

Supplement to the Assurance process TOR:

Standard 'causes for concern'

The role of the Assurance Team (AT) is to verify that 'Material Project Information' (MPI) released into the public domain is correct. The AT may also be asked to interpret the findings for the general public and highlight any 'causes for concern'.

At the last meeting of the IAG, it was suggested that a list of standard 'causes for concern' (carefully worded) would make it very much easier for the AT to highlight inconsistencies in the information that is released, while avoiding negative reactions (including the threat of libel action). A sub-group was set up to look into this. Some suggested standard factual statements outlining 'causes for concern' have been developed by the subgroup and are set out in Annex I. ATs may make use of these if they wish.

Information requirements

MPI is to be released at all stages of the project cycle and CoST is intended to cover the whole project cycle. However, for pragmatic reasons, it has been agreed that the focus during the pilot phase will be the information released during project implementation.

To fulfil its function of tracking and interpreting changes in quality/price/time throughout the period of project implementation, the Assurance Team do have to have access to sufficient relevant information. They should not have to go searching for it or do further 'detective work'. Key items of information needed to verify and justify the changes revealed by the client are Variation Orders (VOs) and Claims.

However, project changes are often numerous thus reviewing each and every change will be time consuming for the Assurance Team. A simple template is provided in Annex 2 for recording these changes. The MSG can then decide which changes they want the AT to verify.

Contract clauses

To enable the disclosure of this information from consultants and contractors (as well as from cooperating Procuring Entities) the requirement for disclosure should be included in the standard conditions of contract, with the MPI to be disclosed listed in the Appendix to the contract. A suggested wording for contracts is set out in Annex 3.

Standard explanations for variations to price, time and quality

The IAG also agreed that the sub-group would develop standard explanations for variations in time, cost and quality during project implementation. This has proved to be extremely difficult due to the numerous reasons for changes to a project. However, a suggested taxonomy of changes to the contract with their causes and effects is included (for information only) in Annex 4.

Annex 1: material project information (MPI) and suggested 'causes for concern'

Stage in Project Cycle		List of Disclosures	Possible Causes for concern
Prior disclosures in support of CoST	Project identification	<ul style="list-style-type: none"> Project specification Purpose Location Intended beneficiaries Feasibility study 	<ul style="list-style-type: none"> The feasibility study expressed concerns about the project which need to be addressed before proceeding
	Project funding	<ul style="list-style-type: none"> Financing agreement Budget Engineer's estimate 	<ul style="list-style-type: none"> The availability of funding for the project is unclear
	Tender process (main contract for works)	<ul style="list-style-type: none"> Tender procedure Number expressing interest Number shortlisted Number submitting tender List of tenderers Tender evaluation report 	<ul style="list-style-type: none"> Apparent and significant deviations from standard practice in the procurement process which are not adequately explained in available documentation
Core disclosures in support of CoST	Contract award (main contract for works)	<ul style="list-style-type: none"> Contractor name Contract price Contract scope of work Contract programme 	<ul style="list-style-type: none"> The initial contract amount appears to be excessively above/below the engineer's estimate and the justification for this is not apparent.
	Contract Execution (contract for project supervision)	<ul style="list-style-type: none"> Significant changes to contract price, programme, scope with reasons 	<ul style="list-style-type: none"> Price increases are not adequately justified by external factors or changes in quality/time outlined in the released documentation Extensions of time are not adequately justified by external factors or changes in quality/price outlined in the released documentation
	Contract Execution (main contract for works)	<ul style="list-style-type: none"> Individual significant changes to the contract which affect the price (the threshold to be determined by the MSG) and reasons for those changes Individual changes to the contract which affect the programme (the threshold to be determined by the MSG) and reasons for those changes Details of any re-award of main contract 	

			<ul style="list-style-type: none"> • There are apparent changes in price/time/quality that are not reported or not adequately reported in the information released by the client
	<p>Post contract completion (main contract for works)</p>	<ul style="list-style-type: none"> • Actual contract price • Total payments made • Actual contract scope of work • Actual contract programme • Project evaluation and audit reports 	<ul style="list-style-type: none"> • Final account could not be verified

Continued

Annex 2: Table of project changes (variation orders and claims)

	Date of issue of variation order	Reason for variation	Work required to implement the variation	Effect on cost	Effect on programme / time	Effect on quality
1.						
2.						
3.						
4.						
5.						
	Date of claim	Reasons for claim	Amount claimed	Sum agreed by client	Date of agreement	
6.						
7.						
8.						
9.						
10.						
11.						

