



YORhub

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Innovative Features of NEC4 ECC



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Format

- Introduction
- Key innovative changes
- Summary



Introduction

- 12 years since the NEC3 was published.
- In summary, the NEC3's three core principles are:
 - (i) Flexibility
 - (ii) Simplicity and clarity
 - (iii) Stimulus for good management
- NEC4 - New suite of 14 contracts.



Intentions of NEC4

- Update only, not a radical re-write
- Addresses specific points identified via NEC Users' Group
- Attempts to reduce number of Z clauses
- Promote enhanced collaboration
- Streamlined processes and updated definitions
- Improved contract administration and reduced administration costs
- Greater clarity
- Provision for recent initiatives e.g. BIM and ECI
- Improved risk opportunity and risk management
- Not the last word – continual improvement



Key Innovative Changes

(focuses on the Engineering and Construction Contract (ECC))

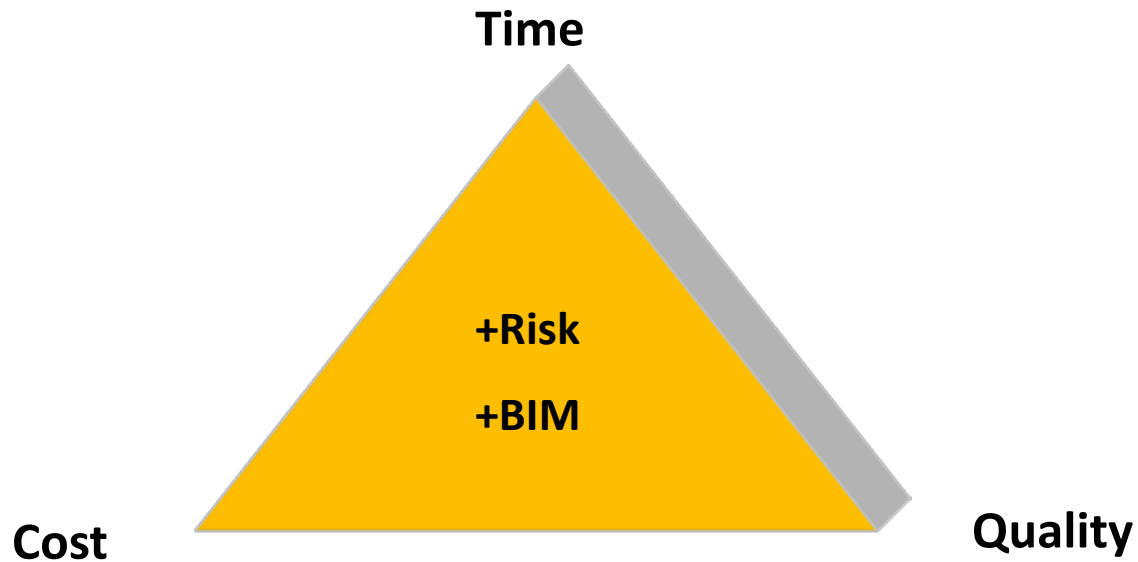
Innovative Changes

- What do we think of them so far?





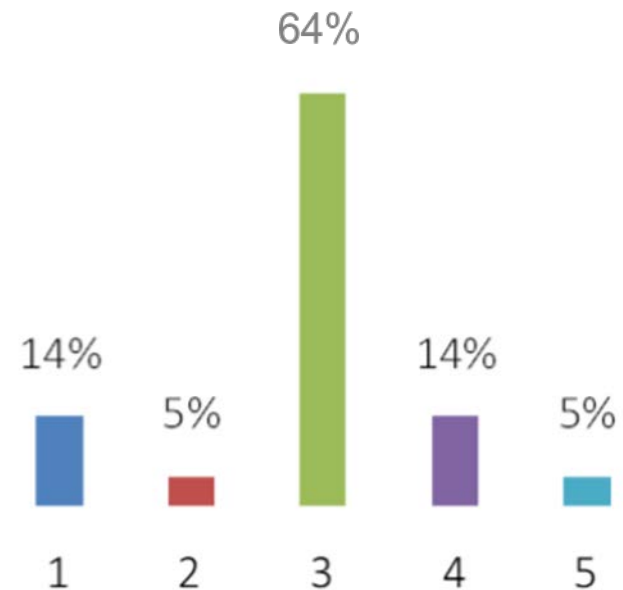
Key themes for client





Why are you here today?

