

Morton in Infrastructure Investor: How Contracting for Nuclear Projects Differs From Conventional Construction

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Haynes Boone Counsel [Jonathan Morton](#) authored an article for *Infrastructure Investor* navigating an ever-evolving process for nuclear project bids by contractors and suppliers in a unique legal landscape.

Read an excerpt below.

The UK government announced in February an Advanced Nuclear Framework to stimulate private investment and support innovative nuclear developers, marking another significant step in the ongoing “Nuclear Renaissance”. Ripples of change are travelling through the supply chain at a dramatic, unprecedented pace. That chain is expanding, deepening and, hopefully, strengthening, with both established players and those new to the sector having to move quickly to keep up.

However, contracting in the nuclear sector – whether on traditional power station projects or in newer fields such as small modular reactors (SMR) – differs in important ways from conventional construction. Where the contracts are governed by English law, while familiar principles apply, the regulatory overlay and risk profile are unique.

New and rapidly changing technologies are resulting in a supply chain in flux, with uncertainty in requirements, applicable standards and delivery time-frames. Risks are increased due to the involvement of start-ups and unproven designs, making delays and shifting supply schedules inevitable. Contractors and suppliers must therefore calibrate their bids and contract terms to reflect this unique legal landscape.

Key factors for the supply chain to consider when negotiating contracts for such nuclear projects include: regulation and compliance; safety and risk; design and change management; and programme and delay.

Regulation and compliance

All nuclear projects in Great Britain are regulated by the Office for Nuclear Regulation, and the nuclear site licensee bears primary responsibilities under the site licence conditions. Liability for any nuclear incident vests with the licensee on a strict, no-fault basis (subject to limited exceptions). As a result, contractors or suppliers are generally insulated from third-party “nuclear damage” claims. However, compliance and verification requirements can cascade into the supply chain through contract terms, procedures and hold points in a variety of ways.

Contractors and suppliers should, of course, ensure contracts clearly allocate responsibility for obtaining and maintaining consents, licences and permits, and specify whose risk it is if regulators impose additional requirements, stop work or delay approvals. Regulatory hold points and licence condition verifications should be treated as employer risk events for time and cost purposes, unless attributable to contractor or supplier default.

Given the pace of development of nuclear policy and regulation, a robust change in law regime is also critical, including defined relief, entitlement mechanisms and pricing adjustments (if appropriate). The UK government intends to try and streamline regulation, so suppliers and contractors need to be ready to deal with whatever may transpire and build in contractual protections in advance.

To read the full article from *Infrastructure Investor*, click [here](#).