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Measuring success of an alliance

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contents

The co-operative journey to an alliance

The construction industry both in Australia and internationally is an enigma in its performance. It is on the one hand capable of spectacular results but on the other hand more often remembered for cost overruns, protracted disputation and expensive litigation. The industry has tried almost every way imaginable to reinvent how it does business by looking for innovative ways of structuring projects in order to increase customer satisfaction and provide better value for the client, better predictability of time and cost, and protection of profit margins.

In the early 1990s the 'panacea' favoured by many was the concept of partnering imported from the US. Essentially, partnering promotes improved performance through collaborative business relationships based on best value, openness and trust, which is in stark contrast to the confrontational approach that characterised much of the industry. Partnering can be project specific, strategic or long term, covering numerous projects.

Initially, partnering found favour among many and achieved significant success, the reason being the early projects were carefully picked to ensure the partnering process had the best chance of working. However, when a partnering project got into difficulty it did not take long for the partnering (co-operative) charter, signed at the outset of a project when the hopes of all the parties were at their most optimistic, to be forgotten, and for the contract to be taken out of the drawer and the parties to start arguing for their entitlements.

The flaw in partnering is that the partnering charter is essentially a non-binding statement about the parties' commitment to partnering principles. This flaw is further reinforced as the contracts commonly used are not aligned with the co-operative intent of the partnering charter and have remained fundamentally adversarial. A trend also emerged whereby some contractors then sought additional avenues for making a claim and accused the client of deceptive and misleading conduct under trade practices legislation.

More recently, 'alliance contracting' or 'co-operative contracting', which has being used extensively in manufacturing, the high technology sectors and the oil industry, has been lauded as the right way to do business. Alliancing involves the incorporation of the partnering intent into the procurement strategy and the body of the contract itself. This is aimed at overcoming the flaw of partnering by aligning behavioural goals with binding contract obligations.

Alliancing also seeks to provide incentives for co-operation through the sharing of risk and a gainshare/painshare regime linked to financial incentives. These performance regimes are defined in terms of best practice as the 'minimum condition of satisfaction' (resulting in no gainshare payment) and 'game breaking performance' (for which a gainshare payment is received).

This is the area which presents the challenge to the sustainability of the alliance model over the longer term for the construction industry. Much of the material published in favour of alliancing reports benefits in terms of a reduction in time and cost, improved outcomes in terms of quality, occupational health and safety and environmental management, which are similar to comparable infrastructure projects using non-alliance contracts. The reports say little on how performance is actually measured and incentives allocated. Instead, alliance outcomes are reported in general terms, for example, in the case study of the alliance for the Port of Brisbane Motorway (POBM), which achieved the following innovations:

- three-dimensional global positioning system to control machinery — adopted for the first time on a construction project in the southern hemisphere;
- third party certification for safety, quality and environment — using integrated management systems to achieve triple certification for the first time on an Australian road project;
- slip-formed, reinforced bridge barriers — adopted for the first time in Queensland;
- water quality design — winning an Australian award; and
- elevated tri-level motorway interchange — the first designed and constructed in Queensland.[1]

The questions that arise here are: are these innovations unique, are they gamebreaking in nature or are they just examples of good practice or best practice? Do they justify the claims that alliance contracting is the right way to do business?

The role of painshare/gainshare

Every definition of an alliance has risk/reward (painshare/gainshare) listed as a core theme. Foremost, for example, it must be remembered that project alliancing is strictly a business relationship. The relationship is built on the following principles:

- a primary emphasis on the business outcomes from all parties (that is, win-win);
- a clear understanding of individual and collective responsibilities and accountabilities;
- an equitable *balance of risk and reward* for the parties;
- encouragement of openness and co-operation between the parties;
- encouragement to develop and apply innovative approaches and achieve continuous improvement;
- access to, and contribution by, the expertise and skills of the parties; and
- a commercial basis which offers the opportunity *to achieve reward commensurate with exceptional performance.*[2]

Essentially, alliancing is a collaborative, incentive driven method of contracting where all the participants work co-operatively to the same end, *sharing the risk and rewards* of delivering the project within time and under cost while respecting principles of *good faith and trust.*[3]

All the published material about alliancing refers to the increasing array of alliance types, how alliances are set up, and case studies of outcomes similar to that of the POBM alliance. What is singularly missing is any discussion about how superior or gamebreaking performance and alliance success might be objectively measured — is there or should there be a core set of key performance indicators which could be compared across most alliance contracts?

