

A silhouette of a surfer riding a wave, with the ECC logo on the surfboard.

Riding the Wave

CAPITALIZING ON THE VELOCITY OF CHANGE

44TH ANNUAL ECC CONFERENCE

Contracting Risk Management



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Mark Twain's Notebook

“I am a pretty versatile fool when it comes to contracts, and business and such things. I have signed a lot of contracts in my time, and at sometime I probably knew what the contracts meant, but six months later everything had grown dim and I could be certain of only two things, to wit:

- One, I didn't sign any contract
- Two, the contract means the opposite of what it says”





Contract Risk Mitigation

1. What does it mean to have an optimal contracting arrangement?
2. Why do owners & contractors struggle with early contractual risk identification & mitigation?
3. What are some of their typical risks?
4. Can we identify solutions early in the FEL process?
5. What tools are being used to help tackle contractual risk management?



Optimal Contract

- Each party only assumes risk:-
 - They can control or influence
 - For which they can be reasonably compensated
- Provides clear understanding and agreement of:-
 - Respective roles
 - Responsibilities
 - Accountability
 - Financial obligations
 - Expected results



Typical Contracting Headwinds

- Insufficient transparency
- Optimistic predictions
- Inability to collaborate
- Misaligned objectives
- Different work methods & processes
- Poor contracting strategy
- Insufficient planning





Abundance Of Common Risks

- Health, safety & environment
- **Contracting strategy**
- **Scope of work**
- **Resources**
- **Schedule**
- Different standards
- Different systems
- Inflation / escalation
- Frontier risk
- Stakeholder alignment
- Financing & guarantee obligations
- Market capacity
- Quality & timeliness of deliverables



Clarify & Manage Risk Early

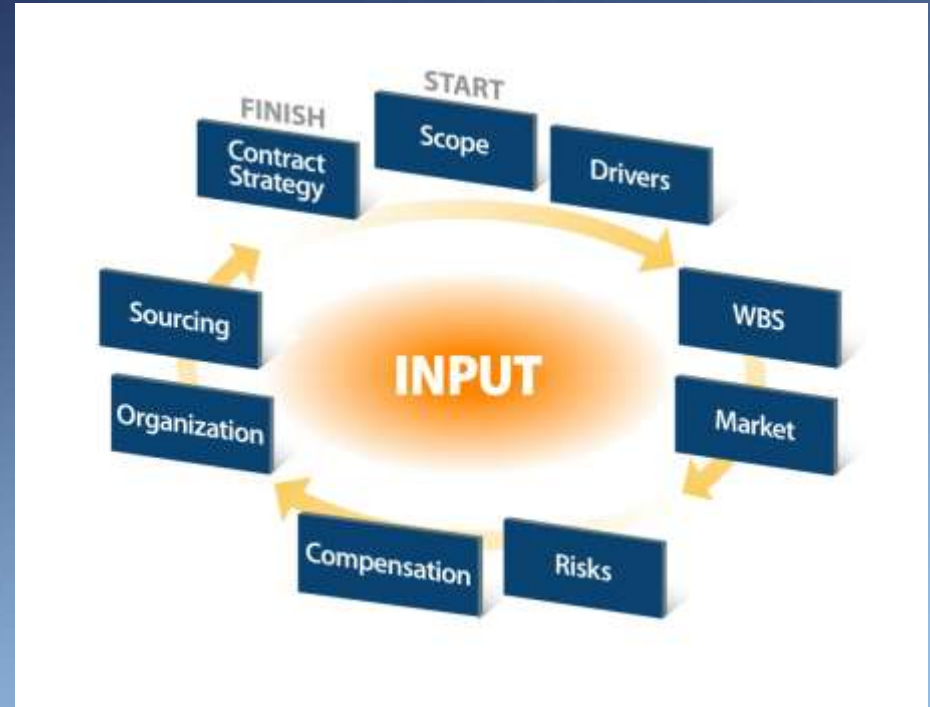
The PM should be accountable to implement the risk management processes & plan - from risk identification through impact analysis & mitigation planning





Contract Strategy – Common Risk

- Governance
- Scope Change
- Schedule Compression
- Market Volatility
- Quality
- Resourcing





Strategy Risk Mitigation Measures

- The right contractor
- The right contract structure
- Appropriate compensation
- Transparency and clarity
- Defined expected results
- Risk balanced contract
- Disciplined qualification of Prime and Sub Contractors





