

# **HOW TO REDUCE CONFLICTS ON CONSTRUCTION PROJECTS**

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# **CLAIMS AND LITIGATION**

/ INEVITABLE PART OF CONSTRUCTION PROJECTS /

## **AREAS GENERATE CONFLICTS:**

- **ONE – SIDED CONTRACT (CLIENT-DRAFTED CONTRACT)**
- **PROCUREMENT SYSTEM (PROJECT DELIVERY SYSTEM)**
- **DESIGN (INCOMPLETE, INACCURATE, POORLY COORDINATED)**
- **SITE CONDITIONS**
- **SITE SERVICES E.T.C.**

# ANALYSIS

- **NOT CLEAR UNDERSTANDING PECULIARITIES OF THAT SPECIFIC PROCUREMENT AND CONTRACTING SYSTEM**

- **RESPONSIBLE PARTIES**

DOES NOT RECOGNIZE OR

**RESPONSIBILITY**

DOES NOT WANT TO ACCEPT

**LACK OF IDENTIFICATION OF OWN INTEREST** leads to one-sided contract

# **AREAS GENERATE CONFLICTS I.**

## **ONE-SIDED CONTRACT**

### **CLIENT**

CONFLICT CAN BE AVOIDED BY PROTECTING  
THE CLIENT FROM ALL POSSIBLE CLAIMS

### **ARCITECT**

GENERIC SPECIFICATIONS, NO ONE IN CHARGE

### **CONTRACTOR'S CLAIM CAUSED BY**

- UNFORESEEN OR CHANGED PROJECT CONDITIONS
- CHANGES IN THE WORK
- LATE PROVISION OF DRAWINGS, ACCESS, PERMITS
- LATE EQUIPMENT OR MATERIALS
- INADEQUATE DRAWINGS OR SPECIFICATIONS
- INTERFERENCE IN THE WORK ETC.

# **SOLUTION SEEMS TO BE SIMPLE**

**ALL PARTIES HAVE TO RECOGNISE THEIR RESPONSIBILITIES**

- THE CONTRACTOR MUST PROVIDE QUALITY WORKMANSHIP**
- THE ARCHITECT MUST PROVIDE A QUALITY DESIGN**
- THE CLIENT MUST PAY REASONABLE PRICE FOR THESE SERVICES**

**NO CONTRACT LANGUAGE WILL PREVENT DISPUTES  
WHERE THESE RESPONSIBILITIES ARE NOT MET**

# **HOW TO MINIMIZE CONSTRUCTION DISPUTES, CLAIMS AND LITIGATION**

## **FAIR ALLOCATION OF RISK**

- 1<sup>st</sup> TO THE PARTY, WHO HAS DIRECT CONTROL OVER THE PROCESS THAT CREATES RISK, IF ANY**
- 2<sup>nd</sup> TO THE PARTY, WHO IS MOST ABLE TO PROTECT AGAINST AN UNEXPECTED LOSS OR CASUALTY, IF ANY**
- 3<sup>rd</sup> THE RESPONSIBILITY OF THE CLIENT – INITIATED THE PROJECT, ENJOYS BENEFIT OF THE RESULT**

# **PARTICIPANTS OF CONSTRUCTION PROJECT**

## **THE CLIENT**

**SHARES:                    ACTIVITIES**  
**RESPONSIBILITIES                    WITH THE PARTNERS**  
**RISKS**

**TO CHOOSE PROCUREMENT SYSTEM AND CONTRACT FORM**

**SUCCESS OF THE CONSTRUCTION PROJECT DEPENDS ON HIS/HER**  
**PROFESSIONAL KNOWLEDGE / THAT OF HIS/HER REPRESENTATIVES /**

