



EXPERTS TALK

The Value of Commercial Management with **Brandon Joy** and **Guinevere Ngau**



Guinevere Ngau



Brandon Joy

Commercial Management Director **Brandon Joy** and Transportation Commercial Management Practice Lead **Guinevere Ngau** focus daily on the commercial aspects of our projects to manage risk, satisfy clients and deliver successful projects.

In this installment of HDR's Experts Talk interview series, Joy and Ngau delve into the concept of commercial management, its benefits to infrastructure owners and how it can be implemented to avoid common contract issues.

A Proactive Approach for Transportation Infrastructure Owners to Reduce Contract Complications

In the world of infrastructure projects, managing risks and contract issues is a constant concern for owners. Commercial management is a proactive approach that focuses on contract administration, change management and risk management. At HDR, this approach helps our clients effectively manage contract risks and streamline delivery of some of the largest infrastructure projects being designed and constructed.

Q. What is commercial management and why is it needed on transportation projects?

Joy: A commercial manager is essentially a deputy project manager who focuses on non-technical aspects of projects, most specifically contracts and risk. During a project's initiation phase and contract negotiations, we work closely with owner and HDR project managers and legal teams on teaming agreements. As the project moves forward, we also help develop risk management plans and document control procedures, implement a change management process, work closely with subcontractors and partners and take a lead role in dispute resolution if needed.

As we like to say, a commercial manager should be prepared to manage every part of a contract that doesn't require an engineer or architect (though many of our commercial managers have these licenses).

Many transportation agencies have experience with overseeing contracts and managing contracts. But as the magnitude and complexity of a project increases, the time and attention required is often not a linear increase. A \$1 billion project will not require simply 10 times as



much attention as a \$100 million project. Instead, it's often a difference of many orders of magnitude. These larger projects also place more demands on agency project managers/directors and they generally have less time in the day to do all the things that need to be done. That's where an experienced consultant who has experience navigating these complex documents really shows its value. For example, because we regularly set up systems/processes to manage mega projects, we can often bring existing resources to quickly solve owner problems that would normally take a significant amount of time to develop from scratch.

Q. How does a specific focus on commercial management benefit transportation infrastructure owners?

Ngau: The main benefits are helping to preserve funding and reduce overall project risk. Commercial management uses a proactive approach to make sure we're uncovering issues early and reacting in time to head off potential problems.

It's best to resolve issues as early as possible and before disputes rise to become major headaches. That's where a dedicated commercial manager can add value, especially as the industry seems to be moving in a more litigious direction. I always say that bad news doesn't get better with time. Having someone on the team who is dedicated to proactively tracking and identifying issues as they

arise and following the terms of our contract helps all the parties.

This deep understanding of a project's details bears fruit when problems do arise. When we serve owners as commercial managers, we often review the claims that their consultants are requesting and evaluate whether there's contractual merit while evaluating the cost and the schedule impacts to determine the claim's validity. This assessment helps our clients make more informed decisions on why they might need to consider a change order or defend against items that may not be valid.

Joy: What makes our team very effective is we bring decades of experience working under contracts on projects, and we can apply that experience on the owner's side. That includes experts like Guinevere who have completed very large and complex projects as design consultants. It also includes people like me with a background working for contractors. Because we understand how these projects function and have experience with multiple points of view, we're able to more effectively manage risk and contract issues for owners as well. For example, we can often discern impacts from a design-build team very effectively because we have been on those teams in the past. It gives us a unique perspective which can help navigate issues that come up on projects.

It's also important to note that we have long used this solution internally to manage our own risks and contracts. It's not just an add-on service we provide clients; HDR uses commercial managers on our own projects.

