

MINI-SYMPOSIUM CONTRACT MANAGEMENT

Report by Simon van Zoest, Thursday 6th of April 2017, Faculty of Architecture, TU Delft

The aim of the symposium was to discuss current developments in the field of contract management. During the symposium, an overview of recent research topics was given through six pitches of graduation students of the master Construction Management Engineering of the TU Delft. The value, application and possibilities for additional research were established through discussion and reflection with a panel of professionals. The symposium was organized by the chair of Public Commissioning of Marleen Hermans, chairman of the day was Hans Wamelink.

Introduction contract management

Marleen Hermans starts off with an introduction on contract management (CM). She explains that contract management was chosen as the theme of the symposium because there is hardly any scientific literature dedicated to contract management within the construction field, this in contrast to other fields. Simultaneously, there is increasing attention in practice for CM due to new project delivery models, making the topic of CM really significant nowadays.

Within the scientific field one is still working on the best definition for contract management. For now, it stands for 'anything you do to manage agreements and obligations captured in a contract, to ensure (and optimize) performance delivery, the effective management of risks, to safeguard legitimacy of payments and to improve the business case'. You do this after as well as before you close the contract, and it is significant not only for the client but also for the rest of the supply chain.

The research within the graduation lab of CM consists of two parts so far. Firstly, there are the exploratory questions: what is CM (really), what are the different roles, et cetera. Every student and researcher will have to start by giving serious thought about what CM really is about. Next, there is the instrumental side of contract management. This part of the research concerns applied questions, such as how CM can be employed and improved, but also topics as for instance conflict resolution, steering performance, competences, and so on.

Panel

The panel consists of the following persons: Maarten Boersen, project manager at the Hoogheemraadschap De Stichtse Rijnlanden, being the oldest water board in the Netherlands; Marcel Hertogh, Professor Infrastructure Design and Management of Civil Infrastructures and Chairman of the Delft Research Initiative Infrastructures & Mobility, with a focus on major projects; Erik te Duits, Director Contract management & Legal at BAM Infra, from the contractor side; Annuska Bloemert, Head of Department Procurement GWW (ICG) at Rijkswaterstaat, and last but not least Ruth Simons, contract manager DBFMO at Rijksvastgoedbedrijf, the Dutch Real Estate Agency.

Marcos Solis – Contract management for Dutch wastewater industry

The first pitch is coming from Marcos Solis. He started his research by developing a framework through which he could define the scope of contract management. This framework consists of three phases: setting up the contract, the contract management itself, and the contract closure. Each of the phases is then subdivided in a number of elements. Next he developed a guideline, with advises for contract managers for each of the elements of the framework. The framework was developed in cooperation with water boards working on infrastructure of the water waste industry.

Hans Wamelink is curious if a water board can take his guideline and use it right away, to which Marcos replies that it is already being implemented in the Harnaschpolder as we speak. Marcos explains in response to another question that relationship management is the most important aspect. There are already draft versions available for many contracts, which are well known to the contract manager but to a lesser degree to others. By really talking and discussing, a contract manager can create a better understanding among the stakeholders.

Lisette de Jonge-van Wijngaarden – Contract management competences

Lisette researched the competences needed for contract management, in cooperation with Rijkswaterstaat. She explains that contract management is a unique discipline, so unique competences might be necessarily as well? In order to find out, she investigated the critical competences of a contract manager (CM) in construction projects with a D&M contract, and compared those with the competences of a project manager (PM).

Both roles have some overlapping competences, such as collaboration and decisiveness. However, she found out that risk awareness is specific for the contract manager, whereas helicopter view and binding are specific competences for the project manager.

Hans Wamelink asks if, with this in mind, it is possible for a PM to become a CM. Lisette explains that that could depend on the organization, since in some organizations these are separate jobs whereas in others they are not. However, the specific competences should always be kept in mind, together with the required substantive knowledge.

Polina Veleva – Performance management framework within Best Value

The next pitch comes from Polina Veleva. She speaks of a 'paradigm shift'; the implementation of performance information in selection criteria, through the use of the Best Value approach. Contractors are asked to manage and to be in control of the performance, and the client does the quality assurance. In order to make that work the contractors need a framework, not only to look at past performance but also to compare it to other projects, and to see how their performance will act in future projects. Within this framework, it must be made clear *why*, *what* and *how* to measure.

The research is still work in progress. However, Polina already found out that contractors are still acting in a reactive way, and that they do not have an integrated quality management system yet. Furthermore, the clients still cannot take on the role of quality assurance but rather like to stay in control. For the remaining part of the research Polina will analyse the problem further and give recommendations for the short and the long term.

Hans Wamelink concludes that both clients and contractors have lots of work to do, and asks who is most far away from their goal. Polina answers that a significant factor is that (public) clients cannot release control, among others because they are working with taxpayers' money. A mind shift within the role of the client is needed to change this.

Panellists

The panellists reflect on the first three presentations. Hans Wamelink explains that he is impressed, both by the diversity of the presentations as by the specific recommendations that were given, and he indicates that the research is highly relevant both for science as for practice. He asks Annuska Bloemert how one deals with competences at Rijkswaterstaat. She explains that they have a toolset to help the CM to do his or her job, with accompanying guidelines. However, the professionalism of the CM remains crucial, as well as the relation between the CM and the contractor. It is a continuous topic of discussion and improvement.

