

Commission control

Following on from Nick Bell's article in last month's SHP, **Paul Fenwick** guides practitioners through the five stages of managing contractors, the principles of which, he suggests, fit neatly with the client's obligations in regard to CDM 2007.

IN 2009, THE CONSTRUCTION CLIENTS' Group (CCG), in conjunction with the British Property Federation (BPF), commissioned a survey to obtain feedback from between 250 and 300 construction clients on the Construction (Design and Management) (CDM) Regulations 2007. The emphasis was on small to medium-sized firms whose core business did not involve construction work.

A subsequent report on the survey findings¹ found strong evidence that the CDM Regulations have had minimal impact on how both regular and 'one-off' clients manage their involvement in construction projects. Evidence suggested that two-thirds of 'one-off' clients had not heard of the CDM Regulations and a significant number would not know where to source information about them. Furthermore, two thirds of 'one-off' clients rely on contractors and others to comply fully with the Regulations.

The findings are significant because, of course, the Regulations place obligations to manage health and safety on the individual or organisation that commissions construction work. Even though they do not undertake the work themselves, they are responsible as a 'client', and the Regulations are prescriptive in respect of the duties they impose.

Notwithstanding, clients also need to be familiar with the more general duties imposed on them by other legislation in respect of contractor management, most notably the HSWA 1974, the MHSWR 1999, the Control of Substances Hazardous to Health Regulations 2002, and the Control of Asbestos Regulations 2006.

HSE guidance document (HSG159) 'Managing contractors – A guide for employers',² details five practical steps for safe working: planning; choosing a contractor; contractors working on site; keeping a check; and reviewing the work. These principles form the basis for good contractor management and dovetail with the client's obligations under the CDM Regulations.

Step 1 – Planning

Clients need to identify clearly the health and safety implications of the work they want the contractor to undertake, including any work



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falling within preparation and completion phases. This will involve selecting a contractor who is suited to carry out the work, assessing the risks, deciding what information, instruction and training are required, and how cooperation and coordination between all parties will be achieved. This does not necessarily mean managing the work themselves, as few clients will have the expertise or resources required.

Clients must ensure that they have suitable and sufficient health and safety assistance available, either through the timely appointment of a CDM coordinator, or by employing a competent person to act on their behalf. When planning a project the client must consider what health and safety information the contractor and other parties will require prior to works commencing. This may necessitate the commissioning of a number of surveys and investigative works.

Contractors must be allowed sufficient time to mobilise and coordinate their activities, and clients must ensure that contractors have made arrangements for suitable welfare facilities, proportionate to the scale and duration of the project, to be provided from the start and throughout the construction phase.

Issues such as the spatial constraints imposed by the site will need to be considered, focusing on the potential location for contractor’s welfare facilities, site cabins, skips, storage areas, and traffic management. For smaller projects, it may be feasible for the contractor to use the existing client welfare facilities, but larger projects will usually require the provision of standalone facilities.

The University of Leeds Estate Services department requires its in-house technical officers, or the appointed CDM coordinator, to carry out a basic ‘site set-up, minimum requirements’ inspection for contractors working on all construction projects lasting more than 24 hours. Failure to meet the criteria on site establishment will effectively prevent contractors from commencing any further works until remedial action has been taken to ensure statutory compliance.

Step 2 – Choosing a contractor

Clients must ensure that any contractor they propose to engage is competent, adequately resourced, and appointed early enough for the work they have to do.

Appendix 4 of the CDM Regulations details the core criteria necessary for the demonstration of competence. This is effectively split into a two-stage assessment. Comprising little more than a desktop study, ‘Stage 1’ is an assessment of the supplier’s organisation and arrangements for health and safety, to determine whether these are sufficient to enable the supplier to carry out the work safely and without risk to health.

‘Stage 2’ is an assessment of the supplier’s experience and track record. It aims to establish that the organisation is capable of undertaking the work (i.e. project, activity or service-specific inquiry), that it recognises its limitations and how these should be overcome, and that it appreciates the risks posed by the work and how these should be reduced.

