

Capabilities, institutions and markets: A cross jurisdictional analysis of embedded public values in public works procurement in Australia.

Authors: Craig Furneaux and Professor Kerry Brown

Infrastructure Policies and Public Value panel track, International Research Symposium on Public Management XI – 2nd to 4th April 2007 – Potsdam (Germany).

Acknowledgement: This research has been conducted as part of a research project (Construction Industry Business Environment) funded by the CRC for Construction Innovation, Brisbane Australia.

ABSTRACT

Over time the provision of public works has changed from the construction and delivery of public infrastructure by an internal public sector process and labour market; to the commissioning and procurement of public works by the public sector with construction and delivery by external third parties. The main reason for this change was the notion that as increased efficiency in the public sector became a primary policy goal, this was typically achieved by the 'contracting out' of government services (Majone 1996). Contestability and greater marketisation of public services (Niskanen 1998) has increasingly driven a public policy focus on private provision of public infrastructure. The public demanded efficiency in the public services and efficiency became a driving principle under these new arrangements as governments sought to provide public works, but in a more cost effective fashion.

However, the implementation of contracting-out did not resolve the issues related to achieving efficiency in public works provision. Instead new sets of problems and issues resulted. These related chiefly to the attempts of government agencies, with little experience in competitive tendering, attempting to manage the design, bid and build elements of a typical capital works project; although the tendering of large volumes of public works projects in specific markets also had an effect.

This paper describes and explores the array of procurement policy regimes which provide public works. It undertakes a comparative analysis of the operationalisation of capital works procurement in order to examine and understand the role of public values (Stewart and Walsh 1992; Peters and Wright 1996; Jørgensen & Bozeman 2002), together with institutional and market arrangements (Brown, Potoski & van Slyke 2006) in these differing approaches. The paper seeks to determine the public policy issues arising from changes to public works policy frameworks and public infrastructure delivery through a study of the differing approaches by the various jurisdictions in the Australian context. Broader implications for public infrastructure procurement and delivery are examined.

Policies and principles for undertaking public works are demonstrated as being contentious as there is no agreed and consistent method of infrastructure delivery. The study found that policy responses were contextualised as similar issues were resolved in different ways, due to the extant constraints and opportunities within each jurisdiction. Most jurisdictions adapted their approach in response to unforeseen problems and unfolding dilemmas in the procurement of public works. Contextual factors encountered by each jurisdiction in the operationalisation of contracting-out are thus important sources of differences. Jurisdictions moved through a series of iterations as governments responded to changes in markets, institutions, and organisational capability in public works procurement. A typology of procurement approaches is developed, together with the rationales for why these approaches have been implemented within each jurisdiction. Implications and opportunities for advancing this framework for developing contextually-appropriate public works infrastructure policies are presented.

1.0 INTRODUCTION

There once was a time in Australia when public works were delivered by public works authorities, utilising their own labour force and following internal public policies and procedures. Since the 1990s the delivery of public works has changed from the planning and construction of public infrastructure by public sector processes and labour; to the commissioning and procurement of public works by the public sector with construction and delivery of public works by external third parties. This 'contracting-out' of services, which were hitherto delivered by government agencies, has fundamentally changed the nature of service delivery for government agencies (Verspaandonk 2001). Further, in most Australian jurisdictions, the role of designer, principal and project manager of public works has also been devolved to other government agencies some of which have little or no experience in construction activities (APCC 2002).

A major rationale for the shift to contracting-out was the need for increased efficiency in the public sector, which contracting-out was meant to achieve (Majone 1996). In Australia such significant policy shifts were driven by reports such as that by the Industry Commission (1996) which argued for the widespread adoption of contracting-out by Australian governments. Contracting-out and competitive tendering, it is held, is able to deliver client-focused services while achieving savings, and maintaining accountability (Australian Public Service Commission 2003). Chalmers and Davis (2001, p.86) argue:

Contracting moved from the margins to the centre because an influential body of innovative concepts caught the public imagination of decision-makers, offering them not only an apparently simple and quick method for major cost reduction, but also a new vision of government.

Contestability and greater marketisation of public services (Niskanen 1998) has thus increasingly driven a public policy focus on private provision of public infrastructure. In Australia, government is a significant client as government-initiated construction projects approach 30-40% of total industry turnover in the commercial building and engineering sectors. It is thereby in a position to strongly influence the market due to its procurement policy for capital works (Hampson and Brandon 2004). Public demand for increased efficiency in the public services became a driving principle under these new arrangements as governments sought to provide public works, but in a more cost effective fashion.

However, several authors have challenged central notions inherent in much of the contracting-out literature. Quiggin (1999), while not contesting the cost savings that could be achieved through such measures, held that the source of savings would be through the reduction in the wages of workers. This contention has been supported by research into contracting out arrangements in Australian states (Ryan et al 2005), which found that most workers lost income as a consequence of being made redundant in the contracting-out process. Ryan et al (2005) also found that some workers did quite well out of the contracting-out of government services, as these workers possessed skills which were in short supply in the labour market, and they were able to charge a premium for their services (Industry Commission 1996).

More recently, research into the contracting-out of services and public works has gone beyond discussions of the financial assessment of the performance of contracting-out as a policy, with increased concern as to the values which inform, or are meant to inform, such public sector activity (Jørgensen, Hansen, Antonsen and Melander 1998). When examining values and public policy researchers seek look beyond mere economic analysis of the costs and benefits of contracting-out, and focus instead on what is "just, right and good" (Fogelin 1992, p. xv). Symposia have recently been held on values and contracting-out (Yeatman 2001) and values and public administration (Schruers 2005). Rein (1976, p.169) argued that public policy research has the most valence when it examines the values underpinning public action. Jørgensen and Bozeman (2002, p.70) concur arguing:

The transfer (or potential transfer) of tasks and services responsibilities from the public to the private sector is in most instances a critical event, especially so when there is little local history of such transfers. Indeed, if public values deliberation fails to emerge in such cases, just when would there be explicit attention to them?

