

SEC GROUP **focus**

Voice of the Specialist Engineering Contractor

The members of the
SEC Group are:

Association of
Plumbing and Heating
Contractors

British Constructional
Steelwork Association

Electrical Contractors'
Association

Heating and Ventilating
Contractors'
Association

Lift and Escalator
Industry Association

SELECT

SEC GROUP RETURNS TO 10 DOWNING STREET FOR TALKS ON IMPROVING PAYMENT SECURITY IN THE CONSTRUCTION INDUSTRY



Claire Curtis - Thomas MP for Crosby lead a SEC Group delegation consisting of Chairman Trevor Hursthouse, Chief Executive Rudi Klein and Executive Secretary John Nelson to 10 Downing Street on 28 June.

The purpose of the visit was to meet again with Geoffrey Norris – Senior Policy Adviser – to the Prime Minister on Trade and Industry matters – to continue discussions on the theme of improving payment security for SMEs in the construction industry. The SEC Group had met previously with Geoffrey Norris on 21 April 2004.

Review of the Construction Act

Geoffrey Norris was updated on the Review of the Construction Act and told that there was an urgent need for amendment to the Act to establish certainty of timing and amount of payment (i.e. a debt to be paid by a certain time).

How can this be achieved? The SEC Group suggested:

- A statutory right to apply for payment at any time (showing how the amount was calculated).
- The payer should have the right to respond within so many days (e.g. 15 days) from receipt of the application.
- If the payer intends to pay a difference amount from that applied for, it should also provide the necessary calculation and, if it is also seeking to recover loss or damage for breach of contract, it should set this out in detail (when the loss was incurred, the items comprising the loss, and the amounts allocated to each item).
- The Act should state that the amount applied for must be paid within so many days of the receipt of the application if there is no response. If there is a response, then the amount in the response must be paid – provided that the response has the necessary details.

Insolvency Protection.

SEC Group raised insolvency protection. It was pointed out that there had been consensus amongst the industry's organisations involved in the review that clients should have the right to direct payments to sub-contractors in the event of main contractor insolvency. Ever since Sir Michael Latham's report 'Constructing the Team' in 1994 it had been recognised that, unlike other industries, the construction industry did not have the means to adequately protect itself against payer insolvency. SEC Group said that there was an urgent need for these concerns to be addressed by the Department of Trade and Industry and the Insolvency Service.

Project Bank Accounts

SEC Group highlighted the fact that project bank accounts had emerged as the one positive recommendation from the Fair Payment Task Group – established by the Chief Secretary to the Treasury - in the wake of the campaign against retentions on public sector contracts. However, progress by the Task Group had been slower than expected. There was now a need to quicken the pace. Firms in the industry are anxious to see progress.



Audit Office Report on 'Improving Public Services through better construction'. The NAO Report had recommended project bank accounts for public sector contracts. It was the clearest endorsement yet of this method of payment and presented a real opportunity to smooth chain payments and put an end to outdated practices. The approach of using a single bank account for the entire construction team ensures the timely payment of all parties. SEC Group would expect that the Fair Payment Task Group's Report to the Chief Secretary – expected soon – would endorse the NAO Report and the use of project bank accounts by the public sector.

There might need to be a timeframe in which the NAO recommendations can be implemented but the SEC Group proposed that, within the next three years, every public sector project should use a Project Bank Account.

Savings

Without doubt the most revealing point made by the NAO Report was;

'.... further value for money savings of up to £2.6 billion in annual construction expenditure may be possible if good practice was applied across all of the public sector.'

This was a very significant statement by the NAO that should not be ignored. It is now more important than ever that the DTI, Office of Government Commerce and the construction industry work together to drive forward the good practice agenda identified by NAO in order that the savings are achieved.

Retentions

SEC Group were informed that the Office of Government Commerce had agreed, in principle, that retentions should go on public sector contracts. The issue was now to put in place the machinery to achieve this (particularly with respect to the persistence of retentions within the supply chain). To take these matters forward Claire Curtis – Thomas MP – on behalf of SEC Group - had asked for a meeting with Rt Hon Des Browne MP - the Chief Secretary to the Treasury.

It was noted that the Office of Government Commerce had linked the removal of retentions to the achievement of zero defects by 70% (by volume) of construction projects by March 2005. Although the OGC has yet to report whether or not this target had been reached, press reports have already indicated that the target has been achieved.

The press report went on to say that 'if OGC is on course to meet its targets then retentions could be scrapped if nearly 70 per cent work is being delivered with zero defects'. Whilst SEC Group has never accepted the link between defects and retentions the OGC look like they have effectively reached their target. The OGC planned to publish the final results of its analysis of Government departments' performance in the autumn.

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