



Intelligent **Transport**  
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# Construction top tips for 2011

## The changing risk profile

The risk profile in construction is ever-changing and there is no doubt that the current economic climate is changing the dynamic. Some buyers of construction services have moved away from partnering arrangements back towards first past the post tendering. There is a tendency to try and pass as much risk as possible (but not necessarily passing reward in the same way). You need to know where you should be looking to position yourself on the risk spectrum and there is a careful balance to be drawn between passing on too little risk, leaving you exposed, or passing on too much risk, which may lead to increased tender prices and drawn out negotiations.

## Analysing risk

So how do you know where to put yourself on that spectrum and how do you know it's the right place moving from one project to the next? You need to do a detailed risk analysis before you start any of your major projects and have a protocol for dealing with risk on all the rest. Hindsight may be a wonderful thing but you do not want to be kicking yourself while saying "why on earth didn't we run a risk workshop before that project?".

## Surety documents

Surety documents such as bonds and parent company guarantees have been on the construction agenda for some time but are becoming increasingly important. Do you look for them in all the right circumstances (for some reason they are not commonplace when engaging consultants)? Many people will try and persuade you that you have to choose between a bond and a guarantee, but that is not the case - you need to have the right package for your project.

## Focusing on the right documents

How much time do you or your team spend chasing after documents? Too much probably but it's important to focus on the right documents - there comes a point when you might take a view on chasing after each and every sub-contractor warranty. If your resources are finite, they may be better employed elsewhere.

## Early payment

Cash flow is the lifeblood of the construction industry and, understandably, the supply chain will look to get their money as early as possible. You may find yourself being asked to pay for plant or materials that haven't been delivered to site yet and may not even be in the country. There may be legitimate reasons for this but it might be a tell-tale sign that the supply chain is in financial difficulties. If you are prepared to make such payments (it may suit your purposes to make payment in a particular financial period) you need to make sure that you get ownership of the plant or materials when payment is made.

## Keep an eye out

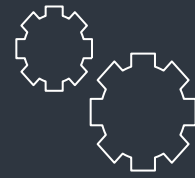
It's always important to monitor the progress of your projects, but how carefully have you been looking at them recently? How good are you and your team at record keeping? There's a temptation to skip things when a project is going well, especially if you are busy on other things. Now is the time to be looking out for small changes on projects that indicate major problems ahead. Has the workforce on the project been reduced at a time when it should be increased? Are materials turning up on time?

## Insurance

Some of us think that the only reason to take out insurance is to ward off the thing we are insuring against. However, if anything goes wrong on a project, one of the first things we do is to look at the insurance policies. Now is the time to get the insurers and brokers on board early and to check insurance policies far more thoroughly and do so before contracts are signed - don't put it off.

## Liability caps

As the supply chain increasingly considers its own risk position, you will continually be pressed to consider and agree caps on liability. There may be times when it is appropriate for you to agree caps but you must make sure that the cap is set at a realistic level and operates on an acceptable basis as there is a world of difference between an each and every claim cap and an aggregate cap. The last thing you want is for a liability cap to act as a get out of jail free card for your supply chain.



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### PLAN & DESIGN

We plan and develop *sustainable* transport solutions to ensure that our advice *improves* and *sustains* the quality of people's lives in the *built, natural, economic* and *social* environment. We resolve transport problems through the design and applications of *innovative* technical and engineering solutions.



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We work with our clients to ensure that our in-depth experience & expertise in Development & Regeneration directly benefits the project so that risks & costs are *minimised*, savings & innovation are *optimised*, and progress is *expedited*. What we learned in 25 years of *global* experience will directly *benefit* our clients and their projects.

## Copyright

Most construction agreements set out detailed copyright licences that entitle you to copy and use documents in relation to your projects and you will need this information in relation to things such as the health and safety file. How often do you get all this information before the project is completed? You should obtain all necessary documents as soon as possible in the construction period before anything goes wrong. Having a contractual right to a set of drawings is of limited benefit if the party from whom you need them is no longer trading and no one is willing or able to give the drawings to you.

## How reasonable should you be?

Construction agreements are littered with references to reasonable skill and care, reasonable endeavours, best endeavours and a whole host of similar terms. While these may appear similar, you need to pay attention to what others agree to do for you and expect you to do for them. As people become more risk averse, they may look to water down their obligations while increasing yours.

## The legislation pipeline

It's likely to be a quiet year as the government focuses on spending cuts rather than construction specific legislation, but there are a number of things in the pipeline. However, we are expecting the amendments to the Construction Act to come into effect in October bringing in changes to payment and adjudication provisions. The new Bribery Act is expected to come into force in April which has wide-ranging implications for the construction industry. Both are important pieces of legislation which you need to be aware of, so please let us know if you need further information or training on either.

For more information or advice please contact:

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