Of particular salience with some authors is the concern that public values can be “eroded” through the contracting-out process (Jorgensen and Bozeman 2002, p.65). This is contested by other authors who argue that public norms and values can be effectively enshrined in contracts through (Freeman 2003). de Bruin and Dicke (2006) have expanded on this arguing that a mix of market, hierarchy and networking strategies can effectively safeguard public values in public works procurement.

In reviewing the literature, we concur with Charles et al. (2007) that there are three main approaches to analysis of public values in contracting-out, although our labels are somewhat different:

- 1) Normative approaches which concern the nature and content of public values (eg. Bozeman 2003; Jørgensen and Bozeman 2003; Keeney, von Winterfeldt and Eppel 1990; Muetzelfeldt 2001; Zifcak 2001, Yeatman 2001;)
- 2) Iterative approaches where values are seen as the product of structured interaction between stakeholders (de Bruin & Dicke 2006)
- 3) Subjective approaches where public values are time, place, culture or circumstance specific (March and Olsen 1989; Bozeman 2002; van Gestel 2005; Jørgensen and Bozeman 2002).

Brown, Potoski and Slyke (2006, p. 53) eschew philosophising about public values and pragmatically argue that contracting-out is a permanent feature of new public management, and that contract management requires a specific set of skills to be undertaken effectively. This notion capabilities required for the management of procurement is an issue largely missing from the discussions of public values, and for that matter is also lost in the later part of the paper by Brown et al (2006). They argue that in order to manage contracting-out effectively, public officials are required to align institutions, markets and public values, and offer a set of ‘heuristics’ which they suggest can assist in the analysis of contracting-out and public values (Brown, Potoski and Slyke 2006, p.53).

This paper will attempt to draw on the strength of these approaches, by undertaking a cross-jurisdictional analysis of the contracting-out of public works in Australia. By researching the same function across jurisdictions, it is hoped that subjective and iterative processes will be identified. We will utilise the heuristic advanced by Brown et al (2006), by focussing on the institutions, markets and values in each jurisdiction, while assessing organisational capabilities.

The capital works policies discussed in this paper are focussed on the procurement of building construction valued at more than \$100,000. Due to scope limitations, minor works, planned maintenance, whole-of-life asset sustainability, breakdown maintenance and redundancy management policies are not discussed, nor are procurement policies of specific infrastructure such as bridges, main roads, railways, harbours, and airports. While these are valid research topics they are beyond the scope of this paper. Also out of scope, but nonetheless an important factor in the initial decisions to procure, are the capacities, and ‘pre-conditions’, such as systems and processes, required by various jurisdiction to plan for and effectively manage broad asset portfolios.

Each jurisdiction in Australia has developed capital works procurement policies that regulate the way in which government agencies¹ procure built assets, including various approaches to the way these agencies engage with the construction industry as clients. Capital works procurement policies establish the role that individual government agencies can have in the construction

¹ The term agency shall be used in this paper to refer to any government department, budget dependent authority or entity.

process, and, depending on the policy stance adopted, may involve a number of additional government agencies in the planning, tendering and delivery of built assets.

An important contradistinction to other papers on public values in contracting-out a 'client' is understood as the organisation which desires and pays for a particular building – which helps to frame the relationship with government from the perspective of the construction firm, and as will be seen later assists in teasing apart institutional arrangements.

This paper undertakes a case study of procurement in Australia and compares the capital works procurement policies of the Commonwealth, State and Territory Governments of Australia. A typology of approaches is advanced, following comparative analysis of the policies. The assumptions inherent in these policies, concerning the assessment of the capabilities of individual clients when planning and delivering capital works procurement, are outlined. A tentative proposition is made and possible avenues for future research are canvassed.

2.0 METHODOLOGY

Case studies provide for in-depth analysis of a particular issue or technology as it impacts an organisation or industry, and can provide strong recommendations for improvements in theory, technology or policy. Case studies in the area of policy have been called for as a way of advancing public policy practice (Osborne & Brown 2005). A case study is "a method for learning about a complex instance, based on a comprehensive understanding of that instance obtained by extensive descriptions and analysis of that instance taken as a whole and in its context" (U.S. General Accounting Office 1990, cited in Mertens 2005:237).

Semi-structured telephone interviews were conducted with senior public servants responsible for procurement policy. Semi-structured interviewing was selected as it ensures cross case comparability (Bryman and Bell, 2001: 346), and is important when conducting exploratory and explanatory studies – particularly in order to find out what is actually happening in practice (Saunders, Lewis and Thornhill 2000: 245). The sample was based on purposive sampling (Zikmund 2003: 383) as respondents with particular expertise concerning capital works procurement policy in their jurisdiction were considered the most critical informants for this research.

Interviewees were asked to outline the approach to capital works procurement undertaken by their jurisdiction, the main reasons for this approach, and how the approach could be improved. Additionally government policy documents were analysed as primary data sources. Triangulation was used between the various data sources in order to clarify meaning and verify the repeatability of the observation or interpretation (Stake 2003). Interviewees were provided with opportunities to review and correct telephone interview summaries, by which means members of the sample checked the data for accuracy, thereby strengthening the internal validity of the research (Mertens 2005).

Individual informants have been de-identified and any commercial in-confidence information has not been divulged. All interviews were conducted in confidentiality, and the names of interviewees have been withheld. When citing interviewees, the generic term 'interview data' is used as a means of preserving anonymity. The names of government departments, government reports, and most government policies have not been obscured as most of this information is already freely available, either on the Internet or in public libraries. The focus of the paper shall not be on specific jurisdictions, nor specific government departments or agencies, but rather the unit of analysis will be the various approaches to capital works procurement policy.

3.0 FINDINGS

3.1 Approaches to Procurement for Capital Works by Australian Governments

Procurement policy seeks to organise systematically the array of institutions and processes to undertake construction projects. These systems are complex as they need to allow deliberations for construction projects that meet requirements for market-derived commercial transactions, but also maintain public probity through accountability and transparency mechanisms, together with methods for the determination of the need of a built asset, and how this asset will enable an agency to better deliver services to the public on behalf of government. These policies also determine the relationship between a government agency, who wants and pays for a new building and is therefore the client; and other government agencies who may have a role in setting government policy, review procurement processes, or, in some cases, assume control of the procurement process itself.

