

SEARCH | AUTHOR | INDEX | EXIT

INTRODUCTION | REFERENCES

**RELATIONSHIP CONTRACTING  
IS IT THE WAY OF THE FUTURE OR JUST ANOTHER  
PASSING FAD?**

*DEREK SKINNER (DEPARTMENT OF MAIN ROADS QUEENSLAND)*

---

**ABSTRACT**

The purpose of this paper is to give some background on why relationship contracting has emerged and to highlight the importance of building strong relationships on all projects, regardless of the contract delivery system used.

The paper concludes that relationship contracting is a technique which will have continuing future application. Reference will be made to the application of alliancing, a particular form of relationship contract, in the Queensland Department of Main Roads.

## INTRODUCTION

Of recent times the uncertainties and risks associated with design and construction of other than routine road construction projects have shown that the traditional approach to transfer as much risk as possible to designers and contractors often results in sub-optimal outcomes. As a consequence clients, designers and contractors are looking for ways to work co-operatively through the application of a range of techniques to promote an environment conducive to achievement of a successful project. Contracts where these techniques are applied are referred to as relationship contracts.

In this paper, the traditional Queensland Department of Main Roads approach to road design and construction is presented as a background to why relationship contracting has emerged. The current state of relationship contracting is examined in detail, and the paper concludes with an examination of what this technique for managing projects holds for the future.

## THE MAIN ROADS STORY OF ROAD DESIGN AND CONSTRUCTION

To understand why relationship contracting has emerged, it is first necessary to review the history of road construction in Queensland over the past twenty years or so.

### The 1960s and 1970s

During this period, the design and construction of roads was a fairly well-defined process with an emphasis on engineering solutions in a reasonably well-defined risk regime. The work was either undertaken by day labour or contracted out under lump sum or schedule of rates contracts.

Main Roads engineering supervision and inspection ensured that the appropriate quality was achieved and contractors learnt, on the job, what Main Roads required. The case was similar for designs undertaken by consultants.

### The 1980s

The early 1980s saw a downturn in road construction activity, with new players entering the game. The net effect was an increase in the level of competition for a smaller market, which drove prices and margins down to unsustainable levels.

Contractors, therefore, adopted a strategy to "bid low and litigate up". Consequently an adversarial approach emerged to recover cost through any avenue. Frivolous and vexatious claims flourished. The concept of a long-term business relationship was replaced with a strategy to maximise financial position on a project-by-project basis. The downward spiral continued with Main Roads drafting tighter contracts with inherent increased risk transfer.

Recognition of the parlous state of the industry across Australia towards the end of the 1980s came in the form of various enquiries, with the *No Dispute* (NWPC 1990) document being recognised as a watershed report. This report highlighted the futility of continuing in an adversarial way and proposed a number of changes, including the need for more co-operation and better relationships between the parties. Fairer allocation of risk was a key feature.

The late 1980s also saw the introduction of quality assurance as a means to drive improvement and reduce costs. This meant that the contractor was now responsible for providing assurance that the works were constructed in accordance with the contract documents. The view was that this approach allowed contractors flexibility to use their processes to construct the works. However, the move away from Main Roads standard practices had begun.

## **The 1990s**

In the early 1990s, Partnering was introduced in Australia, having achieved some major benefits on projects in the United States. The Partnering concept was based on the creation of a co-operative environment outside the contract which would promote good communication in order to solve issues effectively in the best interests of the project. Rekindling good relationships between the client, designer and contractor was back on the agenda.

The 1990s saw the introduction of a number of statutory and policy requirements which had significant impacts on the road construction industry. Notable changes were:

- **Environmental Management:** The need for environmental studies and management plans added a degree of risk to projects that previously did not exist. This required development of new knowledge and capability which has taken time to acquire and is still evolving.
- **Cultural Heritage/Native Title Issues:** Projects risk delay if these issues are not adequately dealt with prior to commencement of, and during construction.
- **Public Consultation:** There is now an expectation that the public (and key stakeholders) are consulted and kept informed of project issues that may affect them. Indeed Main Roads policy requires appropriate consultation occur. This has added further external requirements for the principal and contractor to manage which, if not handled well prior to or during construction, may at best delay the project or at worst become a political incident.
- **Quality Assurance:** As mentioned previously, quality assurance has had a major impact on designers and contractors. After almost a decade since implementation, there are still problems occurring on some projects in terms of managing the quality assurance process and ensuring that work complies with the specification.
- **Competition Policy:** Rational economic ideology that has driven much of the change in government and industry through various competition policies over the past decade has restructured the industry from both client and contractor perspectives. The outcome has produced a culture driven by a low price mentality. This in turn has had a major effect on the relationships between clients and contractors.

