

CAPITAL & INFRASTRUCTURE BUILDING CONTRACT DIRECTIVE

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BCD.1

DATE: March 2014

BCD1 INSURANCE PROVISIONS

REFERENCE

GENERALLY:

THIS DIRECTIVE IS APPLICABLE TO THE MAJORITY OF SCHEMES BUT IT WILL NOT NECESSARILY BE APPROPRIATE TO ALL WORKS AND THEREFORE, ON EACH SCHEME IT WILL BE NECESSARY TO CHECK THE SPECIFIC REQUIREMENTS.

This directive is applicable to all forms of JCT 2011 building contract – see clause number reference column.

The Employer's insurer requires notification of ALL contracts with a contract sum of £2,000,000 or more and/or duration of 12 months or more. The Employer's Agent or Contract Administrator/Architect must refer such contracts to the Employer's Legal Services Insurance Team (contact Sharon Andrews 03302 222723 sharon.andrews@westsussex.gov.uk) as soon as they are identified and as soon as any existing contracts reach this threshold.

The Employer may incur additional premiums in the event of an increased duration/contract sum.

Employer's Agents and Contract Administrators/Architects are reminded that the Employer's Legal Services Insurance Team (contact Sharon Andrews 03302 222723 sharon.andrews@westsussex.gov.uk) requires notification of ALL contracts (including Self Help projects) regardless of value/duration, in order that they are included in the Insurance Schedule for the current financial year.

Catholic Schools

Catholic schools are responsible for arranging their own insurance in respect of property risks. In addition, the Council's Works in Progress/Contractor's All Risks policies are not available to catholic schools. Catholic schools are required to make arrangements with the Diocese and its insurers to provide suitable cover when building works are to be carried out at catholic schools and jointly indemnify the Employer and the Contractor for any damage caused to the existing buildings in carrying out the works. See section 3 below for the required amendments to the JCT Form of Contract.

Academy Schools

The Council's Works in Progress/Contractor's All Risks policies are no longer available to academy schools (transitional arrangements are in place for existing contracts) and they will be required to take out and maintain insurance cover in respect of the works and the existing buildings and to jointly indemnify the Employer and the Contractor for any damage caused to the existing buildings in carrying out the works. See section 3 below for the required amendments to the JCT Form of Contract.

BCD1 INSURANCE PROVISIONS

REFERENCE

Project Managers, Employer's Agents and Contract Administrators/Architects are responsible for checking that the required insurances are in place in respect of academy and catholic schools prior to any works commencing on site.

1 INJURY TO PERSONS AND PROPERTY – LIABILITY OF CONTRACTOR

- (a) Minimum level of cover for any form of building contract - £10,000,000.

Note: For Works associated with a building where the potential loss exceeds £10,000,000, a higher figure should be considered.

SBC(Q) 11
CL 6.4.1.2
SBC (XQ) 11
CL 6.4.1.2
DB 11 CL
6.4.1.2
ICD 11 CL
6.4.1.2
IC 11 CL
6.4.1.2
MW 11 CL
5.3.2
SBC(Q) 11
CL 6.5.1
SBC (XQ) 11
CL 6.5.1
DB 11 CL
6.5.1
ICD 11 CL
6.5.1
IC 11 CL
6.5.1

2 CONTRACTOR'S INSURANCE OF LIABILITY OF EMPLOYER

- (a) On schemes for new buildings where there are no existing structures in close proximity to the works i.e. no existing insurable interest – no insurance is required.
- (b) On schemes where a new building is connected by a walkway, atrium or similar structure, guidance may be required from the Employer's insurers (contact the Legal Services Insurance Team - Sharon Andrews 01243 – 777909).
- (c) On other schemes provision is to be made at tender stage for appropriate insurance cover and a provisional sum is to be included in the Bill of Quantities or Specification or Employer's Requirements. Generally the minimum amount of indemnity will be £10,000,000. However, the final decision upon the need for this insurance will be made by the project team before the contract is drawn up. The minimum cover is to relate to the estimated cost of the scheme as defined above.

3 INSURANCE OF THE WORKS

- (a) New buildings with no physical connection to any existing buildings i.e. no existing insurable interest – **The Employer will not have insurance cover in place in respect of any new build and the Contractor must take out All Risks Insurance of the works.**
- (b) On schemes where a new building is connected by a walkway, atrium or similar structure, the Employer's Works in Progress insurance may be available. Guidance will be required from the Employer's insurers (contact the Legal Services Insurance Team - Sharon Andrews 03302 222723).
- (c) Alterations and Extensions to existing buildings (i.e. where any physical connection, even a covered way, is to be made) – insurance by the Employer. The Employer maintains a standard 'Works in Progress' insurance cover and **will not** take out a separate insurance policy in joint names to cover all of the risks specified in the standard forms of contract. As a result, it will be necessary to incorporate amendments to the standard forms in all contracts and tender documents must make this clear to tenderers.

