



CVEN4103 Project Performance

In 2013, this course will focus on contractual matters.

The majority of engineering work is procured through contracts, within an array of delivery methods. The course examines the relationship between tenders and contracts and the various popular forms of delivery methods. The course covers the formation and documentation involved in contracts, the commercial aspects of contractual agreements including payment types and conditions of contract, the contractual and administrative connections of project delivery, and dispute avoidance and resolution.

Course Coordinator: Professor D. G. Carmichael

Topics

I. Understanding Contracts and Tenders
Elements of a Contract; Discharge of a Contract
Tendering and Contract Documents
Tendering
II. Procurement
In-House versus Outsourcing
Contract (Payment) Types
Delivery Methods
III. Administration
Contract Administration
Disputes

Overview

The course is designed to expand your knowledge of one part of the life, of project personnel, that is becoming increasingly important. Many project personnel say that a large amount of their time is spent on contractual matters. Contracts are fundamental to the way project personnel perform their work whether they be project managers, engineers, designers, fabricators, constructors or any of the numerous project team member and third party roles. Accordingly, an understanding of the elements of contracts and the components of contracts is essential for project personnel.

Much project work in the past was (and some of the present is) done on the basis of a handshake. Both parties knew what was expected of them and both performed their obligations. It is hoped that such friendly arrangements do not disappear entirely. Unfortunately largely gone are the handshake days, and society appears to be becoming more litigious. To protect themselves it has become necessary for project personnel to have an understanding of contracts.

The course applies to owner-contractor relationships, contractor-subcontractor relationships, and dealings with consultants and suppliers.

When an owner wishes to undertake a project, there is the possibility of doing the work in-house or by engaging others to do the work. The work may involve consultants and/or contractors.

Assuming the work is to be done by others, the conventional practice is for the owner to call for submissions or proposals or (more usually) tenders from interested parties. The call for submissions may be as simple as an advertisement in a newspaper. Any interested party obtains copies of the tender documents from the owner, the tender documents being descriptions of the work to be undertaken and any conditions surrounding this work. This party (now called a tenderer) then usually submits a price to do the work as do other tenderers. The owner then selects the most suitable tender. The acceptance of the tender usually means that a contract exists between the owner and the tenderer (who might now be called a contractor).

This is the simplest scenario and many alternatives on this theme are possible. For example, tenderers may be preselected or prequalified by the owner. Tenders and contracts are closely linked, with the tender documents forming part of the eventual contract.

The course explores some of the common alternatives. Emphasis is on the commercial side of contracts and tenders rather than the legal side, which is another course in itself. The course takes you through standard practices in contracts and also highlight where individual approaches are possible. The course is offered as reasonably common practice, but different practices can be found.

Aims

When you have completed this course, you should have a better understanding of:

- Procurement.
- Elements of a contract.
- Contract documents.
- Tendering
- Types of contracts.
- Alternative delivery methods.
- Contract administration.

The intent is not to make lawyers out of you but rather to make you aware of what you do know and do not know, where to turn for advice and what are the correct questions to ask.

Do not be apologetic that you do not know everything about contracts. Lawyers, for example, do not know everything about engineering. By studying courses such as this you should be able to converse and interact with lawyers in a more meaningful and efficient way.

Course Communications

All communications on the course are to be through the Blackboard discussion tool, or during the nominated lecture/tutorial time slots. Using the Blackboard discussion tool allows all students to see replies to any questions asked, and allows all students to join the discussions. Also use the Blackboard discussion tool to create discussion topics with others in the class.

Assessment - General

Assessment for the course comprises 4 components:

Component	Max. Mark	Dates
A1. An individually prepared report	20	Submit whenever you like, but late penalties apply after 5pm April 3*
A2. An individually prepared report	20	Submit whenever you like, but late penalties apply after 5pm April 24*
A3. An individually prepared report	20	Submit whenever you like, but late penalties apply after 5pm May 15*
B. Final examination	40	TBA
Total	100	

* Submit as early as possible because you don't know what might happen to you near these dates.

* After submitting, always check what you have submitted.

Satisfactory performance in all assessment components is necessary in order to achieve reasonable grades. A maximum total mark of 50% for the course may be given should a fail grade be obtained in any of the assessment components (irrespective of grades obtained in other assessment components).