## **Project Uncertainties/Risks in the New Millennium**

In the 1960s, 1970s and 1980s project risks were reasonably well known and generally controllable within the project by the parties to the contract. Contractors had developed the knowledge to operate effectively within the Main Roads system and Main Roads had the capability to manage its contractors (and designers).

The cumulative effects of the 1990s have resulted in the business of designing and constructing roads becoming more complex and uncertain due to increased internal project issues (eg. environmental management) and external issues (eg. public consultation).

## **THE PRESENT STATE WITH CONTRACT DELIVERY OF PROJECTS**

The reality is that projects today are designed and constructed in an environment which frequently:

- is time constrained;
- limits budget available for the desired scope/functionality/quality;
- requires solutions deal with conflicting stakeholder and community expectations;
- involves application of new technology (eg. heavy duty pavements); and
- frequently involves “brown field” sites.

The net result is that contractors (and designers) are being required to deal with increased risk and uncertainty. This, combined with a “one size fits all” belief that the traditional form of contract based on Australian Standard AS2124 *General Conditions of Contract (Part 1)* is suitable for all projects, is causing a misalignment between the task and the contract delivery system.

The traditional form of contract emphasises the separation of the roles of the contract parties and, when used in complex circumstances, encourages the maximisation and protection of individual positions. This, in turn, leads to self-serving behaviours and adversarial relations. In terms of project performance and outcomes on more complex projects, Main Roads is frequently experiencing poor results, e.g.

- cost and time overruns
- poor quality and rework
- poor stakeholder, community relations
- dissatisfied clients, designers, contractors

As a consequence, Main Roads has been looking for ways to better match the design and construction contract delivery systems with the tasks required to achieve a successful project in a variable environment.

### **The New Initiative – Relationship Contracting**

There is now a broad realisation in Main Roads and industry that there must be a rethink of how projects are delivered and risks allocated to ensure that the public and road users are provided with acceptable roads at acceptable costs, ie. value-for-money outcomes.

The Australian Constructors Association’s recently launched *Relationship Contracting: Optimising Project Outcomes* guideline promotes the view that successful projects are founded on sound relationships and the selection of the appropriate contract delivery system.

A number of actions which can be applied to any contract delivery system to build good relationships are included in the guideline e.g.

- unambiguous designs and contract documentation
- constructible designs
- use of techniques such as partnering, team building and structured problem-solving to develop and support an environment of openness and trust.

## **Partnering**

Since the mid 1990s Main Roads has used partnering as a means to create a project environment which is open and responsive to the achievement of good project outcomes for all parties. Partnering involves implementation of a vigorous relationship-building process, with a focus on creating a team approach to delivery of the project.

A typical Partnering agreement includes:

- a Partnering Charter which includes a mission/purpose statement and mutually agreed objectives/principles for the project and the relationship;
- clear roles and responsibilities, with an agreed decision-making or issue resolution process that ensures problems are resolved co-operatively and in a timely manner before the project suffers cost or delays;
- an evaluation process to monitor the health of the relationship and progress on the job;
- an assessment of project risks and strategies to address them; and
- a commitment statement by each party to work as a team in accordance with the charter.

## **Project Alliancing – A Particular form of Relationship Contract**

A project alliance may be defined as:

an agreement between two or more entities which undertake to work co-operatively, on the basis of sharing project risk and reward, for the purpose of achieving agreed outcomes based on principles of good faith and trust and an open book approach towards costs. (Abrahams & Cullen 1998)

The rationale for selection of a project alliance is that, under certain circumstances (eg project complexity, tight delivery time, external constraints etc), the client can achieve optimum outcomes by embracing risk rather than adopting a risk transfer approach.

A project alliance aligns the project objectives and those of the alliance participants (client and contractor) within a commercial framework such that, for any set of circumstances, all alliance participants win or lose together.