# **AREAS GENERATE CONFLICTS II.**

## **PROCUREMENT / PROJECT DELIVERY SYSTEM**

AFFECT SCOPE, TIME, MONEY, RISK ALLOCATION  
AND TIGHTLY RELATING CONTRACT

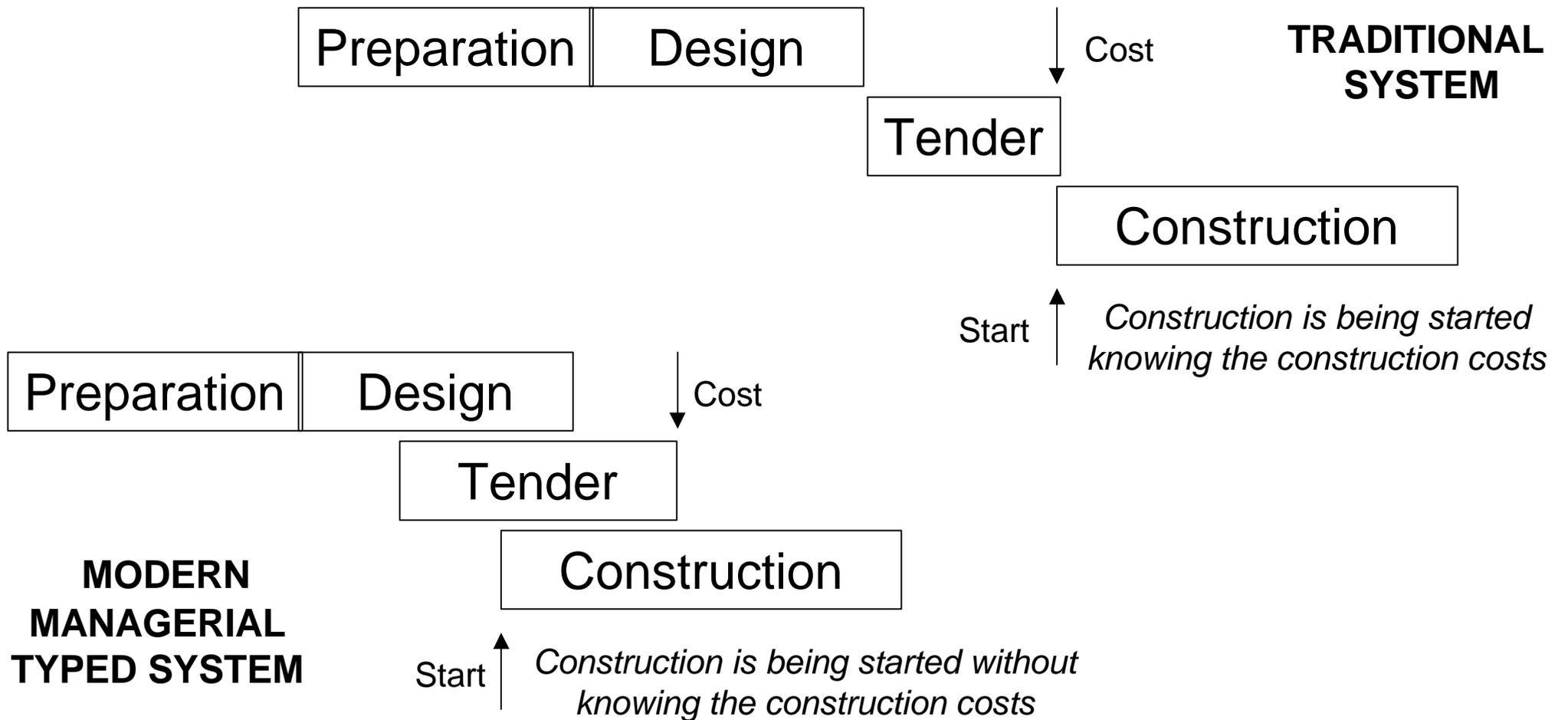
### **TRADITIONAL PROCUREMENT SYSTEM:**

- LONG CONSTRUCTION PERIOD
- CONSECUTIVE ORGANISATION
- CLEAR CONTRACTING RELATIONS

### **UP-TO-DATE PROJECT DELIVERY SYSTEMS:**

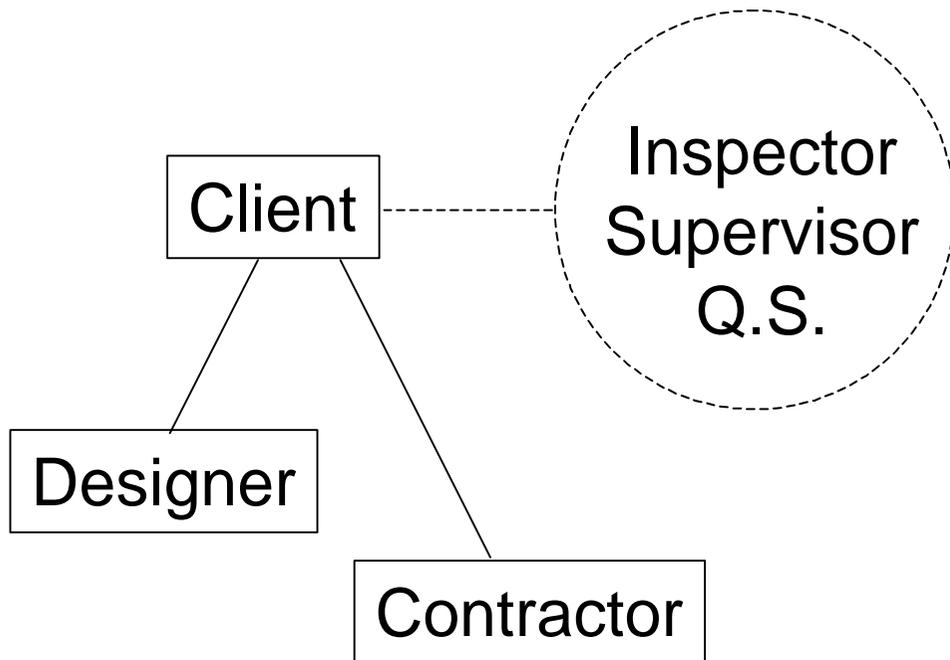
- DESIGN AND BUILD, PACKAGE, TURNKEY
- CONSTRUCTION MANAGEMENT
- MANAGEMENT CONTRACTING
- PROJECT MANAGEMENT

