

Contracts and Commercial Practice

B) The architects have recommended that a single organisation should develop the detailed design, manage the construction and subsequently maintain the Health Centre.

- a) Identify the options for procuring the work which would satisfy this recommendation.
- b) Justify your preferred option for procuring the work

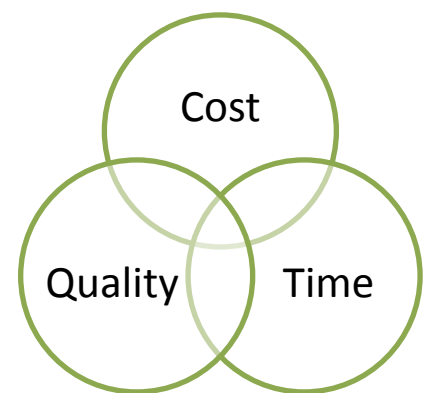
Questions answered: Contracts and Commercial Practice – Question B

When considering which of the below procurement routes would be best for your project you need to consider the cost, time and quality. The diagram below shows you how these three things will help determine what procurement route is best for you.

Time = Speed in which the project needs to be complete. This could be a completion date that cannot be delayed.

Cost = means the cost of contract sum certainty. You cannot exceed the contract sum should any works fail.

Quality = means the quality of the building and the design options. Also considered are the whole life value costings.



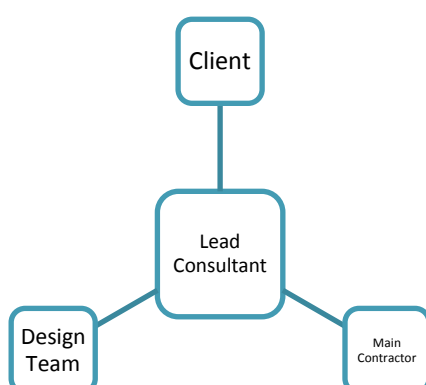
There are many different procurement routes to consider when undertaking a project. The procurement routes are as follows;

- Traditional Procurement
- Design and Build
- Management Contract
- Turnkey approach
- Partnering approach
- Design, Build, Finance, Operate (DBFO)
- Build, Own, Operate, Transfer (BOOT)

I have detailed below what each of these procurement routes mean and the pro's and con's for each.

Traditional Procurement

When using the traditional procurement route the client would procure the design team to fully design the building / project. It would be the client who enters into contracts with each of the design team members and the Main Contractor. The design team remains employed by the client throughout the life of the project.



The communication route is as per the diagram to the left. The Lead -Consultant would either be the Employers Agent, Architect or Quantity Surveyor.

In some cases the Main Contractor may take on design elements which would be written into the contractor's contract but the majority of the design responsibility remains with the design team.

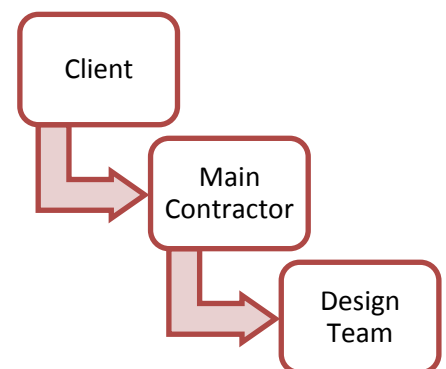
The advantages of procuring the contractor through this route would be cost certainty. Because the works are tendered on a full design or spec and drawing the costs will not change providing there are no anomalies or design changes made during construction.

The disadvantage of this procurement route would be the risk of delays on site and costs sit mainly with the client. Should an unforeseen anomaly occur, the client would be liable to provide the necessary funding and extension of programme (should this be required).

Design and Build

When using the design and build procurement route the client would procure the main contractor who would then procure the design team. The client would only enter into contract with the main contractor then the contract would enter into contract with the design team.

The communication route is as per the diagram to the right. As you can see the Client has 1 point of contact and only 1 contract to enter into. The Main Contractor would be responsible for the design and constructions. The client would still have the opportunity to comment on the design and design review meetings would still be held as per the traditional contract.



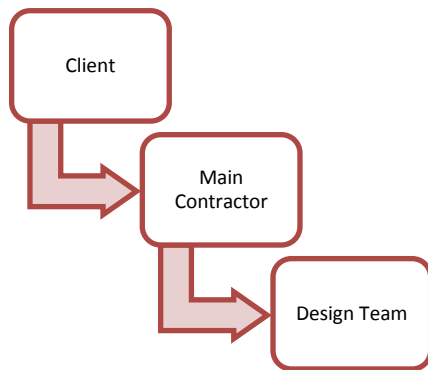
The advantages of procuring the contract through the design and build route would be because the contractor has full responsibility for the design and constructions. The contractor is able to provide valued input into the design where there could be site constraints etc. It is also preferred by clients as it provides a single point of responsibility.

