Effective Contract Governance under NEC

Presented by

Jon Broome

BEng PhD FAPM

leading | edge

projects consulting ltd

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Agenda

- Aim of doing this
- Bad governance examples
- What is $P^{3/4}$ governance & why does it matter.
- Principles for good governance of contracts (for sub-projects)
- A generic model for good governance
- The importance of assurance
- Some NEC specifics
- Feedback and discussion

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Aim of doing this **:**

For me to get feedback and thoughts on :

- is it just me who thinks governance of contracts is often done appallingly,
- whether my thoughts *so far* on how it should be done are valid, so that …

  … you can end up with better governance on your contracts …

  … so that contracts are delivered better.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Examples of bad governance

- A tower refurbishment where only the Capital Investment Director at 3 levels above the *Project Manager* could sign-off anything significant & any compensation events.
- A railway line where no-one on the *Employer* side seems able to 'accept' anything under the contract as there is minimal delegation.
- For a transport authority in a capital city, 'governance' is solely to report to ministers & budget holders.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

What is P3 Governance ?

APM BoK**7** : Governance is :

"The framework of authority and accountability that defines and controls the outputs, outcomes and benefits from **p**rojects, **p**rogrammes and **p**ortfolios.

The mechanism whereby the investing organisation exerts financial and technical control over the deployment of the work and realisation of value"

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Why does P3 Governance matter ?

The opening statement in APM's

'Directing Change :

A Guide to the Governance of Project Management' is

Governance has been shown to have the most significant impact on the successful outcomes of complex organisational change and projects.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

5 kev elements for effective P4 governance*

- **P**ortfolio management
- **P**roject sponsorship
- Effective **P**roject management

Project **M**anagement **O**ffice

What about the

- **P**rocurement, **a**dministration & **m**anagement of contracts ?

* Eric G Too & Patrick Weaver (Nov 2014), *The management of project management: A conceptual framework for project governance*, International Journal of Project Management, Vol. 32, Issue 8, p.1382 – 1394.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

So what is 'Effective Governance for the PAM (Procurement, Administration & Management) of Contracts' ?

- The setting of objectives for each contract.
- The monitoring of
  - performance against these objectives and
  - the critical success factors (CSFs) that lead to performance.
- Making timely strategic decisions for the contract in consultation with its management.
- Providing direction and guidance to the PAM teams
- Final tier of dispute avoidance before it gets legal.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Principles for Effective Governance of Contracts for sub-projects (1)

1. The Goldilocks principle : not too much, not too little.
   Start with the Minimum Viable Governance (MVG) and grudgingly add in more.
2. The Governance function is separate from the management of the project/contract.
3. Governance needs to be empowered by stakeholders to be effective.
   Management needs to be empowered by the governance function to be effective.
4. Governance is close enough to know what is going on, but not too close to get in the way.
5. Monitoring should not get in the way of doing.

© JON BROOME
setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

© JON BROOME
setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

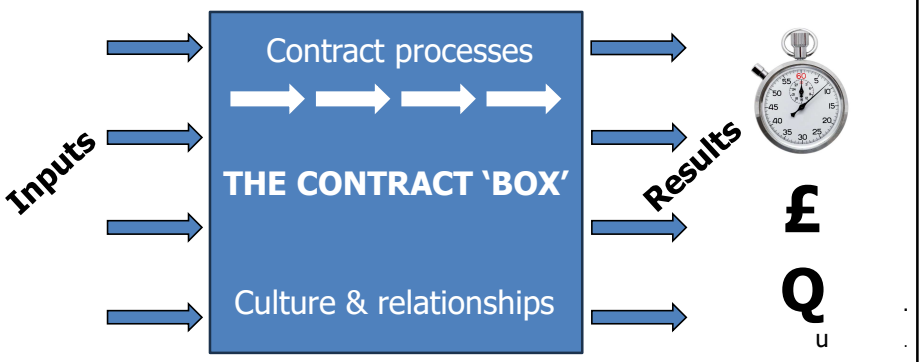
Principles for Effective Governance of Contracts for sub-projects (2)

6. Good contract governance is inextricably linked with project organisational design : organogram, processes & tools and culture e.g. the Contract Initiation Doc is signed off by it.
7. Defining 'Roles' is not enough. Decision making Authority and escalation routes need to defined.
8. Project organisational design is inextricably linked to contract strategy e.g. the contract strategy is signed off by it.
9. Assurance is needed both to assure what has been set up is working & to see through the gaps. It therefore needs access to people and tools & other stakeholders. It should not get in the way of the doing.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

A model for good governance : balanced scorecard



© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Processes : are the contract mechanisms working ?