The course convenor reserves the right to adjust by scaling the final marks given in each of the components where, looking at the marks given across the total student cohort, it is believed the original marking and/or assessment has been too harsh or too light.

Grading of submitted assessment

Grading of all assessment will be based on the following criteria (where relevant).

1. Instructions

(Have the submission instructions been followed?)

2. Content

(How comprehensive is the coverage of the topic – in depth, superficial or otherwise? Is it engineer level? How well does the work address the topic – Fully? Not at all? Skirts the topic? Misses the point? Gets sidetracked? Goes off on a tangent?)

3. Presentation

(How professionally or amateurishly presented is the work?)

4. Accuracy

(Is something said that is incorrect or contentious?)

5. Objectivity

(Has the work been objective in its presentation. Does it recognize the difference between rigorous objectivity and subjective opinion?)

6. Referencing

(Does the work include appropriate citations within the body of the work. Is the Reference list at the end complete in all details, such that any reader would be able to go directly to any reference?)

7. English Expression, Grammar and Spelling

(English expression, grammar and spelling (Aus) – correctly used? Does the work show that it has been proofread for English?)

8. Writing Style

(Is the work concise and to the point? Or is it verbose and uses unnecessary padding?)

9. Level of Material

(Is the level of presentation that which you would expect at engineer level? Or is it too simplistic?)

Marks for submitted assessment

0	Any form of plagiarism, no matter how minor. (The course mark will also be 0 for any form of plagiarism.)
0 to 10	One or more of the above criteria are badly done. If you receive such a mark, critically examine what you have written against each of the above criteria, and be honest with yourself in this examination.
11 to 19	One or more of the above criteria needs extra work.
20	All criteria are satisfied well.

Late penalties will be applied separately to any mark given, and at the end of session.

Assessment Details

Assessment Components A1, A2, A3

Individual Reports

You are required to write on one topic for your 'hand-in' (electronically via Blackboard) report A1, one topic for A2, and one for A3.

Late submission penalty – A deduction of 4 marks will occur for every calendar day or part calendar day late after the date and time nominated.

Submissions can occur whenever you like. It is suggested that you submit early if any troubles whatsoever (eg dog ate usb stick, computer malfunction, boss asks you to do some work for a change, power or computer failure, internet down, illness, death, away from civilisation) could be a possibility near the final submission date.

Regularly look for any announcements in Blackboard regarding the administration of the report.

Your report

- a. Title your submission files **SurnameFirstname_A1.doc**, **SurnameFirstname_A2.doc** and **SurnameFirstname_A3.doc** (as appropriate) where 'Surname' and 'Firstname' are **as they appear in Blackboard**. Nothing else will be accepted. For example, SmithJohn_A1.doc, SmithJohn_A2.doc and SmithJohn_A3.doc. **DON'T USE docx or pdf**.
- b. Submit as an attachment to Blackboard, not a cut and paste to Blackboard, not as an email attachment. After submitting, **check** that you have submitted the correct file.
- c. Use sensible margins.
- d. Use 12 point Times, single line spacing.
- e. Length - maximum 2 pages (including appendices, figures and tables).
- f. Do not repeat the wording of the assignment. Do not give a table of contents.
- g. No cover page. Nothing in headers or footers. Use the first two lines of your submission for: Course name, report topic, your name (as it appears in Blackboard), and your student number (all 12 point type).
- h. Proofread for spelling and grammar.
- i. Use third person (not first or second person).
- j. Citations within the report are as Author (year) or (Author, year). (Not square brackets with numbers; not superscripted numbers.) An alphabetical list of References at the end is complete with all authors, authors' initials, year, title, and (for a journal) journal name, volume, issue, pages; (for a book or report)

publisher and place of publication; (for the internet) full web address. A Bibliography is a list of works that are related to the topic and ones you looked at, but didn't cite directly. So both a list of References and a Bibliography could be expected.

