

NEC4 ECC – PRACTICE NOTE 6

How to use the Information Protocol to support BS EN ISO 19650-2 the delivery phase of assets with NEC4

PREPARING AN NEC4 CONTRACT

All NEC4 contracts, except the short contracts, provide for the creation or modification of an Information Model in secondary Option X10, with the requirements for the model contained in the Information Model Requirements which form part of the Scope.

There are a number of protocols and guides for the creation or modification of an information model including the Information Protocol to support BS EN ISO 19650-2 the delivery phase of assets (the Protocol) edition 1 published by UK BIM Framework in association with the Construction Industry Council (CIC) May 2020.

The Protocol has been written on the basis that it could be incorporated into any contract at any level in the supply chain and this is reflected in the terminology used in the Protocol. The Protocol identifies the “Appointor” and “Appointee” who are the parties specific to the contract (“Appointment”) under which the Protocol is being incorporated. The Protocol also identifies the roles of “Appointing Party” and “Lead Appointed Party”. The Appointing Party will be the entity that the Information Model is being created for, commonly the client. The Lead Appointed Party will be an entity engaged by the Appointing Party to manage the inputs of a task team for example a main contractor or a lead consultant. Depending on the level in the supply chain at which the Protocol is being used the Appointor and Appointee may or may not be the Appointing Party or Lead Appointed Party respectively. There may also be more than one Lead Appointed Party depending on the number of “Delivery Teams” involved in the project.

Putting these roles into an NEC context using a traditional contract arrangement where a client engages a lead consultant to design the works under a PSC, and a main contractor to construct the works under an ECC, the Parties would fulfil the roles in the Protocol as follows.

- PSC
 - *Client* - Appointing Party
 - *Consultant* - Lead Appointed Party (would be the Appointor under a PSS)
 - *Subcontractor* - appointed party (would be the Appointee under a PSS and the Appointor in any further subcontract)
- ECC
 - *Client* - Appointing Party
 - *Contractor* - Lead Appointed Party (would be the Appointor under an ECS)
 - *Subcontractor* - appointed party (would be the Appointee under an ECS and the Appointor in any further subcontract)

Each Lead Appointed Party will be responsible for a Delivery Team comprising those Subcontractors or suppliers it appoints and who contribute to the Information Model. (see BS EN ISO 19650-2:2018 for further details of the Interfaces between parties and teams for the purpose of information management).

This practice note explains how the Protocol can be used with the NEC4 contracts.

The Protocol can be incorporated into the NEC4 ECC by the selection of secondary Option X10 and the inclusion of the relevant parts of the Protocol as the Information Model Requirements in the Scope.

The following model Scope entry and guidance notes are for use when incorporating the Protocol in an NEC4 ECC. They apply to other NEC contracts, with terminology amended to suit the contract.

Model Scope Entry

The “Protocol” is the Information Protocol to support BS EN ISO 19650-2, edition 1 published by UK BIM Framework in association with the Construction Industry Council (CIC) dated May 2020.

The *Client* and the *Contractor* comply with the Protocol.

The Information Model Requirements are [identify those documents that will form part of the Information Model Requirements – see guidance notes for further details.]

The following terms in the Protocol mean the equivalent term given in the contract.

TERM IN THE PROTOCOL	EQUIVALENT TERM IN ECC
Material	Project Information (if provided by the <i>Contractor</i>)
Federated Information Model	Information Model
Lead Appointed Party, Appointor(s), Appointee(s),	Information Providers
BIM Execution Plan	Information Execution Plan
Works	<i>works</i>

Any notice, instruction or acceptance to be given by the Appointor is given by the *Project Manager*.

GUIDANCE NOTES

NEC4 contracts contain secondary Option X10, which has been designed to work on a protocol independent basis. That is, there is no requirement to include a particular protocol such as the Protocol; the requirements for information modelling can all be included in the *Client's* Information Model Requirements in the Scope and the *Contractor's* Information Execution Plan. The Protocol includes a number of other provisions and mechanisms which users may wish to build into their Information Model Requirements. To achieve this, the Scope entry set out above should be incorporated in the appropriate part of the Scope (section S 1905 in the example Scope structure given in volume 2 of the NEC4 ECC user guide).

In the Protocol the term “Information Particulars” covers a number of documents. Some of these documents may be present at the Contract Date, whereas others are to be developed by the project team, post contract. The documents that exist at the Contract Date should be identified in the first page of the Information Particulars in the Protocol and the completed front page and the documents included in the contract. The *Project Manager* should maintain a record of the documents created after the Contract Date as stated in clause 3.1.1 of the Protocol.

The *Client* will also need to decide which of the documents in existence at the Contract Date should be included as part of the Information Model Requirements. Those documents

included in the Information Model Requirements will form part of the Scope and so the *Contractor* will need to comply with them and cannot change them without an instruction from the *Project Manager*. Such an instruction would normally be a compensation event.

The approach taken in NEC contracts to ownership of information and liability for its production is different from that set out in the Protocol. Since the provisions of the Protocol in respect of ownership apply only to the extent that the contract does not already contain such provisions, the clauses in the relevant NEC contract will apply instead of those in the Protocol.

When drafting the Information Model Requirements the *Client* will need to consider any rights over the Project Information which will sit with the *Contractor*.

Dates in the Protocol Master Information Delivery Plan and any Protocol Task Information Delivery Plans should be shown in relevant programmes submitted for acceptance.

The Protocol requires a Lead Appointed Party to create a "Risk Register" for its Delivery Team. This Risk Register is not the same as the Early Warning Register, although most risks will appear in both registers depending on the nature of the event. The Early Warning Register is a bi-party document and there will be a separate Early Warning Register under each NEC contract entered into by the Lead Appointed Party. If the Risk Register and Early Warning Register were combined, it would be necessary to identify those risks specific to the delivery of information required for the Information Model. These entries would be common to each contract awarded by a Lead Appointed Party.

If in accordance with clause 11.2 of the Protocol the *Client* is entitled to terminate the contract and chooses to do so, then it must do so in accordance with the process and timescales set out in section 9 of the relevant NEC contract. A breach under clause 11.2 of the Protocol will be considered a default of the *Contractor* under the first bullet point of clause 91.2 of the contract – "substantially failed to comply with its obligations". The *Project Manager* notifies the *Contractor* of the default and if not corrected the *Client* may notify the *Contractor* and *Project Manager* of its wish to terminate.

Due to the collaborative nature of the development of an Information Model, if more than one party in contract with the *Client* is involved in preparing the Information Model, the use of X12 multiparty collaboration with X10 would help in providing the level of collaboration needed.