

## RETHINKING CONSTRUCTION ACCELERATING CHANGE

### CJC response to the consultation paper by the Strategic Forum for Construction

**Q3. Supporting Client Leadership – Chapter 2. Has the Forum identified the main key actions to assist clients to establish their brief, maximise value and to deliver continuous improvement in the UK construction industry ?**

**Extract from Consultation Paper - Independent advice for clients - 2.4** It is therefore proposed that

- ¥ Whatever the procurement option, achieving maximum integration of the team at the earliest opportunity is essential in order to make the best use of all available expertise, and central to the delivery of best whole life performance and maximising client value from construction. **Clients should lead and actively participate in the creation of integrated teams;**
- ¥ **Independent client advice** may come from a variety of existing professional backgrounds. The key issue is that independent client advisors should have certain skills and competencies which align with Rethinking Construction;

#### CJC Comment

We strongly support the use of integrated teams to plan and execute major projects. We do however believe that more consideration needs to be given to the question of **who** is best placed to advise clients in the first place about what brief to give the project team, or whether clients need a project at all. We hope the Forum will support CIPFA Prudential Guidelines in calling for comprehensive options appraisals at this stage. The bigger and more innovative projects then usually call for the application of a number of specialist skills, including value engineering, value management, and risk analysis.

Obviously small projects do not call for such exercises, and we accept that this creates a special problem for small and occasional clients. They certainly need independent advice before deciding even to initiate a project. We do however see a danger that this advisory role will be talked up into what amounts to a new discipline created just for the purpose. We therefore suggest that the Forum

- ¥ makes clear that the smallest clients who may need such a service do not include any local authorities, except possibly small ad hoc authorities and parish councils
- ¥ acknowledges that advice at the early formative stage is one of the normal functions of professionals, normally architects, engineers or surveyors. We know of no evidence that small clients relying on such advice have been committed to projects too soon, or to the wrong projects.

**Q5. Supporting Culture Change in ‘People Issues’ – Chapter 4 . . . do you agree that the challenge contained in this section will help deliver continuous improvement ?**

**Extract from Consultation Paper - Involving SMEs - 4.17 . . .** A simple sign posting guidance booklet on ‘people issues’ initiatives, aimed specifically at SMEs, should be published to help focus on achieving change.

#### CJC Comment

We accept that many SMEs need help to exploit the opportunities for them to work for major clients, and we support everything which the Forum proposes to this end.

There is however another obstacle to SMEs making a greater contribution, which the Forum might help to remove. This obstacle is the ambiguity of the Treaty of Rome. This precludes any action by contracting authorities which has as its aim, **or results in**, restriction of access to the contract for domestic companies to the detriment of tenderers from other Member States.

Making packages small is of course helpful to SMEs, but is unhelpful to overseas contractors of any size. The question therefore is whether subdividing packages is discriminatory. The

EC recently published an otherwise useful 'Interpretative Communication' on social considerations in public procurement (COM(2001) 566 final). This addressed many related questions, but, disturbingly, not this one.

If indeed UK Ministers want public authorities to help SMEs, they will have to share responsibility for pursuing policies which run any risk of being found retrospectively to have breached the Treaty. An excellent precedent for the necessary government initiative was provided by the DLTR letter of 15.10.2001 to chief executives on infraction cases before the ECJ. This stated unequivocally that Ministers were satisfied, despite widespread doubts on the subject, that the negotiated procedure is available for PFI contracts.

It would be constructive if the Forum could support pressure for Ministers to express equal confidence in the lawfulness of packaging which suits SMEs.

### **Client responsibility**

**4.22 Target:** 80% of public sector clients should routinely use Constructionline by **2005-6**

#### **CJC Comment**

We doubt the value of such a high target, or even any target at all, for the use of Constructionline. This includes only a small fraction of the SMEs who so often provide the best value for money for small and specialised jobs. Stating so high a target would almost certainly have the effect of discouraging client authorities from using them

If the Forum nevertheless sees special reason for stating a target, it would be helpful to make clear that it means 80% by aggregate value, not 80% of contracts, or of contractors

**Q6. Other Cross-Cutting Issues – Chapter 5 . . . do you agree that the issues listed are the right ones and have potential to deliver continuous improvement ?**

**Extract from Consultation Paper - Sustainability - 5.6** Clients have a key role to play in demanding more sustainable buildings, designed on whole life principles . . .

#### **CJC Comment**

We accept entirely that not enough of the real decision-makers in any sector show serious interest in whole-life costing. Elected office-holders in both central and local government, and also institutional shareholders, appear to be preoccupied by events on much shorter time scales. Members of all disciplines have to make it as easy as possible for decision-makers to make the right decisions, but we are not convinced that this has yet been done.

We all know that for the bigger and more complex projects, early options do not necessarily provide all the right answers. Hence of course the introduction of integrated project teams which overcome the obvious limitations of decisions based on inadequate information. They do however create another limitation, which is that designs and specifications cannot be firmed up until after contractors have been appointed and can advise about them. The resulting project is then not necessarily the best whole-life solution; but merely whatever is the best solution within the range, experience and skills of the contractor in question.

We believe that the debate about project team partnering is in some respects still open, and that some means have to be found to keep client options open until after contractors give their advice. A good case can for example be made for limiting contract awards before this stage, in the case of more challenging projects, to provisional awards.