# PROCUREMENT SYSTEM

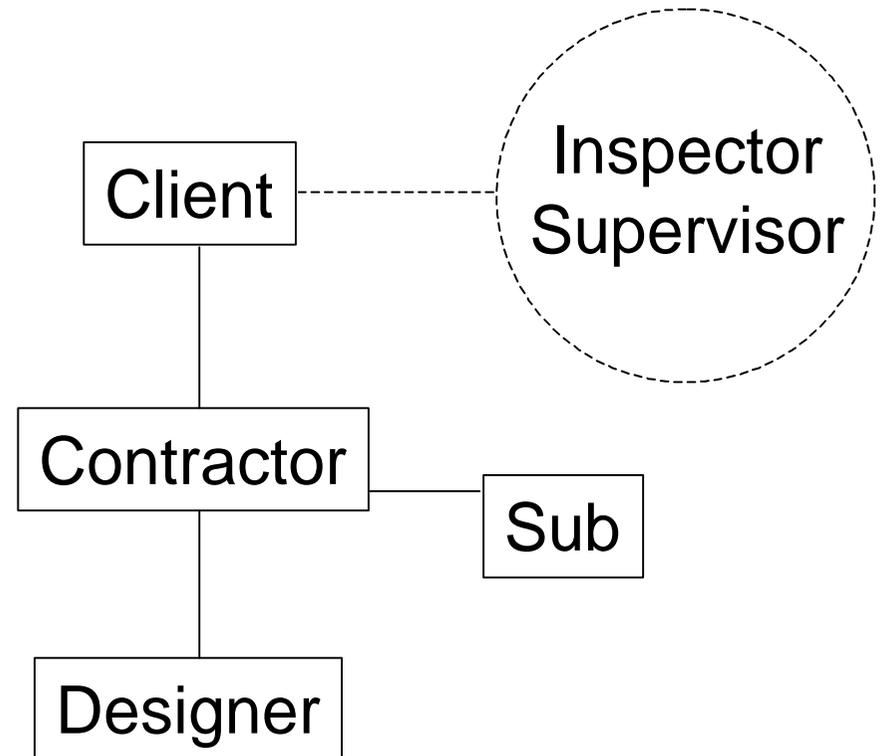


# HOW TO REPRESENT CLIENT'S INTEREST

## TRADITIONAL DELIVERY SYSTEM

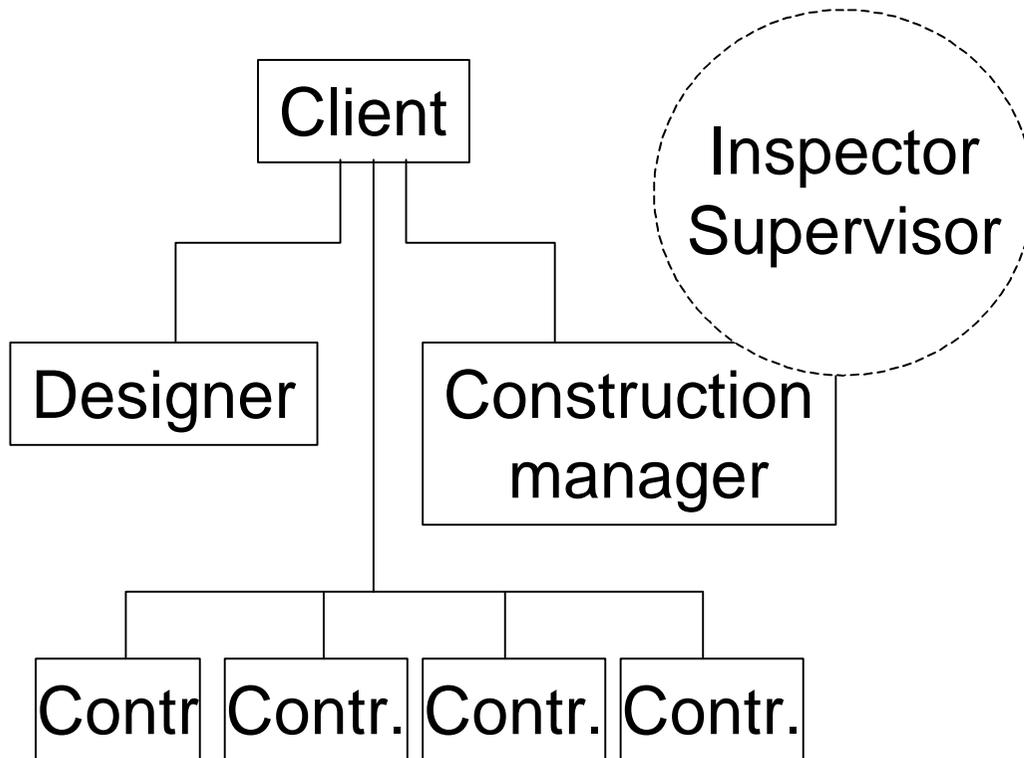


## DESIGN AND BUILD, TURNKEY PACKAGE DEAL

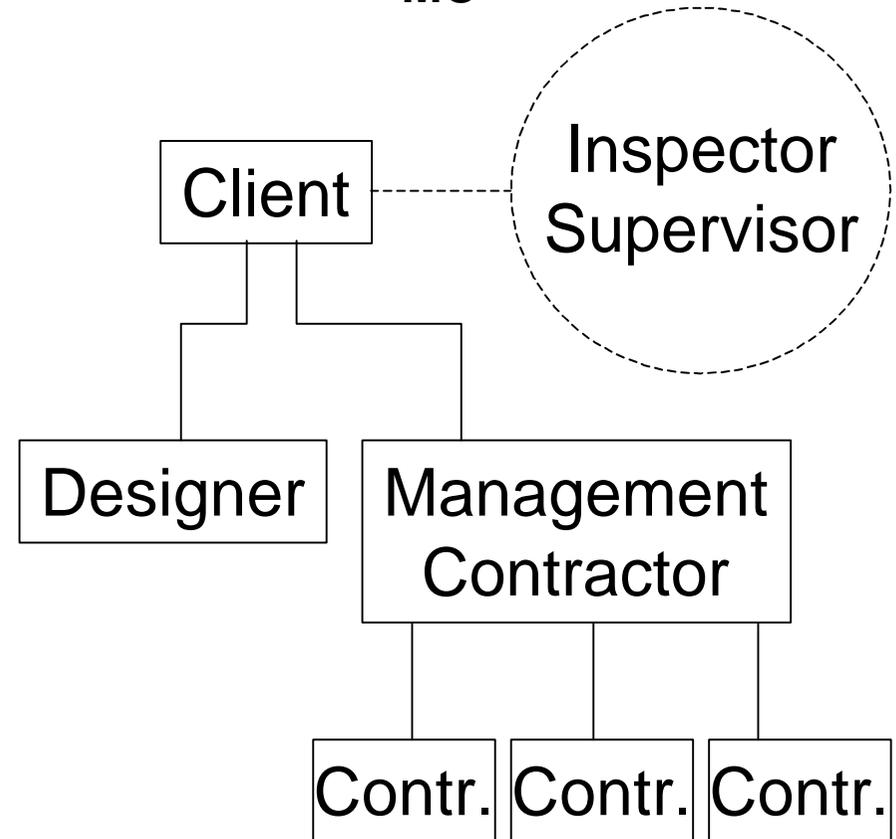


# HOW TO REPRESENT CLIENT'S INTEREST

## CONSTRUCTION MANAGEMENT CM



## MANAGEMENT CONTRACTING MC



# **CONCLUSION**

## **HOW TO MINIMIZE SOURCES FOR DISPUTES, CLAIMS AND LITIGATION**

- TO CHOOSE APPROPRIATE PROCUREMENT SYSTEM**
- REASONABLE ALLOCATION OF  
ACTIVITIES, RESPONSIBILITIES AND RISK ® CONTRACT**
- RECOGNIZE RESPONSIBILITIES, ACT IN PARTNERSHIP**