

What are the benefits of the Crown Commercial Service procurements adopting the FAC-1 Framework Alliance Contract?

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1. Introduction

A cross-industry Contract Form Working Party reported to the UK Government in 2012 that “*the general lack of standard-form framework arrangements makes it difficult for clients to procure frameworks on a consistent basis*”.

The FAC-1 Framework Alliance Contract is a published standard form which brings to life Government Construction Strategy recommendations and uses evidence from Government Trial Projects. FAC-1 prototypes and early users have achieved significant cost savings and other improved value such as:

- Innovations and improved design contributions
- Extended warranties and more sustainable solutions
- Local and regional business opportunities
- Training and employment opportunities
- Reduced carbon footprint and other environmental benefits
- Improved safety and reduced accidents
- Effective risk management and dispute avoidance.

FAC-1 is endorsed by the Construction Industry Council and Constructing Excellence and is recognised in reports by the Construction Leadership Council and the Housing Forum.

2. Government Construction Strategy Recommendations

The UK Government “Effectiveness of Frameworks Report” (forming part of the Government Construction Strategy Final Report to Government by the Procurement/Lean Client Task Group, July 2012) provided case studies of effective frameworks used by Government departments and the wider public sector. This report was endorsed by the Local Government Association and the National Association of Construction Frameworks in their own 2016 report, and it describes the features of an effective framework. All these features are reflected in FAC-1 as follows:

- “Has a demonstrable business need” – FAC-1 Schedule 1 Part 1 sets agreed *Objectives* and Schedule 1 Part 2 sets agreed *Success Measures* and *Targets*, all linked to an agreed understanding of *Improved Value*
- “Has effective governance processes, active stakeholder engagement and client leadership” – FAC-1 clauses 1.6 and 1.7 establish terms of reference for the *Core Group* and clause 1.10 establishes engagement with *Stakeholders*
- “Actively supports its clients throughout the project lifecycle, ensuring that clients and the supply chain receive a legacy of improvement” – the FAC-1 definition of *Improved Value* includes “improved quality, improved *Operation*, improved staff and other resources, improved health and safety and other working procedures, improved Sustainability.... and other benefits to *Alliance Members*, *Users* and *Stakeholders*”
- “Is driven by aggregated demand to create volume and generate efficiencies, and provides sufficient work opportunities to cover supplier investment” – FAC-1 Schedule 1 Part 1 sets agreed *Objectives*, Schedule 1 Part 3 sets agreed *Incentives* and clause 6 sets agreed *Alliance Activities* by reference to the Schedule 2 *Timetable*

- “Maintains competitive tension in terms of value, quality and performance during its life” – FAC-1 Schedule 4 sets out the agreed *Direct Award Procedure* and *Competitive Award Procedure*
- “Is designed and managed to deliver the required outcomes and continuously improve upon them” – FAC-1 clause 2.1 records the commitment of all parties to seek to achieve the agreed *Objectives* and clause 2.2 records the agreement of all parties to investigate and submit proposals for *Improved Value*
- “Can demonstrate greater value for money for the taxpayer” – FAC-1 *Improved Value* includes “improved cost and/or time certainty” and “cost and/or time savings” among other measures
- “Pays fairly for the work done and the risks taken” – The FAC-1 payment provisions are set out in clause 8, although all payments will be made only under JCT, NEC and PPC *Project Contracts* unless specifically agreed by Crown Commercial Service *Additional Clients*
- “Contributes to the development of an effective and efficient construction market” – FAC-1 definition of *Improved Value* includes “improved efficiency, improved profitability and other benefits to *Alliance Members*”
- “Harnesses the power of public sector procurement to provide jobs and skills, local employment and enables SMEs to prosper” – FAC-1 definition of *Sustainability* includes “employment and training opportunities” and clause 6.3 *Supply Chain Collaboration* provides a new system for improved engagement with SMEs
- “Ensures supply chains are engaged from the earliest stages of a project” – FAC-1 clause 6.3 sets out the system of *Supply Chain Collaboration* which enables strategic early engagement with supply chain members by reference to an agreed *Timetable*
- “Ensures transparency and collaborative values flow down the supply chain to produce supply chains that clients can have confidence in” – FAC-1 clause 6.2 provides for complementary relationships with *Supply Chain* members, and clause 6.3 describes *Supply Chain Collaboration*.

From 2013 to 2018 King’s College London Centre of Construction Law mentored a series of UK Government “Trial Projects” exploring new models of procurement. These revealed that significant audited savings and improved value were in part attributable to the integrated relationships and joint processes created under collaborative frameworks and alliances.

3. Evidence from FAC-1 Trial Project prototypes and early users

FAC-1 has been adopted on procurements totalling over £42 billion, and the benefits reported by early users include:

- Futures Housing Group, a £30 million housing alliance with Travis Perkins and 23 SME contractors, which achieved agreed savings of over **9%** plus support for local businesses and communities
- Kier Services Highways, a £54 million highways supply chain alliance with multiple subcontractors and suppliers and with Surrey County Council, which achieved agreed savings of **8%** plus new apprenticeships and environmental improvements.

FAC-1 follows closely the Ministry of Justice £900 million Trial Project multi-party framework alliances which created:

- “Solid governance structure through a Strategic Core Group comprising representatives from the Ministry of Justice and the Alliance suppliers”
- “Standardised suite of processes and contract templates... used to ensure consistency and ease of use”
- “Early engagement of the supply chain... encouraged by the two-stage approach”

- *“Reduced operating costs estimated at **£10 million**, reduced burden on industry tendering of around **£30 million** and procurement risk mitigation of about **£2 million**”.*

(www.gov.uk/government/publications/government-construction-task-groups)

The Ministry of Justice framework alliance contracts also led to post-contract agreed savings of between **20%** and **26%** plus a range of other improved value.

