Public Infrastructure Bulletin

Volume 1 | Issue 4 Article 6

9-1-2004

All for one: Outsourcing one project for multiple clients

Michael Boswell

Follow this and additional works at: http://epublications.bond.edu.au/pib

Recommended Citation

Boswell, Michael (2004) "All for one: Outsourcing one project for multiple clients," *Public Infrastructure Bulletin*: Vol. 1: Iss. 4, Article 6.
Available at: http://epublications.bond.edu.au/pib/vol1/iss4/6

This Journal Article is brought to you by the Institute of Sustainable Development and Architecture at ePublications@bond. It has been accepted for inclusion in Public Infrastructure Bulletin by an authorized administrator of ePublications@bond. For more information, please contact Bond University's Repository Coordinator.

ALL FOR ONE: OUTSOURCING ONE PROJECT FOR MULTIPLE CLIENTS

Government agencies often have overlapping roles, which can make outsourcing a group of services difficult. Michael Boswell of Michael Boswell and Associates describes how a recent project overcame poor relations and ad hoc processes.

Before 1996, four agencies were involved in providing services relating to prisoner movement and in-court management (PM&ICM) in South Australia: Courts Administration Authority (CAA); South Australia Police Department (SAPOL); Department for Family and Youth Services (FAYS); and Department for Correctional Services (DCS).

There had been a long history of poor services and poor relations between the four agencies. Difficulties arose because PM&ICM services were subject to several pieces of legislation, relevant to each agency. This created significant operational difficulties as no one approach to service applied uniformly between operational units or at different locations. Senior executives and Ministers regularly became involved in resolving operational difficulties.

A range of ad hoc arrangements had grown up around poor PM&ICM services and the attempts of each agency to overcome this situation from its own perspective. There was poor accountability for the results achieved, the processes used and resources consumed in the delivery of services. Information on the description of services, the number of services provided and the staffing and financial resources consumed in their delivery was inconsistent. The agencies did not communicate effectively and relationships, at a variety of levels, were difficult. Staff were apprehensive about entering into a competitive tendering and contracting (CTC) project with other agencies.

When the services were required by the South Australian Government to be market tested, it became apparent that the four agencies did not share a common objective or share a view of the project in terms of processes or desired result. This indicated to decision-makers (primarily the principals to the contract; including Ministers, senior members of the judiciary and agency Chief Executives) that an experienced, single project management point was required. As a result, project management was allocated to the Business Services Division of DCS, which was able to provide a whole-of-government perspective through the Minister, who was responsible for DCS and SAPOL at the time.

THE CTC PROCESS

Business Services Division established a project team which included executive and senior representatives from the four agencies. There was no prospect of enabling legislation to facilitate a contract for PM&ICM services. This required a return to first principles, innovation by the project team and faith by decision-makers in their recommendations.

The project team developed a set of clear objectives for the project from a whole-of-government perspective, and did not vary them for the life of the project. The project plan identified the role of each project team member and included supporting plans for evaluation, commissioning and termination phases of the project. The plan also included a project protocol to establish the role of each agency. A particular issue in the project protocol was the decision-making role of Cabinet (the government) in comparison with that of the Courts Administration Council (the judiciary). The issue arose as a consequence of the principles of the Westminster system of government and the independence of the judiciary. The two entities were combined in the contract as 'the Crown'.

The project team also addressed key risk management issues, using a framework of whole-of-government perspective; whole-of-life costings; the forms of risk that should be passed on to the contractor compared with those to be retained by the Crown; and what services were general inclusions, specific exclusions, and general exclusions.

The agencies did not communicate effectively and relationships, at a variety of levels, were difficult.

Contract administration was considered from the outset of the project as a strategic issue that had a number of dimensions.

NATURE AND SCOPE OF THE PROJECT

In South Australia major CTC projects such as that for PM&ICM services, are to be undertaken according to South Australian Cabinet approved guidelines. Each major CTC project attracts the interest of the Prudential Management Group (PMG), comprising the CEOs of four central agencies. The role of the PMG is to advise Cabinet and agencies on the integrity of CTC processes and prospective contractual arrangements with the private sector.

Project milestones each required clearance by key central and stakeholder agencies and the PMG. Each milestone ultimately required a decision by Cabinet and by the Courts Administration Council. Project progress was facilitated by a Project Taskforce comprised of Central Agency executive and/or senior managers which had oversight of, and advised, the project team.

WHAT ACTION WAS TAKEN

Registration of Interest (RoI) and Request for Tender (RfT) documents were provided in paper and electronic format and, to the greatest extent practical, included preparation for subsequent stages of the process. For instance, RfT documents included a draft version of the contract in plain English and in legal form. RfT documentation also included a description of planned arrangements for contract administration.

Tenderers were all initially briefed at the same time. At the initial stages of tender evaluation the decision-makers were confidentially briefed on the situation, to characterise the nature of the competition without identifying specific tenderers or tenders. At the final stage of tender evaluation the decision-makers nominated a preferred tenderer and a reserve. The nomination remained confidential, and was communicated only to those directly involved.

Due diligence, to confirm that a proper contract could be formed, was jointly undertaken by the Crown and by the preferred tenderer. The project team confirmed the suitability of the preferred tenderer for the specific services. The preferred tenderer confirmed the volume of work and infrastructure required. After due diligence was completed contract negotiation and formation was able to commence. A contract period of five years was set as this coincided with the agencies strategic planning period. A media announcement was made after the contract was signed.

