

NEC4 Establishing a Procurement and Contract Strategy

1.1 INTRODUCTION

The purpose of this guide is to identify the best way of achieving the *Client's* or *Purchaser's* objectives through the selection of the most appropriate procurement route, NEC contract and main and secondary Options.

The convention of using italics for terms which are identified in Contract Data and capital initials for defined terms has been used in this user guide.

The term "supplier" is used in this guide for collective reference to the provider of works, services or supply of goods under the particular NEC contract. That is the *Contractor*, the *Consultant*, the *Supplier*, the *Subcontractor* or the *Dispute Resolver* as the case may be. The term "*Client*" is used in this guide in referencing the *Client* or *Purchaser*.

1.2 BACKGROUND

NEC (New Engineering Contract) is a modern day family of contracts that facilitates the implementation of sound project management principles and practices as well as defining legal relationships. Key to the successful use of NEC is users adopting the desired cultural transition. The main aspect of this transition is moving away from a reactive and hindsight-based decision-making management approach to one that is for foresight based, encouraging a creative environment with pro-active and collaborative relationships. NEC has matured from being a revolutionary contract in the early 1990s with some interest and use from forward thinking organisations seeking change in how they go about engaging suppliers in a non-adversarial manner. NEC2 was published in 1995 and was increasingly the contract of choice of many organisations in the United Kingdom. NEC3 was published in 2005 as a result of feedback from industry on many years of successful use and was the first time that the complete integrated set of NEC documents was launched at the same time. In NEC3 the family was expanded to provide a Term Service Contract, a Term Service Short Contract, a Professional Services Short Contract, a Supply Contract, a Supply Short Contract and Framework Contract, all complemented with the standard NEC approach of including guidance notes and flow charts. In NEC4, as a result of further feedback from industry the suite has been expanded to include a Design Build and Operate Contract (DBOC), additional subcontracts and new options to better support the use of design and build contracting. New options for the use of information modeling (also known as BIM), early contractor involvement, providing undertakings to others (also known as collateral warranties), retention bonds, value engineering proposals and dispute resolution boards, have been included in NEC4. The guidance notes have also been updated and improved to provide a complete set across NEC contracts.

NEC is an integrated set of contract documents that are designed to provide *Client's* and their suppliers with processes focused on achieving desired, planned outcomes. The intention is that use of NEC will lead more frequently to achievement of *Clients'* objectives in terms of its ultimate quality, performance, cost and time aspects. It should also be possible to set more rigorous targets for these objectives with greater confidence in achieving them.

NEC is intended for global application and is effectively drafted on a neutral jurisdiction basis to achieve this goal. Some United Kingdom amendments are included in secondary Options to meet particular governing legislation and a similar process can be followed where necessary to suit other jurisdictions

1.3 OBJECTIVES

The objectives for the design of the NEC were to make improvements to more traditional forms of contract under three main headings.

1) Flexibility