

RAMSKILL MARTIN

Commercial Management

1. Introduction

Commercial Management is an innovative service which addresses traditional techniques, disciplines and processes for managing the risks associated with the financial and contractual aspects of a construction contract. The service is designed so that our commercial managers support our Client's existing team. It is not ordinarily intended that our commercial manager will reinvent the wheel or attempt to change what is already in place.

Commercial Management can include but is not limited to the following disciplines.

- Risk Reviews** (contractual and commercial); which includes the assessment of the strengths and weaknesses of particular issues such as the validity of a single variation or a complete variation account including (design development issues) or it might be the strengths and weaknesses of a contractual argument in regard to the entitlement for an extension of time.
- Negotiations and commercial settlement of difference**, which is without doubt one of the key functions of dispute avoidance strategies.
- Programming and delay analysis** when used on a live contract can immediately indicate the strengths, weaknesses, opportunities and threats to our Client and, therefore, provides the requisite information for considered decisions to be made.
- Commercial and contractual claim preparation**; claim preparation is recognised as a requirement in the formal dispute resolution processes but when used in an appropriate manner can also be used to avoid a dispute situation. Just because a party recognises that it has entitlement for a claim does not in itself amount to a dispute situation.
- Project turnaround (contractual and commercial)**. Projects can start to go wrong for all kinds of reasons. Project turnaround is the service where a commercial manager is integrated into our Client's team to assist them getting the project back on line from a commercial point of view and from a contractual basis.

In instances where the project has been deteriorating for some time, turnaround may not be possible, for example, where the contract includes particular contractual provisions, such as condition precedents, or where financially monies have already been expended. In these situations, Clients often agree for us to work with them on the basis of 'damage limitation'.

2. Functional Purpose

The functional purpose of commercial management is to provide the following:

- To provide a commercial and contractual overview.
- To provide constructive feedback to the management team.
- Assistance with commercial matters.
- Assistance with contractual matters.
- Particular task actioning, which may include contractual advice regarding a particular clause or the drafting of a contractual notice for extensions of time, loss and/or expense or withholding notices.
- You may require a second opinion in respect to the cost and value or the cost to complete a large or complex contract.
- Assistance with programming and progress reporting matters.
- To provide reassurance in regard to existing or potential risks associated with financial and contractual matters.
- Assisting in the development of strategic plans for the avoidance of risk and or disputes.
- The management of risks and or differences and the avoidance of their development.

3. Commercial Management in Practice

In particular, the benefits to be achieved from ramskill martin's commercial management services will depend on the requirements of each particular project and the project team and on how efficiently the whole team integrate with the commercial manager.

Ordinarily the commitment required from a commercial manager will be based on a part-time involvement, which may be several days per week, one day per week, per two weeks or even per month. The amount of investment by our Client depends on the project, the risks involved and the complexity of the issues.

The degree of commitment and involvement by the commercial manager is reviewed on a regular basis so that it may be increased or decreased to suit our Client and its project's requirements.

It may also be that on a particular week or over a period of time, the commercial management would be better carried out by a different commercial manager on the basis that he/she has a specialisation in a particular field, such as delay analysis or contractual and legal risk analysis.