Why does this matter ?

- If they are not working well, how can we believe the 'Results' data ?
- What can we do (early on) to make them work well, so that the contract is delivered successfully ?

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Processes : are the contract mechanisms working ?

- Cloud-based systems can track compliance with multiple workflows. Data can be extracted to show dashboards and trends & exceptions.
- Danger of single versus multiple measures :
  - Goodhart's Law : "*When a measure becomes a target, it ceases to be a good measure*."
  - Too many measures : what do we focus on ?
- Applies both to selection of key processes – danger of ignoring what is not measured - and measure used.
- Ideally, a line of sight between process & results.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Inputs (1)

At the start of the contract

- Process, culture and results won't work as well if not set up well.
- Need to think about overall contract organisational design.
- A plan is needed to put these & reporting on them in place : a Contract Initiation Document.
- Governance should give direction on this plan, sign it-off, have assurance that in place and that is working.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Inputs : contract organisational design

- Right organisational design :
  - Right organisational structure
  - Right people : ethics and soft & hard skillset
  - R**A**CI where **A** = **decision making**
    Authority to make decisions & be
    Accountable for them, such as
    Acceptances and instructions
  - Fit for purpose tools e.g. not just NEC cloud-based systems but others as well.

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Inputs (2)

- Key inputs:
  - Right *Contractor* for right Price (& other financials)
  - Programme
  - Right project organisation : see previous.
  - Good contract documents (Z-clauses & Scope) : well-structured, concise and *sufficiently* precise
  - 'Fit-for-purpose' contract strategy
- How far back do we go ?
- Are our gateway reviews effective ?
  Or are we just box ticking ?

© JON BROOME setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Importance of Assurance

- Except on smaller contracts, project sponsors / boards do not have time to delve into detail.
- Need assurance that information/data is correct & represents reality i.e. Goodhart's law isn't running rampant.
- Suggest 3 lines of defence : assurance of initial (reporting) processes, assurance that processes are running as intended, assurance that right processes.
- Ideally assurance is seen a 'constructive friend' vs. a *****. Data & info points to AfIs which can then be investigated.
- Implies 'assurer' has experience.

© JON BROOME setting projects up for success 2024

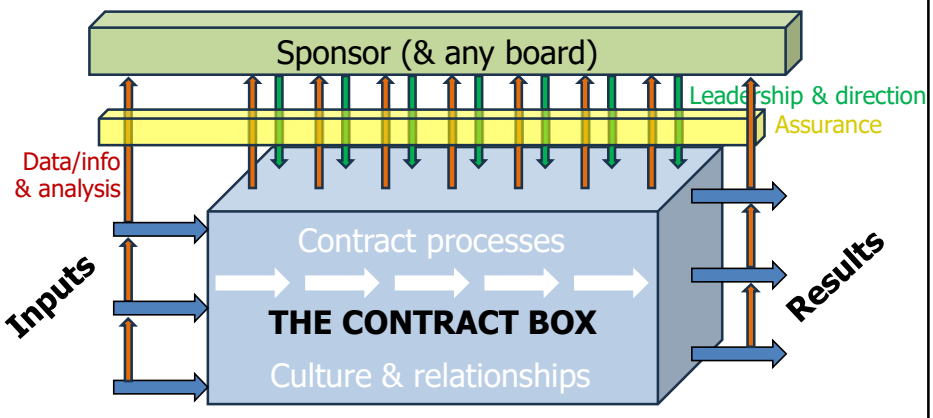
+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

NEC mechanisms for governance

- Outline requirements in *Client's* Scope, fleshed out in *Contractor's* submission, evaluated as part of the tender process & incorporated into the contract as *Contractor's* Scope.
- Requirement for monthly dashboards as part programme submission.
- Use of X20 : Key Performance Performance Indicators
- Use of X29 : Climate Change
- Use of X20 : Collaborative Working across contracts with Core Group, KPIs etc.
- Amended W3 : Dispute Avoidance Board for assurance

© JON BROOME setting projects up for success 2024
+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

A summary diagram ?



© JON BROOME setting projects up for success 2024
+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM

Questions & Reflections

- What resonates with you either positively or negatively ?
- What can you do to 'nudge' NEC projects in a better direction wrt governance ?
- Any challenges to what I have said ?
- Any questions : clarifications, amplifications etc

© JON BROOME
setting projects up for success 2024

+44 (0) 7970 428 929
JON@LEADINGEDGEPROJECTS.CO.UK
WWW.JONBROOME.COM