




NEC4


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Agenda 

- ▶ NEC background
- ▶ Collaboration
- ▶ Risk management
- ▶ Contract Procurement and management

Background to NEC


NEC objectives 

- ▶ Flexibility
 - ▶ multi-disciplinary
 - ▶ risk allocation
- ▶ Clarity
 - ▶ easy to understand
 - ▶ use of present tense to state actions, not liabilities
- ▶ Stimulus to good management

NEC4 contracts 

- ▶ Engineering and Construction Contract & Subcontract
 - ▶ Short Contract & Short Subcontract
- ▶ Professional Services Contract & Subcontract
 - ▶ Short Contract
- ▶ Term Service Contract & Subcontract
 - ▶ Short Contract
- ▶ Supply Contract
 - ▶ Short Contract
- ▶ Design Build and Operate Contract
- ▶ Alliance Contract
- ▶ Framework Contract
- ▶ Adjudicator's Contract




NEC3 suite of contracts (June 2005) 

Endorsed by:

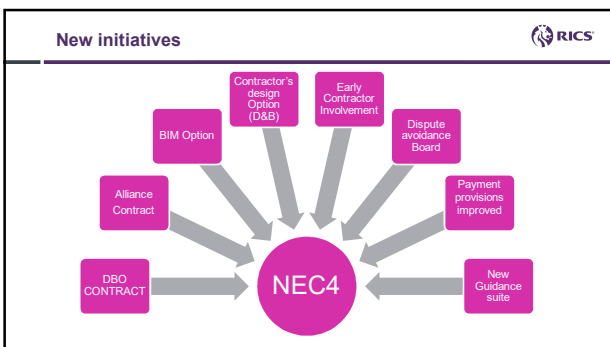
- ▶ Construction Clients Board, Cabinet Office
- ▶ Crown Commercial Services, Cabinet Office
- ▶ Facilities Management Board, Cabinet Office
- ▶ Association for Project Management
- ▶ British Institution of Facilities Management


Recommended by:

- ▶ Hong Kong Development Bureau
- ▶ South African Construction Industry Development Board
- ▶ Institution of Civil Engineers



Move to NEC4 

- ▶ Responding to industry
- ▶ Users' feedback
- ▶ The need to evolve
- ▶ Builds on strength of NEC
- ▶ Aimed at meeting market needs and expectations of future users







- ▶ DBO contract
- ▶ Alliance contract (consultation draft)
- ▶ Information modelling clause
- ▶ Dispute Avoidance Board
- ▶ Guidance suite




Collaboration

Core principles 

- ▶ 10.1
 - ▶ The Parties, the *Project Manager* and the *Supervisor* shall act as stated in this contract.
- ▶ 10.2
 - ▶ The Parties, the *Project Manager* and the *Supervisor* act in a spirit of mutual trust and cooperation.

Early warning 

- ▶ 15.1
- ▶ The *Contractor* and the *Project Manager* give an early warning by notifying the other as soon as either becomes aware of any matter which could
 - ▶ increase the total of the Prices,
 - ▶ delay Completion,
 - ▶ delay meeting a Key Date or
 - ▶ impair the performance of the works in use.
- ▶ The *Project Manager* or the *Contractor* may give an early warning by notifying the other of any other matter which could increase the *Contractor's* total cost.


Change proposals 

- ▶ 16 proposal to reduce payment by Client
- ▶ 36 proposal to accelerate
- ▶ 45 proposal to accept defective work
- ▶ X21 proposal to reduce whole life cost
- ▶ Contractor and Client share benefit


Multi party collaboration 

- ▶ X12 – collaborate with other team members
 - ▶ sharing information
 - ▶ early warnings
 - ▶ mutual targets for performance


Risk Management

Risk management tools in core 

- ▶ Early warning
 - ▶ deal with risk before it occurs
- ▶ Subcontractor control
 - ▶ knowledge of subcontract details
- ▶ Programme
 - ▶ up to date programme always available
- ▶ Quality management
 - ▶ type of quality management system determined by Client
- ▶ Compensation event procedure
 - ▶ agreement of effect on time and cost in advance or at the time
- ▶ Allocation of liabilities of Parties
 - ▶ Insurance cover
- ▶ Control of dispute resolution
 - ▶ use of Senior Representatives
 - ▶ timely resolution


