCT 80 or a design and build route would be a recipe for disaster, if the work is intended to progress on site while design is still proceeding." (Latham, M 1994, p. 26). However, there is "uncertainty about the cost of complete works at the start of construction" (CIRIA 1983, cited in CIRIA 1991, p. 32). Also, design may suffer as design team is under time pressure. On the whole, success in management contracts depends on the management contractor's skills.

Whitegates hotel and country club development		Criteria score	Traditional		Design & build			Management		Design & manage	
			Sequential	Accelerated	Direct	Competitive	Develop & construct	Management contracting	Construction management	Constructor Project manager	Consultant project manager
Procurement route											
Evaluation criteria (appropriate to the client and project)											
Timing	Complete the development soon as possible	20	3	6	19	18	12	15	16	13	
Controllable variation	Flexibility for future changes in client requirements and post completion change	10	5	5	1	1	2	8	7	7	
Complexity	The project need to be technically advanced	14	8	8	4	5	6	13	11	9	
Quality level	Prestigious , high quality development	20	16	18	8	9	11	10	10	12	
Price certainty	Firm price is needed prior to committing	7	6	3	7	7	6	4	5	3	
Competition	There is need to chose the C & M team by competition	7	6	3	1	4	5	7	5	4	
Responsibility professional	Direct professional responsibility is required	14	12	14	5	5	5	13	5	14	
Risk avoidance	Client prepared to share risks	8	8	8	4	4	4	7	4	2	
Total		100	64	65	49	53	51	87	65	64	

Table 1 procurement route evaluation - based on project criteria

According to the comparison, it is clear that the most appropriate method for our case is management procurement methods. ‘Management procurement methods are best suited to large, complex, fast-moving projects where early completion is desirable’. (Cox, S. and Clamp, H 2003, p. 31) However, there are four types of management contracting system. Briefly, Construction management and design & manage ‘consultant PM’ do not suit the client, because he does not have the ability to be responsible for directing the project and entering into all trades contracts. As the trades contractors are directly and contractually responsible to the client. In addition, consultant manager ‘design & build’ and construction manager are in some ways less accountable for time and costs, whilst the client takes on the greater risk. Design & manage ‘contractor PM’ solves the management dilemma; nevertheless, it is not easy to control the project quality and achieve the required high quality. Management contracting tends to solve these problems, next section illustrate its features and routes.

4. Management Contracting

“The client appoints an independent professional team, and also a management contractor. The contractor’s involvement at pre-construction stages will be as an adviser to the team, and during construction he will be responsible for executing the works using direct works contractors. With this type of contract it is possible to make an early start on site and achieve early completion. Because of its flexibility, it allows the client to develop the design during construction, because drawings and matters of detail can be adjusted and finalised as the work proceeds.” (Cox, S. and Clamp, H 2003, p. 45). The management contractor can select specialists and order materials on long delivery in good time without any of the uncertainties and complexities which attend traditional nomination procedures.

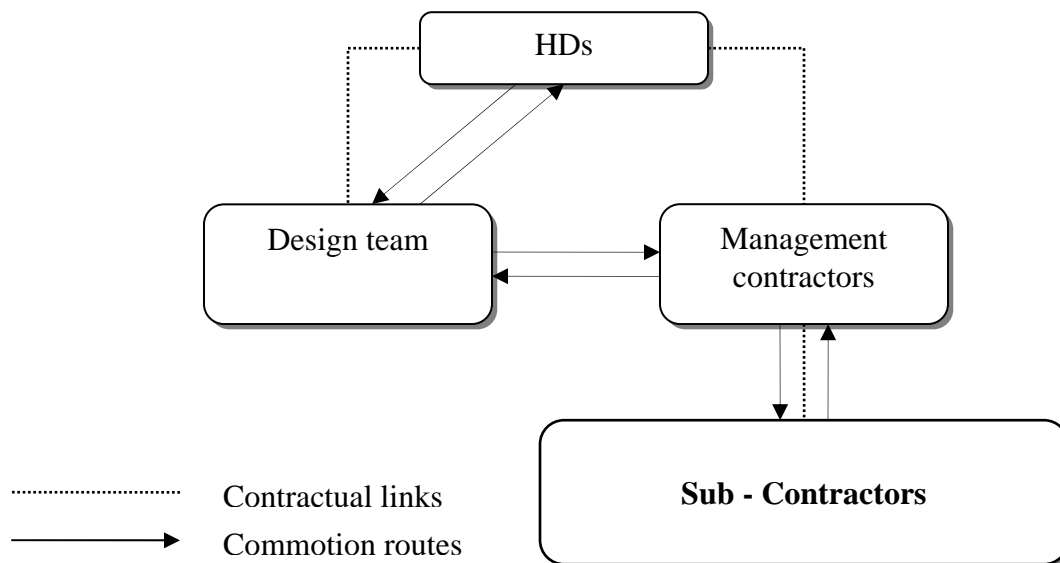


Figure 1 Project organization - management contracting

“Prime contractor needs to be organisation with the ability to bring together all of the parties (the supply chain) necessary to meet the clients requirement effectively.” (HM Treasury June 1999, p. 7). HDs must employ an external consultant for project control, this necessary, to advise on the preparation of the requirements, design, and cost, choice of the management contractor. The organization relationships are summarized in figure 1.