3.2 Implications of Capital Works Procurement Policies for Clients

The Australian Procurement and Construction Council (APCC) is the peak council for government procurement and construction policy in Australia. The APCC has issued a number of documents that provide national guidelines to its member agencies on procurement policy. Examples of this are the *National Prequalification Criteria Framework* (APCC 1998), *National Procurement Reform Principles* (APCC 2003), *Asset Management* (APCC 2001), and *Client Skills: Skills required by Government as the Construction Industry Client* (APCC 2002). The APCC (2002) made a number of recommendations in these publications in order to promote national consistency in policy approaches to the procurement of capital works.

The APCC (2002) released a paper on the skills government agencies require as clients in the construction process. This document states that for successful outcomes in procuring capital works “requires the client to have the capability, skills and expertise to: identify needs, negotiate the procurement package; manage the contract relationships; and monitor the delivery and measure suppliers’ performance” (APCC 2002: 6). As a consequence the APCC (2002) recommended that the capabilities of clients in procuring built assets be assessed.

3.3 Typology

The APCC (2002) has noted that the Commonwealth, State and Territory jurisdictions are all on a continuum from centralised to decentralised, however, an attempt to place specific jurisdictions on a typology has hitherto not been attempted on the public record. The variant approaches examined above could be considered on a typology according to the level of central control over the procurement process. A centralised approach means that there is a strong control of capital works procurement by a single central government agency, whereas a decentralised model devolves procurement to all agencies in a jurisdiction. As proposed elsewhere (Furneaux et al 2006) capital works procurement policies and programmatic responses will vary according to the degree of centralisation or decentralisation this continuum can be based on categories of approaches which can be typified as either *centralised*, *decentralised according to organisational capability*, *decentralised with board / committee reviewing process*, *significantly decentralised*, and *decentralised*.

Figure 1 – Typology of approaches to Capital Works Procurement – (Furneaux et al. 2006)

Centralised	Decentralised according to organisational capability	Decentralised with board / committee reviewing process	Significantly decentralised	Decentralised
High				Low
Level of central government control of capital works procurement				

While each of the jurisdictions reviewed had slightly different ways of implementing contracting-out of public works the typology above allows for a more succinct treatment of the main types

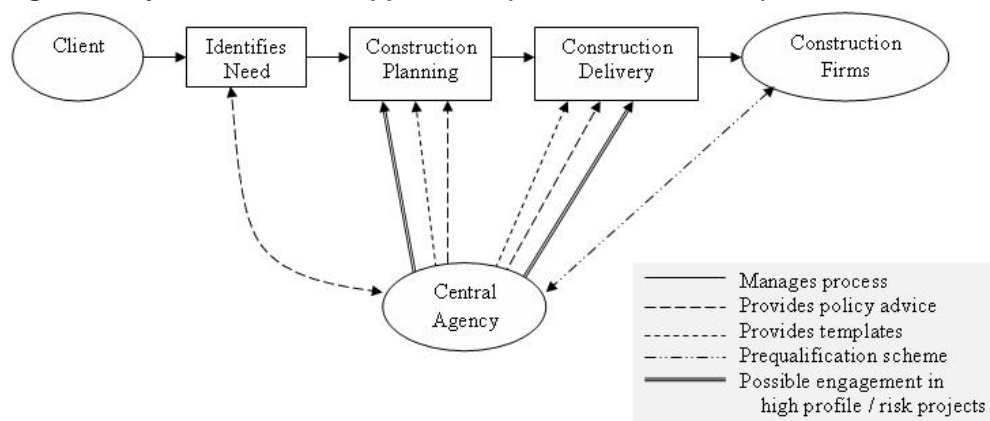
evidenced in Australia. No jurisdiction employs a fully decentralised model as risk is not adequately addressed.

3.2.1 *Significantly Decentralised (with policy advice and high profile projects handled centrally)*

The strength of a decentralised approach is that government agencies have a large amount of say in the planning and building of their buildings to meet their needs (Interview data). In Queensland procurement for capital works has been devolved to each individual agency, with encouragement to devolve procurement into regional areas (Public Works 2005). However, many agencies choose to utilise the expertise and services of the Department of Public Works when procuring new buildings (Interview data). In Victoria likewise, agencies have the authority and responsibility for construction of buildings, with each Minister responsible for such work (Interview data).

In Victoria, the proponent agency, on behalf of the responsible minister, presents the need for a built asset which is assessed and considered consistent with their Asset Management Framework (Interview data). Identifying the need for the built asset is specified in strategy and policy and is an early part of a multi-staged process for acquiring built assets. In Queensland, the clients' need is drawn from the strategic planning process, which leads to an asset strategy and a business case proposal for the new building (Queensland Government 2006).

Figure 2 – Significantly Decentralised Approach – (Furneaux et al 2006)



In Queensland, while capital works procurement is decentralised, a significant amount of policy advice is provided to agencies which must be adhered to (Interview data). In Victoria, only high level policy advice is given (Interview data). Where a project is high risk, high cost, or significant (eg. heritage listed or iconic) then in Victoria these projects may be selected to be handled by Major Projects Victoria (Interview data). In Queensland, there are certain mandatory requirements which agencies must adhere to in the procurement process, including the provision that agencies must consult with the Department of Public Works (Interview data). For construction firms, there is direct involvement with the government agency which is the client on most projects, as it is the client agency which prepares the asset strategy and specific business case for a building, which underlies the subsequent building specifications and tendering processes, which in turn helps to ensure the resulting building meets their own needs. In Queensland and Victoria, the client needs for a built asset are progressively developed from staged strategic asset management processes. While different in their elements, both examine current and future service delivery needs and ties these directly to whole of life asset management. The need for any new building is tested in the context of the portfolio it is to contribute to and explicit links to service delivery, government objectives and statutory purpose of an agency is subject to business case scrutiny.