Risk management tools - Options 

- ▶ Choice of payment options
 - ▶ priced, target, cost reimbursable or management
- ▶ Range of secondary Options


Secondary Options 


- ▶ Option X1 Price adjustment for inflation (used only with Options A, B, C and D)
- ▶ Option X2 Changes in the law
- ▶ Option X4 Ultimate holding company guarantee
- ▶ Option X7 Delay damages
- ▶ Option X8 Undertakings to the *Client* or Others
- ▶ Option X11 Termination by the *Client*
- ▶ Option X13 Performance bond
- ▶ Option X16 Retention (not used with Option F)
- ▶ Option X17 Low performance damages

Contract procurement and management

NEC guidance manuals 

- ▶ Volume 1 – procurement and contract strategy
- ▶ Volume 2 – preparing a contract
- ▶ Volume 3 – selecting a supplier
- ▶ Volume 4 – managing a contract




Procurement 


- ▶ Determine contract choice and Options to meet strategy
- ▶ prepare Contract Data
 - ▶ Part 1 – Client information
 - ▶ includes reference to all contract information – eg Scope
 - ▶ Part 2 – submitted by prospective Contractor
- ▶ Procurement route determined by Client
 - ▶ if competitive, selection criteria need to be compatible with contract strategy
- ▶ Acceptance by letter or formal agreement
 - ▶ example given in guidance

Roles of Parties 


- ▶ Client
 - ▶ Project Manager administers the contract for the Client
 - ▶ Supervisor oversees quality of what is provided
 - ▶ Other advisors act only through Project Manager
- ▶ Contractor
 - ▶ Subcontractors
 - ▶ Suppliers
 - ▶ Designer (subcontractor)
- ▶ Senior Representatives of Parties
- ▶ Adjudicator or Dispute Avoidance Board

Use of programme 


- ▶ Initial programme with Contractor's offer or within defined period after acceptance
- ▶ Requirements for programme set out in contract
 - ▶ order and sequence of work
 - ▶ time required for each operation, time risk allowance and float
 - ▶ timing of work by Client or Others
 - ▶ resources proposed for the work
- ▶ Programme updates
 - ▶ at intervals stated by Client
 - ▶ required by Project Manager if the programme is out of date
 - ▶ when Contractor wishes
- ▶ Programme accepted by Project Manager
 - ▶ or reason for non acceptance
 - ▶ provision for deemed acceptance in the event of non-performance by the Project Manager

Performance 


- ▶ Operation of Quality Management System
- ▶ Correction of Defects within defects correction period
- ▶ Acceptance of Defects at Client discretion
- ▶ Defects Certificate at end of period for notifying Defects
- ▶ Certifies Defects corrected or lists uncorrected Defects
- ▶ Client deducts cost of correcting uncorrected Defects

Payment 


- ▶ Contractor submits application at intervals stated by Client in Contract Data
- ▶ Project Manager certifies payment, Client pays
 - ▶ option of provisions to fit with Construction Act if applicable
- ▶ Finalisation of amount due at intervals throughout the contract
- ▶ Final payment after Defects Certificate

Compensation events 


- ▶ Compensation event changes Prices and Completion Date
 - ▶ prospective change – takes account of all future impacts
 - ▶ no future "disruption" claims
- ▶ List of events in contract
 - ▶ no other events can change payment or time
- ▶ Procedure for notification, quotation, acceptance and implementation
- ▶ Time restrictions on Contractor for notification
- ▶ Reduction in payment if early warning not given

Dispute avoidance/ resolution 

- ▶ Three options; Adjudication if Construction Act does not apply, Adjudication if it does or Dispute Avoidance Board
- ▶ Adjudication procedures include referral to Senior Representatives of Parties for resolution; issues not resolved by them go to Adjudication
- ▶ Dispute Avoidance Board has continuing role during the contract, giving non-binding recommendations on any potential disputes
- ▶ Final resolution by the Tribunal – Arbitration, courts or other resource permitted by legal jurisdiction, stated by Client in Contract data

Further information 

For more information on the NEC4 contracts, visit the NEC website
neccontract.com



The graphic features a stylized bridge structure against a blue sky. The text 'nec4' is prominently displayed, with 'Improvement through collaboration' written below it. In the top right corner of the graphic, the words 'works | services | supply' are visible.

Questions?
