

Summary of responses to the RIBA Smart PFI consultation

1. General comments

- 1.0 All respondents were pleased to have the opportunity to comment on the RIBA's proposals, with a general feeling being that the consultation is required, timely, and addressing some of the issues that are relevant to all parties involved in PFI.
- 1.1 It is felt across the interest groups that responded that there is now greater awareness of the importance of whole life cost, and the subsequent impact on this of initial design and construction quality.
- 1.2 It was also felt that in general, the PFI market has become more mature, with a greater proportion of projects being won or lost on a significant evaluation of the quality of their design, rather than previous focus on the financial elements.
- 1.3 It was stated by a number of respondents that the current system does result in a range of design choices, which may enable the client to uncover problems and possible solutions.
- 1.4 This also means a greater number of architects have been involved in at least preparing the early stages of a bid, which may not be the case under the proposed models.
- 1.5 There is clearly considered to be significant scope to improve the current PFI procurement system which was considered by many to remain inefficient and uncompetitive not only at SPV level but at builder and designer levels also. It was felt that this could be achieved within the current regulatory framework.
- 1.6 Many respondents stated that the quality of the design depends on the calibre of many of the individuals and organisations in the consortium - not just the designers.
- 1.7 Particular emphasis was placed by almost all respondents on the need for a properly resourced, skilled and experienced client, well advised and with adequate time spent liaising with the design team at an early stage in the process *if* design quality is to be achieved.
- 1.8 Regarding the models proposed, both client-side interests and architects approved the proposal to return to a more traditional relationship between client and builder (via Model 1), in the interests of design quality. The exception has been the response from a number of (but not all) contractors, citing loss of supply chain integration and uncertainties re risk allocation.
- 1.9 The second model was welcomed from the majority of respondents, including contractors.
- 1.10 Many of the elements suggested in the two models are being evidenced elsewhere, but carried out in an unguided environment and largely acting in isolation.
- 1.11 Further 'tweaks' to the proposed models have been suggested. This mirrors a call for greater flexibility in the approach of procuring design through PFI and building on the sophistication built up over the last 15 years.

1.12 It was felt that to persuade more reluctant parts of the industry, the benefits in terms of design quality must be stressed, but also other wider benefits such as:

- Better productivity
- Better functionality leading to reduced cost of ownership
- Better functionality leading to reduced cost of use
- Better use of materials leading to less maintenance and downtime and better environmental performance
- Better environmental performance leading to reduced staff downtime
- Reduced bidding costs leading to reduced overall costs

Identified issues/problems:

2. Bid costs

- 2.0 The cost of bidding remains a major concern amongst architects, other professionals, consortia and client bodies alike.
- 2.1 This was widely felt to have a significant negative and undesirable impact on:
- Competition (and therefore long-term innovation)
 - Market access to inexperienced/smaller practices (and not only designers)
 - Innovation in processes and procurement
- 2.2 A number of respondents, mainly contractors, commented that increased costs and length of the bidding process are not only due to increased project complexity, but also a need for a greater consideration of quality based selection.

3. Barriers to the market

- 3.0 The lack of legal protection for the architect. They maintain copyright ownership but contractors may at any time dispose of their services.
- 3.1 The health market is especially difficult to penetrate due to increased specialisation and complexity, and the sheer size of the projects. Partnering would be a possible route to increased participation for SMEs, but this remains the exception rather than the rule.
- 3.2 The increased incidence of bundling (e.g. in the BSF programme) is widely considered a barrier to SME participation in the PFI marketplace.

4. Risk allocation / transfer

- 4.0 Concern was expressed that the proposals fail to sufficiently consider or map the possible alterations to the risk profile.
- 4.1 Client bodies felt that greater design and design expertise available top them up-front, as is suggested, would allow them a greater understanding of the risk profile, and may open up more sophisticated risk-based negotiations between the constructor/operator and the public client body. With a competent design team in place, the client can assess risks more effectively and may find it makes commercial sense to share them.

4.2 The vested and contractual interest of Project Companies in the maintenance of their buildings is a key advantage of the current risk transfer, resulting in life cycle funds being built into the financial models.

5. Bundling

5.0 The number of organisations able and willing to afford, not only the bid costs, but the 30 year risk on a £250 million PFI is extremely small, leading to the current situation where there is little competition.

5.1 A number of respondents showed concern that bundling of projects may lead to production of standard designs, which would have benefits in terms of bid and build costs but potentially extremely damaging to design quality.

6. Consultation

6.0 Significant improvements were widely reported in the level of consultation, of both the public and users, by both public sector clients and bidding consortia.

7. Degradation of design after financial close

7.0 A great deal of pressure from both client and consortia was reported by architects to reduce costs through design alteration in the bidding stage, increasing in the Preferred Bidder stage.

7.1 There were very few reported incidents of large-scale alterations after Financial Close.

7.2 It was reported that downward pressure on costs often comes from user clients, as much as from contractors.

7.3 Up-front work by the client, a water-tight brief and close client-side monitoring of design development carried out by the preferred bidder are all methods put forward to reduce design degradation.

