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Contractor liability on construction projects: risk management as structured in fidic contractors for projects in South Africa with specific reference to insurance

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ABSTRACT

Risk is an intrinsic characteristic of the construction industry. This uncertainty is present in almost all, if not all projects, due to the project profile and contractual arrangements. Seeing that failure proofing is not practical, the effective and efficient management of risks is essential for reducing the probability of failure, promoting successful delivery of projects and enhancing profitability. Accordingly, risk management is integral not only to the successful delivery of projects, but to the overall organisational sustainability.

Due to the dynamic nature of the construction environment, construction companies are also exposed to potential liabilities, some of which arise from the contract conditions. These contracts are relied upon to clearly and equitably allocate risks on projects and provide remedies for addressing the risks should they manifest. Insurance is a contractual requirement to address the adverse effects of some risks which are insurable.

This risk profile has justified the purpose of the study to investigate contractor liability, risk exposure and responsibilities as structured through the internationally recognised FIDIC contracts and the use of insurance as the risk transfer tool of choice for construction projects in South Africa. Four large construction companies were selected for a detailed review of risk management processes in line with best practice to determine whether the implementation was supportive of decisions such as purchasing insurance.

The research findings illustrate that the documented processes of the South African construction are in line with best practice. However, as revealed in the literature review, there is a gap between theory and the application of risk management techniques and although insurance is the preferred risk transfer tool, it is still not well understood and the industry is still lacking in applying proper thought processes regarding their requirements.