Brisbane, 2010

ALLIANCING

QMCA Response to the Department of Treasury and Finance, Victoria benchmarking study and report into alliancing in the Australian Public Sector, entitled *'In Pursuit of Additional Value'*

QUEENSLAND MAJOR
CONTRACTORS ASSOCIATION

Summary

Project alliancing is a form of procurement where the Owner collaborates with designers, contractors and other service providers to share the risks and responsibilities in project delivery.

Project alliances were first used in Australia to deliver major oil and gas projects in Western Australia in the early 1990's. They first emerged in the Australian public sector in the late 1990's and are now firmly established in Queensland and regularly used by the Queensland Government to deliver large or complex capital works infrastructure projects. Local Governments regularly turn to alliancing when delivering major capital works, particularly water and waste water treatment and water distribution projects.

On 02 November 2009, the Department of Treasury and Finance, Victoria (DTF) published a report entitled *'In Pursuit of Additional Value – A benchmarking study into alliancing in the Australian Public Sector'*. The study was conducted by industry consultants Evans & Peck and University of Melbourne researchers and was co-sponsored by the State treasuries of New South Wales, Queensland and Western Australia. This study is considered by the authors to be an important step in developing a national public sector approach intended to help agencies better understand how to pursue additional public value when undertaking alliances.

The following statement is a formal response by the Queensland Major Contractors' Association (QMCA) to the DTF study and report.

Alliancing: QMCA Response to DTF's benchmarking study into alliancing in the Australian Public Sector

QMCA Executive Committee; Abson S; Kelly J

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Study's Key Thrusts Would Divest Industry of a Decade's Evolution in Alliancing

Certain key recommendations in the Victorian Department of Treasury & Finance's recently published project alliancing benchmarking study – *"In Pursuit of Additional Value",* by University of Melbourne researchers and consultants Evans & Peck – have drawn a concerned response from the Queensland Major Contractors' Association (QMCA).

The QMCA Executive Committee advises that whilst member companies are delighted with the study's clear confirmation of both project owner and industry support for the Alliance delivery model, some of the document's proposals would erode the benefits a decade of alliancing has generated for the Queensland public infrastructure sector.

"Alliancing has provided the foundation for considerably enhanced project owner satisfaction, for greater construction sector staff retention, and for overall improved industry efficiency," says committee spokesman and QMCA president, Steve Abson. "It has also reduced – in fact, largely eliminated – the wastage of resources previously channelled into dispute resolution."

He says that whilst QMCA welcomes any debate which will stimulate the continued evolution of alliancing, it is important that the mechanics that have, to date, driven these 'quantum leap' improvements retain their original intention.

"For this reason, the QMCA Executive disagrees with a number of the study's findings and recommendations (and notes the limited research samples and industry data used to support these)."

QMCA focuses its concern on two specific and key thrusts of the benchmarking study and the report recommendations. These two overarching issues are:

1. The attempt to restrict Owners' reliance on Non-Owner Participant (NOP) members to the "back end" (i.e. delivery only) of the alliancing delivery model; and

2. The recommendation that competitive or "dual TOC" (Target Out-turn Cost) alliance models become the default approach for Owners when selecting NOP's, with price as a key selection criterion.

Pushing Contractor Involvement to "Back End" of Delivery Continuum Undermines Potential for Full Benefits Realisation & Optimal VfM

Speaking on behalf of the Executive Committee, president Steve Abson says that the report appears to favour pushing contractors back towards a strict "delivery only" role.

"The Committee believes that restricting the contractor to the 'back end' of the delivery continuum would effectively 'turn the clock back' on many of the evolutionary benefits that have accrued to public infrastructure clients through appropriate, early private sector / contractor involvement," he says.