Pre-qualification schemes operated by members of the SSIP Forum (see panel) recognise ‘Stage 1’ competence assessments carried out by other SSIP member schemes. Additionally, the HSE also recognises that an accredited assessment undertaken by any of the member schemes satisfies the requirements of the core criteria in CDM.

When undertaking a ‘Stage 2’ assessment, clients should ensure that suppliers have and maintain: appropriate experience to carry out specific work in specific sectors; suitably trained staff; and other resources available to do the work to meet the client’s needs. Unlike ‘Stage 1’, this assessment should be more than a desktop study. Physical checks of a potential supplier should be carried out in order for the client to fully satisfy themselves of the supplier’s and individuals’ competence, experience and suitability.

Contractors should be required to provide specific details of previous experience of similar projects within a particular sector, and give contact details for those persons from whom a reference may be obtained. The level of checks carried out should be proportionate to the nature of the project for which the contractor is to be engaged. In some instances it may be beneficial for the client to visit some of the contractor’s former projects, or a ‘live’ site in order to verify the contractor’s approach to safety management. In doing so, the client will establish first-hand whether supervision is in place where required; whether works are being coordinated and that an effective communication system is in

place; and if monitoring activities are present on the site to check that sub-contractors are working safely.

Liaising directly with building occupiers, or the facilities and maintenance team, may establish if there are any residual health and safety issues associated with the building use, particularly in relation to the cleaning and maintenance of the structure, which may have added significantly to the whole-life cost.

Relevant training, knowledge and experience of those individuals who will be engaged in the work is also a major consideration. Clients must establish that contractors are adequately resourced, and employ a sufficient number of individuals able to demonstrate their ability to deal with the key health and safety issues arising from the work for which the contractor is applying.

In common with a number of public-sector clients, the University of Leeds currently acknowledges that those suppliers who have gained CHAS accreditation have successfully met the ‘Stage 1’ core criteria for health and safety pre-qualification. This effectively allows the organisation to concentrate its resources on carrying out robust ‘Stage 2’ assessment.

Contractors are required to provide detailed training records, including copies of their company training matrix, competency cards, certificates and, where relevant, evidence of continuing professional development, for those individuals who will be employed to undertake work on the estate. The University also places its own strict criteria on the training requirements of certain key individuals. For example, all CDM coordinators wishing to undertake work on behalf of the University are required to be registered members of the Association for Project Safety (RMAPS), and construction site managers must possess a valid CITB Site Management Safety Training Scheme (SMSTS) certificate.

Step 3 – Contractors working on site

All parties should consider what information should be passed between them and agree appropriate ways to make sure this is achieved. Information about the risks arising from their operations, including relevant safety rules and procedures for dealing with emergencies, needs to be communicated. The extent of the client’s responsibilities will be determined by the impact that the contractor’s

work could have on anyone likely to be affected.

Many clients produce safety guidelines for their contractors, and the University of Leeds is no exception. A site-specific health and safety induction is given to those individuals who will be responsible for the supervision of the work on site, and it is anticipated that this, in turn, will be cascaded down to the site operatives as part of the contractor's induction process. The University requires that contractors retain a hard copy of the Estate Services 'Safety Guidelines for Contractors' document on site throughout the duration of the project.

As necessary, local liaison meetings are arranged between contractors and adjacent occupiers. Faculty liaison representatives are also nominated to review and coordinate the potential impact of specific construction activities as work progresses.

Step 4 – Keeping a check

Clients, contractors and sub-contractors should monitor their health and safety performance, and the level of monitoring should be proportionate to the risks.

The CDM Regulations do not require clients to visit the site to supervise or check construction work standards, or employ third-party assurance advisors to monitor health and safety standards on site. Best practice, however, would suggest that clients should make periodic checks on the contractor's performance to see if the work is being carried out as agreed.

