

NEC Secondary Option X20 Key Performance Indicators

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About Us



GVE Commercial Solutions Ltd are a commercial management consultancy providing quantity surveying and programming services. Our consultants specialise in the NEC forms of contract.

Our NEC capability has principally been acquired through practical application and experience within 'live' project environments assisting both contractors and subcontractors.

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Key Performance Indicators

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Definition

'A quantifiable measure of performance'.

Key Performance Indicators (KPIs) can be used to measure performance at different strategic levels.

A KPI is not the target you are trying to achieve but a metric of the measure of progress in relation to that target.

The KPI selection process should begin by defining what the target(s) are, using appropriate tools including;

- S.M.A.R.T. goals,
- Balanced scorecard,
- Benchmarking data.

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Construction Industry



In 1998 the report 'Rethinking Construction' was published by the Construction Task Force, chaired by Sir John Egan.

The report made numerous recommendations, including;

- Set targets for improvement,
- Measure progress.

These recommendations led to the publication, 'KPI Report for the Minister for Construction' published in January 2000.

This KPI report sets out a comprehensive framework for use in measuring and benchmarking construction industry performance.

This led to a subsequent annual publication, 'UK Industry Performance Report', based on the 'UK Construction Industry KPI Report', that provides an assessment of the industry's performance.

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Use of KPIs



Most organisations measure their performance, which is actually a requirement under ISO 9001:2015 Quality Management systems.

The Office for National Statistics collects information and data to build a picture of life in the UK, which is presented in the form of KPIs.

This information is used by the UK Government to determine economic policy targets.

The construction industry has encountered many changes since the 'Rethinking Construction' report in 1998, with performance monitoring, KPIs and benchmarking continuing to be developed.

The intention of any KPI, however, is to provide accurate, meaningful and relevant information.

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Use of KPIs - Caution



KPIs can lead to unintended consequences where focus is distracted, to the detriment of actual performance.

Example

In 2010 Birmingham City Council awarded a Highways PFI contract, which was intended to run for 25 years.

A lengthy performance dispute ensued and ended in March 2020 when the contract was terminated.

An important issue which led to the dispute was the requirement to report progress against more than 600 KPIs.

A revised contract is to be awarded which, amongst other changes, reduces the number of reportable KPIs down to less than 30.

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Use of KPIs - Projects



Many Client organisations have their own 'business reporting' KPIs.

Often these would be stepped down into specific contracts to facilitate the reporting and monitoring.

The problem is identifying appropriate targets and the KPIs that are relevant to measure performance as a project environment does not necessarily correlate with a business environment.

Some project related issues to consider are;

- How are the targets benchmarked?
- What influence do 'others' have on the level of required performance?
- Do the KPIs actually measure performance or 'actions'?
- Do the KPIs essentially measure 'proxy' performance?

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Incentivisation

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Definition

Incentivisation
This is a process that incorporates incentives into a system or procedure.

Incentive
This is something offered to encourage a particular behaviour or action.

The purpose of using incentives in a construction contract is to stimulate a level of performance which benefits both parties.

For maximum effect, both the incentivisation and incentives should be;

- Realistically achievable,
- Worthwhile,
- Easy to understand,
- Simple to apply,
- Relevant.


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X20 – Key Performance Indicators

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NEC Suite

Secondary option X20 can be found in the following NEC forms of contract;

- Engineering and Construction Contract (ECC),
- Engineering and Construction Subcontract (ECS)
- Professional Services Contract (PSC),
- Professional Services Subcontract (PSS),
- Term Services Contract (TSC),
- Term Services Subcontract (TSS),
- Supply Contract (SC).

This option is not used with Option X12 (Multiparty Collaboration) as this already includes for the use of Key Performance Indicators.

The FMC, FMS, DBO and ALC forms have a Performance Table which may contain incentives, including KPIs.

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ECC – X20.1



'A Key Performance Indicator (KPI) is an aspect of performance by the Contractor for which a target is stated in the Incentive Schedule. The Incentive Schedule is the incentive schedule unless later changed in accordance with the contract.'

A KPI is linked to an *'aspect of performance'*, although it is not stated whether this relates to;

- Contractual performance,
- A statutory obligation,
- An organisational requirement.

The Incentive Schedule is identified in Contract Data, as follows;

The *incentive schedule* for Key Performance Indicators is in

As with any contract document, the Incentive Schedule should be both comprehensive and unambiguous.

ECC – X20.2



'From the starting date until the Defects Certificate has been issued,'

The *starting date* is stated in Contract Data Part 1.

The Defects Certificate is issued by the Supervisor at;

- the defects date, if there are no notified Defects, or
- the end of the last *defect correction period*, or
- the date when all notified Defects have been corrected.

' ... the Contractor reports to the Project Manager its performance against each of the (KPIs). Reports are provided at the intervals stated in the Contract Data and include the forecast final measurement against each indicator.'

What is the format and content of the report and will it be combined with a wider project progress report?

If all KPIs are achieved, is the Contractor obliged to continue reporting?

ECC – X20.3



'If the Contractor's forecast final measurement against a (KPI) will not achieve the target stated in the Incentive Schedule, it submits to the Project Manager its proposals for improving performance.'

It doesn't state what form such proposals should take, although may constitute a compensation event or an acceleration proposal.

What action should the Project Manager take?

What if it is not possible to achieve the final measurement due to actions by the Client or Others?

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ECC – X20.4



'The Contractor is paid the amount stated in the Incentive Schedule if the target stated for a (KPI) is improved upon or achieved. Payment of the amount is due when the target has been improved upon or achieved.'

This requires a clear and precise description of both the target and the 'aspect of performance' against that target to assess whether it has been achieved.

The amount stated would be included within the subsequent payment assessment as an amount under sub-clause 50.3, 2nd bullet;

- plus other amounts to be paid to the Contractor.

Any such amount would not be considered as Price for Work Done to Date (PWDD), although VAT would be applied.

The wording '*is paid*' suggests that all such amounts are a positive payment to the Contractor.

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ECC – X20.5



'The Client may add a (KPI) and associated payment to the Incentive Schedule but may not delete or reduce a payment stated in the Incentive Schedule.'

This provides an opportunity for a further KPI to be added to maintain incentivisation, especially when a KPI becomes 'unachievable'.

This further allows for a 're-baselining' of incentives, possibly to reflect changes in the way by which the project is actually being delivered.

As existing payments in the Incentive Schedule cannot be amended, is the Contractor required to continue reporting against unachievable KPIs?.

X20 and X12



KPIs under X20 apply to a specific contract, whereas those within the Schedule of Partners under Option X12 apply at a 'collective' level between the Partners.

It is possible to use both X20 and X12, although care should be taken not to introduce a 'conflict of interest' which distracts from the Partnering ethos.

Things to Consider



- Do the KPIs and targets chosen create sufficient incentive?
- What are the KPIs trying to achieve?
- Is there any ambiguity with how performance is to be measured?
- Do the KPI's distract from project performance?
- Are the KPIs realistically achievable?
- Are 'standalone' KPIs required where X12 also applies?
- Can you introduce a 'range' of targets against a KPI under X20?

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