Over the past decade, QMCA member companies have, collectively, delivered more than 60 successful major project and program alliances for Queensland public infrastructure delivery agencies. These have included high profile alliances such as Queensland Rail's Trackstar, a network of inner city Busways delivered by several alliances for the Department of Transport and Main Roads, numerous alliances formed with State Government special purpose vehicles (e.g. Linkwater and QWI) to drought-proof Queensland's South East, and multiple transport alliances entered into with the Department of Transport and Main Roads in the Western Corridor.

"All of these alliances have achieved very high levels of business case benefit realisation for their respective project owners," says Abson. "Importantly, the State Government infrastructure agencies involved in these alliances opted to engage with the private sector and form the alliance at various different stages within the project delivery continuum, each agency having its own productive and solid logic behind engaging contractors at that specific stage."

"This highlights the fact that alliancing is fundamentally about an optimised partnership between public and private sectors. Thus, the QMCA is opposed to any superficial standardisation of the procurement model that seeks to dictate to clients the point in the delivery continuum at which they may or may not engage with contractors, designers, or a private sector consortium.

"In fact, our Executive Committee sees as devolutionary, any suggestion that NOP's should now – as a matter of policy – ***not*** be engaged to support a particular stage of a project's lifecycle, as deemed valuable by the Owner."

The QMCA Executive is concerned that mandating the late formation of an alliance will result in a multiplicity of forfeited benefits – and pose inherent dangers – for a certain proportion of project owners.

"There can be substantial benefits to an Owner in developing its planning, scope and approvals together with its alliance partners. Early alliance formation can provide valuable access to the full required range of technical expertise, along with local industry, supply chain and marketplace awareness. It also contributes other elements of contemporary knowledge that are critical to a reliable foundation document and a sound financial investment decision," says Abson.

"However, the study does not appear to recognise these fundamental benefits – benefits which have been evidenced in numerous project and program alliances."

The QMCA Executive Committee also believes that contractors are in a position to recognise instances in which budget limitations are likely to be an issue, and to guide clients in the process of value engineering – and also, potentially, in the identification of early innovations. The development of multiple concept options to support the business case is arguably the best stage at which to do this, the committee members point out.

"In addition, the governance structure and practices that are put in place at alliance formation provide an overview of the entire delivery continuum, and – if underpinned by an optimally balanced skill set – help identify value-creation opportunities at each stage of the project's lifecycle.

"However, if the contractor's involvement is minimised and we are relegated to simply the delivery phase of an alliance project, then this high-value, multi-skilled talent pool is being denied agencies at the precise point in time when it can be of greatest value ... that is, upfront."

In conclusion, he says QMCA recognises that the definition of "value for money" in publicly funded infrastructure projects can vary widely from a purely cost-based focus (including the concept of "whole of life") to the wider sustainability-based concept which typically embodies an important range of business case drivers such as environmental and social outcomes.

"Both sides of the industry – project owners/agencies and contractors/designers – continue to evolve their approach to articulating project-specific value propositions and, resultantly, to ensuring a high standard of public service and benefits realisation."

Competitive Alliancing as Default Position:
As Many Negative Implications for Project Owner as for NOP

QMCA is opposed to the study's Policy Recommendation No. 6, which states that: *"A competitive process should be used as the default approach to selecting NOP's, having price (including out-turn costs/TOC's) as a key selection criterion. This will be consistent with established government procurement policies that support a competitive process with one of the key selection criteria being price unless compelling reasons (which are outlined in the same government procurement policies) for non-price competition can be made and approved."*

QMCA challenges the notion that a competitive alliance (otherwise known as a "dual TOC" process) results in better value for money. It also challenges the substance of the study in this regard, and the research team's justification for arriving at such a conclusion.

"For the Government to fund two or three teams developing multiple full-blown, and different, scopes of work and pricing is not necessarily good value," says association president Steve Abson.

"We are of the firm belief – underpinned by our individual and collective experience – that injecting competition into the alliancing process does not enhance the value generated by an alliance. To the contrary, it can often erode it.

He says QMCA believes that mandating a dual TOC process is an unnecessary and simplistic suggestion.

