

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 6 PART 2

CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2007

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1. OVERALL REQUIREMENTS

1.1 Definitions

- 1.1.1 For the purpose of this Part the terms "client", "CDM Co-ordinator", "Designer", "Principal Contractor" shall have the meanings assigned to them in the *Construction (Design and Management) Regulations 2007* and associated Approved Code of Practice.
- 1.1.2 The term Client's Representative relates to the single point of contact for the client in respect of the CDM Regulations. This role is not required by the regulations but is considered to be best practice. The Operating Company, when undertaking the Client's Representative role, will be delegated with the responsibility of ensuring that the client's duties in respect of the CDM Regulations are undertaken although the legal responsibility will remain with the Scottish Ministers. For the purposes of this contract a member of the Operating Company's management team will be nominated as the Client's Representative.

1.2 Role of the Operating Company

- 1.2.1 The Operating Company shall:
- (i) be appointed as the Client's Representative in respect of the CDM Regulations and will be required to assist Transport Scotland in fulfilling its duties as client, in accordance with the *Construction (Design and Management) Regulations 2007* in respect of all activities under this Contract that shall be covered by the *Construction (Design and Management) Regulations 2007*, and
 - (ii) be responsible for acting as Designer and CDM Coordinator, or
 - (iii) assist Transport Scotland in the appointment of other organisations as Designer(s) or CDM Coordinator(s) as shall be required during the Contract Period.

The Operating Company, as Client's Representative, shall assist the Director in the appointment of Designer(s) and CDM Coordinator(s) during the Contract Period. This will require carrying out the appropriate checks on the organisation's competence and resources in relation to the role for which it is being considered for, and the production of a report for the consideration of the Director prior to formal appointment of the organisation, in writing, by the Director. The Operating Company, as Client's Representative shall assess the suitability of prospective tenderers to undertake the role of Principal Contractor.

Where the full requirements of the *Construction (Design and Management) Regulations 2007* apply, and prior to issuing tender invitations for Works Contracts, the Operating Company, as Client's Representative, shall advise the Director in writing that the *Construction (Design and Management) Regulations 2007* apply and shall require the tenderers to confirm their willingness to undertake the role of Principal Contractor.

- 1.2.2 The Operating Company, as Client's Representative, shall advise the Director of the suitability of a company (including a direct labour organisation) for appointment as the Principal Contractor prior to the award of a Works Contract. The appointment of the Principal Contractor shall be concurrent with contract award.
- 1.2.3 The Operating Company shall be appointed to be the Principal Contractor when undertaking Operations to which the *Construction (Design and Management) Regulations 2007* apply and that require notification to the Health and Safety Executive. This appointment shall be made, in writing, by the Director. The Operating Company, as Client's Representative, must ensure that any appointments made in relation to these Operations are formally recorded in writing.
- 1.2.4 During the Mobilisation Period, the Operating Company shall develop a documented procedure for ensuring compliance with the *Construction (Design and Management) Regulations 2007* as part of its Management System including the Quality Plan that shall include:
- (i) the secure storage and location (both hard copy and Electronic Copy) of all the files and other records required by the *Construction (Design and Management) Regulations 2007* including but not limited to:
 - (a) appointments made or altered,
 - (b) Health and Safety Plans,
 - (c) agreements as to who shall provide the health and safety file,
 - (d) health and safety files,
 - (e) survey and investigation reports,
 - (f) notification to Health and Safety Executive (F10 forms),
 - (g) information obtained from the client,
 - (h) advice given and information transferred to the CDM Coordinator, Designer and Principal Contractor, and
 - (i) advice received from the CDM Coordinator, Designer and Principal Contractor,
 - (ii) the methods by which the information required by the *Construction (Design and Management) Regulations 2007* to be made available by the Operating Company to the CDM Coordinator, Designer and Principal Contractor shall be transferred to these parties.
- 1.2.5 The Operating Company shall prepare the health and safety files to comply with the *Construction (Design and Management) Regulations 2007*.
- 1.3 Construction (Design and Management) Regulations 2007 – CDM Coordinator**
- 1.3.1 The CDM Coordinator shall be an organisation or individual with appropriate qualifications and competence to carry out the function of CDM Coordinator. The CDM Coordinator shall be able to demonstrate the independence of this role from that of the team responsible for design and planning to Transport Scotland, to the Operating Company, and to any person nominated by either of them. This will apply for all instances where a CDM Coordinator is appointed either within the Operating Company or externally.

The CDM Coordinator appointed for each scheme or work package will be required to comply with the general duties of a CDM Coordinator as set out under Regulation 20 of the *Construction (Design & Management) Regulations 2007*.

There will be a general requirement that individuals nominated as lead contact for the function of CDM Coordinator will be assigned to Schemes on the basis of their competence and experience and not as a general appointment for all Schemes under this Contract.

The contact details for the CDM Coordinator lead contact shall be provided to the Operating Company and the Director within 14 days of appointment.