

Constructing Excellence Contract

An introduction

The suite

First edition of CE/Scot issued in 2008

Current edition issued 2014 to be read along with the
online CDM Amendment sheet to take account of the CDM Regulations 2015

The contract suite consists of:

Constructing Excellence Contract (CE/Scot)

The Constructing Excellence Project Team Agreement (CE/P/Scot)

The Constructing Excellence Guide (CE/G/Scot)

Approach

The contracts were drafted to underpin collaborative working. It is intended to:

- Encourage collaborative behaviour
- Get participants to recognise the importance of risk management at the pre-tender stage
- Provide flexibility in use
- Be used throughout the supply chain

Objectives

These are achieved through:

- A series of bilateral contracts that adopt a collaborative approach within a common framework
- A multi-party Project Team Agreement which reinforces a collective approach
- Use of a risk register
- Flexible allocation of identified risks to the party best able to manage the consequences

Key features

- A pain/gain share mechanism
- The Project Team Agreement is optional
- Intended for use by all parties including clients, contractors, consultants or sub-contractors of any tier. Parties are referred to as 'Purchaser' and 'Supplier'
- Provision for key personnel of Supplier and by members of the supply chain
- Design obligations and alternative standards of care
- Risk register and Risk Allocation Schedule

Key features

- Performance indicators
- Overriding principle of good faith, mutual trust and respect
- Dispute resolution provisions to resolve any disagreements before parties proceed
- Project Protocol
- Alternative payment options (target cost requires the separation of empirical costs and the agreed margin)
- Collateral warranties or TPR

Key aspects of collaborative working

- Cost not price
- Identifying and managing risks-encouragement to arrange a single policy of insurance(Guide para 31)
- Proper planning of the construction period-early engagement of key suppliers-suggestion of 2 stage approach (Guide para 41)
- Engagement and integration of supply chain
- Measuring relevant performance as work proceeds

Contract Documents

CE-Conditions, bi-lateral agreement and contract particulars

PTA-can be entered into once a project team is established. Sets out in greater detail than the conditions the functions and role of the project team and allows for sharing of risk. All parties are participants.

Guide

Robust Contractual Provisions

- The overriding principle
- Use of the documents to engage all the project participants
- Entry into PTA
- Preparation of Project Protocol
- Provision of information
- Design obligations
- The role of the lead designer and lead supplier

Robust Contractual Provisions

- Key Personnel and supply chain
- Goods and materials
- The risk register (Not a contractual document)
- The Risk Allocation Schedule (Contractual allocation of risk)
- Relief Events
- Measurement of performance
- Payment provisions
 - Target cost
 - Contract sum

Robust Contractual Provisions

- Insurance
- Completion and rectification period
- Assignment
- Warranties and TPR
- Termination
- Dispute resolution
- Early notification, direct negotiation in good faith. Statutory adjudication and court
- H&S and sustainable development

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Discussion

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