"We observe that, in most instances, a dual TOC process creates only the illusion of value for money to the project funders – and that is at best. It is a suggestion that is as fraught with negative implications for the project owner as it is for the NOP," says Abson. "Unfortunately, this notion appears entirely consistent with the study's thrust to push the contractor to the back end."

He points out that, if project owners are to utilise price as a key selection criteria, they have two fundamental options. The first option would require the owner to lead and advance the design and scope to a level of fixity that properly describes, to the two or three competing contractors, the proposed works. Alternatively, owners must allow competing contractors sufficient time to understand the project brief and to then separately lead and develop the design and documentation according to the owner's requirements, so that a conforming price can be offered.

"If a project owner chooses to lead the design to an advanced level of fixity, it should recognise that embarking on the documentation necessary to achieve price certainty consumes considerable time, finances and resources. This can, of itself, prove prohibitive and ultimately result in a barrier to the selection of alliancing as the preferred procurement model.

"If a project owner fails to properly describe or document the works to a level where clear and legitimate price competition can take place, or if unrealistic timeframes are afforded to competing contractors, then tender evaluation panels must interpret submitted prices (and designs) and endeavour to make 'comparative' assessments to choose a winner.

"The more incomplete the client's documentation, or the shorter the competition timeframe, the more subjective and difficult the tender evaluation panel decisions will be. Unilateral interpretation of contractors' prices is generally problematic and leads to a high risk of unsatisfactory tender evaluations."

Compromised Risk-Sharing & Stretching of Client / NOP Resources

QMCA believes also that the study's "competitive process as default" recommendation overrides one of the core reasons for, and principles of, alliancing.

“It overlooks what we have come to accept as the central tenet of value in alliancing. That is, that an alliancing procurement process is selected for its capacity to produce ‘holistic’ value. It produces that value by virtue of skill in dealing with complex and challenging briefs, handling community and other stakeholder issues, and a high-capability team driven by the right motivations,” says Abson on behalf of the Executive Committee.

“Also key to the value equation is joint management of risk and contingencies, which is potentially compromised in competitive situations.

“All these outcomes can be compromised in a dual TOC situation, not only because of its competitive nature per se, but also because of the over-stretching of skilled resources. In our experience, project owners often don’t have a sufficiently strong supply of senior and experienced people to satisfy the duplicated (and probity-impacted) demands created by a multiple-team scenario.

“It is an unfortunate fact that the competitive process might not achieve an optimal solution because the owner agency hasn’t had the optimal number of management representatives to communicate its needs and wants, and to work through these in detail with the NOP. One of the knock-on effects of that is that the project owner is potentially accepting an offer that it doesn’t fully understand. Furthermore, this is an offer that has been developed in a competitive environment, with all the attendant protecting of interests that is inevitable within that dynamic.”

Innovation Reluctance & IP Inequities

QMCA is further concerned at the innovation compromises and intellectual property (IP) threats created by a competitive alliancing environment.

Lower quality innovations result from a process which sees the client’s executives reluctant, under the umbrella of probity, to enter into the depth of discussion required for high-value, creative outcomes, says Abson.

The Association’s Executive strongly disagrees with the following statement in the benchmarking study: *“Price as a selection criterion provides a positive tension that causes sellers to innovate and provide the best cost solution.”*

“To the contrary, our experience is that competitive alliances spawn innovation by cheap price, rather than innovation by holistic objectives e.g. whole-of-life cost,” Abson states.

Risk of intellectual property loss is also a factor of significant concern to contractors and other parties within NOP teams.

The QMCA Executive believes that the threat of loss of proprietary IP – and thus commercial advantage – is considerably greater in a competitive alliancing process, and that this creates both inequity in the relationship and a barrier to trust.

“While this is an issue in bidding processes in general, it is of greatest threat to the members of a NOP team and / or their suppliers in a competitive alliance. It has the effect of detracting from the full and open relationship arrangement that should exist in an alliance.”

ENDS.