

# PUBLIC COMMISSIONING IN A NEW ERA: PUBLIC VALUE INTERESTS OF CONSTRUCTION CLIENTS

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In the construction industry public and semi-public clients increasingly depend on private parties to achieve project outcomes by subcontracting part of their activities using integrated contracts. Due to their social-political responsibilities, public bodies retain having a special role in ensuring public values. Classifying which public values to pursue, at what moment, in which situation or by what type of service delivery is a core task of construction clients and gets reflected in governance and project mechanisms. In this paper we aim to systematically explore public value interests of public construction clients in their relation to the contractor. This paper presents preliminary results of a set of semi-structured interviews with different actors playing a part in commissioning of organisations with different degrees of publicness. Results show that procedural values related to the public character still get much attention. However, today's more collaborative process of delivering public services seems to have led to a shift in focus towards the product related values of innovation, sustainability and quality. Future research will examine governance mechanisms and frameworks to deal with identified experienced sector-specific conflicts.

Keywords: public value, public construction client, public service delivery

## INTRODUCTION

The construction industry is an important actor in delivering public services which provide shelter, mobility and leisure for the people. Over the last years the public sector has been subject to some major movements of which the displacement between public and private can be considered as most crucial in the construction industry (Clifton and Duffield 2006, van der Steen *et al.*, 2013). Major cutbacks and a changing role of public administration resulted in governmental bodies increasingly withdrawing from direct delivery of public services and programmes. This gets expressed in two ways (Cornforth 2002): First, the development of an increasing number of devolved or quasi-autonomous government agencies to deliver public services. And second, the introduction of market mechanisms into the provision of public services through splitting the 'purchasers' of services from the 'providers' and introducing elements of competition through contracting out of services to (a mix) of private companies, voluntary organisations and quangos. Public organisations increasingly depend on private parties to achieve their goals entering in public-private collaborations, where distribution and supply of services becomes the responsibility of both public and private parties (Entwistle and Martin 2005, Bao *et al.*, 2013). The operational responsibility for creating public values is transferred

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to the private market party and the public party is left with governing- and management tasks, and remains social-politically responsible (Eversdijk, 2013, van der Steen *et al.*, 2013). With the increase in private organisations carrying out 'public' purposes, various constellations of public and private parties as project-based public service delivery organisations are shaped in construction. Specifically there is an increase in integrated contract forms (Clifton and Duffield 2006). The role of public clients in the process of public service delivery becomes more directive and facilitating, and these new structures affect the traditional notion of accountability, bringing along a strong emphasis on performance and outcome (Boyd and Chinyio 2006). Quality assurance by public clients more and more aims at organizing the process (Brown *et al.*, 2006), making it plausible that there is compliance with the process requirements and product requirements, or in other words the procedural values and the performance values (Bruijn and Dicke 2006).

Furthermore, the construction sector is the epitome of a project-based industry, a variety of organisational forms that involve the creation of temporary systems for the performance of project tasks (Holti 2011). These can either be entire firms, multi-firm consortiums or networks (Sydow *et al.*, 2004). The heterogeneous nature of these networks, alliances or partnerships is flexible by nature, constituted by different dimensions in hierarchy, formality (regulations) and collaboration. The collaborative project-based public service delivery creates a high level of complexity for public actors and changes relationships and task- and responsibility division (Bao *et al.*, 2013, de Graaf and Paanakker 2015). Clients are both involved in the goals of the 'permanent' commissioning organisation and the goals of 'temporary' project-related network of public and private parties. The position of an organisation on the public-private continuum, the 'publicness', is (partly) determined by the extent to which organisations are constrained by political control, how organisations are funded and financed, and the extent to which organisations perform public and private tasks (Besharov and Smith 2014). The 'degree of publicness' merely determines the expected contribution to the political or public mandate.

For public construction clients a distinction can be made between 1) government and governed by the public law, organisations that are required to apply public procurement law, and 2) semi-public and private organisation which only have to obey to common law. Classifying which public values to pursue at what moment, in which situation or by what type of service delivery is a core professional task of the construction client and gets reflected in governance, management and project mechanisms. Public value management (Moore 1995, Benington 2007) therefore becomes more important in the commissioning role of public client organisations.

In this paper the following questions are addressed: 'Which public values are of interest for public construction clients in their collaboration with contractors?' and 'Which contextual elements influence the public values that play a role in the current collaborative practices between client and contractor in construction?' The paper starts with a theoretical elaboration of public values in the public construction domain. Then the research approach of the interview series is explained. The findings show preliminary insights of a set of interviews on the interests of public clients and the factors of influence on the current collaborative practices between client and contractor, followed by a conclusion.