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/325950/Cookham_Wood_case_study_CE_format_130614.pdf;
http://constructingexcellence.org.uk/wp-content/uploads/2015/12/Trial-Projects-North-Wales-Prison-Case-Study_Final.pdf).

FAC-1 also follows closely the SCMG (Hackney and Haringey) £200 million Trial Project multi-party framework alliance which achieved procurement savings of **16.5%** plus post-tender savings averaging **14%** and:

- *“Reduced risks, costs savings and time savings through accelerated constructor/supply chain briefing”*
- *“Subcontractor/supplier innovations in proposed new materials and specifications” and exchange of best practice between specialist competitors”*
- *“Improved repair and maintenance” and “more sustainable solution”*
- *“Development of opportunities for local tier 2/3 sub-contractors and suppliers ... across 30 different disciplines”*
- *“Additional employment and skills opportunities”*
- Bid cost savings of over **£4,000 per £1 million** for contractor *Alliance Members*, “specifically £719 per million of turnover (under SCMG) as against £4,808 per million of turnover (under the comparable traditional bid)”

(<https://www.gov.uk/government/publications/procurement-trial-case-study-social-housing-refurbishment>).

FAC-1 incorporates *Supply Chain Collaboration* which was used, for example, by Surrey County Council and Kier on their highway alliance *Trial Project*, recognized as a client-led case study in the 2018 “Project 13 Blueprint”. Contractual systems that are now embodied in FAC-1 helped the alliance to achieve procurement savings of **16%** plus improved *Supply Chain* relationships leading to:

- agreement by *Alliance Members* of additional **12%** post-tender cost savings sustained over a five-year period
- *“Improved whole life value, including agreement of a ten-year warranty for material and pavement design”*
- *“Improved quality control through joint risk assessments and integrated team agreement of appropriate surface treatments and monitoring work on site”*
- *“Improved apprentice commitments”*
- *“Lean programming of individual tasks leading to time savings”*
- *“Innovation through collaborative working, for example to increase recycling and reduce landfill”.*

(<https://www.gov.uk/government/publications/procurement-trial-case-study-report-highways-maintenance>)

4. FAC-1 and Building Information Modelling

Successful use of Building Information Modelling (*BIM*) is closely linked to the interfaces and systems established in the procurement model and contract terms, and some leading *BIM* trial projects

have used a multi-party framework alliance. FAC-1 provides the means to obtain *Improved Value* through *BIM* including:

- Data transparency and team integration (through the multi-party structure and Schedule 1 *Objectives*)
- Agreed software (in the clause 1.9.3 communication systems and Schedule 5 *Template Project Documents*)
- Integration of documents enabling and supporting *BIM* (in the *Framework Documents* and *Template Project Documents*)
- Agreed *BIM* deadlines, gateways and interfaces (in the Schedule 2 *Timetable* and the clause 6 *Alliance Activities*)
- Flexibility to agree any combination of *BIM* contributions (through the multi-party structure and under clause 1.11 and the Appendix 2 *Joining Agreements*)
- Flexibility to bring in *BIM* contributions from specialist sub-contractors and manufacturers (through clause 6.3 *Supply Chain Collaboration* and clause 7 *Orders*)
- Direct mutual licences of *Intellectual Property Rights* (in clause 11)
- Integration of *BIM* management with governance and clash resolution (in the clause 1 *Core Group* and *Early Warning* provisions and the clause 5 *Alliance Manager* role)
- Flexibility to obtain *BIM* contributions from additional *Alliance Members* involved in the occupation, operation, repair, alteration and demolition of a completed *Project* (under the clause 1.11 and Appendix 2 *Joining Agreements* and the definition of *Operation* as a feature of *Improved Value*)
- Potential for the *BIM* team to learn and improve from *Project* to *Project* (under the Schedule 1 *Success Measures* and *Targets* and under the clause 5 and Schedule 4 *Direct Award Procedure* and *Competitive Award Procedure*).

5. Use of FAC-1 by Additional Clients

The Crown Commercial Service FAC-1 empowers *Additional Clients* to improve the efficiency and value of their own *Projects* and programmes of work by creating an additional FAC-1 as the overarching *Project Contract Conditions* when selecting *Supplier Alliance Members* in accordance with the *Direct Award Procedure* or *Competitive Award Procedure*. Schedule 5 provides that any *Additional Client* may use:

‘An additional FAC-1 Framework Alliance Contract in conjunction with any of the [JCT/NEC/PPC] forms where any one or more *Additional Clients* wish to increase the potential for consistency, efficiency, *Improved Value* and lessons learned by integrating or connecting:

- A programme of work comprising more than one *Project*, to be awarded to one or more *Supplier Alliance Members*; or
- The capital and operational phases of any one or more *Projects* to be awarded to one or more *Supplier Alliance Members*, for example as a whole life approach to procurement; or
- The *BIM* contributions of one or more *Supplier Alliance Members* and other team members in relation to any one or more *Projects*, to be awarded to one or more *Supplier Alliance Members*; or
- The contributions of the *Supply Chain* members used by different *Supplier Alliance Members* on any *Projects* or programmes of *Projects*, to be awarded to one or more *Supplier Alliance Members*’.