If there were, new players could make an informed and objective decision on what superior or gamebreaking performance is possible through an alliance compared to what is currently possible. At present, those doing the lobbying for alliance contracts are the ones that benefit most from the *equitable balance of risk and reward for the parties* as the alliance sits the client in the same tent as the contractor or supplier. Under this arrangement, the client will pay all actual total outturn costs and the basis for judging risk/reward is seldom well defined.

Another way to ask the question is: how do you quantifiably assess the superior performance claimed by the various alliance teams so that a client can have confidence that the painshare/gainshare regime is a real

incentive? I will go further and suggest that without more transparency in the way painshare/gainshare is measured or judged, clients will see this aspect of the arrangement as a process of 'Caesar judging Caesar'.

Gainshare/painshare scenarios

To demonstrate what I see as an emerging and significant issue, I have constructed the following scenarios from a number of construction projects so that they are based in reality.

Scenario 1

Safety is included as a gainshare criterion in the construction phase of a project and has a 50 per cent weighting.

The sub-elements selected to measure success were 'safety audit' 30 per cent, 'medically treated injuries' 40 per cent and 'safety initiatives' 30 per cent. Scores for each of the sub-elements were set in terms of:

- 'fail' which equated to industry practice;
- minimum conditions of satisfaction (MCOS) which equated to best practice; and
- gamebreaking.

In implementation, the MCOS was established as the average scores which the principal contractor achieved on the previous four projects it had completed. The gamebreaking performance score was then set relative to the MCOS. The questions here are obvious.

- What was industry practice and how did this relate to the performance of the principal contractor?
- Was a substantial gainshare payment being judged on the basis of gamebreaking performance or was the payment being made for achieving a level of performance which was marginally better than the principal contractor had recently achieved?

Scenario 2

Whole of life cost is included in the design phase of a construction project and has a 20 per cent weighting in the gainshare payment.

The sub-element scoring for maintenance was made on the basis of the number of maintenance reducing initiatives adopted for the preferred project option. A sliding scale was set which allocated a gainshare score based on the number of initiatives achieved as follows:

- zero gainshare — utilise known best practice to minimise maintenance;
- part gainshare — utilise three significant project specific initiatives that are intended to reduce maintenance costs; and
- full gainshare — utilise six significant project specific initiatives that are intended to reduce maintenance costs.

The issue here is what would be expected of normal industry practice in response to a client brief which included the achievement of minimising maintenance costs. The response put forward by the alliance team counted a number of initiatives as contributing to gainshare, but which had been used regularly on previous projects. The questions here were as follows.

- If an initiative had previously been used in a project, could it at most only be considered as 'known best practice'?
- If it was only 'known best practice', how could this be counted in the calculation of gamebreaking?

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What does it all mean for an alliance?

The projects from which the scenarios were derived were successful. The dilemma is in the measurement of this success in a way which cannot be criticised as self-fulfilling. This is particularly an issue for public sector clients which have greater demands placed on them to demonstrate value for money.

What is clear is that the alliance contracting method is a highly sophisticated form of procurement with many opportunities to deliver superior outcomes to both clients and contractors. This sophistication requires a considerably higher level of thought, planning and execution than the construction industry is generally used to.

The challenge for the construction industry will be to get past the hype in selling the alliance model and start talking about measuring benefits and outcomes in ways which are quantifiable. The risk of not doing this is that alliancing may go the way of partnering. ●

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Endnotes

1. 'Innovation Case Study No 3: BRITE Project' for the Co-operative Research Centre for the Construction Industry 2004.
2. Thomson G, Mallesons Stephen Jaques 'Project alliances' paper presented at the 21st AMPLA Conference.
3. Presentation by Tony Abrahams, Director, Construction and Infrastructure, KPMG Legal, as reported by Pratley J 'Project Alliancing: Does it work?' (1999) 15(2) *Building Australia* 33.

Next issue

■ **The alliance contracting theme** will cover two issues. The next issue will feature the application of alliance contracting models in the public sector; a private sector perspective on alliancing with local government; a message from the private sector that alliance contracting does provide value for money with certainty of outcome and accompanying case studies; and alliancing from a legal perspective.