8over8
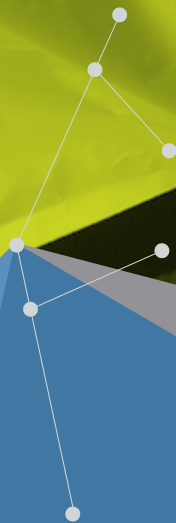
ProCon

"...relationships will be much more effective for managing unforeseen problems than watertight documents and KPI dashboards."

The key to contractor management

Because risk and uncertainty increase with the size of a project the most important focus for operators should be their relationships with their contractors.

That's because these relationships will be much more effective for managing unforeseen problems than watertight documents and KPI dashboards.

In this paper we discuss the contract from the viewpoint of the contractor, the essentials of the kick-off meeting, why investing in a good relationship is more cost effective than standing by your contractual rights, and the '4 Ps' that experienced practitioners have found to be fundamental when building the relationships that build a successful capital asset.

What you think a contractor thinks, and what a contractor really thinks

There is a commonly held view in the operator's camp that from the outset the contractor is scheming to determine ways of extracting additional reward from a contract through contradictions and gaps in the scope.

This is sometimes true, and it is always good practice to ensure that the document is as complete and watertight as possible.

However, from a contractor's perspective, the best contract execution is one that goes entirely to plan, with few changes, such that he remains in control and completes without complication. This gives him the biggest margin, and a reputation for delivering.

The contractor also has the view that the operator wants the final product as he sees it in his mind's eye, regardless of what is written in the scope or what is specified in the contract. Given that a complete and correct prescription is impossible on a large project the contractor often assumes that the operator will expect every change to come for free and with no impact on the completion date.

With such distrust and suspicion abounding between operator and contractor, is it any surprise that we get claims and disputes?

It's the duty of both parties to use every facility to reach a common understanding, but many failed projects don't have the right systems in place (read Your 'complete' ERP system is not enough).

Use the kick-off meeting to start on the right foot

Immediately after contract award is when the most constructive work can be done in building the relationship between the parties. A well facilitated kick off meeting should make sure that:

- The KPIs for the contract are identified, as well as the principal threats to achieving success;

- It is agreed how the relationship between the operator and the contractor will be governed;

- A joint management plan is developed that addresses how the KPIs will be monitored and the threats will be managed.

The time and care required to cover these last two points can easily be underestimated. Milestones and service levels are more straightforward to agree than how you will work together when unexpected stresses are introduced. Make sure you have an effective system in place for communicating a shared vision and any changes to it. As we see in "Your 'complete' ERP system is not enough" this requires more than the transaction management offered by platforms such as SAP.

An extra word of warning: the people who are tasked with executing the contract rarely make the same interpretation as those who developed the contract or the bid documents, and it is important that the new team is aware of the history of the contract.

"...service levels are more straightforward to agree than how you will work together when unexpected stresses are introduced..."

The ultimate sanction may not be worth it

You have to make your relationship with your contractors work for one very good reason: once awarded, the downside of terminating complex contracts is profound.

However much the contract may protect the operator when dismissing a contractor and obtaining compensation, the consequential losses generally outweigh the cost of carrying on with the existing contract. When terminating a contract you have to accept the schedule delays associated with doing that and mobilising a replacement contractor, bear the supplementary costs of repeating work that the replacement contractor is not prepared to accept, and live with the prospect that the new contractor may not perform any better.

Pushed on by this prospect, both operator and contractor should be committed to working together for the long term, and the easier it goes the better. The contract document itself will contain all sorts of requirements that determine how the two parties should communicate in terms of scope queries, contract variations, payment requests and reporting. However the relationship between contractor and operator depends on the operator having respect for the contractor's capabilities, and an open and constructive attitude to the performance of the contract.

Leaving this to chance is a risk that most managers underestimate. As well as personal relationships you need business processes and real time analytics to support transparency, understanding, and prompt decision making.

The 4 Ps - the pillars that support your relationship

To manage a successful relationship the client manager should display at least four key behaviours: being proactive, being personable, being professional and being pragmatic. These "4 Ps" were first introduced to me by John de Moraes of Quantum Meruit Consulting Ltd, to whom I owe a debt of gratitude.

1 **Proactive**

- Anticipate potential problems.
- Favour prevention over cure.
- Adopt a leadership mentality.
- Seek out win/win situations.

2 **Personable**

- Develop emotional intelligence.
- Favour cooperation over conflict.
- Build relationships.
- Use humour.

3 **Pragmatic**

- Keep a balanced perspective.
- Favour commercial over contractual or legal.
- Preserve a balance of power.
- Take a rounded view of cost recovery.

4 **Professional**

- Take the kick-off meeting seriously.
- Manage performance and obligations.
- Be systematic about claims and progress reporting.
- Consider quality assurance vs. quality control.
- Understand efficiency vs. effectiveness.
- Preserve integrity and assurance.