The key features of a project alliance include:

- a commitment to common objectives and outcomes
- a sharing of information, knowledge and skills
- a co-operative fulfilment of obligations
- mutual trust and respect
- a willingness to share losses and profits
- a search for improvement and innovation
- open book accounting
- a non-adversarial culture (“no blame”)
- fully integrated project team, and
- project governance through a Project Alliance Board, with decisions made on a unanimous basis

The essence of a project alliance should be:

- co-operation for the mutual benefit of the participants, and
- a focus on performance, not on reasons for non-performance

## A FUTURE STATE

As already noted, the future is certain to bring increasingly complex projects. The performance expectations of both the community and governments are likely to be uncompromising and rising. For individual projects, success in the future will be defined much more widely than merely a completed project or a profit for the contractor. Project success in the future is likely to include:

- excellent achievement of all the objectives and targets set in the Impact Management Plan, eg. safety, quality, IR, environmental, community relations, etc.
- excellent time and cost outcomes
- win:win:win outcomes for all stakeholders
- optimum project life-cycle costs
- enduring relations between parties, and
- improvement and learning objectives achieved.

So, the future will require a form of contracting that is flexible and capable of delivering a broad range of objectives. This will be a relationship form of contracting which may be defined as:

Relationship Contracting is the way, in the new complex environment, to maximise project outcomes for all by adopting a conscious approach to establish and manage relationships alongside the co-operative application of ever improving contract delivery systems and processes. (McLennan 2000)

## TOWARDS A FORM OF RELATIONSHIP CONTRACTING FOR MAIN ROADS

The following principles underline Main Roads approach to Relationship Contracting:

- A clear understanding of, and focus by all parties on the project objectives;
- Main Roads to adopt a leadership role to unite team members in achievement of project objectives;
- Project Teams be brought together as early as possible in the delivery process to ensure shared ownership of project objectives; *see PJC 20*
- Main Roads be an “informed buyer” to provide leadership to the project;
- Relationship development between client, stakeholders, communities, contractor etc is central to successful delivery; and
- Enduring relationships are built on disclosure through activities such as:

- open communications
- effective sharing of information
- co-operation
- trust
- commitment, and
- positive belief and expectations

The optimum achievement of these principles calls for a change in culture, and for changes to contract delivery systems, contractual arrangements, project packaging, etc.

In reality, the broad spectrum of Main Roads covers a wide range of project types:

- at one end, projects with a complex array of stakeholders, community issues and with unique delivery issues such as tight time-frames;
- projects of growing complexities, challenging technologies, staffing and process constraints; and

- at the other end, those numerous direct or simple projects best suited to traditional delivery by suppliers well versed in Main Roads' requirements.

Perhaps the single, most important contractual concept to update to align with the emerging environment is that of risk management. Historically, when dealing with simple straightforward projects, Main Roads has transferred significant risks to designers and constructors, e.g. through schedule of rates contracts and the Australian Standard AS2124 form of contract. This strategy, while most appropriate for routine projects, has been extended up into much more complex situations, viz Pacific Motorway, perhaps on the assumption that the extremely competitive Australian construction market will allow these risks to be transferred without paying any premium.

failure?

However, this strategy often fails, creating an adversarial climate with a high level of commercial disputation causing cost overruns and overall poor performance. A philosophy of "embracing risk" within a co-operative working relationship, rather than risk transfer to the parties i.e. designer or constructor, will be an essential element of a new contracting culture.

Relationship contracting embraces a range of flexible approaches, depending on the idiosyncrasies of the project. The scope extends from traditional construction packages right up to alliance contracting. Key features of any relationship contract include:

- a primary focus on project vision, mission, goals and objectives
- a win:win:win outcomes for all parties
- an emphasis on development of an environment of openness, trust and co-operation between all project people
- innovative contractual arrangements
- client leadership role
- access to and contribution by the best resources of each party
- a clear understanding of individual and collective responsibilities
- the success of the project measured by key performance indicators, and
- an equitable risk/reward balance that aligned the commercial interests of the parties