In Victoria, each client agency proponent prepares and presents their Asset Strategy for government consideration. All asset proposals are listed by agencies on their departmental Multi-Year Strategy that provides a 10-year "project pipeline" snapshot for government of all asset proposals being developed by agencies. Specific business cases for asset proposals are progressively developed by agencies consistent with their multi-year strategy. The full business case of asset proposals approved by government, set the boundaries for subsequent building

specifications and tendering processes, all of which helps to ensure that the resulting building meets the clients' needs. The major liability for this approach is that there is potential for a government agency to ignore or be unaware of policies set by central agencies (Interview data). It is also possible that some government clients lack the capacity required to comply with this policy framework, and may not choose the best approach to the procurement process, or inappropriately allocate risk to contractors (Interview data), despite the best policy advice.

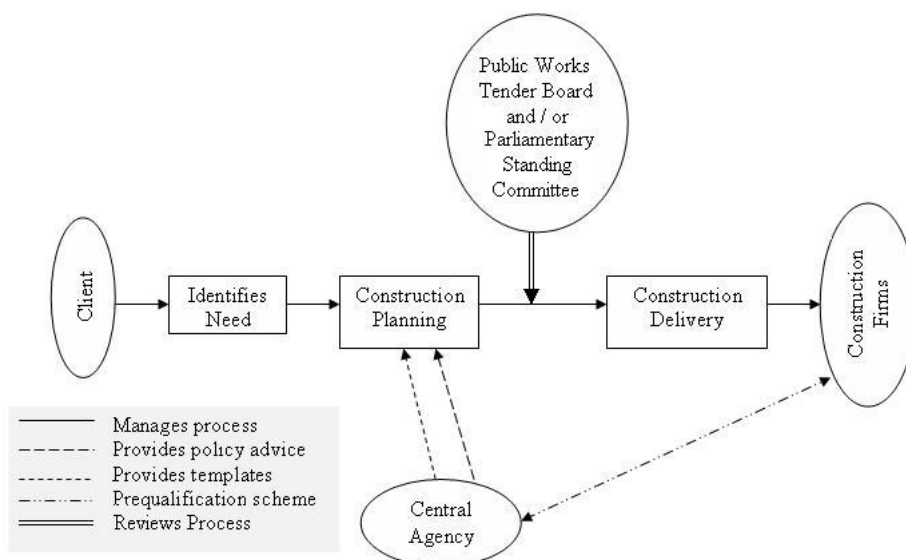
Under this arrangement, clients are responsible for identifying and articulating their portfolio needs, and if successful in gaining Government approval for a proposed asset investment, the responsible portfolio Minister is empowered and accountable for managing (via the public service) the procurement of built assets, with the provision of policy advice by central agencies. Implicit in this approach is the assumption that organisations may lack capability in planning for, and procuring built assets. The policy framework is provided to support clients identify and articulate their needs, and to plan and deliver capital works projects. The outcome of this type of approach to capital works procurement is therefore predicated on the organisational capability of the agency that undertakes the procurement, and their willingness to seek and take policy and practical advice of those agencies with expertise in the procurement of built assets.

The institutional arrangements in this approach are that individual agencies are responsible for procuring public works. As clients may lack capability in planning, tendering and procuring public works, policy advice is provided to assist agencies in the procurement process. Public values implicit in this approach include concern for efficiency, self development of employees, competitiveness, professionalism, risk readiness and balancing interests. Governments have indicated that they pay attention to the likely impact of procurement in regional communities.

3.2.2 Decentralised with central board / committee review of process

The strength of a centralised board / committee approach is that there is a specifically instituted mechanism to formally check the design solution, and in some cases the tender documentation, and to ensure the cost effectiveness of the building, as well as the suitability for its stated purpose (Parliament of Australia 2004). While each department has its own procurement guidelines, the centralised committee approach has the potential to provide a check that buildings are needed, will meet their intended purpose, are cost effective and address whole of life considerations. Often the deliberations of such committees are open to the public, and thereby facilitate public accountability and scrutiny. Committees operating under this approach require a justification of the need for a particular building in submissions to them. Additionally, individual agencies can identify, and justify, their need for built assets in budgetary processes, and strategic asset management frameworks can also be utilised to determine the need of clients for additional buildings.

Figure 3 – Decentralised with central board / committee review of process approach –(Furneaux et al 2006)



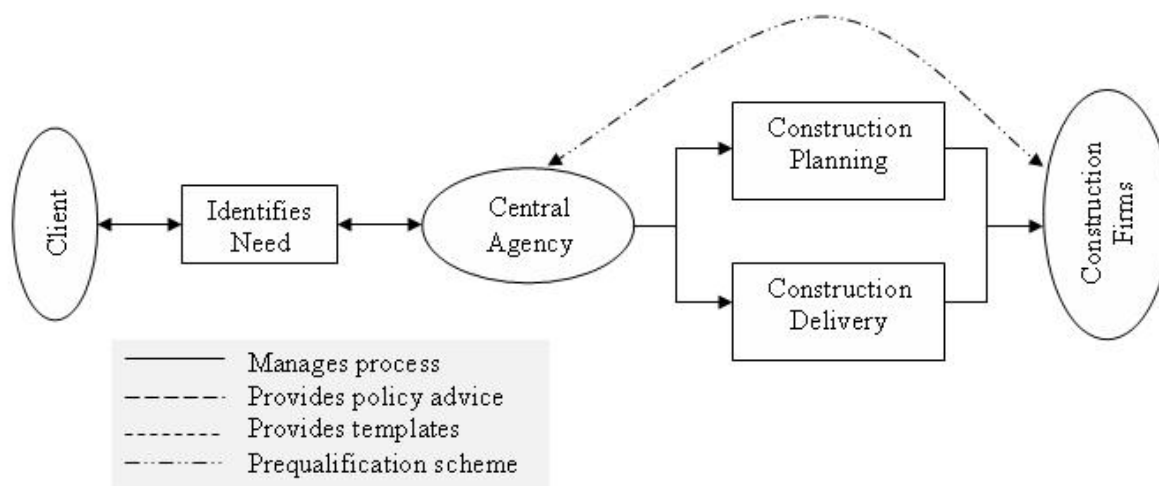
Each individual agency is responsible for the identification and articulation of their need for a building, together with the actual tendering process, and the management of the delivery stage of the building project. While these processes are reviewed by a parliamentary committee, the client is technically responsible for all stages of the process. Clients' need for buildings is tied to budgetary processes, and may include strategic asset management plans. Implicit in this approach is that clients have the capability to procure capital works, however a mandatory check is provided in order to ensure due process has been followed. The outcome of this type of approach to capital works procurement is therefore predicated on the organisational capability of the agency that undertakes the procurement, and as a result, clients who lack certain organisational capabilities are likely to be heavily reliant upon external consultants in the procurement process (Interview data).

