



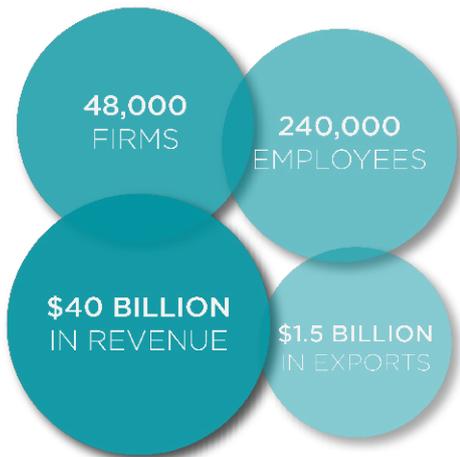
UPLIFTING PRODUCTIVITY

*Delivering economic growth through
best practice procurement*



www.consultaustralia.com.au

ABOUT US



Consult Australia is the industry association representing consulting businesses in design, advisory and engineering. Our industry comprises some 48,000 businesses across Australia, ranging from sole practitioners through to some of Australia's top 500 companies, providing solutions for individual consumers through to major companies in the private sector and across all tiers of government. Our industry is a job creator for the Australian economy, directly employing 240,000 people. The services we provide unlock many more jobs across the construction industry and the broader community.

Our members include:



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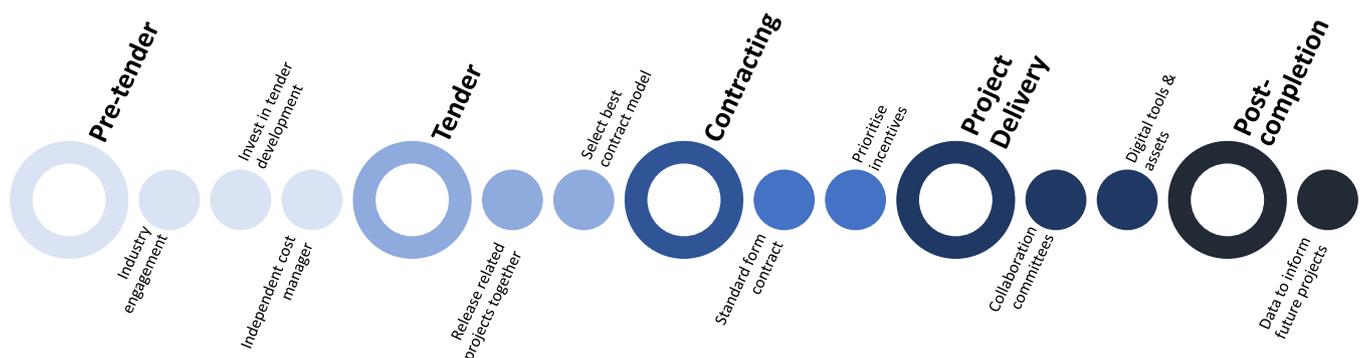
EXECUTIVE SUMMARY

Governments have committed to a pipeline of infrastructure and built environment projects as part of the COVID-19 economic recovery. This includes fast-tracking of projects to maintain building and construction activity. Some areas of our industry have maintained a near-normal productivity level, for example in infrastructure. Irrespective of this, relying on current productivity will not be enough to realise the full potential of the investment. There is a real risk that reliance on existing procurement practices and contracting behaviours will undermine economic recovery. Procurement reform has been needed for many years and will unlock greater productivity.

Unnecessarily complex and lengthy procurement procedures coupled with undesirable contracting behaviours have always been problematic. Small and medium enterprises (SMEs) face barriers which are rarely dealt with. But with the pressure COVID-19 is putting on people and the economy, these matters become the focus of much needed action and redress. Where the construction industry has been categorised as inherently adversarial in nature arising from poor risk allocation, we are now 'all in the same boat' and the need for collaboration and appropriate risk allocation has become clear.

This paper sets out recommendations to help maximise the economic benefits from projects via procurement reform. Productivity gains can be found in every phase of the project; pre-tendering, tendering, contracting, project delivery and post-completion.

Now is the opportunity to create a more sustainable ecosystem through actions in response to COVID-19.



