

CCC Design & Build Framework – Market Testing - Summary Report

September 2020

Introduction

In advance of the preparation of the business case relating to the future arrangements for education capital delivery, and the decision to either re-procure the existing design and build (D&B) framework or look at alternative means of delivering the education programme it was decided that a market testing exercise would be undertaken.

The intention of the market testing exercise was to seek opinions from main contractors with experience of design and build procurement, on a range of topics relevant to the delivery of education capital projects. The exercise consisted of the following:

1. Lessons Learned meetings with the contractors who had won work on the existing Council Framework. The discussion was based on both specific questions relating to the operation of the current framework along with more general questions relating to the operation of frameworks, procurement routes, contract options, industry challenges, risk allocation, policy challenges etc.
2. A questionnaire issued directly to the contractors who currently have a place on the Council's existing design and build framework. This questionnaire included both specific questions relating to the operation of the current framework along with more general questions relating to the operation of frameworks, procurement routes, contract options, industry challenges, risk allocation, policy challenges etc.
3. A questionnaire issued via the *Contracts Finder* portal requesting response and feedback from contractors across the industry who are not currently on CCC's existing design and build framework. The version of the questionnaire used here was identical to the above but without the questions relating specifically to the current framework. This questionnaire was posted on *Contracts Finder* on 10th June 2020 with responses requested by 6th July 2020.

Responses

In total 11 responses were received to the questionnaire, four of these responses were from contractors who are current framework partners and seven from those who are not currently on the framework.

The contractors who responded were:

Existing Framework Contractor	Non-Framework Contractor
Balfour Beatty	Arc
Kier	Barnes Construction
McLaughlin & Harvey	Claritas
Morgan Sindall	Hutton Group
	Skanska
	Wates Group
	Willmott Dixon

Key Themes

An overview of the themes which emerged through the responses to the questionnaires is detailed in Appendix 1. However, the following were some of the key themes:

1. The current CCC Design and Build framework is felt to operate well, but the following elements could be further developed/improved:
 - The planning process continues to be challenging
 - Clarity of design requirements
 - The use of Key Performance Indicators
 - The approach to sustainability and carbon reduction requirements
 - Greater visibility and certainty of the project pipeline
 - Increased focus on the post-completion stage
2. The use of framework arrangements generally is felt to be the optimal way for a local authority to procure capital projects, with some of the strengths being:
 - Long term relationships are developed which provide benefit for all parties
 - Generally faster, cheaper and higher quality delivery
 - Allows sharing of best practice
 - Allows a clear understanding of works pipeline
 - Provides greater opportunities to achieve social value benefits
 - Lower procurement costs
 - Flexibility of procurement options
3. There are a number of benefits for a local authority in operating its own framework rather than utilising a national framework – these include:
 - Greater control and buy-in, with a national framework you are one of many client organisations
 - Direct communication and engagement with contractors and consultants allows long-term relationships to be developed
 - Ability to integrate key stakeholders into framework processes (highways, planning)
 - Contractual arrangements and Ts&Cs will be designed to meet CCC's specific requirements
 - Reduced procurement timeframes
4. The most significant challenges to the construction industry over the next 4 years are:
 - The immediate and ongoing impact of Covid-19
 - The impact of Brexit
 - An aging workforce and a general skills shortage
 - The slow take up of technology within the industry

The use of a framework procurement model is felt to be the best way of managing the forthcoming challenges.

5. Two stage tendering is the preferred procurement model primarily due to:
 - Greater involvement of contractors at an earlier stage in the project lifecycle
 - Lower cost/risk procurement encourages greater contractor participation
 - Higher levels of collaboration possible resulting in mutually beneficial outcomes
6. The use of the NEC suite of contracts was preferred, but the contractors were also open to the use of the JCT contract.

Appendix 1 CCC D&B Procurement Market Testing - Summary of Response 'Key Themes'

