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Editorial

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It gives me great pleasure to welcome you to the November 2010 issue of *Management, Procurement and Law*. As before, the journal covers a wide range of areas that are interesting and topical. This issue has contributions from an international authorship drawn from Singapore, China, Hong Kong, South Africa and the UK, and includes one briefing article, six full papers, and six book reviews. It is published at a time of great challenge for the construction industry worldwide. The macroeconomic situation in many developed nations remains challenging at least in the short to medium term. The global economic recovery is underway but it is progressing slowly. In the UK, the government's comprehensive spending review has just been published. The need to invest in the nation's infrastructure to sustain growth through multiplier effects in the economy is not disputable. The need to secure better value for money in infrastructure development and in public service provision has never been greater. The construction industry can rise to the challenge. Better value for money will continue to be secured alongside other challenges to improve occupational safety, quality and environmental sustainability in construction.

The briefing article by Smart (2010) provides a very good example of how industry is able to respond to these challenges. The paper cites reasons why modular off-site construction was chosen as the preferred technology for delivery of a major contract of 550 buildings in the defence sector in the UK through the PFI/PPP model. The benefits of using this technology which were achieved in practice are discussed in the paper and include improved quality, safety, productivity and environmental sustainability.

Based on a case study, results of an investigation into institutional innovation and financing of infrastructure development projects in China are described by Tan and Dong (2010). The formation of an arms-length city-owned infrastructure investment group is described including the autonomy it was given. The improvements in corporate governance resulting from the freedom provided to the group to raise finance from a whole range of sources, including local taxes, loans, self-raised funds, bond issues and so on, to fund infrastructure development is discussed. The case study reveals that foreign private sector investors in major infrastructure projects in China still face a number of risks including failure to get legally enforceable guarantees, limits on user charges, and uncertainties or lack of contractually binding tariff adjustment formulae.

The world of construction contracting in the UK has changed significantly since publication of the Latham report in 1994 (Latham, 1994) and the Egan report in 1998 (Egan, 1998). Partnering, alliances and incentive contracts are now much more widely used in the industry compared to the 1990s. The benefits of collaboration, risk-sharing and co-operation are tremendous. Beneficiaries include both clients and contractors. It is essential that the gains made in the last 15 years or so to improve project performance and delivery in the UK are not lost. Lord *et al.* (2010) review the third edition of the Engineering and Construction Contract (NEC3) and examine the extent to which it fulfils the thirteen Latham principles of a modern contract. They compare and contrast developments in construction contracts in China and the UK. Their findings are interesting. They conclude that whereas the UK has in recent years been moving towards a system of relational contracting, the modernisation agenda in China has been moving towards a formalised system of contracts seeking to spell out the rights and obligations of the parties. Areas for further research and investigation are also suggested.

Construction companies recognise the need for innovation to remain competitive and to improve their profitability. Innovation is a process that can occur at a micro level on construction sites through day-by-day problem solving or at a strategic level through investment in research and development. Shaw *et al.* (2010) report results of research that examined the role of organisational climate, customers, risk and complexity on the levels of innovation and their potential influence on the magnitude and mode of innovation. The research is based on an input–output model involving a number of stages. The primary data collected were analysed using multivariate statistics. The authors conclude that although innovation is a complex and multi-faceted process, organisational support is the strongest factor that is likely to influence levels of innovation significantly. The authors suggest that senior management in organisations should support both formal and informal modes of innovation. The results are based on a limited sample and the authors recommend further research to develop robust conclusions.

The paper by Lane and Watson (2010) provides an evaluation of the effectiveness of dispute adjudication boards (DABs) in South Africa. The key reasons for using DABs on construction projects are to prevent disputes, deliver early and prompt decisions, to help the parties to come to agreement on matters of

disagreement thereby avoiding referral of disputes to arbitration or litigation. The authors review use of DABs on six major construction contracts and conclude that they were not effective in preventing disputes. They suggest using DABs in an advisory capacity to help focus the attention of the parties to the substantive issues. DABs were, however, found to be successful in delivering decisions within the procedural rules and none of the matters arising from the contracts or decisions of the DABs were referred to arbitration or the courts. Recommendations for improving the operation and use of DABs on construction projects are provided.

The fifth paper, by Wall and Fellows (2010), is concerned with use of the dispute resolution advisor (DRA) system on construction contracts in Hong Kong. Common methods of disputes resolution have their advantages and disadvantages. The DRA system combines the features of various alternative dispute resolution (ADR) methods to avoid disputes but, should they occur, the approach aims to achieve their early resolution. The DRA is appointed jointly by the two parties at the beginning of a contract. Both parties pay the DRA equally. The application of this system on various construction projects in Hong Kong is reported by the authors who conclude that the system has been successful in reducing the incidence of disputes and also in bringing a number of benefits. First, it gives contractors improved cash flow through timely valuation of variations and speedy settlement of claims. Because of increased contractor confidence in the system, clients can also benefit through reduced tender prices. Proactive participation by subcontractors in disputes resolution is also encouraged particularly where they are likely to be the primary beneficiary from settlement of a particular dispute. The authors further conclude that, because of its success, the system has potential for widespread use on construction projects in other jurisdictions.

The last paper, by Steels (2010), offers a viewpoint that is both informative and thought provoking. The paper compares and contrasts developments from the industrial revolution through early construction of the railways, waterways and canals and the major changes taking place in society today. The challenges that the world will face over the next 40 years or so are described including providing adequate water supply and sanitation, sustainable transport and energy. The challenges of climate change, security, rapid urbanisation and resource depletion are discussed. The paper lays down the challenge for the civil engineering profession. It calls upon civil engineers of today and tomorrow to rise up and provide the vision and

leadership to persuade society and to attract the necessary investments to provide solutions to these challenges.

Finally, there are six book reviews. The first is on architectural management; the next is on financial control of construction. The third and fourth reviews evaluate textbooks on project risk and uncertainty. The penultimate review is of a good practice guide to mediation and last is a review of the construction law handbook. If you are thinking of buying a textbook, these reviews clearly provide some useful guidance. I enjoyed reading the papers in this edition. I hope that you will as well. I thoroughly commend this edition to you and look forward to reading your feedback.

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