The institutional implications are that clients may be capable in procuring public works, and policy advice is provided. However, a mandatory check by a powerful committee is provided which assesses the proposal in order to ensure that due process has been followed, that it achieves value for money and that the building is suitable for its intended purposes. Values implicit in this approach include accountability, professionalism, risk readiness, self development of employees, openness, competitiveness, listening to public opinion, efficiency, and balancing interests.

3.2.3 Centralised Approaches

The main rationale for a centralised approach mentioned by respondents was that a central agency can develop expertise and can ensure that projects are well executed (Interview data). For small jurisdictions, this is a pragmatic approach that ensures expertise in managing capital works procurement and the maintenance of good relationships with suppliers (Interview data). Additionally, by managing the scheduling of capital works procurement, a central approach can stagger the release of major government projects, thus helping to prevent the construction market from 'overheating' by the sudden glut of government construction projects (Interview data). In smaller jurisdictions the centralised approach may be more efficient as it avoids unnecessary duplication in small government agencies and allows pooling of limited specialist resources. Additionally, centralised approaches enable the support of local industry through a consistent and transparent approach to capital works procurement (Interview data).

Figure 4 – Centralised approach – (Furneaux et al 2006)



Against this, centralised approaches can result in that agency determining the needs of other agencies. "Sometimes clients believed that they were not sufficiently in control of quality, cost or time parameters of construction projects which in turn affect their service delivery to public. Some departments believed that they could better manage public construction projects if they were in control" (Interview data). Some respondents indicated that they had moved away from centralised approaches to capital works procurement as clients did not feel that the process met with the expectation of clients (Interview data).

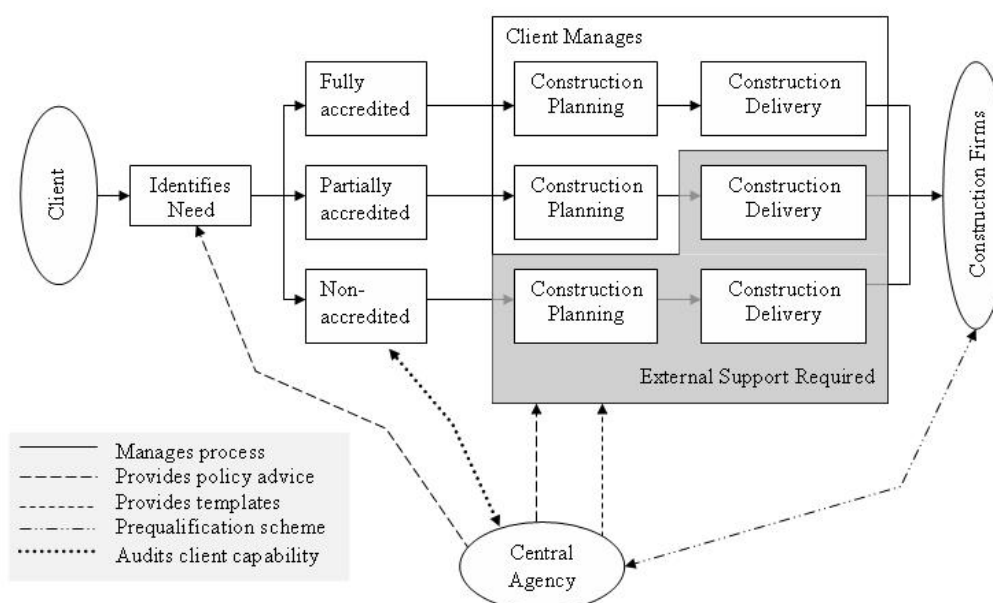
Implicit in this approach is that clients are unlikely to have the organisational capability to properly identify their own building needs, nor to manage the planning and delivery of built assets. This is quite plausible for smaller jurisdictions where an agency may only need a new building every five years or more, and it is therefore difficult to hold on to expertise (Interview data). Alternatively, as in the Western Australian case, the capacity and responsibility is specified in legislation. Centralised approaches have the potential to produce outcomes that may not meet the needs of clients, and the outcome is therefore dependent on the ability of central agencies to ensure that client needs are specified clearly, that built assets facilitate the provision of services by the client, and that this information is communicated clearly to construction firms. Some of the jurisdictions have developed sophisticated policy instruments to assist central agencies to achieve these outcomes (Government of South Australia 2006).

The institutional implications of this approach are that in small jurisdictions individual client agencies are not considered to have the capability to deliver public works, and in larger jurisdictions, the delivery of public works is the statutory responsibility of a single agency. Construction procurement is thus undertaken by central agencies on behalf of clients. Markets are a concern for smaller jurisdictions, who indicated a need to manage the market in order to ensure that markets do not overheat. Values implicit in this approach include competitiveness, efficiency, risk readiness, professionalism, effectiveness, and balancing interests.

3.2.4 Decentralised according to organisational capabilities

The APCC (2002) suggested that individual jurisdictions undertake an assessment of the capabilities of public sector agencies in procuring capital works. While this is implicit in the approaches examined above, in New South Wales², the organisational capability of agencies in planning and delivering capital works projects is assessed up front, and is a key part of the process (NSW Finance 2004a). For projects valued over \$1 million, a centralised 'default Procurement System' is provided for those agencies that have not been assessed as having organisational capability in the planning and delivery of capital works projects (Interview data). The policy framework has been developed in New South Wales to ensure uniformity in the approach to market, that the project achieves outcomes for NSW Treasury and the client, and that an asset is created within a specified range of performance (Interview data).

Figure 5 - Decentralised according to organisational capabilities (Furneaux et al 2006)



² While South Australia has developed a capability based approach for goods and services procurement, capital works operates under a centralised purchasing approach (Government of South Australia 1998).