BCD1 INSURANCE PROVISIONS

The following standard clause must be incorporated into Bills of Quantities, Specifications and Employer's Requirements:

'The Employer **will not** take out or maintain a separate Joint Names Policy for All Risks Insurance of the Works or a Joint Names Policy to insure the existing structures and their contents owned by him for which he is responsible against loss or damage by the Specified Perils. The Employer does however maintain 'Works in Progress' insurance cover. Tenderers must include in their tenders for all costs, including those for any additional insurance premiums that may be considered necessary arising from these amendments to the standard conditions.'

The following standard clause must be incorporated into the Contract:

'The Employer **will not** take out or maintain a separate Joint Names Policy for All Risks Insurance of the Works or a Joint Names Policy to insure the existing structures and their contents owned by him for which he is responsible against loss or damage by the Specified Perils. The Employer does however maintain 'Works in Progress' insurance cover.'

Catholic Schools

The following standard clause must be incorporated into the Contract where the school is a catholic school:

Delete Insurance Options A, B & C and insert: 'The [insert correct legal entity of school] will take out and maintain insurance cover in respect of the Works and the existing buildings and jointly indemnify the Employer and the Contractor for any damage caused to the existing buildings in carrying out the Works. The [insert correct legal entity of school] shall, as and when reasonably required by the Employer, produce documentary evidence showing that the insurance cover has been taken out and is being maintained.'

Academy Schools

The following standard clause must be incorporated into the Contract where the school is an academy school:

Delete Insurance Options A, B & C and insert: 'The [please insert] Academy Trust will take out and maintain insurance cover in respect of the Works and the existing buildings and jointly indemnify the Employer and the Contractor for any damage caused to the existing buildings in carrying out the Works. The [please insert] Academy Trust shall, as and when reasonably required by the Employer, produce documentary evidence showing that the insurance cover has been taken out and is being maintained.'

REFERENCE

SBC(Q) 11
CL 6.7 &
Schedule 3
SBC (XQ) 11
CL 6.7 &
Schedule 3
DB 11 CL 6.7
& Schedule 3
ICD 11 CL
6.7 &
Schedule 1
IC 11 6.7 &
Schedule 1
MW 11 CL
5.4A, 5.4B &
5.4C

The sum insured must be equal to the contract sum stated in the building contract, plus the value of any construction material supplied and/or additional work performed by the Contractor at the Employer's instruction.

Any increase in the contract sum must be notified immediately to the Legal Services Insurance Team (contact sharon.andrews@westsussex.gov.uk) and the Contractor must immediately put in place any additional insurance requirements.

4 PROFESSIONAL INDEMNITY INSURANCE

- (a) The minimum level of cover required for professional indemnity insurance for Contractor's Designed Portion (CDP) is to be £2,000,000. However, this directive is applicable to the majority of schemes but it will not necessarily be appropriate to all works and therefore, on each scheme it will be necessary for the Employer's Agent or Contract Administrator/Architect to check the specific requirements.
- (b) The level of cover required relates to claims or series of claims arising out of one event.
- (c) The expiry period of CDP professional indemnity insurance is 12 years provided it remains available at commercially reasonable rates.
- (d) Cover for asbestos claims is required, with a limit of indemnity of £2,000,000, unless the works are entirely in respect of a new build (in which case cover for asbestos claims is not required). The required limit of indemnity in respect of asbestos cover is an annual aggregate amount.
- (e) Cover for fungal mould claims is required, with a limit of indemnity of £2,000,000.

5 POOL REINSURANCE COMPANY LIMITED ("Pool Re Cover") INSURANCE

The Contractor shall ensure that his insurer is a member of the Pool Reinsurance Company Limited scheme (or of any similar successor scheme) prior to entering into the contract and if requested to do so by the Employer, shall produce for inspection documentary evidence of such membership.

SBC(Q) 11
CL 6.12
SBC (XQ) 11
CL 6.12
DB 11 CL
6.12
ICD 11 CL
6.16

SBC(Q) 11
CL 6.10 &
Schedule 3
SBC (XQ) 11
CL 6.10 &
Schedule 3
DB 11 CL
6.10 &
Schedule 3
ICD 11 CL
6.10 &
Schedule 1
IC 11 6.10 &
Schedule 1

6 PERCENTAGE TO COVER PROFESSIONAL FEES

Where Option A applies insert 16%. Provision is not applicable for Options B & C.

SBC(Q) 11
CL 6.7 &
Schedule 3
A.1 & A.3
SBC (XQ) 11
CL 6.7 &
Schedule 3
A.1 & A.3
DB 11 CL 6.7
& Schedule 3
A.1 & A.3
ICD 11 CL
6.7 &
Schedule 1
A.1 & A.3
IC 11 6.7 &
Schedule 1
A.1 & A.3
MW 11 CL
5.4A.1 &
5.4B.1.2