5. Contract

The contract will be established under JCT MC98 form. The main contract between client and Management Contractor covers both the pre-construction period and the period of actual construction work. It contains a detailed Contents list and the Articles of Agreement which follow include Recitals, Articles and provision for attestation. The Conditions are followed by an Appendix in two parts, Part 1 relating to information required generally and Part 2 relating to specific information which needs to be entered before construction work starts. Necessary to this kind of document are the Schedules which appear immediately after the VAT agreement. The management contractor will be selected by a process of tender and interviews, and paid on the basis of the scheduled services, prime costs and management fee. If the total at any stage exceeds the cost plan total, then the fee is adjusted in accordance with a formula contained in the conditions. “Contracts for work packages are created between contractor and individual works contractors.” (CIRIA 1991, p. 31). The Management Contractor starts with a Contract Cost Plan and Programme dates. He will be responsible for the appointment of Works Contractors, their coordination, supervision, the provision of all site services and facilities and monitoring the Cost Plan total. In addition, The Management Contractor is under a contractual obligation to achieve completion on time, although any design developments or detailed changes in work packages which occur as the work proceeds could give rise to extensions of time. The contract still requires the Management Contractor to use 'best endeavours' and also allows for acceleration of parts of the Works. The Architect is to issue written instructions to the Management Contractor as are reasonably necessary. The instructions might require Project changes or Works Contracts variations. The Architect is also to issue instructions about provisional sums in Works Contracts. He has the power to instruct the Management Contractor to postpone any work and, an unusual term in JCT contracts, to accelerate work, including altering its sequence under stated circumstances. The Architect shall provide the Management Contractor with information on levels, besetting out, etc. for the Project, and shall issue directions as necessary to the Clerk of Works. Items of work to be carried out by Works Contractors, and which are identified in the Contract Cost Plan or instructions, are subject to the Conditions in JCT of the Management Contract. In the control of Works Contracts, the Management Contractor's obligations in respect of the Employer and vice versa are fully set out. Alleged breaches by the Management Contractor or by Works Contractors are covered.

6. Suppliers selection and tender process

Management contractor required to tender on the basis that he offers to manage the completion of the project's detailed design phase and undertake the whole of the construction work to meet the specified functions and performance criteria given in the project brief and preliminary drawings.

Criteria for selecting the integrated supply team and evaluating bids should include:

- “Previous performance on team working as part of an integrated supply team
- Previous performance of supply chain management, including current team working and partnering arrangements between members of the integrated supply team
- Evidence of the skills/abilities of individual members of the supply team
- Project-specific supply chain management proposals.

Key award criteria to be used in the bid evaluation process should include:

- Project-specific proposals for team working and partnering between the integrated supply team and the client organisation and throughout the supply chain
- Bidders' risk identification (including health and safety aspects), evaluation and proposals for risk management during the project.” (OGC 2003, p. 15)

The selection sequences frequently adapted:

- “initial list of interested contractors
- initial tender enquiry
- enquiry response
- presentation/interview
- detailed tendered enquiry
- tender submission
- interview
- award” (the chartered institute of building 1989, p. 9)

The selected tender list should only include organisations to whom the client/consultants will be prepared to award a contract following a competent tender. Those selected must be notified as soon as possible in order the resources can be planned.

Professional consultants should be selected on a basis which properly recognises quality as well as price. “Economies at the design phase will be self-defeating. Designers should not be selected on the basis of price. 10-15% of the total cost of a high technology project should be spent in this phase.” (CIPS, cited in Latham, M 1994, p. 20).

7. Partnering

We strongly advise HDs to develop partnering arrangement with the selected management contractor “In the manufacturing and construction industries many customers now invite bids for contracts on the basis that the customer and the supplier will work together to manage their contract, and in particular plan to avoid and control problems and risks. The intention of this ‘*partnering*’ is that all parties should achieve their objectives, what is known as a ‘win-win’ prospect.” (APM 1998, p. 10). The relationship is based on trust, commitment to common objectives and an understanding of each other’s individual expectations and values. Benefits include improved competence, cost effectiveness, increased opportunity for innovation and continuous development of quality product and services. Yet, we do not advise HDs to build a long-term partnering arrangement. First, “test the water” develop partnering arrangement for this project, and see if partnering is suitable for the organisation needs before involving in a long term strategic arrangement. “We are confident that partnering can bring significant benefits by improving quality and timeliness of completion whilst reducing costs. It can be applied to the construction industries through longer term agreements or option contracts.” (CIPS, cited in Latham, M 1994, p. 62). But the management contractor must initially be sought through a competitive tendering process, and for a specific period of time. The partnering arrangement should include mutually agreed and measurable targets for productivity improvements. It would be more beneficent if the management contractor have developed or intends to develop partnering relationships with the works contractors. This arrangement will improve the performance and reduce the cost for HDs.

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