## **PUBLIC VALUES IN THE CONSTRUCTION SECTOR**

Due to their socio-political responsibility, organisations with a public character, have a special role in ensuring all public values (Beck Jørgensen 1999). They are expected to

contribute to all kinds of fields, for example social innovation, safety, protection of weaker population and the built environment and to create public value in many different forms. In the construction industry public values manifest for example in the European Procurement Principles. In addition to these procedural type of values, product values - such as sustainability, cultural heritage, quality of the public space, and performance values - effectivity and efficiency - are also essential in the context of performing and completing construction related tasks (Boyne 2003, de Graaf and Paanakker 2015). The government cannot determine on its own what public values are and are not. Public values are, in fact, a reflection of what the society expects of facilities and government (Bruijn and Dicke 2006). They are non-committal for governments, they provide direction (van de Ven *et al.*, 2007).

Public values are values that society believes are important in the in the production of certain products or services and of which they feel it is the duty of the government to ensure the interests (Bruijn and Dicke 2006). For a value to be called public there needs to be a collectivity, a collective benefit - it is about meeting shared expectations - while a private value reflects an individual interest (Van der Wal *et al.*, 2008). However, in practice the line between public and private is drawn differently from country to county, differentiates in different time periods and from sector to sector (Van der Wal *et al.*, 2008). Important to recognize is that private parties may also strive for public values and organisations with a public character may also include private values. Despite, public values do have some specific characteristics. There is value pluralism, meaning that not all values can be achieved at the same time. Public values can also be incompatible; the pursuit of certain values must inevitably comprise or limit our ability to pursue certain other values. And finally, public values can be incommensurable; there is no single currency or scale on which conflicting values can be measured. Where a 'conflict' occurs no rational assessment can be made (de Graaf and Paanakker 2015).

Moore and Bennington are considered the two main contributors to the public value definition in public value management. Moore (1995) speaks of the singular public value. He considers public value as the equivalent of shareholder value in public administration. Public values are designed to provide managers with a notion of how entrepreneurship can contribute to the general welfare. Bennington (2011) refers to the plural public values. He interprets public values as the combination of safeguarding and enriching the public sphere with the delivery of public values. He holds a rather normative description about the rights, benefits, and prerogatives to which citizens should (and should not) be entitled.

Focussing on the obligations of citizens to society, the state and one another, and the principles on which governments and policies should be based. These different descriptions indicate a distinction between value and values. Values is defined by Mills (2013) as 'abstract, humanly held notions and beliefs that provide a broad and relatively universal framing structure to understand particular choices in a wider context of concerns'. Value is defined as 'an attitude or judgement made by a person of some object at issue (whether this is a product, service, process or other person) against some resource' (Mills 2013), e.g. the assessment of an object (Volker 2010). This distinction between value and values is relevant in studying the concept of public value(s) in the public construction domain since public return gets realized through public service delivery. Public parties increasingly adopt private sector ideas. Collaborating with private parties different logics need to be combined, market and society, private and public aims combined (Smets *et al.*, 2015). Good governance is about the management of competing values (de Graaf and Paanakker 2015). Procedural values should be met,

which relate to the way the public sector should act - values relating to the quality of the process, such as integrity, transparency, equality - and which standards of government action should be met. In public value literature Moore (1995) describes the public value chain in which he distinguishes Input Output Outcome and where inputs are transformed into valued social outcomes, in other words achieving public values (Benington 2007). Outcomes are somehow invisible values, think about the perceived quality of the living environment. De Bruijn and Dicke (2006) separate the process from the content. Making a distinction between procedural values - good governance - and substantive public values - the services and goods the state is responsible for, either directly by offering products, or indirect by services and finance. Next to the procedural values and the (substantive) value of 'objects' de Graaf and Paanakker (2015) add performance values of effectiveness and efficiency (e.g. good infrastructure, services, no waste of tax payers' money). A professional construction client needs to find a balance between the procedural, performance and product values and be able to account for the value trade-offs made in establishing this balance.

Several authors published extensive literature studies to come up with lists of public values (de Graaf *et al.*, 2013). Jørgensen and Bozeman (2007), for example, identify eight central public values including sustainability, integrity and robustness. Van der Wal *et al.*, (2008) describe 13 values which, for example, include transparency, expertise, accountability, efficiency and courage. Next to that there are some well-known assessment concepts which specifically address values in the construction sector (Volker 2010). First, GOTIK, a method for controlling aspects related to project management; money, organisation, time, information and quality. And second, the Design Quality Indicator (DQI), a toolkit to measure, evaluate and improve the design quality of buildings, developed by the Construction Industry Council of the UK.

