Unconventional Alternatives

By Tony Frost, AIQS

The recent publication of J.C.T. '80, the introduction of SMM6, the report of the audit group of CIPFA and a contemplative mood brought about perhaps by the new decade has led me to consider the various forms of contractual arrangements in use throughout the industry.

The analysis of contractual forms and agreements is a popular subject with the commentators and correspondents of our professional and trade journals, and it is sometimes difficult to unravel objective comment from expressions of self interest. In addition to various articles which appear several reports sponsored either by public authorities or one or other of the professions have provided information and recommendations. A notable example is "The Public Client and the Construction Industries", or, more familiarly, the "Wood Report" and I have made use of its findings in this article.

I believe that at present quantity surveyors and other professional advisers do not fully consider the possibilities of the alternative contractual arrangements open to their clients. My definition of a contractual arrangement is that it is the method by which the contractor is selected and tender obtained, the type of contract which is signed and the means by which the tender sum is defined and the final account calculated. Any contractual arrangement should include two prime objectives which I would identify as:

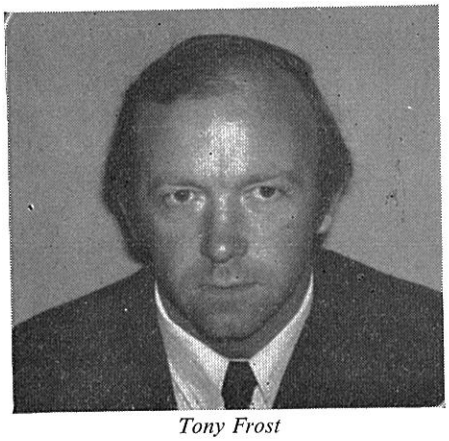
(i) Defining the agreement of the parties in respect of time, design and cost.
(ii) Providing a sound definitive legal and administrative basis for the construction process.

Whether clients are large public bodies or private individuals it is reasonable to assume they are alike in so far as they require:

(i) The right building—a proper design.
(ii) At the right cost—financial control.
(iii) At the right time—an agreed programme.

The design team can respond to these requirements in a variety of ways. One solution might provide a poor building at a cost which is both high and higher than anticipated and completed later than expected. Another, a perfectly designed and constructed building at the lowest possible cost, within the budget, in the shortest possible time and according to programme.

It is worth considering the factors mentioned above in a little more detail. Design (that is the right building) may be something developed only in outline with a limited number of drawings available when construction begins and be "loose fit" in the sense that it may suit one of several uses which have yet to be clearly defined by the client. This alternative allows, in fact, many decisions to be taken during the construction programme. A building of this type could be started very quickly on site after initial briefing had been given but might be very much "at large" in respect of cost and possibly completion time. At the other end of the scale is the fully detailed purpose designed project, a single use building with little prospect or scope for any change of that use. The full and detailed consultation needed might mean a long period between brief and start on site but once commenced the programme period ought to be a predictable minimum there should be no need for extensions of time due to variations or design changes and cost should be controllable within predetermined limits.



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The possibilities mentioned above are only two of numerous alternative approaches which may be taken, an example of the first might be a block of shop units for a developer whose individual clients could co-opt various design choices of their own into the scheme as their units were acquired. The second option might be a public authority building for example a crematorium. Trouble arises when as often happens a building of the latter type proceeds on a design basis more suited to the former.

Clients' requirements in respect of costs will vary. Each will want the lowest cost suited to his requirement but having made that point there are several options. One is for the cheapest building regardless of quality or time scale. Another may be to pay a premium for a very short programme or special standard of design or workmanship. Others may wish to be certain of their final cost at an early stage and hence negotiate a lump sum/fixed price basis rather than a basis which includes provisions for re-measurement and fluctuations or even cost plus.

Time may be absolutely crucial or of no importance at all.

In setting up tender arrangements the following options (at least) are open for consideration:

(1) Lump sum
(2) Target cost
(3) Schedule of rates
(4) Cost plus
(5) Re-measurement account

and these could be based upon:

(1) Firm BoQ
(2) Approximate BoQ
(3) Brief only
(4) Specification and drawings
(5) Schedule of rates

the tender can be obtained by:

(1) Single stage tender
(2) Two stage tender
(3) Negotiation
(4) Serial tender
(5) Fee/management
(6) Design/build package
(7) Direct trades contracting

and the resultant contract could be:

(1) JCT with quants
(2) JCT without quants
(3) JCT approx quants
(4) JCT prime cost
(5) GC Wks 1
(6) ICE
(7) FIDIC
(8) JCT Minor Works
(9) Contractor's own form
(10) Ad hoc arrangements.

