

Peter Achterstraat AM
NSW Productivity Commissioner
NSW Treasury

30th October 2019

Dear Commissioner,

Response to “Kickstarting the productivity conversation” green paper

Thankyou for the opportunity to be invited to contribute to this conversation. I’d like to respond to the following targeted question, on page 80 of the green paper:

How can infrastructure investment governance and transparency be further strengthened?

A paradigm shift in the governance of infrastructure contract relationships is needed to ensure NSW Government contract delivery teams get the value for money outcomes they expect, from the complex contract relationships they rely on to deliver infrastructure.

In a 2017 report, “Government productivity - Unlocking the \$3.5 trillion opportunity”, The McKinsey Centre for Government, stated:

“Smarter procurement can save [global] governments around 15 percent of addressable spending while simultaneously boosting outcomes. McKinsey Global Institute estimates that governments could save up to 40 percent of infrastructure project costs.”

A lot of these savings are predicted to come from the implementation of improved information systems. Yet, despite the ever-increasing global investment in digital innovation in procurement and contract management, complex contract relationships keep on running into serious problems and delivering sub-optimal results (for both parties involved). So what’s going on?

Business schools have been teaching procurement, supply chain and strategic sourcing theory since the 1960s. Many law firms, bankers and management consultants have made a good living providing advice on how to resolve disputes and implement better procurement, supply chains, strategic alliances or contract management systems. Sophisticated financing and governance structures have been developed to share risk and reward, to motivate the right behaviours. A number of procurement and commercial management industry bodies have emerged, offering new standards and accreditation. Thousands of books and articles have been published on the subject, by leading academics in the field and subject matter expert practitioners.

And yet serious disputes keep on happening and contract underperformance remains the norm rather than the exception. So what's missing?

It's not that any of these top-notch academics, nor the tens of thousands of commercial lawyers and other advisors are entirely wrong. It's just that what they are saying is not right enough. There is a gap in management theory.

As a result, a way of working, based on ad hoc tactics and often inadequate advice, has been developed and become entrenched as THE accepted way of getting things done through contract, and it's fundamentally flawed, it's driving the behaviours that cause problems and contract underperformance. It doesn't matter what other improvements governments make, unless they ALSO address this gap in contract management theory and practice, they will continue to run into problems, impacting infrastructure delivery.

A paradigm shift in thinking is required. To be more effective, government delivery teams need a new governance model, that explains the different mindset, skills and behaviours required to address this gap in contract management theory. This new way of working also needs to be codified, so it can be taught, practiced and improved upon in a repeatable way, so the required skills and behaviours become embedded as THE way of governing contracts and delivering infrastructure in NSW Government.

The B4P™ Model of Contract Governance enables this paradigm shift. It draws on Nobel Prize winning theory in economics and the best thinking in the fields of contract law, organisational management theory, behavioural science and negotiations, to provide a codified approach for developing the contract governance skills and mindset required to optimise performances in complex contract relationships.

The model has been used with recognised success by the Royal Australian Navy, where it was used to turn around the maintenance performance of their patrol boat fleet. The group went from being on the head of division's daily watch list, because of maintenance delays, to being one of the star performers of all classes of ships.

Further endorsements for this new way of working include:

"B4P™ had given us a set of rules on how to behave (in a contract exchange), we can call each other on them!"

"Four things contributed to our overall success:

- 1. We had a new executive team.*
- 2. We had a new supplier.*
- 3. We co-located our teams to build the relationship.*
- 4. We implemented B4P™.*

We could have gone back to old ways of working with any of the other three, B4P™ gave us an overall realisation that each benefits from the others activities."

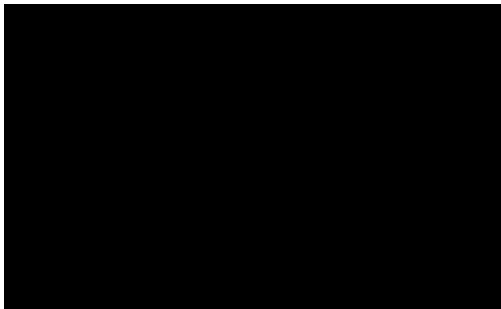
“The most relevant training I have attended in my 42 years of working life. Needs to be incorporated into a nationally recognised competency for practitioners.”

“The Contract Governance program was probably the most valuable I have done in years. Certainly, I believe that Contract Governance and The Four Pillars Model is an idea whose time has come. It resonated with me in terms of challenging traditional procurement models around value generation, yield and the organisational capabilities required to deliver the latter.”

In summary, if government is serious about improving its return on infrastructure investment, it needs to reflect on the effectiveness of its current infrastructure contract governance arrangements and ask itself whether it wants to keep on making the same mistakes, or whether it wants to change the status quo and reshape the way the market thinks about infrastructure contracting and contract governance.

For further information on the B4P™ Model of Contract Governance, please contact us via our website: <https://contractgovernance.com>

Sincerely,



Co-Founder
Contract Governance International Group