8. Need for a skilled / resourced client

8.0 The responses received regarding the needs and central importance of the role played by public sector clients were almost unanimous.

8.1 There was consensus that changes in public sector funding and methods of procurement over the last 10-15 years has resulted in the loss of experienced clients within public sector organisations. This has been to the detriment of PFI process management and procurement of design.

8.2 The client must have sufficient resource, be clear about their aspirations and be well advised for a good brief to be developed and design quality to be achieved.

8.3 Providing greater expert support to client bodies would have a dramatic effect on the quality of projects. This is an important role that the RIBA is seeking

to play its part in delivering, particularly through the new Client Design Adviser function.

8.4 The potential impact of both models on the client was felt by all sectors of the industry to be profound. The client will be more intimately involved in briefing and design as well as producing requirements and will therefore need to invest additional time and expertise to manage and deliver the briefing process. Both models are likely to increase the effort and level of expertise required of the client. This will require additional resources at the beginning of the process to be made available.

8.5 It was also felt that clients will need to become better attuned to the demands of major projects than they arguably are at present, where expertise of this type is largely lacking in the public sector, yet abundant in the private sector.

8.6 Clients will also need to be persuaded of the benefits of taking a more active, and perhaps higher risk role. The benefits of this will lead to in terms of design quality, performance, service improvement and cost will be needed to be clearly demonstrated.

8.7 The availability of suitable levels of resourcing to enable this enhanced role was another key concern of the clients and their advisors.

9. Interacting with the client

9.0 The ability of the public sector be able to provide the same standards of client behaviour and decision making that is found in best practice private sector organisations was questioned. i.e. their ability to provide their private supplier with the level and speed of decisions that will be expected.

9.1 Architects and other professionals complained that the client body can become muddled with a number of agencies of interests around the table. Clarity would enable better communication. There needs to be one client who spells out the ITN requirements for each project.

9.2 A number of responses stated that the architect / design team being employed by the contractor too often has too little or no direct access to the end user or client body, particularly at the critical early stages of the project.

10. The brief

10.0 All respondents held that the quality of the brief, and setting a realistic budget, is fundamental to achieving project success and appropriate design and build quality.

10.1 Often there is insufficient emphasis on ensuring that client issues have been properly worked through at the first stage to arrive at a robust set of requirements from specialist client knowledge – which will usually have to be sought from outside the public client organisation.

10.2 It was widely held to be critical to the design process to finalise the brief before design starts.

- 10.3 A major drawback in D&B competitions was felt by a number of different interests to occur when the design brief does not accurately convey the clients requirements.

Alternative models:

11. Pre-design (exemplar) model

- 11.0 The term ‘exemplar’ was widely felt to have unfortunate connotations and could be misleading.

11.1 Public sector/clients

- 11.1.1 Strong support for this model, with the caveat that it will require a more complex role to be played by clients.

- 11.1.2 The Exemplar Model will put significant pressures on the public sector client and they will therefore requiring significant knowledge, flexibility and an innate understanding of the relationship between client and professional team – skills that are currently in short supply.

- 11.1.3 The closer and earlier, more direct relationship and interaction between public sector client and design team was warmly welcomed, providing eth client is sufficiently resources and skilled/advised.

11.2 Architects

- 11.2.1 Strong support for this model.

- 11.2.2 There was strong support for the direct appointment of the design team by the client.

- 11.2.3 A number of respondents called for a firmer lead to clients that they should demonstrate the appetite for and drive innovation.

- 11.2.4 A proper evaluation of risk and risk sharing was seen as an advantage in this model, although possibly a departure from current practice. A number of architects stated that, in previous projects, had risk being better evaluated, there could have been sensible sharing of it, with significant cost savings for the public sector. This view was also shared by a number of public clients.

- 11.2.5 One advantage stated was that the client only has to deal with one team, whom they have selected, and therefore takes ownership, both psychologically and legally, of the layout.

- 11.2.6 The Public Sector design team may not have sufficient FM, construction or funding advice to be able to determine in some situations the best value option

- 11.2.7 The predicted time savings were questioned and would need to be evidenced.

11.3 Contractors

- 11.3.1 The design team needs to have the (increased) resource and skills to work creatively on complex projects with often conflicting constraints.
- 11.3.2 The operator needs to have a clear voice at the design table and ensure intelligent whole life cost decisions are being made.
- 11.3.3 A number of contractors felt that the proposed model represents a significant backward step away from the benefits developed over the last 15 years through the PFI process. The significant advantages of an integrated team; the breaking down of traditional boundaries within the industry and developing a cooperative collaboration of user, designer, builder and operator to produce more rounded, intelligent design solutions may be lost.
- 11.3.4 Others could see potential benefits in terms of simplicity and clarity of decision making, but voiced concerns over the ability of the client to assume the extended role, the insufficiently mapped risk allocation and the loss of construction-side and management skills during critical early decision-making.
- 11.3.5 The ability of the client to provide accurate cost estimates was questioned.
- 11.3.6 By signing off the sketch scheme, the client is potentially taking on design risk that is currently transferred to the private sector. The contractual complexities of the design liabilities arising from novation of the design need to be carefully considered, to ensure that there is no residual design liability remaining with either the public sector client or their concept designer.
- 11.3.7 If the contractor is required to accept design risk on novation of the design, then sufficient time will also be required during the tender stage to confirm the adequacy of the design and undertake some due diligence.