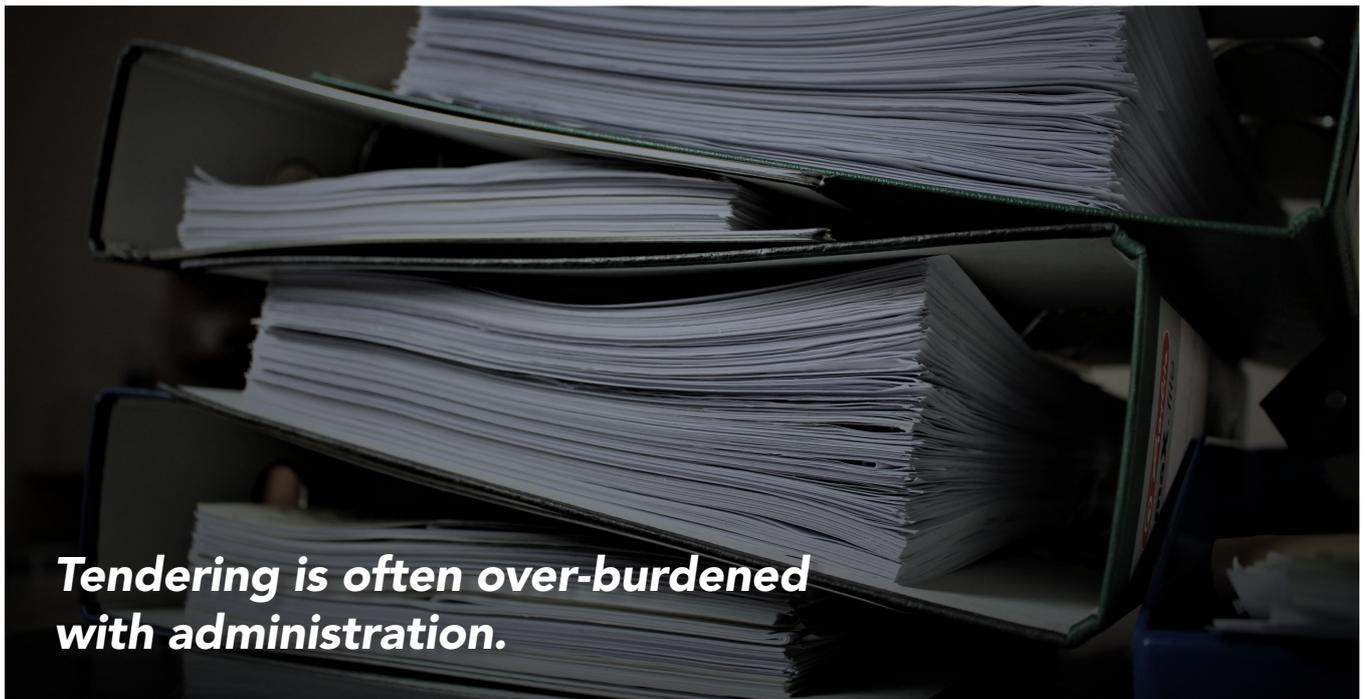
MAKING AN IMPACT FOR NOW AND THE FUTURE

The short-term benefits from procurement reform

To ensure that fast-tracked projects are released to market faster it is necessary to streamline complex and lengthy procurement processes. This includes removing pre-qualification barriers for SMEs, using pre-qualified bidders and not seeking material already provided as part of the qualification process. Further, tenders should focus on the key questions that will inform the awarding of the project – with less administrative burdens. The timelines also need to be sped up, including between:

- tender close and the tender decision being notified
- awarding the tender and commencing work.

After awarding the tender, too much time is currently wasted in contract negotiations, despite the various standard form contracts available. Industry and governments need to work together to use standardised collaborative contracts that prioritise communication and problem solving over disputation. There is no better time to invest in more collaborative contracting now that the need to increase productivity is an imperative for our economy. Without action, the benefit of government stimulus for the industry will not be fully realised.



The medium to long-term benefits from procurement reform

Streamlined procurement processes and improved contracting behaviours should not just be a short-term initiative while we recover from COVID-19. Lasting reform can create lasting productivity gains.

