

CONFERENCE AND WORKSHOPS ON CONTRACT MANAGEMENT FOR DREDGING AND MARITIME CONSTRUCTION

During the last decade dredging and maritime construction projects have increased in scale and complexity. Successfully managing the risks inherent in such projects requires a partnership approach and good communication between the Client, Engineer and Contractor. On October 12-13 at the Hilton Docklands in London, UK, these issues were addressed at a conference on “Contract management for dredging and maritime construction”, which was organised by the Institution of Civil Engineers (ICE), the International Association of Dredging Companies (IADC) and the Central Dredging Association (CEDA).

The conference was well attended with 120 participants including clients, consulting engineers, contractors, lawyers and project financiers from Europe, the Middle East, Southeast Asia and Australia. It highlighted the capital-intensive nature of dredging and maritime construction works compared to other civil works which are more labour-intensive and the need for trust and transparency at all stages of the project.

Each of eight speakers gave presentations on specific topics in the morning sessions. In the afternoon, interactive workshops were held on each of the topics, with the lead experts present. A team of facilitators and reporters from Prospex, a Belgian firm with extensive experience in international and multi-stakeholder settings, guided the progress of the discussions.

SESSIONS, WORKSHOPS, KEYNOTES

The sessions and workshops presented were:

- Pre-tender information (presenter John Land, Dredging Research Ltd)
- Environmental issues during the preparation stage (Wouter Dirks, Van Oord)
- The balance between technical and functional requirements (Dirk Heijboer, Royal Haskoning)
- Choice of form of contract (Hendrik Postma, Royal Boskalis Westminster)
- Tender procedures (Luc Imbrechts, Jan De Nul)
- Project finance (Michael Dinham, ING Bank)
- Liability issues (Victoria Hughes, Galatea Underwriting Agencies Ltd, and Adrian Durkin, North of England P&I Association)
- Dispute settlement (Edward Corbett, FIDIC D&R Working Group)

In addition to the plenary sessions, two keynote speeches were given. Hugo de Vlieger of the DEME Group gave attendees his view on the lessons learned from the past, comparing a “job from hell” to a “job from heaven”. Robert van Gelder, President of the IADC, looked into the future and at the factors that will shape the dredging and maritime construction industry in the coming years.

During the workshops key aspects of each topic were discussed and experiences were shared. Many of the discussions focused on interfacing amongst the contracting parties, the definition of responsibilities and risk allocation. In particular, there was broad agreement that an effective dialogue needs to be established between clients, engineers and contractors in the

early stages of a project if the benefits of their experience are to be maximised. Such early dialogue also facilitates the achievement of a satisfactory balance between the client's technical requirements and the design and specification of the works. Minimum environmental requirements should be made clear during the tender phase and care taken to ensure that these are compatible with the technical specifications of the project.

At the workshop on pre-tender information issues of responsibilities, client motivation and foresee-ability, risk analysis and methodology were explored. Some felt that "it is the client's hole, and therefore their responsibility". In practice this attitude is often not advantageous. Feedback between client, consultants and contractors on pre-tender information during data collection minimises risks and therefore should be encouraged. The general consensus was that more time and funds need to be invested in the pre-tender phase to provide adequate information.

The issue of the less experienced client was highlighted when discussing the balance between technical and functional requirements. It was agreed that lack of experience can lead to unnecessary requirements to use techniques and equipment that are not appropriate for the job. Trusting the contractors and allowing them more flexibility can lead to more reasonable cost estimates.

Trust was also an essential ingredient of the discussion about the choice of form of contract. The so-called alliance contract was discussed as a means of forging a spirit of cooperation between the contractor and client. Transparency and a less competitive attitude characterising this form of working together demand a mature mindset. In an ideal world, contractors and clients would share risks and responsibilities, or at least define who is responsible for which risk, and equally important, they would share the benefits.

Although prices are rising for many reasons, including increased environmental concerns, cutting corners is a risky business. Using a contractor coming in at a lower price by "trying to get away" with certain environmental requirements is not really a plan for a successful project. In several workshops the idea of a code of conduct was put forward with the suggestion that perhaps the IADC or a United Nations agency could take the lead.

The workshop on dispute settlement brought forth a serious debate on the merits Dispute Adjudication Boards and the enforcement of the results of dispute resolution. Possible modifications to the FIDIC contract models were suggested. Ultimately the conclusion had to be drawn that dispute prevention through trust, transparency and dialogue was by far the best solution.

Amongst many attendees the role of the consultant was emphasised as having an important influence in improving communication between contractor and client. Since the consultants are often more experienced with the dredging process than the client, they should be providing the client with insights and data to encourage adequate pre-tender information. Using the same consultant throughout the process from project design to implementation was also recommended. Additionally, if a project is technically not feasible, the consultants should say so. The increasingly cost-driven procurement of consulting engineers was viewed with concern and considered by many to be a false economy that can, ultimately, cost the client millions of Euros.

To save time and money during project execution, the whole process of tendering should be seen as a dialogue. For less experienced clients this can be a chance to learn about the risks involved. Project funding is also influenced by risk factors and it was suggested that clients might seek financial consultants, in addition to engineering consultants, at an earlier stage of project development.

Another important conclusion was the importance of engaging with legislators and regulators. In fact, during the workshop on environmental issues the discussion focused on the communication obstacles that can arise between stakeholders and client. Dialogue with legislators (and indeed the general public) was seen as the key to ensuring that regulatory measures to protect the environment are both effective and practical. Several participants suggested that legislators should have attended this conference, as improving their understanding of dredging would help avoid the imposition of unnecessarily costly and sometimes ineffective or inappropriate environmental measures.

The atmosphere at the conference clearly indicated that this was a learning experience and the need for communication, trust-building and realistic risk analysis is essential. In the end avoiding unpleasant surprises is to the advantage of all parties. The more cooperation between all involved the better the chances are of a smooth working relationship and an end result which is to everyone's satisfaction.

The format of the conference encouraged informative and constructive exchange of views between participants and was regarded as an important factor in its success. The conference report, including the speaker presentations, will be available late November through the conference website (www.dcm-conference.org) and the websites of CEDA (www.dredging.org) and IADC (www.iadc-dredging.com).

Based on the very positive response of the participants, follow-up workshops are being organised and will be announced on the CEDA, IADC and ICE websites.

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