

Editorial – Proceedings of the Institution of Civil Engineers – Management, Procurement and Law

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Welcome to the August issue of Management, Procurement and Law; this issue contains two briefing articles, two full-length papers and a book review.

In 2017, Human Rights Watch urged the Fédération Internationale de Football Association (FIFA) and national football associations to insist that Qatar carries out investigations into worker deaths and ensures that comprehensive data are made publicly available, against the backdrop of the country's 2022 World Cup Finals preparations. In the first briefing note (Umar et al., 2019), an international team of researchers reviews the current status of occupational safety and health in the Gulf Cooperation Countries (GCC) by providing a brief comparison with some of the advanced developed countries where improved safety performance is guaranteed and has been maintained. As part of this timely and informative briefing article the researchers reviewed the available data which showed that, in general, GCC countries display a poor occupational safety and health performance. The briefing suggests the key areas for research which could help the GCC construction industry to improve its performance. These areas include the awareness and importance of safety, cost of accidents, environmental and climatic factors that affect the workers, occupational safety and health regulations and their implementation, workers' well-being, safety culture and safety climate.

In the second briefing paper, Charlson (2019) considers contractors' standard of design responsibility by analysing current standard forms of contract and reviewing recent Technology and Construction Court, Supreme Court and Scottish Court of Session Inner House decisions. Following a succinct description and eloquent explanation of the distinction between reasonable skill and care and fitness-for-purpose responsibilities, Charlson highlights in her analysis that the current Joint Contracts Tribunal, NEC and International Federation of Consulting Engineers (Fidic) standard-form contracts adopt different stances on the important matter of a contractor's mandated standard of design. Finally, Charlson cautions that contractors should interpret a contract's conditions and schedules for their mandated standard of design before agreement.

The first paper in the issue, a team of New Zealand-based researchers also considers another pertinent legal issue associated with design development (Finnie et al., 2019). In the study, the research team uses legal analysis to present a unique perspective on design development post contract signing in New Zealand. The researchers apply key principles of contract law to consider who should pay for instructed drawing details post contract signing under the New Zealand standard NZS 3910:2013 (SNZ, 2013) in terms of (a) when a variation claim may be accepted; (b) the effect of contractor involvement on design development; and (c) the effect if claimed from a building subcontractor to a consultant manager (no head contractor). In conclusion, the authors present a claim-entitlement flow chart and a table comparing the head contractor's and consultant construction manager's obligations, and also provide practical guides for contract administrators. The paper also identifies terms prone to interpretation to inform contract drafters towards reducing ambiguity for contract users and therefore the potential for dispute.

In the second paper, a research team from the University of West Indies presents a study of the factors influencing triple constraints in public sector projects in Trinidad and Tobago (Ellis et al., 2019). In the study, the authors draw upon the results of a questionnaire survey to determine which of the key stakeholders, client, consultant or contractor, is the most responsible for the 29 factors affecting the time, cost and quality of public sector construction projects within the Trinidad and Tobago context. In the study, the research team uses relative importance and inferential statistics analysis techniques to illustrate that the critical factors have different impacts on the time, cost and quality of a public construction project in Trinidad and Tobago. The findings of the study also indicated that factors associated with project changes are the most influential on a project, closely followed by project management factors.

In the final contribution to the August 2019 issue, Jarratt presents informative and eloquent reviews of two must-have guides to the 2017 Fidic Red Book Construction Contract and Silver Book EPC/Turnkey Contract. In the review, Jarratt highlights that these new guides are accessible, easy to read and applicable to both the novice and experienced contract user alike. While Jarratt highlights that both guides provide a helpful reminder to the reader of Fidic's incorporation of specimens of the contract agreement, some of the key schedules and the letter of acceptance in the Red Book and the former two in the Silver Book, for which the letter of acceptance is inapplicable, he also provides a cautionary note to those attempting to make changes to the standard general conditions given the wealth of knowledge and enriched experience behind the standard forms of contract from their wide use. In reviewing the guidance, Jarratt underscores that it would not be unreasonable to expect some adjustments to the general conditions within reason. Otherwise, it would defeat the object to introduce wholesale changes, rendering them effectively as a rewritten version. Notwithstanding his cautionary note regarding the 2017 editions of the Fidic Red Book and Silver Book Contracts, Jarratt highlights that the new guides encapsulate changes, amendments and refinements to the Fidic Construction Contracts with admirable clarity.

Although these papers do not make an exhaustive treatment of Management, Procurement and Law topics, they reflect different interesting issues that have constituted important points of concern for researchers in these inter-related areas of enquiry. I trust that this issue will contribute to dissemination of the current trends and topics of interest in these fascinating subject areas, that it will be a valuable tool in your research and professional activity. As issue editor, I would like to acknowledge the contributions of many individuals to the successful publication of the August 2019 issue. All contributions were reviewed by international experts in accordance with the guidelines of the Proceedings of the Institution of Civil Engineers – Management, Procurement and Law.

References

Charlson J 2019 Briefing: Interpreting contractors' mandated standard of design Proceedings of the Institution of Civil Engineers – Management, Procurement and Law 172 4 142 145 <https://doi.org/10.1680/jmapl.19.00007>

Ellis L Martin H Ramcharitar S 2019 Factors influencing triple constraints in public sector projects in Trinidad and Tobago Proceedings of the Institution of Civil Engineers – Management, Procurement and Law 172 4 157 169 <https://doi.org/10.1680/jmapl.18.00047>

Finnie D Ameer Ali N Park K 2019 Design development post contract signing in New Zealand: client's or contractor's cost? Proceedings of the Institution of Civil Engineers – Management, Procurement and Law 172 4 146 156 <https://doi.org/10.1680/jmapl.18.00044>

SNZ (Standards New Zealand) 2013 NZS 3910:2013: Conditions of contract for building and civil engineering construction SNZ Wellington, New Zealand

Umar T Egbu C Honnurvali MS Saidani M Al-Bayati AJ 2019 Briefing: Status of occupational safety and health in GCC construction Proceedings of the Institution of Civil Engineers – Management, Procurement and Law 172 4 137 141 <https://doi.org/10.1680/jmapl.18.00053>