Sep-20

Existing Framework Questions

Q1 - What has gone well?	<ol style="list-style-type: none">1. Design Guides have been a positive introduction2. Close working relationships with client-side PM and QS teams3. The increased flexibility to mini tender scoring (cost v quality) to tailor requirements to individual projects4. The continued use of 2-stage tendering with the early involvement of the D&B contractor.5. NEC contract working well, but would appreciate early involvement in the Risk Register.
Q2 - What has not gone quite so well?	<ol style="list-style-type: none">1. Lack of clarity around the pipeline of opportunities but also uncertainty that projects which have been awarded will be progressed. A number of schemes have been put on hold.2. Uncertainty over programme causes problems for main contractors and for their supply chain partners. Greater clarity would be welcomed.3. Clarity over the design standards which are to be applied is important. The design guides were introduced and then withdrawn in favour of the DfE Output Specifications. Comments were provided on the elements of the CCC Design Guides but have not been implemented.4. The planning process remains a significant challenge.5. Some client programme requirements have been very challenging which can have cost and quality implications.6. A number of supplementary studies have been requested to 'prove' things outcomes which would previously have been resolved through dialogue with core team members. This takes time and costs the authority money.7. A lack of a clear structured approach to framework KPI's. Performance monitoring has not been as regular as it could have been and a more robust approach to this would be welcome.8. Despite efforts to address the issue, excessively low first stage tenders often still win mini competitions.9. The integration of Council processes relating to ICT and Asbestos need to be clearer.10. Lessons learned are captured on a project by project basis, but not on a programme level.11. There is no focus on innovation on a Framework level.

Q3 - What changes would you make to the CCC Framework to improve it?

1. Greater visibility of pipeline
2. Certainty that the scheme is required before it is tendered (to avoid the stop/start issue)
3. Clarity on technical standards
4. Further improvement to planning process
5. Have a greater emphasis post completion stage
6. A better understanding of capital costs v operational costs
7. Increased clarity as to whether developers or contractors are responsible for utility provision
8. Increased focus on environmental/carbon reduction requirements

QA.1 Strengths/weaknesses of frameworks generally	<p><u>Strengths:</u></p> <ol style="list-style-type: none"> 1. Long term relationships are developed which provide benefit for all parties 2. Generally faster, cheaper and better quality delivery 3. Allow sharing of best practice 4. Clear understanding of works pipeline 5. Greater opportunities to achieve social value benefits 6. Lower procurement costs 7. Flexibility of procurement options 	<p><u>Weaknesses:</u></p> <ol style="list-style-type: none"> 1. Contractors can be locked-out of sectors/markets for extended periods if unsuccessful in bidding opportunities. Also, smaller contractors don't have bid writing teams to support the framework procurement process. 2. Frameworks can favour larger contractors over SMEs 3. Where a Local Authority adopts a framework which is not their own, the Local Authority may end up with using a less than suitable main contractor to carry out the construction works 4. A lack of opportunities can mean contractors lose interest
QA.2 Are there any frameworks in which you participate that you regard as particularly successful and why is that?	<p>Pagabo - flexible</p> <p>Scape - efficient, batching of smaller projects to achieve savings</p> <p>DfE - good for standardisation but transfers a lot of risk to contractor, has high bidding costs and short design periods</p> <p>Essex CC - good visibility of pipeline, consistent approach, mutually beneficial relationships</p> <p>General points made about use of KPIs, regular engagement and good volume of work.</p>	<p>Weaknesses of national frameworks include: process driven, labour intensive, dogmatic and inflexible.</p>

<p>QA.3 What would you describe as the advantages and disadvantages of a local authority running its own framework?</p>	<p><u>Advantages</u></p> <ol style="list-style-type: none"> 1. Greater control and buy-in, with a national framework you are one of many client organisations, whereas if you have your own framework then there is a vested interest to make it work for all parties. 2. Direct communication and engagement with contractors and consultants allows long-term relationships to be developed 3. Ability to integrate key stakeholders into framework (highways, planning) 4. Contractual arrangements and Ts&Cs will be designed to meet LA's specific requirements 5. Reduced procurement timeframes 	<p><u>Disadvantages</u></p> <ol style="list-style-type: none"> 1. LA resources are required to operate framework, but in reality you would need this to an extent even with a national framework 2. Framework criteria can favour national contractors ahead of capable regional contractors 3. Balance between having enough contractors to deliver the programme and not too many which could result in some not winning any work and losing interest
<p>QA.4 What do you see as the main challenges/risks facing the construction sector over the next 4 years, and which procurement strategy can most effectively mitigate these?</p>	<p><u>Challenges</u></p> <ol style="list-style-type: none"> 1. Covid-19 - both short term impacts on financial stability of contractors and delivery of existing projects and longer term impacts resulting from the recession 2. Brexit - impact on labour and resource availability 3. General skills shortage due to aging workforce and difficulty in attracting young people to the industry 4. Relatively slow take up of new technology across the industry 5. The challenges presented by the environmental/zero carbon agenda will require engagement of all stakeholders 	<p><u>Procurement Strategy to Mitigate</u></p> <p>Frameworks are generally viewed as preferable due to the ability to take a longer term view and realise the benefits of ongoing relationships.</p>