1. Get off doing proper work
2. The lunch sounded nice
3. To learn
4. I'm fascinated by construction procurement
5. Hiding from the baliffs



Cost – value engineering



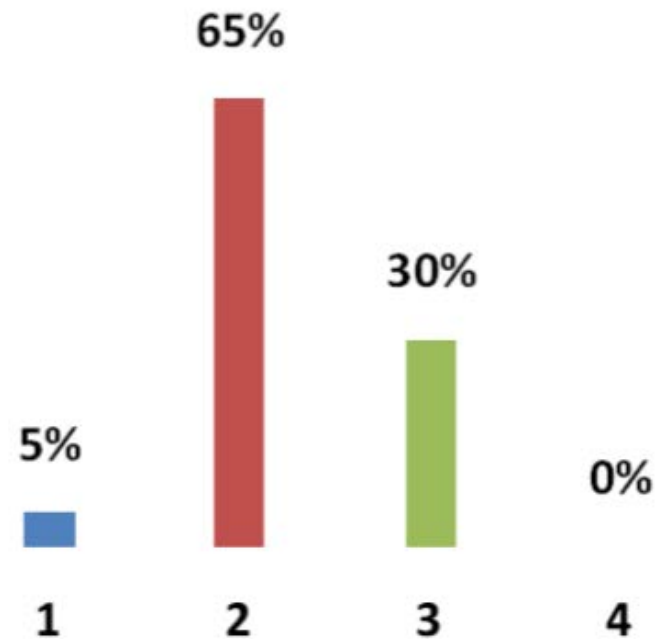
- Clause 16 Contractor's proposals
 - Express provision for the *Contractor* to propose changes to the *Client's Scope* (16.1)
 - The *Project Manager* does not have to accept the proposal (16.3)
 - The **Client** gets the 'value engineering percentage' of the saving
- But, could this be exploited in a two stage procurement situation - savings kept up sleeve
- Often better to tease these out during the tender stage





Value engineering

1. Like
2. Like with reservations
3. No strong opinion
4. Dislike



Cost – whole life cost

- There is a new secondary option X21 Whole Life Cost
- Contractors may propose a change in order to reduce WLC's

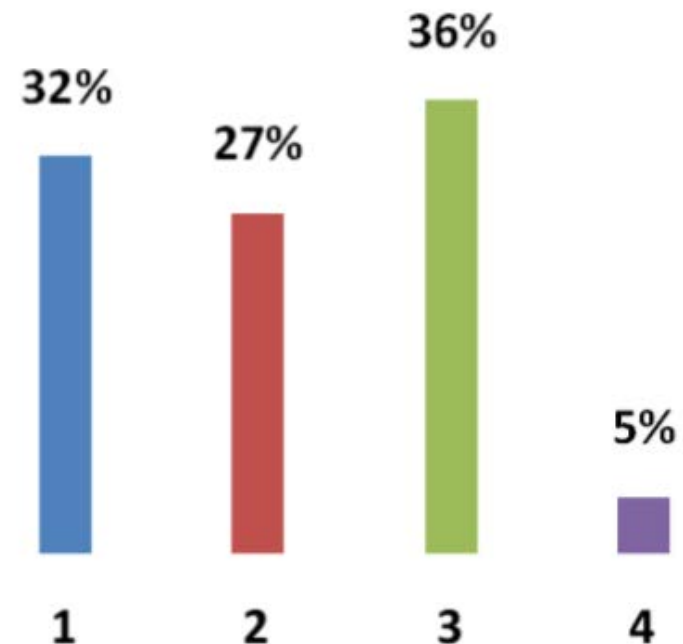
- Sounds great in theory but what's the incentive for the Contractor?
- Could be a lot of effort for the Contractor for little reward