As the Consult Australia Model Client Policy articulates, there have always been problematic contracting behaviours that need redress. With Australia's economic recovery relying on both the consulting and construction sectors of our industry working more effectively together, now is the time to address these issues. Now is the time to ask what cultural shifts are needed and how can procurement and contracting act as tools to drive that change.

The industry cannot sustain itself in the current landscape of disputes. Contractors, consultants, and government clients all acknowledge that there must be a better way. Now is the time to re-prioritise and invest in a healthy supply ecosystem that will lead to benefits post-COVID-19.

PRODUCTIVITY FROM PRE-TENDERING TO POST-COMPLETION

Considering pre-tender, tendering, contracting, project delivery and post-completion phases of a project, Consult Australia members have shared over 20 different projects that have demonstrated best practice procurement initiatives or model contracting behaviours. From these examples, common threads emerge highlighting the importance of collaboration and communication. The recommendations for reform below have been drawn from these examples. While noting that not all recommendations will suit every project – each recommendation should at least be considered when new projects are developed.



Procurement reform needn't be an invention test, instead we can learn from past projects around the country, implementing the best initiatives into the next project.

RECOMMENDATIONS FOR REFORM

Pre-tender industry engagement to knowledge-share on risks, procurement and contracting

On various road and rail projects throughout the country government agencies have established industry engagement forums. The most successful forums go beyond agencies sharing the future pipeline of work and extend to knowledge-sharing between government and industry. By harnessing industry expertise, agencies can make the best decision on the risks, procurement method and contracting model for each project.



Client benefits:

- Accessing industry expertise through advice on the project pipeline
- Understanding the capacity and capability in the market
- Having the best chance to receive conforming bids.



Industry benefits:

- Having concerns about the project delivery program, procurement methods and commercial matters addressed pre-tender
- Identifying early the projects that best suit their capability and capacity
- Allocating resources and effort on a manageable number of tenders.

Engage a consultant to develop tender materials

In the Sydney Metro Martin Place Station Integrated Development, a consultant was engaged by the principal client before tender to develop the tender materials including early contractor involvement (ECI) materials. In this project the client released the expression of interest (EOI) and used it to shortlist contractors. The shortlisted contractors then received the ECI materials including the schedule of quantities (developed by the engaged consultant).



Client benefits:

- Utilising industry expertise (via the engaged consultant) to ensure tender materials have a clear scope (including inclusions and exclusions) so all bidding parties are aligned
- Having the ECI materials allows for competitive tendering.



Industry benefits:

- Being on an equal footing at bidding stage
- Being able to provide more accurate bids given the clear scope in tender materials
- Increased collaboration between consultants and contractors, ECI allows the contractor to contribute to the design with buildability smarts.

Engage consultant to manage budgetary and cost matters

In the UNSW Wallace Wurth Redevelopment, a consultant was engaged by the principal client as a key advisor on budgetary and cost matters. This also occurred in the Sydney Metro Martin Place Station Integrated Development, the Art Gallery of NSW Expansion Project – Sydney Modern and the NSW Rapid Build Prisons Program. Key to these projects was engaging the consultant pre-tender and retaining them through to post-construction. The consultant developed a cost estimate at pre-tender and reviewed each submitted guaranteed maximum price (GMP) from bidders to assist the client's decision-making. Parties then worked collaboratively with an open book approach to manage the cost plan.



Client benefits:

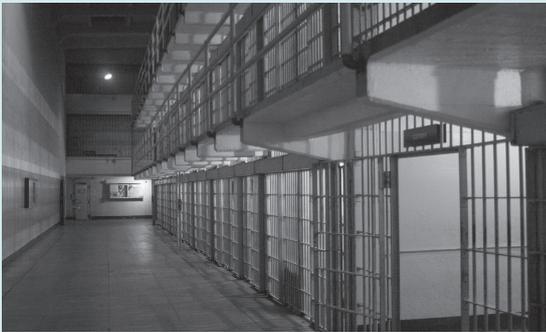
- Having an independent review of project costs allows clients to assess overall position and the cost risks at all stages.



Industry benefits:

- Having a realistic budget set at the outset with some flexibility possible where needed depending on the project
- Increased trust and collaboration given the open book approach.