The disadvantages of procuring through design and build would be the little control the client has regarding changes to the design once agreed. Also, when using this contract the prices are generally as the contractor is taking on the majority of the risk.

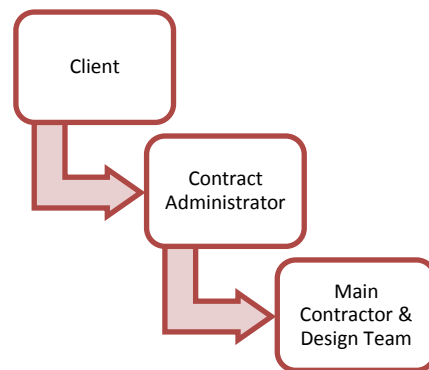
Management Contract

The management contract is where the client would appoint a contract administrator; this could be a consultant or a contractor. The design would then be worked up and the individual packages of work such as grounds, Mechanical etc. The client would have control of the design throughout the project life but the communication lines would be different depending on who acts as the contracts administrator. I have detailed each of these below;

Contractor acts as Contracts Administrator



Consultant acts as Contracts Administrator



The advantages of using this form of contract is you will be able to start on site sooner as not all the design needs to be finalised prior to letting an element of the works. Also, the design can be amended throughout the design providing the elements of works already on site are not changed.

The disadvantages of this would be there is no cost certainty. The final account is only agreed once all works are finished on site. The programme is also not certain as the design is rarely finalised when using this form of procurement.

Turnkey Approach

The turnkey approach is generally for clients that do not want much involvement in the project. It is generally a developer or a contractor that would take this on from project initiation (client brief) to completion. In this time the client would have very little involvement in the contract or the design. In some instances the developer or contractor has investments into the project, for example they may receive a percentage of the profits for a certain amount of time once the project is complete.

The advantages of this procurement would be that the developer has an invested interest in completing the project as quickly as possible. The developer becomes fully responsible for the design and construction.

The disadvantages would be that the client loses all control over the design and project; this can result in the client not receiving the design to meet their needs. The developer also has full control of the programme and costs for the project.

Partnering Approach

The method of the partnering approach is to negotiate the contract terms and include additional clauses to a traditional contract clauses to ensure the client and contractor work collaboratively with each other. This forces both parties to work on an 'open book' policy.

The advantages of using this contract would be open communications between both parties resulting in fewer disputes throughout the contract and creates a better working relationship. It also means the contractor is involved in the early design process to provide valued input.

The disadvantages of using this form of procurement would be the ease for both parties to abuse to open book policy. This can result in a breakdown of communication and a failed project.

Design, Build, Finance, Operate (DBFO)

This form of procurement is where the contractor designs the building, undertakes all the construction the building requires, funds all the works and design of the building and provides the necessary maintenance. The Client then leases the building from the contractor with a standard agreement of up to 30 years. After this period has passed the property ownership will then be transferred back to the client.

The advantages of using this procurement route are the client does not need to provide any funding for any of the works.

The disadvantages of using this procurement route are because the client's revenue funding would need to be increased to accommodate costs for leasing the building for a period of time. Also, the client needs to ensure their brief requirements are exactly what they want as once a contract is entered the client loses all control of design, performance and quality of the works.

Build, Own, Operate, Transfer (BOOT)

This is very similar to the terms DBFO as the contractor would build, undertake all the construction the building requires, fund all the works and design of the building and provide the necessary maintenance. After a 10-30 year period (depends what's in the contract) the client then purchases the building at an agreed market price.

The advantages and disadvantages for this procurement route are the same as those for the DBFO.

Recommendations for the procurement Route

For the health centre I would recommend using the Design and build procurement route. Within this you could include the required maintenance over a period of time. It also means the contractor can provide the necessary advice for design and the required maintenance going forward.

The client would also have one point of contact and could provide feedback into the design without taking on that responsibility. The client's requirements are already set so the design changes during construction should be minimal therefore the disadvantage of this contract are not applicable. The costs of the works could be negotiated with the contractor once appointed, and with all the elements of different works that need to be considered such as Asbestos removal, roof repairs and service connections, it would be very difficult for a consultant to design, cost and programme without assistance from a contractor.

MARKERS COMMENTS

A comprehensive review of procurement routes not all of which would be appropriate to satisfy the recommendation.