There are certainly other examples in each of the above categories, and in addition one could consider the alternative means of selecting the tendering contractors.

Not every combination of the above would give a reasonable working arrangement but many would, and there are three hundred and fifty possibilities.

It has been said that quantity surveyors should search for means to expand their expertise and look for further areas to use their talents.

I would suggest that many of us are too ready to accept that each contract should be single stage competitive tender based upon a firm BoQ and using a JCT with quantities form of contract. Instead the quantity surveyor should look critically at the situation, review the alternatives and propose a "horses for courses" approach. I think that attempts to squeeze every building operation into a standard tender/contract solution have been a prime cause of the claims which have become an everyday part of the post contract scene.

I am well aware that to many people this may represent a radical suggestion. Especially if I nudge another cornerstone of the establishment and suggest that the method of measurement used need not be

SMM5 or 6 or any other "standard method".

To those who criticise the suggestion of such departures from normal procedures I would cite the example of consultant quantity surveyors who have been successful overseas, the reasons for the success are numerous and include:

(1) Effective cost control systems from feasibility to final account.
(2) The ability to prepare tender documentation quickly based upon whatever information is available and however limited it might be.

Many different methods are used with considerable success (that is to say the client is satisfied, comes back for more and recommends to his friends). I haven't heard of any overseas contract where a JCT form was used or SMM5 or 6. Fees earned per £1000 of building cost may be lower than on a conventional contract arrangement but involvement in real decision taking increases and so, no doubt, does the profitability, prestige, and turnover of the firms concerned.

Therefore we should not be afraid to look at what is conventional in the UK in the light of overseas success. The quantity surveyor is probably the person best in a position to give positive and valuable advice to a client at a very early stage on how the client ought to make his contractual arrangements. The quantity surveyor can then ensure those arrangements work.

The arguments for not departing from the conventional are well known, well rehearsed and in some cases well founded. Basically it is argued that there is a "best" method of building which comprises a settled design measured in detail for tendering purposes. The contractor is obtained by single stage selective tendering and enters into the JCT SFBC. Because both the method of measurement and the form of contract are standard, everyone, it is argued, knows with a fair degree of certainty what is expected and precedents of previous contracts will point the way to solutions in untoward situations. There are also peripheral benefits which include a greater degree of confidence by auditors and others because they too have become accustomed to the procedures and of course training is easier if students need learn only one system.

The problem is that building operations and clients' requirements will not conform to the required norm for which the standard system has evolved. SMM6 and hopefully SMM7 will help by the introduction of varying levels of measurement appropriate to design detail available, but much more flexibility is required if we are to satisfy our clients' needs.

I believe that the quantity surveying profession is suited by training aptitude and ability to make a major contribution to the effectiveness (i.e. translation of brief into a satisfactory building) of the industry by advising and assisting in the administration of flexible contractual procedures.

It is essential that we, as a profession, explore and develop our options for growth and I hope that this article may prompt some further thoughts and response from readers.

Any Experience of Civils SMM?

Many contracts using the civil engineering standard method of measurement – published in 1976 – have now been brought successfully to final account, according to the Institution of Civil Engineers. Secretary Robert Campbell says enough time has elapsed for desirable amendments and clarifications to be identified from the comments and queries received.

Before the review committee finally prepares amendments, ICE is inviting users of the CESMM, and bills of quantities compiled from it, to put forward any difficulties they have experienced or suggestions for improvement. Letters should be sent before 2nd March to P. C. Beresford, ICE, Great George Street, London SW1P 3AA.

Williams and Glyn's New Loan Scheme for Young Professionals

A new loan scheme is to be introduced by Williams & Glyn's Bank to help young professionals to buy a share in an existing practice. Details of this "Professional Partnership Purchase Scheme" are explained in a new Bank leaflet "Finance for the Professions" which also covers all types of loans for businesses—overdraft facilities, medium term loans, hire purchase, and equipment leasing.

Loans under the "Professional Partnership Purchase Scheme" will generally be of £5,000 and over. There will be an option of a two-year "holiday" on repayment of the principal, and a choice of repayment methods.