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

- 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?
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Thank you