Case Study – Rapid Build Prisons Program (NSW)



Investing at pre-tender for an unknown

In the NSW Rapid Build Prisons Program some components were impossible to accurately forecast at tender time. In this case these were grouped together as an estimated contract sum (ECS) which involved further scrutiny and auditing by the program quantity surveyor. At post-competition the consultant undertook a final price audit to calculate the share of savings as the contractor profit.

Tender related projects in quick succession

The Victorian Level Crossing Removal Project was a complex and large project – key to its success was the breaking up of the work into multiple programs. Each program was tendered competitively in quick succession.



Client benefits:

- Ensuring that work is shared with various market participants (not just Tier 1 companies)
- Allows the delivery of a continuous pipeline of work via the programs
- Ensures resource retention, innovation and value for money.



Industry benefits:

- Tier 2 and below consultants and contractors are encouraged to participate
- Having certainty of work, allowing businesses to bid on a limited number of programs.

Choose a contracting model best suited to the project, considering ECI and position of the consultant

The selection of contract model can have a significant impact on the project outcome and the behaviour of parties to the contract. The contract is merely a tool, a tool used by humans and therefore should be designed with human relationships and behaviours in mind.

The key focus of any contract model selection should be prioritising collaboration. Best case examples demonstrate that early contractor involvement (ECI) and ensuring the position of the main consultant is equal to the contractor are most successful in embedding collaborative relationships. For example, while design and construct (D&C) contracting is not generally favoured by consultants, there are examples where it can work. The D&C used in the Bruce Highway Duplication and Upgrade Project in Queensland is a best practice example because the designer participated alongside the constructor, instead of as a sub-contractor.



Client benefits:

- Embedding the right behaviours from the start, giving parties the tools to be collaborative
- Having transparency of both designer and contractor engagement
- Able to manage risks and promote innovation throughout the project.



Industry benefits:

- Having the tools, via the contracting model to collaborate and innovate
- Being valued and therefore investing in the project and the entire project team.

Use standard form contracts

Where standard form contracts are used (such as AS4122-2010), all parties understand the liability framework. Standard form contracts will increase productivity as time is not spent negotiating novel clauses and drafting. Where a client needs special conditions to AS4122 for example, these should be drafted in consultation with industry. Contracts should be made publicly available prior to tendering. The use of standard form contracts also ensure that clients have full transparency of contracting arrangements down the supply chain.



Client benefits:

- Ensuring that work is shared throughout market (small businesses are more likely to sign up to AS4122 than a novel contract)
- Drives better behaviours, with a focus on moving to project delivery instead on disputation of novel clauses and liability frameworks.



Industry benefits:

- Having the tools, via the contract to work together
- Being valued and therefore investing in the project and the entire project team.

Performance measures that prioritise incentives over punitive actions

Contracts for major projects often have key performance measures, the best projects are those that have incentives attached to these performance goals rather than punitive measures. Performance measures should also be tailored for the particular project. The Transport Network Reconstruction Program in Queensland was a major project with key performance areas covering cost, quality, safety and reputation. An innovative incentive used in the Victorian Level Crossing Removal Project was the opportunity to bid on additional work on a sole-sourced basis.



Client benefits:

- Drives better behaviours, with a higher likelihood of performance measures being met.



Industry benefits:

- Working together towards achieving the key performance measures
- Gaining additional work with limited competition.

Collaboration committees across different parties, programs or projects

As large projects are broken into multiple programs of work there is an opportunity to ensure that all parties across the entire project can collaborate and share – even where they are part of different alliances. For example, in the Victorian Level Crossing Removal Project ‘Joint Collaboration Committees’ were established at various levels to suit different disciplines. This ensured collaboration amongst the different alliances working on the different programs across the entire project.



Client benefits:

- Drives better behaviours within each program and across entire project
- Potential to explore ideas for innovation
- Potential to share resources.



Industry benefits:

- Working together to achieve the overall project, not just the program
- Potential to explore innovation and resource sharing.

Case Study – Level Crossing Removal Project (VIC)



Breaking up but maintaining collaboration

The approach in Victoria’s Level Crossing Removal Project demonstrated how large projects can be broken up, distributed to different parties but still prioritise collaboration. The ‘Joint Collaboration Committees’ allowed an innovation in one part of the project to be shared with other parts.

