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Editorial

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I am delighted that I was invited to write the editorial for the first *Management, Procurement and Law* of 2010. The tripartite relationship or interdependence between law, procurement and management are all addressed in the papers in this issue. The papers are well reasoned, researched and provide rational conclusions which, I very much hope, may prompt others to extrapolate further the various findings or conclusions or indeed act as a catalyst for future papers. The interrelationship or interdependence between procurement, law and management is, naturally, extensive and I believe firmly that wider dissemination of learned papers will only benefit all who practise, teach or study construction and engineering.

We open this issue with an excellent briefing provided by John Dye and Yvonne Simpson (Dye and Simpson, 2010). It extends orthodox analysis of target cost arrangements and considers how such tools are used in the UK Ministry of Defence prime contracting procurement route. The concept of maximum price target cost (MPTC) is explained together with an analysis of why such procurement is still competitive, namely that the prime contractors have been appointed to each framework on a competitive basis by submitting prices for exemplar projects and rates for specific roles. My own experience indicates that this element of competitiveness is key to overcome the 'cost reimbursable' criticisms levelled at target cost arrangements.

MRI suites and residual design risk from static magnetic fields (Price *et al.*, 2010) is a paper covering a topic that is becoming more and more important in the context of healthcare reform and amendments to private finance initiative (PFI) arrangements. Magnetic resonance imaging (MRI) installations are now being installed in many hospitals that are in-service under a PFI concession contract. This paper will be of significant interest to many construction consultants who are designing structures to accommodate MRI installations especially in the context of future liabilities. This paper's conclusions are not entirely happy: information on both the site-specific design and the actual position of the static magnetic field was lacking as were the existence of as-built drawings showing the magnetic shielding. It is hoped that this paper will place greater emphasis on these failings and improve the status of Construction (Design and Management) Regulations 2007 (CDM) information.

The next paper in this issue, Security of payment for Hong Kong construction industry (Cheng *et al.*, 2010), grapples with

many of the issues that were in consideration in the UK leading up to the enactment of the Housing Grants, Construction and Regeneration Act 1996. This paper seeks to examine the best possible alternatives for providing Hong Kong with some 'security of payment' legislation. To do this, the authors have very carefully considered legislation enacted elsewhere and equally carefully considered the various practices and feedback from those other jurisdictions. Sadly, the paper cannot, understandably, provide a conclusion and the authors happily acknowledge and hope that the paper will 'contribute to the further and focused study and discussion among stakeholders'. My own experience of the (so-called) Construction Act indicates that seeking consensus in the construction industry amongst all the different tiers is very, very difficult.

Such difficulties lead then to the final paper in this issue. The mediation of construction disputes: recent research (Gould and King, 2010) is a paper that seeks to disseminate the results of a survey carried out in respect of mediation as a means to resolve disputes in the construction industry. In total, 261 responses were received and used to draw various conclusions. Mediation was undertaken on the parties' own initiative in the vast majority of cases. Of the successful mediations, only 22% were undertaken as a result of the court suggesting it or due to an order of the court. Even where mediation was unsuccessful, 91% occurred as a result of the parties' own initiative. Putting aside questions about whether this survey is representative or not, it is clear that mediation appears to be driven by the parties and, rather like freedom of contract, that is the overriding principle.

The papers in this issue are provocative and approach well-understood areas and themes from a different perspective. I hope that the papers lead readers to consider CDM, payment, mediation, disputes, adjudication, target cost procurement, prime contracting and other related topics as dynamic and open to innovation rather than being 'closed' and perhaps trite. This issue has taught me a rather significant amount and I do hope it will do the same for readers.

REFERENCES

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