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DEPARTMENT OF THE ENVIRONMENT FOR NORTHERN IRELAND  
STORMONT, BELFAST BT4 3SS

Mr C Stutt  
Department of Economic Development  
Netherleigh  
Massey Avenue  
Belfast 4

2 August 1985

Dear Mr Stutt *JS*

As arranged by telephone, the meeting to discuss fraud in the construction industry will take place on Wednesday, 7 August, at 2.30 pm in Mr Ford's office, Room 303, Parliament Buildings, Stormont, and I attach a discussion paper which Mr Ford has had prepared for the meeting.

Yours sincerely

*J Mason*

SPS/Mr Ford

*A Hardy*  
Following today's discussion DE is to follow up with a submission to Mr Benny & Mr Blankfield

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*JS 7/8*

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MEETING BETWEEN REPRESENTATIVES OF NIO, DED, DFP, DOE AND RUC ON 7<sup>th</sup> AUGUST 1985  
CONSTRUCTION INDUSTRY FRAUD, ETC: PAPER BY DOE

This paper is confined to the issue of fraudulent practices in the construction industry and does not deal with the separate issue of control of the security industry.

1. MEASURES ALREADY TAKEN TO COMBAT MALPRACTICE IN THE CONSTRUCTION INDUSTRY  
Government Departments in Northern Ireland and the Housing Executive have implemented the 3 measures (see Appendix) announced by Mr Patten on 1 May 1984 to combat fraudulent practices in the construction industry and curb the activities of bogus private security firms from their involvement in it. The measures have also been recommended to public bodies which come within the areas of responsibility of Northern Ireland Government Departments and the Association of Local Authorities of Northern Ireland have brought them to the attention of all district councils.

Officials of NIO, DED and DOE(NI) met representatives of the CBI and NICCI on 4 June 1985 to acquaint the private sector organisations of the measures taken within Government to combat paramilitary-inspired fraud in the construction industry and to encourage private companies to take similar steps.

2. CONTROL OF SUB-CONTRACTORS BY THE HOUSING EXECUTIVE

In an effort to improve standards of workmanship on its contracts, the Housing Executive has recently extended its Register of Approved Sub-contractors to include all operatives, including "labour-only" services, to whom aspects of its building and maintenance contracts are sublet. From 1 April 1985 all sub-contractors, including labour-only sub-contractors, wishing to participate in its contracts must register with the Executive and meet certain requirements and, in addition, must enter into a formal contractual agreement with the main contractor.

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The formal registering of sub-contractors by the Executive should also help in curbing fraudulent practices through which paramilitary organisations derive funds.

In response to any suggestion that Government Departments should adopt similar arrangements for sub-contractors, our present line is that housing sites have different problems from, for example, office, school or hospital sites with which Departments are mainly concerned and building projects in general are different from civil engineering projects. We will, however, be observing closely the working of the Executive's scheme and its overall effect on the building industry generally.

3. FURTHER OPTIONS FOR COMBATING CONSTRUCTION INDUSTRY FRAUD

In addition to the measures outlined in paragraphs 1 and 2, the representatives of the industry (particularly the Builders Federation) would like Government to further tighten the conditions for the award of public sector construction contracts by requiring firms to:-

- (1) register for VAT;
- (2) register for Construction Industry Training Board Levy;
- (3) participate in the industry's holidays with pay and other benefit schemes;
- (4) have instituted Health and Safety policies.

It has also been proposed that these requirements should be made a condition of payment of housing improvement grants, etc. The industry feels that implementation of the above measures would rid construction of a large number of "cowboy" operators who are responsible for the industry's bad image and who threaten the viability of bona fide construction firms by cut-price methods of working.

However, the Department takes the view that additional measures of the type proposed go somewhat beyond those strictly necessary to combat fraud and would have the following disadvantages:-

- (a) increase bureaucracy;
- (b) increase administrative costs;
- (c) reduce competition;
- (d) penalise small firms and stifle enterprise;
- (e) in the light of (a) to (d) would be likely to lead to Ministerial queries, PQs, etc, and be difficult to defend.

4. THE PROBLEM OF PARAMILITARY EXTORTION

Although, in many instances, the problem of extortion is probably linked to the activities of bogus security firms it is unlikely to be eradicated by the introduction of controls on the security industry. Its form could well change when bogus firms are put out of business with those involved possibly going "free lance".