CONTRACT IMPLEMENTATION AND ADMINISTRATION

The Agencies Coordinating Committee (ACC) was established to facilitate operational management of the PM&ICM services. ACC representatives developed a handbook to describe the decision making framework for operational access to PM&ICM services. ACC representatives then delivered a joint presentation at 28 sites (prisons, courts, police stations and youth facilities) and distributed several hundred copies of the handbook throughout the state as a key element of commissioning the new arrangements. Seamless transfer inherent in the commissioning process was critical to the success of the new arrangements for PM&ICM services.

Contract administration was considered from the outset of the project as a strategic issue that had a number of dimensions. Management of contracted PM&ICM services occurred at four levels, which interacted as required.

The Crown's contract administrator acted for the Chief Justice and the Ministers of the agencies, using delegated authority identified in the contract. Practically all aspects of PM&ICM services were described in user-friendly documents. Site operators were empowered to make local decisions within the agreed framework. Contentious issues were referred to the ACC representatives as required. If the issues were systemic or had policy implications then they were referred to the Strategic Planning Committee (SPC), which could also refer matters and issues to the ACC.

There were scheduled periodic events in the various levels of the contract administration process, as well as periodic operational reviews and reviews of specific incidents. There were approximately 70,000 tasks per year. It was inevitable that some of these presented unique circumstances and difficulties. But over the life of the project there was no need to refer conflict issues to CEO/Ministerial levels. All difficulties were resolved through open discussion, without confrontation and without reference to contract Principals. This approach to conflict resolution has been a positive benefit arising from the business relationship form of contract administration.

The contract was for a fixed price, in terms of the sites to be serviced (rather than the number of services provided or any other 'base'). It provided almost no penalties or bonuses to affect payments/revenue. This approach to contract administration was intended to be that of a business relationship with a proven

provider of PM&ICM services and penalties and bonuses were considered contrary to the 'strategic partnering' model.

PM&ICM services included 'normal' tasks and excluded 'emergency' tasks and those requiring knowledge of prisoner's special needs or risks. The agencies continued to provide a number of PM&ICM tasks that were excluded from the contract. The objective of competitive tendering was to form a business relationship with a proven provider of PM&ICM services.

The PM&ICM contract was for results to be achieved. Under such circumstances, it was important not to interfere in the processes the contractor uses to deliver the services, beyond that required for the Crown to properly realise its duty of care for people in its lawful custody. A contract manager can not simultaneously exercise control over results and processes and resources. A proper approach to probity at all levels and on all occasions, was an on-going requirement of all parties.

FINANCIAL ISSUES

Development of the benchmark cost model was difficult, partly because the information came from so many sources. However, a comprehensive and thorough financial analysis was developed, which satisfied the scrutiny of such authorities as the Probity Auditor, Treasury and Finance officials, the PMG and the Auditor General. The contract price was of the order of $4 million per annum and cost of contract administration of the order of 1.5 per cent; much below industry benchmarks for similar contracted services.

RISKS MINIMISED - PERFORMANCE IMPROVED

The proper framework for risk management is not risk transfer or risk minimisation but proper risk allocation. Risk allocation recognises the risks inherent in the delivery of contracted PM&ICM services. Further, it recognises that the Crown best manages some elements of risk, and that other elements are best managed by the contractor. Risk allocation decisions must recognise the true nature of the risk and the best managers of that risk. In the language of Reinventing Government[1] the community 'steers' best by performing some functions itself. A contract can be used to achieve a 'rowing' or service provision function by the contractor. The project team needed to clearly understand the nature of the services and differentiate between the two roles as it undertook the CTC processes.

LESSONS LEARNED FROM THE PROJECT

A clear and stable sense of purpose is crucial and a comprehensive project plan reduces uncertainties. A project director (in preference to a committee) provides clear accountability and facilitates decision-making. Frequent consultation with and involvement of stakeholders reduces surprises, while the taskforce provides a guiding hand through processes of consultation and liaison from a whole-of-government perspective.

Thorough financial modelling improves understanding of current and future issues. The Probity Auditor has a key role in the model's development and usage. The Rules of Engagement and Code of Conduct assist achieve and maintain probity. The Probity Auditor has a key role in development of these documents and adherence to them. Confidentiality and security arrangements are best if succinct but rigorously adhered to. Risk management issues can be addressed via risk allocation which recognises the nature of specific risks and the best managers of that risk.

Contract administration arrangements are a strategic issue, which are crucial to the success of the project. Administration arrangements should be established early in the project and 'built in' to the RfT documents and ultimately the contract. Results orientation reduces the prospect of expensive variations over the life of the contract. A major project has multiple and complex linkages which need to be managed. The process is best managed by those agency representatives on the project who advocate for their agency and commit their agency as appropriate. Legislative arrangements need specialist attention, as do financial matters.

Key competencies are required of each team member - a major issue is how to get, develop, manage and keep these competencies.

Michael Boswell is the founder of Michael Boswell and Associates. MB&A has extensive experience in complex tendering.
Email michaelboswell@mba1.net.

[Notes]

1. Osbourne, D & Gaebler, T, 1992, *Reinventing Government*, Addison-Wesley, USA.

References

Office for Public Sector Management, 1995, *All About contracting Out*, Department of the Premier and Cabinet, Government of South Australia.

Government of South Australia, May 1998, Prudential Management Framework.