

# Managing Risk in the Pursuit of Large-Scale Construction Projects

**Brian R. Davidson** | Partner, DFL Legal



**Risk is an unavoidable characteristic of large-scale construction projects.**

From a contractor's perspective, the key to a successful project and the recognition of a reasonably anticipated profit is the robust identification, quantification and mitigation of risk. Of the multiple stages of the life cycle of a construction project, perhaps the most important and critical stage with respect to risk management is the pursuit and bidding phase.

The risks that are identified by the project pursuit team must be properly priced and fairly and reasonably allocated through critical contract terms, such as limitations of liability, indemnity obligations, liquidated damages, disclaimers of consequential damages and payment terms.

Balanced contract clauses should be drafted and agreed upon between the contractor and owner with the aim of allocating specific risks to the party best suited to mitigate them.

The analytical tools available to identify and quantify risk during the pursuit phase must be applied in a disciplined and rigorous manner. Without question, risks that are ignored, underestimated, manipulated or distorted will become the risks that are destined to doom a project during the execution phase. Contractors should not become "risk blind" in pursuit of the "must win" project.

Once the project is awarded, the timely and complete transfer of knowledge from the pursuit team to the execution team is essential to the successful management of those risks identified during the pursuit phase. The execution team must continue to manage those risks, as well as new risks that arise during project execution, in order to ensure the successful completion of the project on time and within budget. ■