Cost- whole life cost

1. Like
2. Like with reservations
3. No strong opinion
4. Dislike



Cost – payment changes

- Application for payment now a must !
 - Payment is now conditional upon the Contractor submitting an application for payment (clause 50.4)
 - If no application the amount due is the lesser of the amount due at the previous assessment date and the amount the Project Manager assesses (e.g. to account for delay damages)
- Not really innovative
 - This happens anyway
 - Contract is simply playing catch up to industry practice



Cost – interim finalisation of direct costs

- (50.9) Finalisation of costs
- Relevant for payment in option C, D, E & F
- Allows for contractor to notify defined cost has been finalised for part of the works
- Enables PM to assess and close the account up to the assessment date, thus reducing risk for both parties

- Any reduction of risk should be a good thing



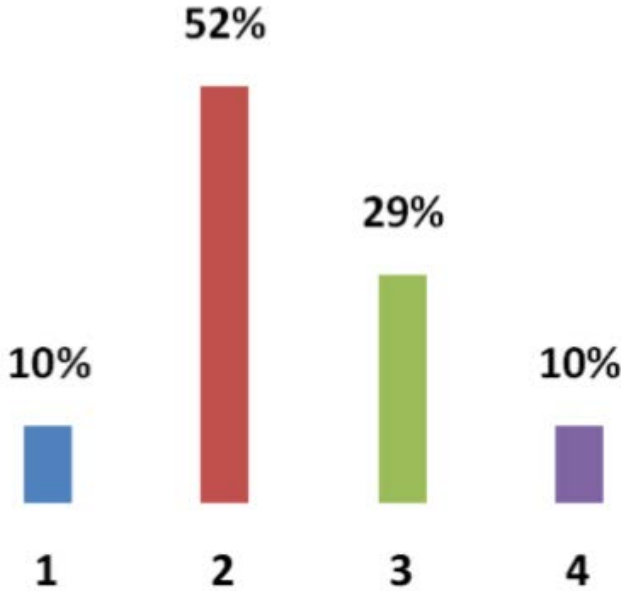
- What about credits notes e.g. for bulk discounts?





Cost- interim finalisation of direct costs

- 1. Like
- 2. Like with reservations
- 3. No strong opinion
- 4. Dislike



Cost – final assessment

- (53.2) If the Project Manager does not assess the Contractor may issue an assessment to the Client. If the Client agrees then a final payment is made within 2 weeks or different period stated in the Contract Data
- (53.3) An assessment of the final amount due is conclusive unless a Party refers to dispute.
- Introduction of a final certificate gives finality to the final cost and avoids later challenges

Provides certainty but keeps PM's on their mettle



Cost

- Only one fee percentage with no separate fee percentage for sub-contracted works
- Removal of working area and people overhead percentages

Halleluiah!