Annex 3: Clauses to be included in the contract on CoST projects

The following are standard clauses for inclusion in CoST project contracts. Part A are special conditions for traditional contracts and Part B are Z clauses for NEC Contracts. The clauses will facilitate the disclosure of Material Project Information by the Employer, Contractor and Engineer / Project Manager to an MSG Representative on CoST projects. Failure to disclose the information could be considered a breach of contract. However, it is doubtful if the MSG could take legal action for a breach of contract on this basis.

A Special conditions for traditional contracts

1. 'Material Project Information' means the information identified in the Appendix to the Form of Tender that may be disclosed during the duration of this contract.
2. 'MSG Representative' means the person appointed by the Multi-Stakeholder Group to collate Material Project Information for the Construction Sector Transparency Initiative.
3. The MSG Representative may instruct the Employer, Contractor or Engineer to disclose Material Project Information.
4. Within 7 days of receiving the notification the Employer, Contractor or Engineer shall disclose the Material Project Information to the MSG Representative.

Appendix

Name of the MSG Representative

Material Project Information

- Contract agreement
- Appendix to the contract (this contains Contractors name and price)
- Specification
- Programme approved by the Engineer and subsequent updates
- Variation Orders
- Claims
- Total contract cost
- Final contract payment

B NEC Z Clauses

1. Material Project Information is the *material project information* stated in the Contract Data unless later changed in accordance with this contract.
2. The *MSG Representative* may instruct the *Employer, Contractor or Engineer* to disclose Material Project Information.
3. Within 7 days of the notification, the *Employer, Contractor or Engineer* discloses Material Project Information to the *MSG Representative*.

Contract Data

The *MSG Representative* is

The *material project information* is

- Contract agreement
- Contract Data Parts 1 and 2
- Works Information
- Programme approved by the Project Manager and subsequent programmes
- Early Warning notices
- Compensation Events
- Final contract cost
- Final contract payment

Annex 4: Taxonomy of contract changes

Variation Identifier	Effect	Scale (or Amount)	Type of Effect	Cause Category	Apparent Cause	Comment - Detail or Justification	Transparency Flag
	Completion Time	N = nil	Contract extension	External	Weather	<i>Concise explanation in free text</i>	
		S = < 1%	Contract suspension		Natural Disaster		
		M = 1 < 10 %	Project interruption		Conservation		
		L = > 10 %			Policy / legal obligation		
		cal. Days			Political		
					Security		
					External incident		
	Completion Cost	N = nil	Item quantity		Other		
		S = < 1%	Item unit cost				
		M = 1 < 10 %	Item change	Client-related	Project requirements change		
		L = > 10 %	Escalation		Approval/permit delay		
		Local Currency	Compensation		Site access or acquisition		
		Reference Currency			Funding lack or delay		
					Financing arrangements		
	Contract Terms		Organization		Stop order		
			Financial terms				
			Re-award	Design-related	Unforeseen conditions		
			Default		Discrepancy/omission in documents		
					Specification change		
	No Contract Change		Uncompensated delay				
			Project costs outside contract	Supervision-related	Remeasure of quantity		

Variation Identifier	Effect	Scale (or Amount)	Type of Effect	Cause Category	Apparent Cause	Comment - Detail or Justification	Transparency Flag
				Contractor-related	Site management		
					Equipment		
					Labour dispute		
					Health / safety		
					Work quality / rework		
					Work scheduling		
					Subcontractor delay		
					Default on contract		