For DQI Vitruvius's *utilitas*, *firmitas*, and *vernustas* are translated into functionality (use, accessibility and space), built quality (performance, technical systems and construction), and impact (form and material, internal design, integration and character and innovation). Furthermore, there are several periodic policy documents concerning the built environment. In this context the Dutch Action Agenda (Bussemaker 2016) appoints for example a number of values woven into its narrative: collaboration, creativity, knowledge, dedication, expertise, wishes, interests, commonality, integrality, customization (involve conditions and stakeholder in task) and motivation in solidarity. In this study these lists have been combined into a compound list of common values in the public construction sector, and separated in the categories of procedural, performance and product values. This list provides the theoretical basis for the method developed for the interview series and is used in the analysis of the interviews.

## RESEARCH APPROACH

The study consists of a set of qualitative semi-structured interviews. Since in the project-based construction industry different (types of) public values needs to be ensured in an organisations differentiating in publicness, we included a wide range of public client organisations in this study (Chi 2016). Respondents are members of the Dutch Construction Client Forum, representing a group of large and middle sized public and semi-public clients, including the Dutch Government Building Agency, the National Highway Agency, water boards, housing associations and municipalities. Different people representing different decision-making levels, were selected. For each organisation three to four public actors were involved: the general manager (GM), the director of procurement (CPO), the director of real estate and or infrastructure

developments (DD), and or the asset management or maintenance director (AM). This resulted in an interview sample of 23 interviews with a duration of 45 to 60 minutes conducted from February to May 2017. Value cards based on the compound list of possible public values were used to discuss the meaning and relevance of specific public values in different parts of the commissioning role. To ensure reliability of the data all interviews were audiotaped, fully transcribed, checked by the respondent sending them a summary of the conversation, and thematic theoretical coding is applied in Atlas.ti (Bryman 2012). In order to make a comparison between different client organisations, with a different 'publicness', as well as between different positions within these client organisations, different analytical tools and documents groups provided by Atlas.ti were used. Code-documents tables were used to look for the values playing a role in the relationship between client and contractor. Next to that the co-occurrence explorer was used to find the factors that influence the decision on values that are strived for.

## FINDINGS

### Public Value Interests of Public Construction Clients

Answering to the question on which public values are of interest for public construction client in their collaboration with contractors, it can be concluded that much attention is given to procedural values related to lawfulness and the responsibilities of public clients and rather less to performance values of effectiveness and efficiency (see also Table 1). However, it was also found that in the current collaborative practices the procedural values of integrity, lawfulness, reliability and equality are more and more considered as contextual, whereas steering becomes directed at other values, such as innovation, sustainability and quality.

If you're talking about how we do things, I think that it could be a bit more innovative [...] Transparency, and I should say integrity, even though I think this is less important, remains an important theme within the Province (GM, government).

Internally, in public organisations, achieving a particular goal is considered of more importance. This sometimes means that efficiency is overshadowed, also because a lack of pragmatism. In addition, there is more attention to the collaborative nature of the relationship and the resulting implications for both the approach towards the market and the interaction with contractors. Approaching contractors becomes oriented at future tasks and what the market can offer.

We will have to talk to each other about the possibilities. This begins very early with 'This is the task we have, is that realistic? This is the planning to the task, is that possible? These are the risks we identify, what is your perception on this?' In that way, looking at what we should do together (CPO, government).

The changed role division between clients and contractors also determines the way of collaborating with (future) contractors since a certain level of dependency asks for a more open and transparent relationship.

For me, this comes with a bit of transparency, but also: we cannot do it alone, we all play our part in this theatre. So I advocate an open, transparent cooperation instead of a contractual relationship (AM, governed by law).

When shaping the collaboration like this, honesty is one of the 'old fashioned' procedural values that provides a boundary. Position the task that we are focusing on centrally, create good conditions that are fair" (CPO, governed by law). Making the desired shift in focus towards different types of values proves to be a complicated process. It was found that the construction sector and today's contractual governance mechanisms lack flexibility to actually act upon the anticipated changes.