For NSW the procurement of capital works starts not with the building planning phase, but with an assessment of a need for the building in the first instance, and how this building will enhance the ability of the agency to provide services to the community (NSW Treasury 2004a), which is similar to processes in Queensland and Victoria. In other words the policy process requires that building planning commences with a clear identification of how the building will meet client's service delivery needs. The relationship between the building and the needs of the client are established early in a 10 stage process, as is the organisational capability of the client in procuring built assets (Interview data). Against this, the process is more complex than other systems, with nine different possible procurement scenarios depending on the capability of the client and the level of risk assigned to the project. The policy has only been in effect for a short period of time and needs to run for a longer time before benefits can be assessed (Interview data).

Under this approach, institutions are expressly differentiated according to their capabilities. Values implicit in this approach include accountability, competitiveness, efficiency, risk readiness and professionalism.

4.0 CONCLUSION

In this paper, we have sought to map the interrelationship between institutions involved in the procurement of public works, particularly how these arrangements relate to public values and markets. Specifically we sought to test the heuristic of Brown et al. (2006) as a useful framework for analysing the procurement of public works. These elements of institutions, markets and values are discussed below.

Institutions and Capability

In *significantly decentralised approaches*, there is an implicit assumption that clients are competent in identifying their own needs, and can manage the planning and delivery phases of the project provided that they follow policy advice provided. Risk is managed through policy frameworks that support the identification of need and the procurement process. In *decentralised with committee review* approaches, this is extended by conducting mandatory checks on the procurement process by a powerful board or committee to ensure that due process has been followed. In *centralised* approaches, clients are implicitly assumed to lack the organisational capability to procure capital works, and the need is determined in consultation with the central agency, as is the planning and delivery of the built asset. In the *decentralised according to capability approach*, the capability of the client is explicitly assessed, and their role in the procurement process is determined by their level of assessed capability. While differing between each jurisdiction, organisational capability appears to be the logic which underpins the approaches taken in each jurisdiction. This provides support for the argument of Brown et al (2006) that skill levels of government agencies affects the contracting-out process. Institutions do not exist in vacuums however – markets also play a part.

Markets

While markets obviously exist in each of the jurisdictions, the problems reported were different. In smaller jurisdictions the issue was the potential for uncoordinated government procurement to over heat the market. In larger markets, strong demand for construction activity is creating difficulties for procurement of public works as there are insufficient firms extant to meet demands, with labour shortages a critical factor limiting delivery of public works. Markets are thus contextual factors which influence the way jurisdictions arrange procurement. A novel finding, however, is that many governments indicated that they strategically manage the impact that their procurement of public works has upon markets, particularly when these markets are remote, regional or very small.

Values

Values were evident in each of the approaches noted above, particularly professionalism, efficiency, and risk-readiness. Public accountability is most visible in the decentralised with check of process, with public deliberation via parliamentary committees on procurement proposals, although alternative mechanisms exist in the other jurisdictions.

Overall, the heuristic provided by Brown et.al. (2006) has proved useful in teasing out the relative roles of values, institutions, and to a lesser degree, markets. The lesser emphasis on markets is probably due to the fact that the unit of analysis, procurement policy, is quite a high level of abstraction, and if the unit of analysis had been more specific (eg. contracting retirement homes in suburban Brisbane), market forces would be more prevalent. Nevertheless, many government procurement experts interviewed were aware of the influence of markets, and moreover, were aware of the influence of government procurement upon these markets.

Procurement of Public Works as a subjective / iterative / normative process

Many of the jurisdictions have indicated that changes have occurred; are about to occur; or will occur in the near future; all of which indicates that there is an ongoing iterative process underway. This finding lends support to the iterative approach to public values suggested elsewhere in the literature (de Bruin and Dicke 2006). Whilst concerns have been raised by some authors that public values can be 'lost' (Jorgensen and Bozeman 2002, p.65), research outlined here indicates that public servants seem to adjust policy in response to institutions and markets in order to ensure public values are safeguarded. Procurement arrangements are adjusted in response to changes in the environment, market failure and policy failure (Bozeman 2002; Feeney and Bozeman *in press*). Public servants seek to deliver built assets that meet client service delivery requirements, to a specified level of performance, within a set budget and time frame. This level of adjustment is not at the normative level (Bozeman 2003), nor is it at the contract specification level suggested by Brown et al. (2006). Rather the adjustment is at a policy level as adjustments are made concerning the role and extent of involvement of client agencies in the procurement of public works.

The research thus supports the conceptual differentiation advanced by Charles et al (2007):

- ♦ *Subjective approach* – Each jurisdiction review demonstrated a different approach to procurement of public works, as the specific circumstances (size of market, size of purchasing power, and regulatory constraints) influenced the policy outcome.
- ♦ *Iterative approach* – The situation is not static as new approaches had been implemented just as the research commenced, thereby demonstrating the policies are in a continual state of flux as government searches for optimal outcomes
- ♦ *Normative approach* – Each jurisdiction demonstrated a number of public values, although there was slightly different emphasis in each.

The research, however, extends current theoretical frameworks (eg. Brown et.al. 2006) by demonstrating the relationship between capability and the institutional arrangements for the procurement of public works. Future research could include assessment of organisational capability in addition to notions of markets and institutions when examining public values.

In summary, each jurisdiction in Australia adjusted their procurement of public works approach to allow for institutions, markets and public values, which supports the utility of the heuristic advanced by Brown et al. (2006). As an extension of this theory, however, each jurisdiction reviewed here made rational assumptions, either implicitly or explicitly, concerning the organisational capability required to implement procurement of public works. Organisational capability did more than affect individual contracts or projects – perceived problems in this area, prompted significant changes to the institutional arrangements on procurement policy. These adjustments were not at the normative level, or at the contract level; adjustments are made at the policy level. Additionally, while markets were important, governments were also seen to adjust their processes in order to manage the impact that their procurement processes had upon markets. Markets are therefore not just independent variables which affect government procurement processes and policies, but are also dependent variables which are influenced by government procurement policies and procedures.

Future research could consider further the novel items raised in this research: the role of institutional capabilities on procurement of public works; the influence of government procurement on markets; and adjustments to policy following policy failure.