Cost - Compensation Events

- Costs of preparing a quotation is no longer excluded in options A and B

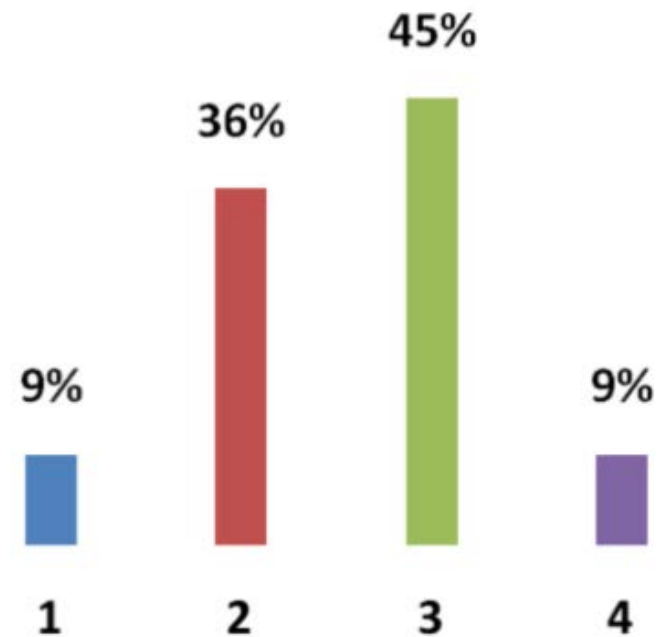
- Could be a +ve or also a -ve
- Clarifies and area of previous disputes
- Lots of contractors not providing quotations on time
- Prevents clients requesting quotes for numerous options
- QS may be on site most of the time – why getting paid again ?





Compensation events

1. Like
2. Like with reservations
3. No strong opinion
4. Dislike



Time – deemed acceptance

- 'Deemed acceptance' protocol built into clause 31.3.
 - If the *Project Manager* does not respond to a submitted programme within the two weeks
 - the *Contractor* **may** prompt re that failure to respond
 - If no response in a further week, the programme is 'treated as accepted'
- Prevents poor performance by lazy PMs.
- Fairer for the contractor?



Quality Management

- The Contractor submits (within the period stated in the Contract Data) a quality policy statement and quality plan for acceptance (40.2) by the Project Manager

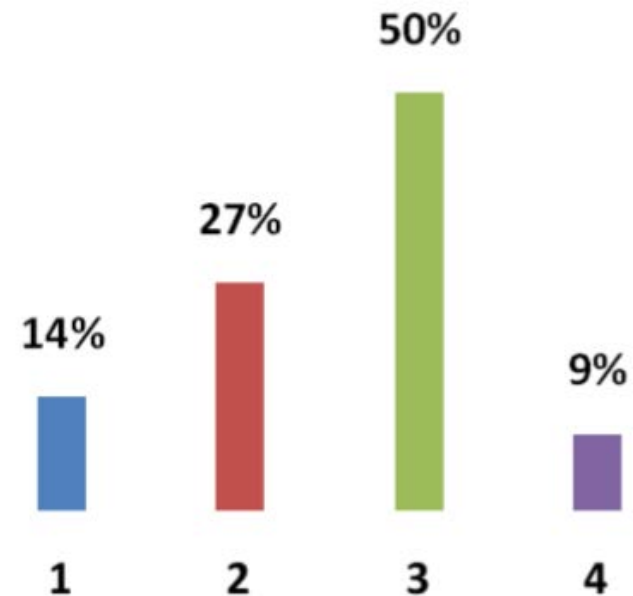
- Could be an administrative burden?
- But if applied correctly could it lead to better built asset?





Quality management

1. Like
2. Like with reservations
3. No strong opinion
4. Dislike



BIM



- A new secondary option X10 for Information modelling (BIM)
- Provides additional clauses to support the management of BIM specific requirements
- Deals with Issues of BIM Model and BIM Information ownership, and liability of the parties

- BIM – It's innovative and it's the future !
- Recognises the Government agenda
- But - written in international language – not UK specific BIM terminology which is confusing enough



Dispute resolution

- New dispute avoidance option W3 which can be used if the HGCR Act does not apply. Dispute referred to a dispute avoidance board
 - Referral to senior representatives – introduction of a 4 week period for escalation and negotiation of a dispute prior to commencement of any formal proceedings
- Good in theory but rare for Act not to apply in the UK





Early Contractor Involvement

New ECI option X22

- Only with ECC Option C (target price with activity schedule) and ECC Option E (cost reimbursable contract)
- Procurement strategy reflects the open book, two-stage approach advocated by the UK Government Construction Strategy 2011–15.
- Appoint a Contractor at an early stage, to participate in the development of designs and proposals
- Contractor inputs to the design at a stage when significant improvements and innovation can be introduced



Early Contractor Involvement contd.