Table 1: Public values of importance in the relation of the public client and contractor, related to job position (GM, CPO, DD, AM) and 'publicness'. I = of interest, S = desirable to safeguard, Bold = specific attention shown to the value

	GM	DD	AM	CPO	Government	Governed by law	Semi-public
<i>Procedural values</i>							
Reliability	<b>I</b>	I	I	I	I-S	<b>I-S</b>	I-S
Honesty	I-S	S	I-S	I-S	I-S	I-S	I-S
Equality	S	S	I-S	S	I-S	I-S	I-S
Integrity	I-S	S	I-S	I-S	<b>I-S +</b>	I-S	I-S
Non-dis				I	I		
Lawfulness	<b>I-S</b>	I-S	I-S	<b>I-S</b>	<b>I-S +</b>	I-S	I-S
Collaboration	<b>I-S</b>	<b>I-S</b>	<b>I-S</b>	<b>I-S</b>	<b>I-S +</b>	<b>I-S +</b>	
Transparency	<b>I-S</b>	S	<b>I-S</b>	<b>I-S</b>	<b>I-S +</b>	<b>I-S +</b>	I-S
Safety	I-S	I-S	I-S	<b>I-S</b>	I	I	I
Accountability	I	S	I	S	I-S	I-S	I-S
Wisdom	I	S		S	S	S	S
<i>Performance values</i>							
Effectiveness	I	I	I	I	I	I	I
Efficiency	I	I	I	I	I	I	I
<i>Product values</i>							
Context		I-S	I-S	I-S	<b>I-S</b>		
Sustainability	I-S	I-S	I-S	S	<b>I-S</b>	I-S	I-S
Functionality	S	S	S	S	S	S	
Innovation	<b>I-S</b>	I-S	<b>I-S</b>	I-S	I-S +	<b>I-S</b>	I-S
Integrity		I-S	I-S	I-S	I-S	I-S	
Character						I	
Quality	<b>I-S</b>	I-S	I-S	I-S	<b>I-S</b>	I-S	I-S

Discussing the actual safeguarding or the desire to safeguard certain values, all values that proved to be of interest are at least mentioned once, see table 1. Only the performance values of effectiveness and efficiency were not mentioned. This can be explained by the use and translation of other values in contracts, for example the quality criteria, the indirect safeguarding of these values:

The effectiveness can be assured by what is in the contract, with the finances in the contract, with the quality criteria stated in the contract, justifying the delivered result. This is not hard to safeguard. (GM, government).

Discussing specifically safeguarding, we experienced some discussion on the possibilities in safeguarding certain values.

The values that are most safeguarded are, for example, functionality, legitimacy or quality. Transparency is much more difficult, because what do you show and what do you not show? (CPO, governed by law) and I think wisdom is the most beautiful value here', but I wonder [...] could you safeguard that? (GM, governed by law).

There are also some values of which safeguarding becomes more important with the increase in public-private collaboration and the role changes that are needed in dealing with the increased complexity of construction projects, such as sustainability and responsibility.

Sustainability is something that needs to be better safeguarded. And taking responsibility. For example, consultants often overlook the development of a particular design or concept, but do not take responsibility for the functioning of the concept once it is finished (AM, governed by law).

In addition, some interviewees question if it is worth to safeguard certain values, in relation to the constraints it will bring along:

I'm not so much in favour of safeguarding, because this limits flexibility (AM, governed by law).

Comparing the organisations with different degrees of publicness and the different job positions (see right columns in Table 1), there are some things that stand out. There is both the interest in and desire to safeguard the values of reliability, honesty and equality with the parties governed by law, and an even more strong emphasis on integrity, lawfulness and transparency with the government. Although there is also special attention to discussing the value of collaboration, being a reliable partner appears to be discussed most often.

It is very important that we, as a public client, are reliable and predictable, so you know what could be expected of us (CPO, governed by law).

Looking into the organisations with different 'degrees of publicness', there appears to be a strong awareness of the public task with officials of all types of public organisations.

Intrinsically, people working at governmental bodies feel that they are there to serve the general interest, not the interest of the organisation. (CP, governed by law) and I just have to retain integrity. That is part of the public value I represent. A government official should always keep this in mind (CPO, government).

As we look into the different job positions, there are differences in 'giving meaning'. The general managers speak about what they want to convey to the market and having a certain kind of corporate responsibility. They mention matters of action, code of conducts, acting with conscience and the identification of people with the organisational values. The discussion mainly revolves around intangible translations of values, such as a particular behaviour:

It's quite complicated to be exact, but we do want people to go out in the field with this notion of corporate responsibility. Handle things in a responsible way. This must reflect in actions of each person (GM, semi-public).

The development directors specify the values that they want to pursue in the relationship with contractors more specifically. They talked about providing preconditions, establishing frameworks and practical agreements, but also about translating values into toolkits and procedures:

Over the past year and a half, I have spent a lot of time and effort in ensuring that people know how to handle those procedures, so I steered on legitimacy a lot (GM, semi-public).

The CPO's particularly profiled their understanding of the values merely towards transparency, integrity and non-discrimination, reflecting on what these values mean in European Procurement Law.