For smaller projects, the University of Leeds require its technical officers to undertake weekly contractor monitoring,

using a '10-point observation' template. The document is essentially a simple checklist of questions, prompting a response – for example: 'Is a risk assessment relating to the specific works being carried out available at the site?'

Weekly monitoring also provides the client with an opportunity to monitor the quality of the work and review the on-site progress with the contractor, thereby reducing the potential for the contractor to deviate from the agreed scope of works, working methods, or material specification.

For notifiable construction projects the University employs the CDM coordinator to undertake a more rigorous, monthly 'project health and safety inspection'. This requirement is over and above the defined role of the CDM coordinator. While attracting an additional premium, this is outweighed by the fact that the client has peace of mind that the contractor's health and safety arrangements are being monitored independently and that subsequent issues will be raised – hopefully, before they reach a critical point.

Step 5 – Reviewing the work

Following completion of the work, the client should review both the project and the contractor. Consideration should be given to items such as: the planning of the project; selection of the contractor; the quality of the work; and the effectiveness of the contractor's on-site health and safety management arrangements. Lessons learned should be recorded and referred to when considering future projects.

For major construction projects at the

University of Leeds, the performances of the principal contractor, CDM coordinator and design team are reviewed quarterly by the contract administrator against a list of key performance indicators. An overall percentage of less than 50 per cent indicates that the supplier has either failed to meet its statutory duties, or failed to comply with the client's guidance, in which case they will be subject to a performance review interview. Details are published in the form of league tables, and any supplier consistently underperforming may find their workload reduced and not be invited to tender for future projects.

Conclusion

While the HSE does not expect clients to be experts in managing construction projects, they do expect them to understand that they cannot ignore the requirement for good management and need to focus on the health and safety of a project. Clients are expected to ask relevant questions and query answers that are less than satisfactory. Doing nothing is simply not an option! ■

References

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TENDER TRIBULATIONS OR CRUCIAL CHECKS?

Frustratingly, for many contractors that undergo 'Stage 1' or pre-qualification health and safety assessments from clients, major contractors, or third-party competence assessment schemes when tendering for work, they are asked to prove their credentials time and again.

The Specialist Engineering Contractors Group (SECG) recently surveyed 606 companies regarding pre-qualification schemes.³ It found that the average number of schemes to which a company had to subscribe in a year is 2.3, or up to 20 for larger companies. Subscriptions varied between £200 up to many thousands of pounds, but averaged £1500. Other costs associated with administering the scheme averaged £4000 for each company.

To reduce bureaucratic burden of this nature, and standardise 'Stage 1' pre-qualification core criteria, representatives from the Contractors' Health and Safety Assessment Scheme (CHAS), Constructionline, Exor Management Services and the National House-Building Council met in 2007 to discuss the potential for mutual recognition of different schemes

In 2009, the Safety Schemes in Procurement (SSIP) Forum⁴ was established to act as an umbrella organisation to "facilitate mutual recognition between health and safety pre-qualification schemes wherever it is practicable to do so". The SSIP looks to actively advise and influence clients on the

acceptable interpretation and appropriateness of health and safety competence standards in UK schemes.

Complementing the SSIP Forum is PAS 91:2010,⁵ which came into effect in October last year. Developed by the British Standards Institution, the document specifies the nature, content and format of a set of questions designed to test compliance with the core criteria and establish uniform requirements for their application and use.

The use of this set of common criteria by those who provide pre-qualification services will help streamline tendering processes by reducing the requirement for unproductive, repetitive completion of a multiplicity of pre-qualification processes. The publicly-available specification is designed to increase consistency between various pre-qualification databases and facilitate the identification of suitably qualified and experienced suppliers.

The benefit to clients of using an SSIP Forum scheme, or PAS 91:2010 for the initial assessment, is that it allows them to concentrate on what should be regarded as the more critical 'Stage 2' of the procurement process.

However, SHP reported in last month's News pages that continuing demands from some clients for accreditation to multiple schemes and a lack of commitment by major contractors are holding back progress on mutual recognition and scheme integration.⁶