Invest in technology, prioritise data access and produce digital assets

Digital is no longer the future and many projects have shown how investment in technology can deliver significant benefits from parties using technology to store information, design or innovate.

As projects become larger and more complex digital engineering and central digital information portals become increasingly necessary. In the Victorian Level Crossing Project digital engineering advanced significantly because there was a continuous stream of new projects into the program alliances. While in the Transport Network Reconstruction Program in Queensland a dedicated information management platform ensured everyone could access the same data from any location.

Designers can innovate on current as well as future projects with the right access to data. Restricting data access to a limited scope can stifle such innovation. Therefore, data access and licensing should be prioritised.



Client benefits:

- Transparency over all aspects of the project
- Helps ensure good governance as information is retained and managed consistently across all parties
- Having a permanent records and resources even after the project is complete
- Drives innovation for the current project as well as future projects.



Industry benefits:

- Drives collaborative behaviours and can streamline processes and information-sharing
- Increased understanding of the client’s business and governance needs
- Drives innovation for the current project as well as future projects.

Case Study – Transport Network Reconstruction Program (QLD)



Transparency via digital tools

A dedicated information management platform was used in the Queensland Transport Network Reconstruction Program allowing all parties (including consultants, contractors and government officers) to access the same data from any geographical location. This also facilitated funding submissions to the Queensland Reconstruction Authority.

Collect relevant data to inform future project planning

Investing time and resources post-completion can assist clients in future project planning. For example, in the UNSW Wallace Wurth Redevelopment the consultant undertook a post-construction cost analysis of actual costs and allocation of costs between end users and functions.



Client benefits:

- Documenting learnings from the project
- Anticipate risks and issues for future projects.



Industry benefits:

- Anticipate risks and issues for future projects.

IMPROVING CULTURE AND PRACTICE FOR THE FUTURE

All sectors of the construction industry in Australia see the case for cultural change. The industry as a whole cannot have a healthy future if it continues to be categorised by disputation and bad risk management. If the construction sector is not functioning, then Australia's economic recovery from COVID-19 will be marred.

Communication and collaboration are key to this cultural change. This cultural change should not be seen as a short-term initiative, it is one that should be invested in and maintained long after the effects of COVID-19 are no longer felt.

All parties in the contracting chain have a responsibility to embrace this change. But there is no doubt that behaviours can be influenced by the tools we have on hand. As demonstrated above, procurement reform can be used as a tool to encourage behavioural change by prioritising communication and collaboration.

HOW OUR MEMBERS CAN SUPPORT GOVERNMENTS

Consult Australia is well placed to advise governments on the way forward and to provide an informed view on how procurement and contracting reform can help support Australia's economic recovery from COVID-19. We would welcome the opportunity to engage further to discuss our recommendations and to workshop potential solutions particular to each situation.

Never has there been such a significant catalyst for greater collaboration to help steer our broader industry through these challenges, and we look forward to working with clients to support the COVID-19 economic recovery.

CHECKLIST: PROCUREMENT PRACTICES TO UPLIFT PRODUCTIVITY

Pre-tender

- Pre-tender industry engagement held to allow open knowledge-share on risks, procurement and contracting.
- Tender documents were developed by an expert.
- Budgetary and cost matters were managed by an expert.

Tender

- Related projects tendered in quick succession, where there is capacity in the market to undertake multiple parts simultaneously.
- Having sought industry advice, the contracting model best suited to the project, considering ECI and position of the consultant, has been selected.

Contracting

- A standard contract is being used where:
 - It was made public pre-tender
 - Clients have transparency of the contracting arrangements of the supply chain
 - Any special conditions were drafted with industry
 - Performance measures in the contract prioritise incentives.

Project delivery

- Collaboration is prioritised through committees across different parties, programs or projects.
- There is an investment in technology, including:
 - Development of digital assets (including through the use of digital engineering)
 - A priority on transparency via digital information storage accessible to all parties
 - Data access is a priority to ensure innovation.

Post-completion

- There is a process to collect relevant data to inform future project planning.



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