<p>QA.5 Which future arrangements could best deliver the change and innovation required to meet the policy agenda relating to the climate emergency (zero carbon etc.) and how?</p>	<ol style="list-style-type: none"> 1. Effective national Planning policy and Building Regulations 2. Clarity over local policy requirements and preferred means of achieving the required performance across the framework. 3. Early engagement with contractors, consultants and the specialist supply chain to set parameters and allow the best chance of delivery 4. Collaboration and sharing of best practice across the industry and framework 5. Monitoring of performance via KPIs to establish that 'designed' performance is delivered in reality 6. An understanding that initial capital costs will increase but long term costs will reduce 	
<p>QB.1 In your opinion is, single stage or two stage tendering preferable and why?</p>	<p>Two-stage tendering is clearly the preferred option from the contractor's perspective. The reasons for this include:</p> <ol style="list-style-type: none"> 1. Reduced contractor costs up front 2. Earlier contractor involvement allowing project to benefit from practical 'buildability' advice 3. Clarity over design responsibility, rather than a split between pre and post-contract. 4. High level of interest from contractors arising from low cost, low risk tendering 5. Generally more collaborative approach resulting in greater communication with the client and the client's team, which can result in improved outcomes. 	

<p>QB.2 If any given framework provided the option to use either the NEC or JCT contract forms, would you view this as beneficial? Do you prefer one contract form over another, and if so why?</p>	<p>NEC was preferred by the majority, but many contractors were open to both alternatives and made the point that the administration of the contract is as important as the contract choice.</p>	
<p>QB.3 In your opinion, for any given framework, what is the best way to set the Lot bandings?</p>	<ol style="list-style-type: none"> 1. The tiered approach to bandings currently used works well. 2. Some suggestion that the banding could be simplified to £1m - £5m, £5m - 15m and £15m+ for example 3. An overlap between bandings was suggested as a means to provide greater flexibility. 4. The bundling/batching of lower value projects was suggested 5. Respondents noted that banding should also reflect the likely value of projects across the programme to avoid there being too few opportunities on any given lot 	

<p>QB.4 Cambridgeshire County Council also operate a Minor Works Framework (which is a based on the JCT MW contract, using a single stage tender process), which has a value of up to £5m. Do you think there is any merit in merging the bands from a design & build framework with the Cambridgeshire Minor Works Frameworks?</p>	<ol style="list-style-type: none"> 1. Overall the respondents felt merging the frameworks would not be worthwhile. 2. The principal reasons for this were the different focus of the minor works framework and this was likely to be better suited to smaller contractors procured on a traditional basis. 3. A single framework may end up with large contractors securing places on the framework but ultimately not being keen to bid the opportunities. 4. The minor works framework was also likely to increase opportunities for local SMEs. 	
<p>QB.5 How can a local authority led framework be further developed to support local businesses and employment opportunities?</p>	<ol style="list-style-type: none"> 1. Robust social value KPIs should be incorporated and employment and skills plans could be mandated in the framework. 2. In relation to employment opportunities these need to be real long-term jobs. It is rare for an apprentice to complete their whole course during a single project. A shared apprentice scheme could be used across the framework. 3. The key is to determine the objectives to be achieved and then set out measures to assist in achieving this. The targets set can be progressive year on year. it was noted that MMC and prefsb methods of construction limit local employment oppertunities unless you are located near to a manufacturer. 4. Framework relationships with schools and colleges 5. Running 'meet the buyer' events 6. Support the supply chain by providing access to training increasing their ability to win work, grow their business and employ more local residents. 	