Erik te Duits of BAM reacts that he recognized a lot of things from the presentation of Marco, among others that relations are a really important part of contract management. Referring to the second pitch about competences, he explains that he liked the finding that you can do all the proceedings, but that in the end success depends on many other factors as well. Maarten Boersen supplements that by pointing out the significance of soft skills. You have to trust each other to make it work. The client has to release control, and the contractor has to be reliable, so 'we have to meet halfway'. Another panellist gives as an example a project in which the client and the contractor decided to be in the same crew wagon; 'it is about the little things'.

Ruth Simons explains that although she is a contract manager at Rijksvastgoedbedrijf, she is still learning what CM really is about. She saw 'satisfied client' and 'satisfied contractor' on one of the sheets, and asks; 'is that the ultimate goal? And if so, when are we satisfied?'

The discussion continues with the topic of trust, with someone of the audience proposing to formalize it, with several levels of trust baked into the contract. Maarten Boersen replies that measuring and rewarding is one way to go, but that working on mutual trust together is really important as well. Somebody else outlines that it is about people, but that people are also made by their culture. Therefore, he encourages people to take on different roles, on the public side as well as at the other side of the table, in order to go beyond the prejudices. Erik te Duits and Ruth

Simons explain that such a program has existed before, and that it could be interesting to bring it to life again in the future.

Next, the group elaborates on collaboration. Most people agree that collaboration is the way to take the industry to the next level, but the opinions on how that should happen differ. Projects nowadays are really complex, which goes hand in hand with complex interaction. It remains however important to ensure that the different interests point into the same direction.

Esther

Esther Korvinus proceeds with the pitches by presenting her graduation research on conflict prevention. Escalated conflicts have many negative economical and organisational consequences, so Esther investigated how one can prevent contractual conflicts during infrastructure projects in the pre-contract phase.

The outcome of her research shows that there is a significant difference between a role-oriented approach and a project-oriented approach, with the latter being more effective in conflict prevention, among others due to more interaction. Moreover, she found out that the content of the available prevention tools and the way they are being used are crucial for their effectiveness, and that establishing the right preconditions is decisive as well.

Hans Wamelink is interested to hear examples of the role and the project oriented approach. Esther clarifies that tendering a project online without interaction is an example of a role oriented approach, whereas having multiple discussion points with room for the contractor to come up with improvements is an example of the project oriented approach.

Wouter Eitjes: conflict escalation prevention

Wouter Eitjes investigated the subject of conflict escalation as well. He explains that during the course of a project a disagreement between the client and the contractor can arise. Such a disagreement can escalate into a conflict when it is about more than the content, for instance in case of a lack of trust. This leads to an increase of transactional costs, loss of public image, damaged relationships and a negative impact on the project outcome. Wouter discovered that there are two groups of factors that lead to conflict escalation: human aspects and divergent interests. He will look into interventions that can be used in order to prevent the conflict to escalate in the next month.

Hans Wamelink is curious about the second group of factors, the human aspects. Wouter gives the example of personalities that clash, leading to a situation in which the actors focus on their own win instead of on the rest.

Christine Siedenburg: Freedom for contractors, a Dutch-German comparison

Last but not least is Christine Siedenburg with her research on freedom for contractors. She compared the amount of freedom contractors receive within infrastructure projects with an integrated contract in the Netherlands and in Germany, and what exactly influences that freedom. The results show that there are still a lot of differences, regarding the type of contracts they use, the emphasis on awarding on price in Germany and regarding the organization of the country, which is more fragmented at our eastern neighbours. Christine points out that integrated contracts could provide more freedom for contractors to use their expertise and knowledge, but that contractors' initiatives needs to be awarded by the client. In the coming months she will, among others, investigate how this relates to the project goal and the award criteria and examine what the countries can learn from each other.

Hans Wamelink is curious about the freedom engineers receive in consortia for infrastructure projects. Christine explains that in Germany it is the client that makes up the reference design, which the contractor almost literally implements.

Panel list

Hans Wamelink asks the panellists what they are going to take back to their organization tomorrow. Erik te Duits of BAM responds that for him the most important thing today was that contract management is a real profession, and that he is happy to see the scientific awareness for this field. Besides that, he takes home the confirmation that the human aspects in relationships are really important. Annuska Bloemert of Rijkswaterstaat also points out the human factors, together with the alignment of interests. Furthermore, she emphasises that 'it is very hard to

collaborate on an empty wallet', which should be kept in mind as well. Maarten Boersen of the water boards adds that in order to prevent conflicts you should make a story with somebody, to have common ground to move forward on.

Ruth Simons of Rijksvastgoedbedrijf points out that although they are limited by law regarding their options for selection criteria, it is an interesting idea to prevent conflicts at such an early stage. Marcel Hertogh of the TU Delft encapsulates that some of the findings of the students normally need lots of experience to gather, and compliments the students on obtaining them at such an early stage of their career.

In response to the question if the audience has any remarks, somebody points out that collaboration should also be seen as the effect instead of the cause of problems, since there are lots of causes that lead to a lack of collaboration. Furthermore, he suggests to invite the legal field for further research, among others for the topic of accountability, which is agreed upon by Fred Hobma, associate professor of planning law. The discussion is concluded with some remarks on the necessity of value managers, in order to ensure the best possible value for the users of the building environment.

Finally, Hans Wamelink asks the two professors present what they have heard and take back home for their research. Marcel Hertogh and Marleen Hermans conclude that the students have done a wonderful job, and think aloud of bringing in experts from other fields such as a sociologist or a behaviourist next time. Furthermore, it would be interesting to investigate if the findings regarding contract management would also be true for smaller organizations, in different situations, for different actors, et cetera. They are in any case satisfied with the success of the symposium.