The withdrawal of charges by the DPP against those accused of extortion on building sites in the "hooded men" trial in March last has been a blow to the construction industry. The Builders Federation has reported that the men released at the trial are again being seen around building sites and Mr Cecil Walker MP in a recent letter to the Minister stated that "protection rackets are still rife in the building trade on Housing Executive contracts". When paramilitary extortion was discussed at the liaison meeting between the RUC and Government Departments on 25 June, it was suggested that one method of tackling this problem might be to penalise contractors who too readily give into demands for protection money by introducing a measure on the following lines:-

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"Any construction firm which is found to have paid extortion money to paramilitaries will be debarred from receiving a public sector contract for a period of 3 years."

The advantages and disadvantages of such a measure are as follows:-

**PROS:**

1. Help to deter contractors from giving-in to demands for protection money.
2. Make contractors more likely to inform RUC of approaches from paramilitaries.
3. Help provide RUC with more information on which to charge paramilitaries.
4. Make it more difficult for paramilitaries to obtain funds from the construction industry.
5. Addition to measures already introduced to clean-up the industry - good publicity value.
6. Parallel to existing measures concerning the debarring of firms convicted of social security fraud.

**CONS:**

1. Proposal smacks of punishing the "innocent" party as it is not against the law to pay extortion money - the crime is to demand the money.
2. Problem of establishing "guilt" of firms - RUC would have to provide proof on which Department could act - could guilt be established in the absence of a conviction?
3. Open to malicious and ill-founded allegations against firms.

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Co-ordination between builders and the police would seem to be the key to defeating the protection racket.

It seems doubtful whether a measure of this nature would be well received by the industry and might be counter-productive in alienating firms from co-operating with the police.

Another type of counter-measure would be to require contractors carrying out work in "suspect" areas to engage the services of an approved security firm to protect the site and associated plant and materials, etc. This would put up the price of building in these areas and would not prevent off-site intimidation of the contractor at his home or business office.

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**ACTION TO COMBAT FRAUD AND MALPRACTICE IN THE NORTHERN IRELAND CONSTRUCTION INDUSTRY****1. TAX EXEMPTION CERTIFICATES:**

As from 1 October 1984, the Department will not enter into any building or civil engineering contracts with a firm which does not possess a current Tax Exemption Certificate issued under Section 70 of the Finance (No 2) Act 1975. Accordingly, with effect from 1 June 1984 advertisements by Works Service inviting tenders for such contracts have included a requirement that only firms in possession of a current Tax Exemption Certificate will be considered and that before tender documents are issued, a firm will be required to forward/produce its Tax Exemption Certificate or Certifying Document to the Department for examination.

In addition, as from April 1985, the requirement in the Department's contract documents for main contractors to check the Tax Exemption Certificates of any sub-contractors, including nominated sub-contractors, they employ has been tightened up by the amendment of contract documentation to include a declaration that main contractors will check the Certificate or Certifying Document and will comply in all respects with the Income Tax (Sub-contractors in the Construction Industry) Regulation 1975.

**2. SOCIAL SECURITY FRAUD:**

Any firm providing building, civil engineering, supply or professional services which has been convicted of an offence under social security legislation is disqualified from receiving contract documents for the Department's building, civil engineering and supply contracts, or undertaking professional commissions on its behalf.

The Department of Health and Social Services has agreed to forward to Works Service, Contracts Branch, the names and addresses of firms convicted under:-

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- (a) the Family Income Supplements (NI) Act 1971;
- (b) the Social Security (NI) Act 1975; and
- (c) the Supplementary Benefits (NI) Order 1977.

The information received from DHSS is circulated via the interdepartmental Contracts Co-ordinating Unit with a recommendation that action be taken in accordance with HM Treasury's guidelines for dealing with criminal activity by contractors (Policy Procurement Committee Circular PPC(80)12, dated 15 December 1980 refers).

3. BOGUS SECURITY FIRMS:

In an endeavour to prevent taxpayers' money being paid to bogus security firms, all building and civil engineering contracts let by the Department include the following clause:-

"If a contractor proposes to use the services of a security firm, he must submit the name and address of the firm to, and obtain approval in writing from, the Authority (Employer) before appointing the firm."

A list of approved security firms is maintained by RUC Brooklyn, and enquiries are made to the Department of Finance and Personnel, Security Branch.

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