

EARLY CONTRACTOR INVOLVEMENT: PROVIDING GREATER CERTAINTY FOR PROJECTS

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Early Contractor Involvement (ECI) is a new form of contracting structure that allows the project sponsor to gain greater certainty on price and risk outcomes for the project.

Long term and complex projects lend themselves well to relationship style contracting and ECI is considered to be best practice in this area. ECI contracts have a strong emphasis on establishing mutual trust, good-faith, fairness and cooperation.

ECI is of particular use in the current strong construction market where there is an oversupply of projects leading to less competitive bid processes and adverse outcomes for project sponsors.

Essentially, a construction contractor is appointed prior to commencing, or in the early stages of the pre-feasibility study.

It is during the pre-feasibility stage of a project that the greatest influence on the capital costs and project outcomes is possible. In the current high inflation construction market, having the involvement of a construction contractor at such an early stage will likely lead to more accurate pricing.

The project sponsor has strong input and involvement during the pre-feasibility and feasibility stages, but does not need to maintain a large project team involvement during the delivery stage of the project.

Contractors like the approach as it allows them to have a team of people involved all the way through a project. This means that the team are contributing more, the contractor retains more knowledge in-house in a competitive labour market and their staff retention is higher as it allows greater involvement and challenges.

The contractor's design teams are freed up to work only on actual projects and are not involved with tenders and bids which may not be won.

In many contracting strategies the contractor is asked to bear many risks, including unquantifiable risks. In the current strong construction market this usually results in the contractor building worst case contingencies into the cost estimate as they know their competitors will likely do the same. ECI allows the risks to be allocated by negotiation to the party best able to bear it, and

should lead to better outcomes in terms of pricing.

The form of contract provides cost reimbursement for the services of design development and price negotiation. For the delivery phase, the contract can range from fixed time/fixed price to a schedule of rates dependent on desired risk allocation.

To provide incentives to the contractor, design and construction stage bonuses are payable based on savings against both budget and the agreed price.

In summary ECI achieves value for money for the project sponsor through:

- **Competitive tendering** – a commercial structure attractive enough to contractors to gain genuine competitive bids based on resources (capability and capacity), methodology, technology and productivity benchmarks.
- **Early engagement of the contractor** – capturing innovative solutions upfront where most savings are made, and also provides extra value by locking in risk management strategies through project planning, design and construction.
- **Risk adjusted price** – the feasibility study price is risk adjusted using negotiated risk allocation to come up with the most likely price for project approval.
- **Agreed risk management** – risks are proactively identified and managed as early as possible in the project cycle.
- **Principal's termination for convenience** – if the principal is not satisfied with the contractor when entering the feasibility stage the contract may be re-tendered with no second chance for the existing contractor.
- **Relationship management** – allows for problems to be dealt with early rather than ineffective escalation of conflict or litigation.

We hope you consider using ECI to achieve better outcomes on your next project.