



London 2012

Avoiding Acrimony: A client's perspective

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Building a Legacy of Success

Challenging backdrop

- Cynicism amongst contractors in public sector construction
- High profile issues in recent memory
- Complex programme of infrastructure, utilities and major venue construction
- An immovable deadline
- Buoyant economy, reduced appetite in the supply chain

A new Approach

- A positive influencing force within the UK construction market
- Harness regeneration
- Change the face of a sector

Building a Legacy of Success

A framework of objectives

- Construction Commitments
 - Client Leadership
 - Procurement and Integration
 - Design
 - Sustainability
 - Commitment to People
 - Health and Safety
- Value for public money
- Transparent and accountable governance and management
- Supply chain engagement
- Commercial risk owned by the most appropriate party

Building a Legacy of Success

A Model to deliver

- Culture and behaviours to succeed
- Comprehensive framework of management tools and policies
 - Procurement
 - Commercial Management
 - Dispute identification and management
 - Commercial Closeout
- Selection of Standard form of contract – NEC
- Independent Dispute Avoidance Panel (IDAP)
- Adjudication Panel

Managing a unique Reality

Independent Dispute Avoidance Panel (IDAP)

- Established by the client
- Representative panel of industry experts
- Quarterly meetings to maintain connection with the project
- Included within each construction contract as part of dispute resolution but NOT mandatory
- Consideration of disputes and issues at any level of the supply chain

Case Study – Venue Construction

- Design and Build contract
- Design risk owned by Contractor
- Time and Cost claim attributable to design errors and omissions
- Parties unable to resolve through the contract
- Referred to IDAP to aid resolution of principle areas of dispute

- Referred very late in the process
- Issues referred relate to entitlement only



Case Study – Supply chain I

- Dispute between Tier 1 Contractor and Subcontractor
 - Target Cost design and build main contract
 - Subcontractor claims for cost due to design changes
 - Tier 1 responsible for design
 - Parties unable to resolve through the contract, and referred to IDAP by Tier 1
 - Client involvement sought by both Tier 1 and Subcontractor
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- Issues referred relate to both entitlement and quantum of cost
 - Required repeat meetings to resolve



Case Study – Supply chain II

- Dispute between Tier 1 Contractor and Subcontractor
- Target Cost design and build main contract
- Services subcontract
- Subcontractor scope increased significantly due
- Parties unable to resolve through the contract, and referred to IDAP by Tier 1

- Issues referred predominantly relate to quantum
- IDAP able to resolve swiftly



Managing a unique Reality

Was it a success?

- Definition of Success
- Venues and Infrastructure completed ahead of time and within budget
- “These were happy, glorious games”
- To date no acrimonious court battles
- Only 2 adjudications with 1 suspended
- ‘Do the basics well’

Contractor’s Perspective

- Initial attitude
- Who does the panel actually represent?
- Ingrained supply chain behaviours
- Change over time with experience

Managing a unique Reality

A balancing act

- Volume of referrals
- Choice of contract
- Cultural change in Client and Project Manager
- Type and timing of referrals
- Supply chain ownership and accountability
- Shifting economic conditions



Taking things forward

The benefits

- Emphasises aims and attitudes of the client
- Encourages and supports timely resolution of emerging issues
- Reinforces contractual dispute resolution mechanisms
- Provides a framework and background for open examination

Improvement opportunities

- Is it binding?
- Potential for inertia in issues of entitlement alone
- Perception of accountabilities

Lessons Learnt

Shrödinger's Cat

- Catalyst for substantiation
- When does a disagreement become a dispute?
- Can IDAP coexist with an adjudication panel?
- Effective and adequate contract administration is vital
- Identify and understand the desired impact of the board

Pavlov's Dog

- Ingrained attitudes to dispute resolution within the supply chain
- Reinforcement of behavioural and cultural ideals
- Balance of the panel is crucial
 - Legal
 - Commercial
 - Architectural
 - Engineering
- Clearly identify the framework for referrals
- Is it binding?

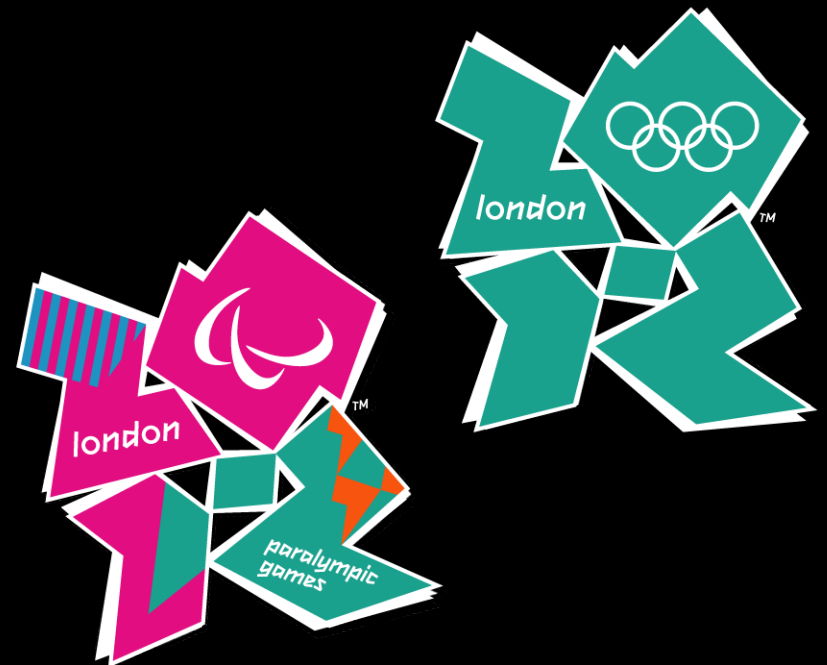
The construction of the venues and infrastructure for the London 2012 Games is funded by the National Lottery through the Olympic Lottery Distributor, the Department for Culture, Media and Sport, Greater London Authority and the London Development Agency.



MAYOR OF LONDON



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