### **Contextual Elements Influencing Value Interests of Public Construction Clients**

Answering to the question which contextual elements influence the public values that play a role in the current collaborative practices between client and contractor, analysis showed the importance of four different factors related to (1) changes within the construction industry, (2) politics and responsibility, (3) organisational issues and, (4) the changed nature of the relationship between the client and contractor.

Within the Dutch construction industry tasks nowadays are put differently in the market. You can cluster tasks (e.g. design, construct and maintain), moving away from the standardised separate agreements towards performance based contracts. The responsibilities are then divided in a different way; parties need to learn how to leave

more to the market parties. This 'new' contract forms leave more room for contractors to think along and apply their expertise.

We now say to the contractor 'These are the functional requirements. You just have to maintain it or improve where we indicate it needs to be improved. How you will make that happen does not really matter because we mainly state functional requirements regarding the use of a road (AM, government).

The need to work with these types of contracts relates to the complexity of the current tasks. Growth of the population and growth of cities suggest the need to give more attention to a value such as sustainability. In order to achieve this, public and private parties are depending on each other; innovation in both products and process is needed.

The public character of the client organisation and the public sector reform, also bring along some aspects that influence perspectives on values. One of the main influences is the four year election periods in the Netherlands and the challenges public actors are confronted with in their period of reign.

You never know, things are happening, for example sustainability is one of the things we will need to address in the upcoming ten years. By then we already have had another 2½ Cabinets (CPO, government).

Public parties are put under a microscope, much is expected of them. Despite recent fraud incidents, public construction clients still feel responsible to walk ahead, to play an important role in the construction sector reform and the changes needed to deal with the increasingly complex tasks. This sometimes means that they have to make themselves vulnerable while they are held accountable and closely monitored:

We want to use the wider knowledge more, and this also means that we sometimes have to be more vulnerable and open up to what the market is offering and not always immediately assume that they mainly want to make money out of it (AM, government).

The changes in the construction industry and the role change of public actors also reflects on the public client organisations itself. Transitions in the organisation are both at the level of the structure and processes, and the desired attitude and behaviour of employees.

*That sounds very easy, but a contract is not something you just perform. It is also really another way of thinking. This imposes other requirements on the organisation and the people who work there (DD, government).*

Missions and visions are used to embed the new way of approaching the market within the organisation and its employees:

We have mentioned a couple of values, for example being in charge, but also showing guts to develop things, integration is related to that, and having fun in your job. These are a couple of values of which we say drive the organisation forward (AM, governed by law).

The new required collaborative structures also changes the nature of the relationship between the client and contractor. There is a need for more trust, which is something hard to capture in a contract. It becomes more important to focus on a level playing field, an open, honest and transparent relationship with the market. Changes in playing a certain part in this collaboration are ahead, both for the client:

We are getting a new environmental law, and that also means another role for the government. We also need to anticipate on that (CPO, government), as well as the contractor: It could also strengthen each other. If we now see that market parties become more willing to take final responsibility, we are more likely to enter in longer term contacts (AM, governed by law).

Public clients are more and more concerned with their approachability; they are in search for connections instead of contradictions in order to build an equal, sustainable

relationship on the basis of common values. Therefore they reach out to the market earlier to discuss the latest developments in the market. They, for example, organise market consultations, are involved with different collaborative initiatives and organise meetings with SME's in order to inform their future suppliers about possible collaborations:

Simply by agreeing and sharing common developments, both public and private, in a client contractor relationship or in relationships to discuss general market development we increase the contact with the market (AM, governed by law).

## CONCLUSION

This study contributes to public value theory and the sector specific value debate by providing insight in the value interests of public construction clients in collaborating with contractors. The ongoing shift of focus from procedural values related to lawfulness and responsibilities of public construction clients, towards product values of innovation, sustainability and quality of services, asks for a more open, transparent, sustainable client-contractor relationship. Insights in the contextual factors of the Dutch public construction industry explains how changes within the construction industry itself, politics and responsibility, organisational issues and the changed nature of the relationship between the client and contractor, influence the public values that play a role in the current collaborative practices between client and contractor.

To solve the increasingly complex construction tasks, there is a growing need to collaborate with the market in achieving public values such as innovation and sustainability. Aiming to achieve good governance, the management of - often competing - values becomes part of the core task of public actors. Our results indicate that professionals in client organisations are aware of this shift in values. Hence, they do not explicitly state how they safeguard them. Further research will look into value trade-offs that need to be made and conflicts that are experienced by actors in safeguarding these values. Future research will also look at governance mechanisms and frameworks to deal with the identified conflicts in public client organisations.

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