

# RAMSKILL MARTIN

## Risk Reviews

### 1. Introduction

'Risk Reviews' have been derived from the legal risk insurance market, where insurance companies would not support a claim unless its Consultant had verified that an entitlement existed. Ramskill Martin adopt this common sense approach. Its Clients can only make sensible business decisions if they understand and appreciate the real or potential commercial and contractual risks. A 'Risk Review' can, but does not necessarily need to be, a detailed risk analysis, and is normally all that is required in order to enable Clients to make an informed reasonable decision.

A 'Risk Review' can be completed on any aspect of a project and at any stage of the procurement route. A 'Risk Review' can therefore be carried out during:

- The pre-contract 'bidding/tendering stage'
- The contract formation process
- The post-contract 'on-site' stage
- The post-practical completion/final account stage
- The final account settlement/negotiation stage
- Pre-dispute/post-dispute stage in the event that negotiations fail
- A 'Risk Review' can be undertaken in regard to:

### 2. Contractual Terms and Conditions

This type of 'Risk Review,' ordinarily prepared in a bullet point report, would identify any terms and conditions that give rise to a risk. It might be that the Client would need to negotiate those terms out of the contract or it might be more attractive, due to commercial or financial pressures, to manage the risk. Managing risks of this nature would either need to be priced for in the Tender or by fully briefing and notifying the team that in certain circumstances and when certain events occur, there is a requirement to do something. For example, the service of particular notices or the making of specific records or the carrying out of a particular action.

### 3. Progress and Programme

A 'Risk Review' may be required at the pre-contract stage in regard to a contract period being imposed upon our Client by the Employer. The period or periods would be tested to establish whether or not they were achievable in respect to manufacture and work on site. In respect to delays a 'Risk Review' would identify the impact on the overall programme but also could (if required) seek to establish a means of reprogramming the process or look to eliminate the effect of the delaying events. These 'Risk Reviews' would be carried out at the time of the events occurring so as to eliminate or reduce the risks that are attached to it.

### 4. Financial Appraisal

A 'Risk Review' may be required to ascertain the status of an account at a given point in time. It may be part way through a project or it may be at the time of preparing and presenting the final account. In circumstances when a claim is received from a sub-contractor, supplier or a counterclaim from the Employer then a 'Risk Review' would almost certainly be required in order to establish the level of liability to be by our Client. Once completed, our Client would be in a position to decide whether to pay in full, negotiate or vigorously defend its position. Whatever option our Client decides to take, it would be based upon the most reliable information available at that time. Subsequent reviews are often carried out once further and better information becomes available.

### 5. Dispute and Differences

The 'Risk Review' of the subject matter of a dispute or difference between our Client and another party; this type of 'Risk Review' would identify the strengths and weaknesses of our Client's case (commercially and contractually). This type of review would assist in deciding whether to proceed, defend or negotiate the issues in dispute.