Be proactive

The client's manager will not be helping issues if he assumes the role of passenger. A proactive behaviour is the ability to anticipate the next actions and identify potential problems and opportunities in advance.

The client may be aware of forthcoming problems that he can alert the contractor to, and should offer support to external stakeholders so that problems can be avoided rather than cured with precious resources.

Similarly, as circumstances change over time, there may be obligations in the contract that the operator could offer to waive, or change to be more compatible with the contractor's systems and processes, to the benefit of both parties.

Be personable

If there is a culture clash between the two companies and opinions differ it can be easy to slip into an adversarial mode, and hostile engagements between parties don't help anyone perform to their full potential. It is in your best interest to build a positive relationship with your opposite number in a contract – meet each other socially if necessary so you can appreciate their views and background.

Don't forget that the people on the other side of the table have real lives – they have families and mortgages, and are trying to do their job as well as they can; be realistic in your expectations, hard on the problem, and soft on the people. Be aware if your manner may be offending someone and stand back - often the use of humour is a great tension relief.

Be professional

Of course, proactive and personable behaviour is ineffective if you don't also have a handle on contract progress and issues. It is critical that the contract is kicked off properly so all parties are clear about their roles and responsibilities.

Maintaining an efficient system of performance measurement and document control is also critical for the operator to retain control over the contract. Every time a clarification or amendment is made to the specification or a drawing, it is important that both parties record any impact, and agree the consequences soon after the event to avoid misunderstandings and to build trust.

"...every time a clarification or amendment is made to the specification or a drawing, it is important that both parties record any impact, and agree the consequences..."

Be pragmatic

If there's a dispute between the parties the contract document is ultimately the rule book. It is there to define the respective responsibilities and obligations of each party, and determine how issues should be resolved.

However it cannot predict all eventualities, and it may not fit exactly to current circumstances. Moreover, there may be a time when interpreting the contract against the interests of the other party is neither equitable nor just.

On such occasions it should be appropriate to take a more practical and commercial view, acknowledging the extent to which the contractor could have anticipated the event and making a balanced judgment on whether there is justification for a change in compensation. Often the opportunity cost of delay in terms of production income or penalties can outweigh the cost of reaching a solution to contractual dispute, and the longer a variation is argued over the more it becomes a distraction from executing the contract.

Disputes that are allowed to fester generally aggregate costs and a rapidly resolved variation can keep a contractor motivated.

Of course, if one party is simply taking advantage of their position opportunistically then it is probably right to resist change. However it is important not to lose sight of the overall commercial objective of the project, and the earlier a dispute is resolved the cheaper it is to fix.

"...because relationship management is the most effective way to reduce claims and overruns it makes a significant contribution to your bottom line..."

Final Thoughts:
You need principles, and you need a platform.

The ideas presented here are powerful on their own. As well as the 4 Ps, however, you can use ProCon from 8over8 to establish and maintain contractor relationships more effectively.

ProCon is a robust, web based contractual risk management platform that gives you control over the post-award management process. It captures all correspondence between the operator and the contractor, links it to variations in the contract, and maintains an action list of contractual events and obligations.

It also maintains an effective audit trail to allow both parties to look back with confidence. And because relationship management is the most effective way to reduce claims and overruns it makes a significant contribution to your bottom line.

LEARN MORE

Let us show you how much you can save on your next capital project. Sign up for a **FREE Capital Savings Review**

For a demonstration of the ProCon Contract Risk Management platform please request a **demo** or email **community@8over8.com**

About the Author

Geoff Lill worked for 37 years with Shell International, a company known for its ability to tackle and complete particularly sophisticated projects in remote and sometimes hostile locations.

In his time at Shell, Geoff developed and supported CP processes in Oman, Brunei, Aberdeen, Nigeria and Holland, finishing by setting the standard of best practice to be adopted by CP in all Shell projects. This involved the codification of processes and models to establish a uniform approach across the business, maintaining contact with major contractors, and providing "troubleshooting" CP consultancy to a range of major projects throughout their lifecycles.

While Geoff's background is predominantly oil and gas, experience suggests that the CP approach to major projects is common across all industries, and standards of best practice are uniformly applicable. This is borne out by the Heathrow Terminal 5 project which utilized CP techniques developed in the North Sea, and the considerable consultation that takes place across industries on construction contracting.

Geoff is CEO of Byzantec Ltd., and has a seat on 8over8's Advisory Board. You can reach him at geoff@byzantec.com

8over8

©8over8 2015

About 8over8

8over8, an AVEVA Group company, provides contract risk management software that helps companies improve performance and profitability on large and complex projects. 8over8's platform, ProCon, has been used on over 250 projects, managing $500bn of assets, saving customers up to 5% on their capital investments. Headquartered in Derry, Northern Ireland, and with offices in Europe, North America, Australia and the Middle East, 8over8 has built a global and loyal blue-chip customer base.

For further information:

Email: community@8over8.com
Website: www.8over8.com
Follow on Twitter: @8over8