

ACostE North West Branch Cumbrian Cluster

Demystifying the ECC Working Areas Overhead



Introduction

- **Dominic Doig** BSc (Hons), FRICS, MACostE, MClarb, CertConstLaw, AdvDipQSEng
 - Chairman of NW Branch of AcostE
 - Managing Director of Solomons Europe
- About the NW Branch of the ACostE
- About Solomons Europe and our association with the AcostE



Demystifying the ECC Working Areas Overhead

John Rossiter

BSc (Hons), MRICS, MSc, MACostE



What's it all about?

A guess
and a
gamble?

44



A different way to shop....

- New CEO of Tesco decides on an innovative way to sell Bathroom products - as a fixed percentage of weekly food shop costs.
- How will Tesco work out what percentage to charge customers?
 - What are the rules, what is included/excluded?
 - What are the variables?



A different way to pay for site items...

- Employer “I don’t want to see invoices for consumables and bits and bobs in your site cabin and stores, I’ll pay them as a pre-agreed percentage of your people cost”
- Contractor “That’s fine, it usually costs me about £1,000/month for those items. My forecast is £20,000/month for people cost, so I need 5%”



- End -



What was the intent?

ECC Guidance Notes:

- *Administratively simpler and places a little more risk on the Contractor, including, for example, the risk of excessive wastage of tools.*
- *When assessing compensation events, items under 44 would have to be forecast as if they were treated as direct costs. The effort required would be disproportionate to their value and there would be a high likelihood of dispute.*
- Is this true?



Why the confusion?

- No explicit cross referencing under NEC
- What clause is the SCC? Where does it sit?
- Working Areas and *working areas*?
- How do you get to the percentage?
- The rules – impossible to define every item
- Defined Cost v actual cost
- It's different...



The Contract

- ECC functions as a whole
- Relevant aspects:
 - Defined Cost
 - The Schedule of Cost Components
 - Percentage stated in Contract Data Part 2
 - Definition of the Working Areas
 - The *working areas* in Contract Data Part 2



Defined Cost

- Under Options C, D & E, it is the main basis of Price for Work Done to Date and amount due
- Defined Cost is (11.2(23)):
 - Payments to Subcontractors (without taking account of deductions)
 - Cost of components in the **Schedule of Cost Components**
 - less Disallowed Cost



Schedule of Cost Components

- SCC is not a schedule of costs or rates, its a list of items of potential cost, split into seven sections:

1 People

2 Equipment

3 Plant and Materials

4 Charges

5 Manufacture and Fabrication

6 Design

7 Insurance



SCC Component 4 - Charges

- Cost of certain charges included in component 4 as the payments made by the *Contractor*, detailed in items 41, 42 and 43.
- Item 44 is different – it is a charge calculated by applying the percentage for Working Areas overheads stated in the Contract Data to the total of people items 11, 12, 13 and 14.



Working Areas overhead percentage

A charge for overhead costs incurred within the Working Areas calculated by applying the percentage for Working Areas overheads stated in the Contract Data to the total of people items 11, 12, 13 and 14. The charge includes provision and use of equipment, supplies and services, but excludes accommodation, for.....



Working Areas overhead percentage

- (a) catering
- (b) medical facilities and first aid
- (c) recreation
- (d) sanitation
- (e) security
- (f) copying
- (g) telephone, telex, fax, radio and CCTV
- (h) surveying and setting out
- (i) computing
- (j) hand tools not powered by compressed air



Working Areas overhead percentage

- Key points:
 - Covers pre-defined list of items 'overhead costs'
 - Excludes accommodation e.g. cabins
 - Must be incurred in the Working Areas
 - Percentage in Contract Data Part 2 is multiplied by the sum of People Cost



What are the Working Areas?

- Defined term 11.2(18). The Working Areas are those parts of the *working areas* which are:
 - Necessary for Providing the Works —————→ 11.2(13): do the work necessary to complete the works in accordance with the contract. Includes all incidental works, services and actions
 - Used only for work under this contract
- Clause 15.1, Contractor may propose adding to Working Areas. PM reason for non-acceptance is not complying with the definitions.



What are the *working areas*?

- The *working areas* are identified by the Contractor in Contract Data Part Two – completed at tender stage.
- What if the identified *working areas* are not:
 - Necessary for Providing the Works
 - Used only for work under this contract
- Guidance clarify that *working areas* must satisfy criteria in clause 15.1 and “*these working areas will not be considered to be Working Areas unless they comply with the definition in clause 11.2(18)*”



Working Areas - What's the point?

- It may be necessary or productive to work in areas outside of the site, e.g. workshops, batching plants, offices
- Definition gives Employer certainty that he's only paying for things he can 'see'
- Ring fences particular areas relevant to that contract



Calculating the WAO percentage

Cost Components	Forecast Cost	Notes
a) catering	£0.00	provided by Employer
b) medical facilities and first aid	£2,000.00	First aid kits, eye wash stations
c) recreation	£0.00	not applicable
d) sanitation	£5,000.00	Cleaning supplies, hand wash and stations
e) security	£14,000.00	Fencing
f) copying	£7,500.00	Copier rental and consumables
g) telephone, telex, fax, radio and CCTV	£12,500.00	Phone rental, CCTV system
h) surveying and setting out	£3,500.00	Theodolites and miscellaneous surveying equipment
i) computing	£1,500.00	Monitors for site cabins
j) hand tools not powered by compressed air	£5,000.00	Miscellaneous small tools

Cost **£51,000.00**

Forecast total people cost **£1,200,000.00**

Percentage for Working Areas overhead **4.25%**



Practical bits and FAQs

- Estimating error – what if the forecast is incorrect?
- People or delivery strategy – what if higher percentage is subcontracted than planned at tender?
- What if Employer opts to provide the items post contract?
- Cashflow and phasing – WAO % recovery rate may not always correlate to people costs
- Can you include a head office as a Working Area?
- What if a large proportion of staff are 'off site'?



Practical bits and FAQs

- Is it just your 'cost to employ' overhead burden?
- Can you audit the WAO percentage?
- If the *Employer* intended that the percentage was adjusted to reflect the cost position, why use it?
- Looking back at the objectives, does it:
 - Reduce the administration
 - Reduce effort required to price CEs and disputes?



Questions & Issues in Practice

John Rossiter

M: 07867 397 293

E: john.rossiter@solomonseurope.co.uk