11.4 Others

- 11.4.1 The proposal has significant potential to improve the current procurement system.
- 11.4.2 The concept design produced on behalf of the client should not constrain the bidders ability to select construction techniques and carry out value engineering. This could happen for example if building layouts precluded certain structural solutions.

12. Single design model

12.1 Public sectors/clients

- 12.1.1 The single design model will continue the tendency to avoid refurbishment in favour of new build.
- 12.1.2 The client is likely to need to emulate best practice in the private sector, including risk taking, deciding courses of action on limited data and generally being flexible, proactive and not constrained by procedure. This

is likely to require clear authority, organised structure and disciplined decision-making. In short, the client needs to be educated and agile; this will come with a cost and may require external support in a number of areas.

12.2 Architects

- 12.2.1 Strong support for the proposed model.
- 12.2.2 A number of respondents claimed that the proposal would reduce waste, allows proper conversations and relationships to develop, and allows architects to work to the best of their ability, over and above what is possible under current procedures.
- 12.2.3 The emphasis on quality based assessment was felt to be a vital ingredient, and has frequently already become part of the basis of current scheme selection.
- 12.2.4 Some concerns were voiced that although procedurally the model has advantages, it is unclear how this will flow through to design quality improvements.
- 12.2.5 The proposed model may be much more difficult to be adopted by the client, as in addition to preparing their design, it requires clients to select the preferred bidder on much more qualitative rather than quantitative criteria.
- 12.2.6 This model was frequently viewed as a sequel to Model 1.
- 12.2.7 Step 3 needs to spell out more clearly the selection criteria for the preferred bidder. e.g. a deeper evaluation of the PQQ criteria, plus testing out profit needs, preliminary and design team costs, the process for a fully competed selection of the subcontractors and benchmarking the proposals for the delivery and the lifetime cost of the project.
- 12.2.8 The majority of respondents agreed the potential advantages of combined design team selection outlined in the consultation.
- 12.2.9 It was claimed that, as with the exemplar model, Variant B is already happening on a few schemes.
- 12.2.10 Where there is only one bidder for a PFI, the process followed mirrors Variant B almost exactly, excepting the consortium selection process itself. A robust PSC is required to demonstrate value, but otherwise the process is dramatically smoother than current multi-bid practice. E.g. New Stobhill Hospital for NHS Greater Glasgow.
- 12.2.11 The evaluation of construction cost under the proposed model will require a well-developed reference scheme and/or a very specific quantum/quality pricing techniques.
- 12.2.12 The joint appointment of the designers by Consortium/Public Sector at Preferred Bidder stage may be too late to then effectively be designing schemes unless the Reference Scheme is, in effect, the preferred scheme.

12.3 Contractors

- 12.3.1 The proposed model was warmly received, and was felt to represent a real step forward.

- 12.3.2 The majority agreed with both the analysis and advantages and disadvantages as described in the paper.
- 12.3.3 Variant B of this model was felt to preserve all the benefits developed as the industry has matured through PFI and other major projects.
- 12.3.4 The disadvantages as described it was felt would have to be worked through but there were a number of partnering models used by government departments, utility and private companies that have developed over recent years which it was felt could overcome the initial commercial concerns.
- 12.3.5 The two variants generally follow the current procedures up to PITN stage, apart from placing a higher emphasis on design quality. It was agreed that this represented an improvement in current bidder selection processes.
- 12.3.6 The proposal failed to provide sophisticated analysis of project costing, service charges, life cycle costs, and funding terms.
- 12.3.7 It was felt that Variant A of the proposal could, as suggested, open up the market to designers not currently working in PFI.

13. PFI Charter

- 13.0 Strong support demonstrated by almost all respondent
- 13.1 Most respondents willing and keen to be involved in drawing up the detailed content.
- 13.2 The proposed Charter headings were felt to represent good practice in PFI project procurement.
- 13.3 It was pointed out that a number of the headings are currently practiced within the PFI healthcare sector, in developing the Outline Business Case, Outline Planning Application etc.
- 13.4 The guidance available on the Department of Health website; the Design Protocol and AEDET for example provide a good basis for implementing Design Quality Indicators as part of the Charter.

14. Other comments

- 14.0 There is a danger that the performance and success of PFI Is being judged on the basis of “historic” schemes that did not follow a process as clearly defined and structured as that currently in place. The completed buildings that are being evaluated resulted from a bidding process that was immature. Example – DoH guidance - design protocol, AEDET
- 14.1A number of respondents questioned whether an assessment of sustainable reuse factors, carbon trading etc could be more prominently factored in as an integral part of the procurement process.