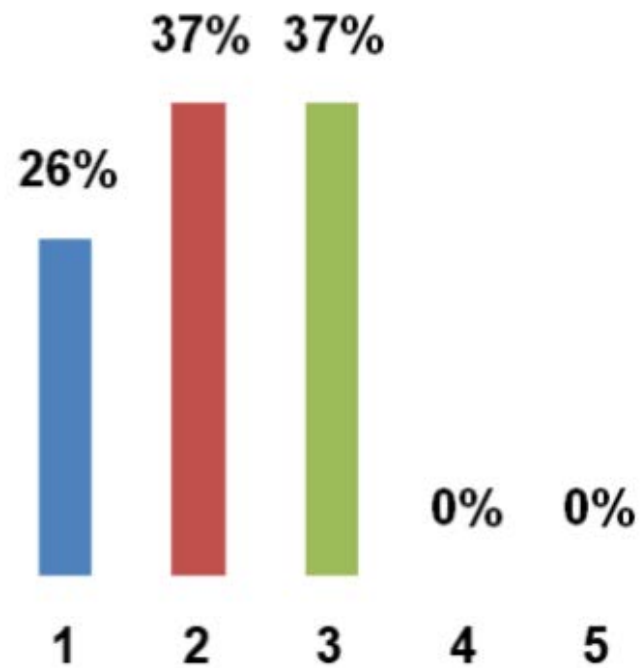
- ECI equivalent is already included in the Framework.
- Client decision as to when to enter into contract ? PSC or straight into and ECC ?
- Are clients happy to share their budgets ? In two stage a contractor could benefit ?
- At what stage does the client commit ?
- X22 not available on options A&B – but can use ECI on these options in YORbuild/ YORcivil



Early contractor involvement



1. Like
2. Like with reservations
3. No strong opinion
4. Dislike
5. I've lost the will to live



Offsite Modular Construction

- NEC4 can facilitate modular off site construction
- The benefits that offsite construction can bring are largely related to the creation of the components in a factory setting, protected from the weather and using manufacturing techniques such as assembly lines with dedicated and specialist equipment and the use of technology
- NEC4 brings options of single point of responsibility or multiparty contracts
- Issues such as design, quality, payment and title can all be addressed





Project Bank Accounts

- YUK1 Project Bank Account

- YORhub likes project bank accounts.
- Can provide excellent protection in the case of insolvency
- But how far down the supply chain should a PBA go ?



General

- Clause 10.1. Obligation to act is a spirit of mutual trust and cooperation now split to reinforce need to do both
 - Follow the contract (10.1)
 - Work in collaboration (10.2)
- Clause 13.2 now prompts the Scope to specify a communication system e.g. cloud based

- What if you don't use a cloud based system ?





Terms Standardised

- 'Employer' changed to 'Client'
- 'Works Information' changed to 'Scope'
- 'Risk Register' renamed the 'Early Warning Register'
- In option X12 'Partnering' changed to 'Collaboration'





Summary



Summary

- Evolution, not revolution – generally welcome changes
- ECC4 is a **better reflection of how effective teams applied ECC3** (e.g. Project Manager instigated risk management, responded to the programme and undertook timely Defined Cost audit under C, D, E & F)
- **It is more practical** – People Rates under A & B, Subcontractors now part of the Schedules of Cost Components, no people overhead or Working Areas overhead
- **Facilitates more proactive financial management of projects** – Contractor's proposals (VE), whole life costing proposals
- **Greater certainty** of Cost/ Time/ Quality





NEC4 in YORhub

- Not recommended for use in YORbuild2
- BUT, coming soon in YORbuild and YORcivil Major Works
- Future replacements of Build, Civils and Consult will include NEC4 suite
- Some users may wish to cherry pick the best clauses and use as Z clauses in NEC3 – with a health warning !



Q&A / Close