4.0 References

- ACT Basis (Buyers and Sellers Information Service) (2001). www.basis.act.gov.au/basis/
- APCC (1998) *National Prequalification Criteria Framework*. Canberra: APCC.
http://www.apcc.gov.au/docs/prequalification_criteria.pdf on 10 February 2006.
- APCC (2001) *Asset Management*. Downloaded from <http://www.apcc.gov.au/docs/AssetManagement.pdf> on 10 February 2006.
- APCC (2002) *Client Skills: Skills required by Government as the Construction Industry Client*. Canberra: APCC. Downloaded from <http://www.apcc.gov.au/docs/ClientSkillsSep2002.pdf> on 10 February 2006.
- APCC (2003) *National Procurement Reform Principles*. Downloaded from <http://www.apcc.gov.au/docs/APCCNatProcurementReformPrinciplesMch2003.pdf> on 10 February 2006.
- Australian Public Service Commission. 2003. The Australian Experience of Public Sector Reform: Chapter 7 – Structural Reform. Downloaded from <http://www.apsc.gov.au/about/exppsreform9.htm>, on 18 May 2005.
- Bozeman, B. (2002) "Public value failure: When efficient markets may not do" *Public Administration Review* March/April 2002, Vol. 62(2), pp.145–161.
- Bozeman, B. (2003) "Public Value Mapping of Science Outcomes: Theory and Method" *A monograph of the public value mapping project of the Centre for Science, Policy and Outcomes*. Downloaded from http://www.cspo.org/home/cspoideas/know_flows/Rock-Vol2-1.PDF on Friday, 23 February 2007.
- Brown, T.L., Potoski, M. and Van Slyke, D.M. (2006) "Managing public service contracts" *Public Administration Review* May / June 2006, pp. 323 – 331.
- Bryman, A. & Bell, E. (2003). *Business Research Methods*. Oxford: Oxford University Press.
- Building Commission (2002) Ministerial Direction No. 1 *Tendering Provisions for Public Construction*. Downloaded from <http://www.buildingcommission.com.au/asset/1/upload/MinisterialDirectionNo1.pdf> on 20 January 2006.
- Building Commission (2006) *Process Guide – A guide to client control of construction projects* Downloaded from <http://www.buildingcommission.com.au/www/default.asp?casid=3191> on 8 February 2006.
- Cavana, R.Y., Delahaye, B.L. and Sekaran, U. (2001) *Applied Business Research: Qualitative and Quantitative Methods*. Sydney: John Wiley and Sons.
- Chalmers, J. and Davis, G. (2001) "Rediscovering Implementation: Public sector contracting and human services" *Australian Journal of Public Administration*, Vol 60(2), pp. 74–85.
- Charles, M.B., Dicke, W. Koppenjan, J. and Ryan, N. (2007) "Public values and safeguarding mechanisms in infrastructure policies: A Conceptual and theoretical exploration" Public Values in Infrastructure Panel, International Research Symposium on Public Management, 2nd to 4th April, 2007, Potsdam, Germany.
- Commonwealth Department of Finance and Administration (2005) *Commonwealth Procurement Guidelines*. Downloaded from http://www.finance.gov.au/ctc/docs/CPGs_-_January_2005.pdf on 23 January 2006.
- de Bruin, H and Dicke, W. (2006) "Strategies for safeguarding public values in liberalized utility sectors" *Public Administration*, Vol. 84(3), pp. 717–735.
- Department of Administrative and Information Services (2005) *Services Guide*. Downloaded from http://www.dais.sa.gov.au/webdata/resources/files/dais_services_guide_Oct05.pdf on 23 January 2006.
- Department of Finance and Administration (2005) *Commonwealth Procurement Guidelines*
- Department of Treasury and Finance, Tasmania (1997) *Procurement Practices Manual*. Adelaide:
- Fogelin, R.J. (1992). *Values and Public Policy*. Orlando, FL: Harcourt Brace Jovanovich.
- Freeman, J. (2003) "Extending Public Law Norms through Privatization" *Harvard Law Review* Vol. 116, pp. 1285-1352.
- Furneaux, CW, Brown, KA, Allan, D. Abel, D. McConville, S. McFallan, S. London, K. and Burgess, J. (2006) "Client capabilities and capital works procurement policies: A comparative analysis of Australia jurisdictions" *Clients Driving Innovation: Moving Ideas into practice*. Brisbane: Icon.net Pty. Ltd., pp. 62 – 71.
- Government of South Australia (1996) *Project Initiation Process: Asset Management Policy Series*. Downloaded from [http://147.109.254.181/domino/bfg.nsf/BF6470B28F51292ACA256C980005D576/\\$FILE/PIP.pdf](http://147.109.254.181/domino/bfg.nsf/BF6470B28F51292ACA256C980005D576/$FILE/PIP.pdf) on 21 January 2006.
- Government of South Australia (1998) *SA Government Procurement Reform Strategy*. Department of Administrative and Information Services.
- Hampson, K & Brandon, P. (2004) *Construction 2020: A Vision for Australia's Property and Construction Industry*, Brisbane: Cooperative Research Centre for Construction Innovation.
- Holland, I. (2003) "Values, Institutions and the State" in I. Holland and J. Fleming (eds) (2003) *Government Reformed: Values and New Political Institutions*. Aldershot, Hants, UK: Ashgate, pp. 1 – 19).
- Industry Commission. 1996. *Competitive tendering and contracting by public sector agencies*. Melbourne: Australian Govt. Pub. Service.
- Jørgensen, T.B. & Bozeman, B. (2002) "Public values lost? Comparing cases on contracting out from Denmark and the United States" *Public Management Review*, Vol. 4(1), pp. 64 – 81.
- Jørgensen, T.B. & Bozeman, B. (2003) "The Public Values Universe: Elements, Structure and Boundaries" Paper presented at the EGOS conference in Copenhagen, Sweden, Jul 2003. (Cited with permission) Downloaded from http://www.fsw.vu.nl/English/index.cfm/home_page.cfm/subsectionid/E35BC813-1279-D040-8B64E87DBF940100/fileid/06306208-1279-D040-8BB7F54CB6B5A11E/pageid/066E90DE-1279-D040-8BD47A53854C07E2