<p>QC.1 How can value for money be delivered at 1st and 2nd stage tender?</p>	<ol style="list-style-type: none"> 1. Respondents highlighted that the definition of VFM varies and it may be worthwhile defining this more clearly. 2. Setting a realistic budget at the outset of a project and using that figure to identify excessively low 1st stage tenders. This could assist in avoiding significant cost uplift through lifetime of the project. 3. A lot of comments around early contractor involvement, buildability, early market-testing, careful risk analysis, identification of abnormals and open book second stage tendering being important in avoiding unforeseen cost increases. 4. The use of KPIs to monitor contractor performance and potentially penalise those who do not demonstrate ability to control costs effectively. 	
<p>QC.2 How can contractors demonstrate that value for money has been achieved in the current framework and how could that be improved in a new framework?</p>	<ol style="list-style-type: none"> 1. As with previous question there are a lot of comments about how you define VFM. 2. The use of KPIs and their ongoing monitoring was mentioned regularly. 3. The use of post-completion data on defects, customer satisfaction etc. 4. Structured post-project review process. 5. Benchmarking that takes account of project abnormals 6. Consideration of whole life cost rather than just capital expenditure 	

<p>QC.3 What would the implications be of transferring more risk to contractors? I.e. in the same way that the DfE JCT D&B contract does.</p>	<ol style="list-style-type: none"> 1. A reduction in contractor appetite for tendering opportunities 2. Potential for higher costs and a more 'contractual' relationship 3. Client does not realise the benefit of any successful risk mitigation work 4. Contractors who make insufficient allowance for risks which then materialise will attempt to recover monies retrospectively. 5. Management of risk is most effective when the risk is allocated to the party best placed to deal with it. 	
<p>QD.1 How could the link between pre-construction and construction stage design be improved during the milestone process? E.g. Continuity of design management.</p>	<ol style="list-style-type: none"> 1. Continuity of key design resources through all stages of the project. This should include a design manager who stays with the scheme throughout or a structured arrangement allowing handover from Design Manager to Construction Manager with responsibility for design matters in MS5 onwards. 2. Involvement of construction-stage team members at pre-con to allow them to understand the scheme and offer buildability advice. 3. Involvement of specialist sub contractors (sprinkler, cladding, catering) at pre-con stage would be beneficial. 4. Detailed records of end user design meetings to track and record outcomes and background discussions. 	

<p>QD.2 In an environment where we need to be flexible about design (i.e. s106 funded vs Council funded or s106 funded based on score card rates) , how can defining the scope and specification of the projects be improved?</p>	<ol style="list-style-type: none"> 1. Early engagement with all key parties (client, end user, planners, highways) 2. Obtaining all required surveys early in the design process. 3. A greater use of standardisation. 4. Clear understanding of the implications of S106 requirements and how/where third party/developer works are to be coordinated with project works. 5. Clarity over the design standards which are going to be used (DfE OS, CCC Design Guides or a hybrid) 6. An understanding that there is a risk of a '2-tier' approach where S106 funded schemes are of a higher quality than CCC funded. Open discussion with end users could assist the understanding of competing pressures. 	
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<p>QD.3 How do we best deal with Policy and Legislation changes during the course of the Framework and, in particular:</p> <p>1. CCC policy on the climate emergency</p> <p>2. DfE and/or CCC Design Guides</p>	<ol style="list-style-type: none"> 1. Active engagement with contractor/design partners so all are clear on likely policy changes. This communication can work both ways with contractors/designers often aware of potential industry changes. 2. Strong change control in the event that changes need to be actioned on a live project. Framework level change control so all parties are clear from which point key changes are to be actioned from. 3. Single point of contact on employer's team who has responsibility for confirming any changes to policy/design guide requirements. 4. Clarity and understanding of the potential for changes in policy/legislation to result in changes to contract terms and/or contractor/designer resource requirements. 5. Introduction of a framework policy/design guide handbook (updated annually) 6. Robust milestone reviews to allow all parties to be confident that project is aligned with required policies and legislation. 	
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<p>QD.4 Because of the large and diverse programme that Cambridgeshire has to manage, the current framework arrangement means that there can be disparities between the services required and provided, with some contractors doing more and some doing less e.g. s106 funded projects providing new schools involve engaging with developers/utilities/other 3rd parties to the contractor. What do you think would the implications be of transferring all responsibility for this engagement to contractors as part of any new framework arrangement?</p>	<ol style="list-style-type: none"> 1. This could add to uncertainty about contractual relationships and lead to a lack of visibility for CCC of discussions. 2. There was generally a mix of opinions over this and whether it would simplify arrangements or make them more complex. 3. Consensus that employer needed to remain engaged in this process even if contractors were to do more. 4. Potential risk that aligning contractors with developers could lead to developer's seeking to build schools themselves. 5. Greater responsibility for the contractor could result in an increase in costs for additional services. 6. The lack of clarity in relation to utility requirements and responsibilities for delivery of these is one area where more input would be useful. 7. Consensus that any change to arrangements would need to be clear and implemented across the framework. 	
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