The fallacy of contracting out all risk

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In an increasingly tight economic environment, there has been a significant move toward contractual terms and conditions intended to transfer all risk downward through the project delivery chain.

This trend has taken many forms, and often commences very early in the procurement process.

The key objective on the part of the project proponent is certainty of outcome. Unfortunately, in many cases the focus is solely on out-turn cost, which is but one aspect of a successful project. More difficult to measure aspects such as quality of operational performance, future operational costs, stakeholder management, and even timeliness of delivery are often compromised in the pursuit of the cost objective.

The form of the contract is often the first way in which this risk shedding objective is pursued. Conditions of tendering often incorporate terms and conditions which would have been considered unbelievably punitive twenty years ago.

Even more collaborative forms of contract, such as project alliances, are often entered into under voluminous contract agreements with one-sided allocation of risk, in contrast to the “pure” alliances of the heyday of collaborative integrated project delivery.

This presentation will address some of the perceived causes of this market trend, and present reasons why the concept of “shedding all risk” is a fallacy that frequently leads to suboptimal project outcomes.