- Jørgensen, T.B. (1999). "The Public Sector in an in-between time: Searching for new public values" *Public Administration* Vol. 77(3), pp. 565-584.
- Jørgensen, T.B., Hansen, H.F., Antonsen, M. And Melander, P. (1998) "Public organizations, multiple constituencies and governance." *Public Administration* Vol. 76, pp. 499 – 518.
- Kabanoff, B. and Daly, J. (2002) "Espoused Values of Organisations" *Australian Journal of Management*, Vol. 27, Special Issue, pp. 89 – 104.
- Feeney, M.K. and Bozeman, B. (In press), Public Values and Public Failure: Implications of the 2004-2005 Flu Vaccine Case. *Public Integrity*. Fall 2007.
- Keeney, R.L., von Winterfeldt, D, and Eppel, T. (1990) "Eliciting Public Values for Complex Policy Decisions" *Management Science* Vol. 36(9), pp.1011–1030.
- Majone, G. (1996) "Public Policy and Administration: Ideas, interests and institutions" in R.E. Goodin and H-D. Klingemann *A New Handbook of Political Science*, Oxford: Oxford University Press, p.p.610 – 627,
- March, J.G. and Olsen, J.P. (1989) *Rediscovering Institutions: The Organisational Basis of Politics*. New York: Free Press.
- Mertens, D.M. (2005) *research and Evaluation in Education and Psychology: Integrating diversity with Quantitative, Qualitative and mixed methods*. 2nd Edition. Thousand Oaks: Sage Publications.
- Muetzelfeldt, M. (2001) "The facilitative state and the symbolic potency of mutual obligation" *Australian Journal of Public Administration*, Vol 60(2), pp. 99–110.
- Niskanen, W.A. (1998) *Policy analysis and public choice: Selected papers by William A Niskanen*. Edward Algar: Cheltenham.
- Northern Territory Government (2003) *The Northern Territory Procurement Code*.
- Northern Territory Treasury (2003) *The Northern Territory Procurement Policy and Strategies*.
- NSW Government (2005) *Code of Practice for Procurement*. Downloaded from http://www.treasury.nsw.gov.au/procurement/pdf/code_of_prac-curr.pdf on 18 January 2006.
- NSW Treasury (2004a) (2004) *NSW Government Procurement Policy*. Downloaded from <http://www.treasury.nsw.gov.au/pubs/tpp2004/tpp04-1.pdf> on 16 January 2006.
- NSW Treasury (2004b) *Agency Accreditation Scheme for Construction Projects*. Downloaded from <http://www.treasury.nsw.gov.au/procurement/pdf/accredit.pdf> on 20 January 2006.
- NSW Treasury (2004c) *Total Asset Management Policy*. Downloaded from <http://www.treasury.nsw.gov.au/pubs/tpp2004/tpp04-3.pdf> on 20 January 2006.
- Osbourne, S.P. and Brown, K.A. (2005) *Managing change and innovation in public service organizations*. New York : Routledge.
- Parliament of Australia *Joint Standing Committee on Public Works: Role and Operations*. Downloaded from <http://www.aph.gov.au/house/committee/pwc/role.htm> on 23 January 2006.
- Peters, B.G. and Wright, V. (1996) "Public Policy and Administration, Old and New", in R.E. Goodin and H-D. Klingemann *A New Handbook of Political Science*, Oxford: Oxford University Press, p.p.628 – 641,
- Public Works Tender Board (1997) *Guidelines*. Launceston:
- QLD Department of Public Works (2004). *State Purchasing Policy*. Brisbane: Department of Public Works.
- Queensland Government (2006) *Capital Works Management Framework*. Brisbane: Department of Public Works, Queensland Government. Downloaded from <http://www.build.qld.gov.au/amps/AmpsDocs/CWMFMRBP.pdf> on 7 December 2005.
- Rein, M. (1976) *Social Science and Public Policy* New York: Penguin Education.
- Ryan, N., Furneaux, C. Pink, A. and Brown, K. (2005) "Public Sector Contracting: An Australian Study of Changing Work Conditions" *Management Review* Vol. 16(4), pp.438–457.
- Saunders, M.N.K., Lewis, p., and Thornhill, A. (2000). *Research methods for business students*. Harlow, England : Financial Times Prentice Hall, an imprint of Pearson Education.
- Schreurs, P. (2005) "Symposium – the Values of Public Administration" *Administrative Theory and Praxis*, Vol 27(2), pp. 301–310.
- Stake, R.E. (2003) "Case studies" in Denzin, N.K. and Lincoln, Y.S. (Eds.) (2003). *Strategies of Qualitative Enquiry*. 2nd Edition. Thousand Oaks: Sage, pp. 134 – 164.
- Stake, R.E. (2005) "Qualitative case studies" in Denzin, N. & Lincoln, Y.S. (eds). *The Sage Handbook of Qualitative Research Methods*, 3rd Edition. Thousand Oaks: Sage, pp. 443-466.
- Stewart, J. and Walsh, K. (1992) "Change in the management of public services" *Public Administration* Vol. 70, pp. 499-518.
- Verspaandonk, R. (2001) "Outsourcing – For and Against" *Current Issues Brief* 18, 2000-2001. 26 June 2001. Downloaded from <http://www.aph.gov.au/library/pubs/cib/2000-01/01cib18.htm>, on 18 May 2005.
- WA *State Public Works Act 1902*.
- Yeatman, A. (2001) "Contracting out and public values: A symposium" *Australian Journal of Public Administration*, Vol 60(2), pp. 71 – 73.
- Yin, R.K. (2003a). *Case Study research: Design and Methods*. 3rd Edition. Thousand Oaks: Sage Publications.
- Yin, R.K. (2003b). *Applications of Case Study Research*, 2nd Edition. Thousand Oaks: Sage Publications.
- Zifcak, S. (2001) "Contractualism, Democracy and Ethics" *Australian Journal of Public Administration*, Vol 60(2), pp. 86–98.
- Zikmund, W.G. (2003). *Business Research Methods*, 7th Edition. Mason, OH: South-Western.