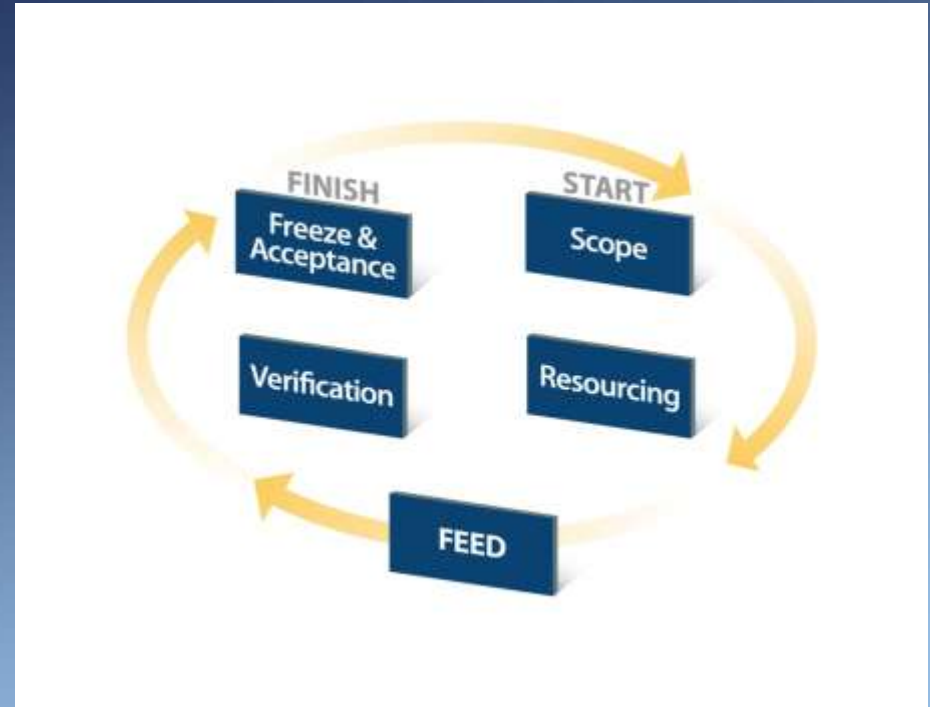
Other Considerations

- Joint FEED package review & acceptance
- Company rely-upon information
- Contractor acceptance of site conditions
- Title passage & risk of loss responsibility
- Line of site incentives
- Cash neutral payment structure
- Mutual waiver of consequential damage



Scope of Work (SOW) Common Risks

- Poor scope definition
- Errors & omissions
- Core team retention
- Availability / late deliverables
- Failure to define interfaces





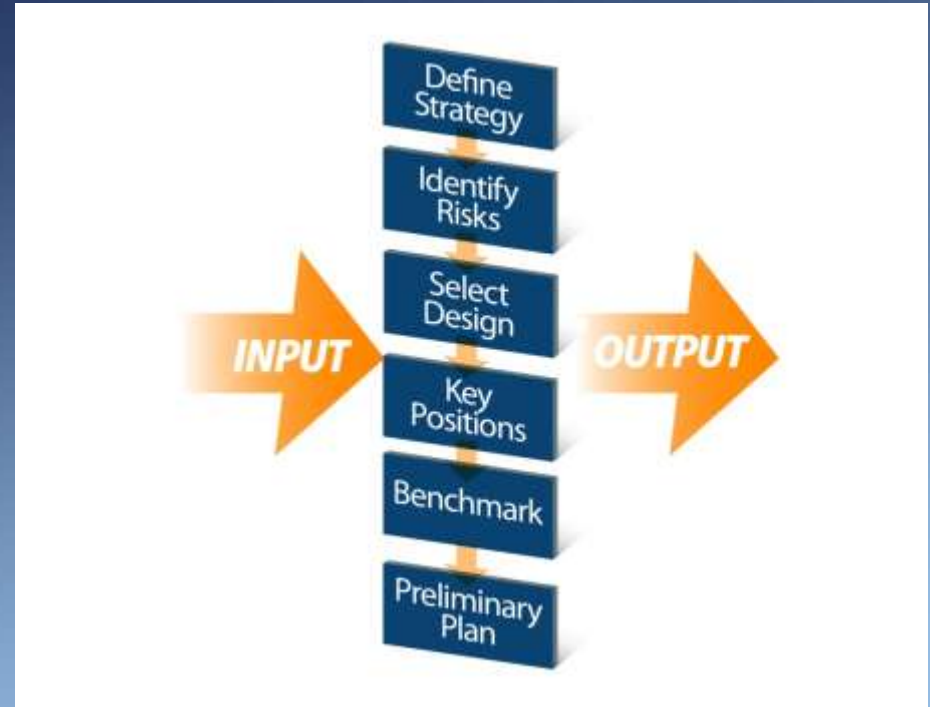
SOW Risk Mitigation Measures

- Owner right to request a change
- Acceptance of site & subsurface conditions
- Contractor entitled to reasonable contract adjustment
- Joint FEED package review & acceptance
- Joint kick-off meetings
- Contractor review and acceptance of key documents
- Ability to novate contracts
- Contract interfaces clearly defined



Resource Risk Factors

- Poor planning
- Lack of sufficiently skilled resources
- Expanding SOW
- Schedule compression
- Competing projects
- Process training
- Pace of development





Resource Risk Mitigation Measures

- Key personnel provision
- Contract incentives
 - Retention
 - Productivity
- Resource loaded master integrated schedule & plan





Schedule Risk

- Schedule compression
- SOW growth
- Late or incomplete deliverables
- Premature construction
- Unreliable data & poor communications





Schedule Risk Mitigation Measures

- Defined project management controls
- Timely delivery of contractors' native format schedules
- Schedules with logical deliverables between functions
- Contractual payment targeting total performance
 - Upon receipt of key deliverables
 - Mechanical completion, Ready for startup, Final completion



Wrap Up

Contract development cannot mitigate all project risks.

However, it can promote transparency, collaboration and joint problem solving to help eliminate the risks facing both Owner & Contractor