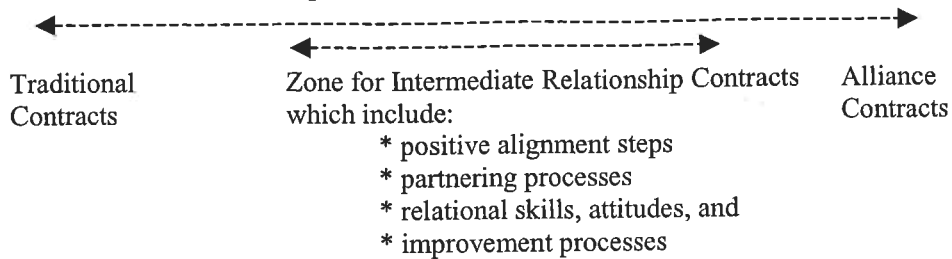
## Key Elements of a Relationship Contract Package

1. Alignment between the formal contract provisions, clauses and processes with relationship management processes.

Alliance contracts, by definition, provide total alignment, whereas traditional hard dollar contracts on the other hand provide difficult alignments. In general, alignment can be improved and optimised in two ways:

- using stated and visible senior management commitment to induce more co-operative behaviours; and
  - at pre-tender stage, using value management techniques to include supplementary contract conditions, opening the way for partnering and relationship management.
2. Partnering processes to set up a co-operative single team approach. These processes include:
    - shared vision, mission and project objectives set in an agreement
    - mutual commitment statements
    - issue resolution process, and
    - evaluation, review and improvement processes

### Relationship Contracting Spectrum of Contract Form



3. Relationship skills, attitudes and values: To make the rational co-operative partnering processes work effectively, all involved must have the essential relational skills and attitudes in the first place. Examples of these are openness, trustworthiness and co-operativeness.
4. Review, evaluate and improve: Short-term operational pressures on difficult, complex projects quickly become overpowering and longer-term, deeper cornerstones such as relational processes will slide unless the leadership, drive and commitment are in place to maintain those processes. Review and evaluation are essential to:
  - provide reflection and double loop learning;
  - nurture relations and recognition; and
  - provide the basis for continuous improvement
5. Celebration, recognition of effort, respect and praise: Personal learning and growth are dependent on these aspects. They are also necessary to re-energise and renew the commitment to succeed.

## CONCLUSION

Relationships between parties to a contract cannot be taken for granted. Even where the parties have established a close business relationship on previous projects, it is still important to build the relationship for each new project. This relationship must be founded on a set of strong, mutually held core values (e.g. commitment, trust, respect, etc) and guiding principles.

To be successful, the relationship needs to be supported by a contractual arrangement formalising the risk-sharing arrangements, where possible based on the principle that there is a mutual benefit to the client and the contractor to deliver the project at the lowest cost. When costs increase, both the contractor and the client are worse off.

Ahead of all other considerations, successful relationship contracting is driven by strong people relationships.

In summary

- Relationship contracting is being promoted as a way to overcome deficiencies in current delivery systems and to guard against failures such as:
  - time and cost over-runs
  - quality problems, and
  - poor relations
- Relationship and alliance contracting have the potential to deal with the future complex contracting situation.



▪ A flexible form of relationship contracting integrating the following elements:

- alignment of contract provisions and relationship processes
- partnering process
- skills and behavioural development
- review, evaluation and improvement, and
- celebration and recognition

is being proposed for dealing with projects of a moderate to very complex nature.

▪ Pilot projects are being used to test the process.

Relationship contracting is a practical application of Main Roads corporate philosophy to build strong relationships with its designers and contractors. The importance of building relationships on projects, whether they be large or small, with internal or external designers or contractors is, in Main Roads view, fundamental to truly successful project outcomes.

Relationship contracting is not seen as a passing fad but rather an essential feature in delivery of value/or money win:win outcomes for governments, designers, contractors, stakeholders and the community.

## REFERENCES

- Abrahams, A. and Cullen, A. (1998). Project alliances in the construction industry. *Australian Construction Law Newsletter* Issue #62, p.31.
- Australian Constructors Association (1999). *Relationship Contracting: Optimising Project Outcomes*. (ACA: North Sydney)
- McLennan, A. (2000). Relationship contracting: the Main Roads' perspective. Government Officials' Conference, 23-24 May 2000.
- NPWC/NBCC Joint Working Party (1990). *No Dispute – Strategies for Improvement in the Australian Building and Construction Industry*. (NPWC: Canberra)