Q. What types of transportation projects call for commercial management?

Ngau: The fundamentals of commercial management are important for any type of project delivery. For smaller or less complicated projects, we've had success with having a commercial manager who supports multiple projects. But on larger or higher-risk projects, there needs to be more attention paid to the management of risks such as uncertainties with schedule and cost. On those types of projects, we have found success with having a full-time and dedicated commercial manager. In addition to being able to identify risks and plan for mitigations, commercial managers can identify opportunities in which we can recover schedule or efficiencies that can help drive down costs. We have worked with our owners to help develop provisions for agreements or memorandums of understanding between the owner and third parties or utilities. This upfront work reduces schedule and cost uncertainty during latter phases of the program.

Joy: Yes, an emphasis on contract and risk management is useful on any project. But we've found it particularly important when owners are taking on a new type of project — for instance, if a city that normally focuses on smaller repair projects tackles a once-in-a-generation new bridge or

if an agency is using an alternative delivery method for the first time.

When owners take on unfamiliar types of projects, they may simply not have staff accustomed to the needs and details of managing that contract. That's where adding extra resources who have overseen these projects before and understand the warning signs can be a big help. Even if our owners have done similar projects in the past, we can come in and help them to bolster their resources.

Q. When you work with project teams, what are some typical items you educate them on and reinforce?

Joy: We spend a lot of time training project members on the intricacies of contract terms. Engineers and other professionals generally understand their technical work really well. But when it comes to some of the contract terms, it can take somebody to say, "Hey, this is what this actually means for you on a daily basis."

We help educate the teams as we go, telling them, for example, "You're about to enter this deliverable stage. Here's the key contract provisions that apply to the stage and what you're going to be doing every day. Here's what we need you to do and the processes you need to know to make sure that we're staying within the bounds of the contract."

For instance, when we get into the design review phase as



the owner's engineer, the contract typically says there's certain things that can be commented on and certain things that might not be appropriate to comment on; there's requests that can be made and requests that may not be appropriate. We'll help educate the consultant or contractor teams as to where those boundaries are. We might tell them, for example, that you can ask for a clarification, but you can't ask them to move their drainage system. Or we might help owners understand that they can ask for design changes prior to a specific percentage of design development, but after that, we're just resolving comments.

Ngau: It sounds basic, but what I emphasize is that everyone should know their scope. That's true for everyone on a project, whether they're newer team members navigating a contract for the first time or team members who have worked in the industry for a long time. And it's the same for every role, whether consultants, contractors or owners. It's important to be clear about where the responsibilities of team members begin and end to avoid scope creep or possible claims.

Q. How can dedicated commercial managers help infrastructure owners set up a transportation project for success?

Joy: A lot of what we do sounds deceptively simple: Read the contract and do what it says. But when you have so many moving parts on some of these mega-programs, you have to set up processes to do what the contract says.

When projects begin, we scour the contract documents so we understand who is responsible for what, then put processes in place to get the work done consistently throughout the life of the project. And that contract could encompass thousands of pages of text. We make sure we pull out each one of those items that says "owner shall" and produce a process so that we have a way to satisfy that requirement, whether it's through an existing process or a new process. And we have different tools to do that, including specialized database platforms, in-house applications and other software.

Ngau: It's helpful to set up an entire project in a way that is consistent throughout and to be able to track everything as it's correlated to deliverables. The key is that scope ties to schedule ties to budget, so that all of the time charged by individuals can be linked to something in the scope, and that's in turn tied to a particular deliverable in the project schedule.

That setup requires working with each part of the team to make sure they're aligned. It also means that if there are changes, we can identify how the project has deviated from scope and track those charges. A big piece of what we do is help manage risk. We work with teams to create a framework for identifying risks and then develop ways that we can mitigate and monitor how those risks change over time, adjusting our strategy accordingly. This is often a part of a project delivery plan which includes guidelines, policies, processes, procedures, and tools needed to manage and execute large projects and programs within owner organization.

Experts Talk is an interview series with technical leaders from across our Transportation program. Each interview illuminates a different aspect of transportation infrastructure planning, design and delivery. Contact HDRTransportation@hdrinc.com for more information. Visit www.hdrinc.com/insights regularly to gain insights from specialized experts and thought leaders behind our award-winning, full service consulting practice.