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Editorial

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Welcome to the first issue of the new journal *Management, Procurement and Law*, part of the *Proceedings of the Institution of Civil Engineers*. Journals covering most of the core engineering disciplines already exist and previously briefings and papers on the subjects of management, procurement and law have appeared from time to time as one-off items in one or other of these journals. I believe it is now widely recognised by the construction industry that there is a need for more knowledge in, and extensive understanding of, these particular subject matters; in short, knowledge and understanding in these areas are essential prerequisites if 'modern-day' construction industry demands are to be satisfied. Accordingly, there is good reason for these subjects to be expressed and debated within their own dedicated journal. The launch of this journal will hopefully help in filling the significant gaps that have existed in the past.

It is intended that this journal should benefit practitioners as well as clients, researchers and academia worldwide. By including papers from all parts of the world—wherever civil engineering is practised—examples of best practice may be shared and knowledge enhanced. Furthermore, it is important that feedback and opinions on why particular problems were encountered, together with recommendations as to how these problems might be avoided in the future, are also reported where appropriate.

The increased complexity of modern projects and their delivery has demonstrated not only the need to enhance core engineering skills but also the need for a more extensive approach to business and management skills. Economic activity is strong within the construction industry worldwide, with profits at higher levels than they have been in recent years. Sadly, however, the incidence of damaging disputes and delays within the international construction industry still shows little or no sign of abating; we are all aware these disputes and delays are all too often negatively brought into public focus, particularly on the high-profile projects.

It is clearly vitally important that the current high-profile projects in the UK, such as the London 2012 Olympics and Crossrail, and many huge infrastructure projects in many other countries, should incorporate the most effective and forward-thinking project management practices available in order to increase the value from the investment and avert delays, budgetary overspends and damaging disputes. The continued trend towards partnering and alliancing will clearly help in this regard, as will the procurement

strategies that advocate Early Contractor Involvement (ECI) and Target Cost contracts, which can provide better financial incentives for both parties. Critical will be operational excellence within individual organisations and, therefore, within alliances. Areas of focus will include governance, audit, account management, leadership, communication and the management of change.

Public-Private Partnerships (PPPs) have been widely used in many countries and, indeed, are at the heart of the UK Government's attempts to revive British public services. Since its introduction in 1992, the Private Finance Initiative (PFI) has progressed to become a major source of funding across the UK construction industry. In March 2006, the Government restated its commitment to use PFI, where it can demonstrate value for money, in a Report entitled *PFI: Strengthening Long-Term Partnerships*. Often PPP/PFI procurement is able to offer value for money due to the transfer of risks from the public to the private sector, but it remains unpopular in certain quarters where it is labelled as 'backdoor privatisation'.

Construction law is constantly developing through case law and legislation to meet the challenges thrown up by the development of the industry worldwide. For example, at the present time the industry awaits the response from the UK Government's Department of Trade and Industry (DTI), following extensive consultation that recently took place within the construction industry, on changes that may well be made to the Housing Grants, Construction and Regeneration Act 1996 to improve current adjudication and payment practices. It is particularly interesting to note that other countries are following the UK's lead by introducing dispute management and payment procedures based on the use in practice of the Housing Grants, Construction and Regeneration Act 1996.

In my own field of dispute management it is acknowledged that construction and engineering disputes can take years to resolve with significant costs and diversion of resources. A relatively new dispute avoidance procedure that has proven effective, economic and 'user friendly' is the Dispute Resolution Board (DRB) or Dispute Adjudication Board (DAB)—generically referred to as Dispute Boards (DBs). DBs are expected to continue to flourish in the future. The latest suite of international FIDIC contracts, published in 1999, place greater emphasis on dispute avoidance, rather than dispute resolution, by advocating the use of DABs consisting of one or three experienced impartial experts who are

appointed at the outset of a project and used as a sounding board when the potential for a contractual dispute first appears. This approach to dispute avoidance has also been embraced by the Multilateral Development Banks in their harmonised edition (March 2006) of the FIDIC form. In 2005, ICE launched its own Dispute Resolution Board Procedure.

From the foregoing points, the editorial panel have identified two important subjects which merit examination in particular detail. One is 'Dispute Resolution Worldwide' and the other is 'PFI/PPP—Past, Present and Future'; papers on both topics are planned to be published in forthcoming special issues.

In addition to in-depth papers, the journal will also publish shorter briefing or opinion articles that draw readers' attention

to some recent innovative development or discuss a potentially controversial topic relating to management, procurement or law.

This first issue of *Management, Procurement and Law* includes four papers and three briefings on a range of topics within the wide remit of this journal. These papers and briefings reflect only a small part of the subject range, a range that will be expanded in future issues.

I hope that you will find this first issue of *Management, Procurement and Law* both interesting and helpful. Moreover, I hope that many of you will be suitably stimulated to submit a response, contribute a paper or a briefing article in the future.