- k. Material (text, figures, tables) copied from elsewhere, and not acknowledged, is referred to as plagiarism and represents academic misconduct for which students can fail a course and can have their enrolment cancelled. Any text from another source needs inverted commas around it, together with a citation of Author (year) and the page number of the quote. Any figure or table from another source needs a citation in the figure/table caption. Then give full referencing under 'References' at the end.
- l. Use subheadings and give a structured flow. Bullet points are acceptable within the report, but not as the total report.
- m. Do not extract or paraphrase material from the lecture notes. Just reference the material's location in the lecture notes.
- n. Make your contribution terse, concise and to the point. Don't pad or be verbose. **Don't pad with pretty pictures or university logo.**
- o. Focus your contribution directly on the topic and exclude peripheral information.
- p. Do not use footnotes.

Topic A1 – preferred tenderer selection

You are to personally interview someone who is involved with an engineering tender, where the eventual contract will have jurisdiction in an Australian court. (Note, that it must be engineering – any type - or something closely related to engineering. The food, hospitality, travel, employment, insurance, finance, retail etc industries are not permitted.)

1. Parties

Who are the parties to the tender process.

2. Scope

Give a very brief summary of the scope (of work) covered in the tender.

3. Tender documents

Give a very brief summary of what comprises the total tender documents.

4. Approach to tendering

Establish the tendering approach, for example – public, select/shortlisting in various ways, prequalification, expressions of interest.

5. Method for selection of preferred tenderer

Establish the process that the one requesting tenders goes through in differentiating between all the tenderers, and in finally selecting a preferred tenderer.

6. Reasons for selection

What were the reasons for using this method compared with alternatives.

7. Suitability

Comment on the suitability of this method for the scope and parties outlined. Give reasons.

8. Unsuitability

Comment on the unsuitability of this method for the scope and parties outlined. Give reasons.

9. Interviewee's opinion

Give the interviewee's opinion of the method.

10. Your summary opinion

Give your summary opinion of the method.

Topic A2 – payment mechanism/type

You are to personally interview someone who is involved with an engineering contract, whose jurisdiction is an Australian court. (Note, that it must be engineering – any type - or something closely related to engineering. The food, hospitality, travel, employment, insurance, finance, retail etc industries are not permitted.)

1. Parties

Who are the parties to the contract.

2. Scope

Give a very brief summary of the scope (of work) covered in the contract.

3. Contract documents

Give a very brief summary of what comprises the total contract documents.

4. Payment mechanism

Establish the payment mechanism/type within the contract.

5. Reasons for selection

What were the reasons for using this mechanism/type compared with alternatives.

6. Suitability

Comment on the suitability of this payment mechanism/type for the scope and parties outlined. Give reasons.

7. Unsuitability

Comment on the unsuitability of this payment mechanism/type for the scope and parties outlined. Give reasons.

8. Interviewee's opinion

Give the interviewee's opinion of the payment mechanism/type.

9. Your summary opinion

Give your summary opinion of the payment mechanism/type.

Topic A3 – delivery method

You are to personally interview someone who is involved with an Australian engineering project, or an engineering project organised by Australian engineers. (Note, that it must be engineering – any type - or something closely related to engineering. The food, hospitality, travel, employment, insurance, finance, retail etc industries are not permitted.)

1. Parties

Who are the contracting parties to the project. Draw a schematic diagram, indicating contractual links between all the major parties.

2. Scope

Give a very brief summary of the scope (of work) covered in the project and the scope covered by each party.

3. Delivery method

What name has the delivery method been called on this project. Based on the lectures, what name would you give it.

4. Reasons for selection

What were the reasons for using this delivery method compared with alternatives.

5. Suitability

Comment on the suitability of this delivery method for the scope and parties outlined. Give reasons.

6. Unsuitability

Comment on the unsuitability of this delivery method for the scope and parties outlined. Give reasons.

7. Interviewee's opinion

Give the interviewee's opinion of the delivery method.

8. Your summary opinion

Give your summary opinion of the delivery method.

Assessment Component B

Final Examination

- The final examination is CLOSED BOOK.
- NO COMPUTERS, OR DEVICES FOR STORING INFORMATION, are to be taken into the examination room.
- Non-programmable calculators are permitted.
- Time allowed: 2 hours duration plus 10 minutes reading time.
- The examination format is anticipated to be multiple choice questions. Should this not be the case, students will be informed via Blackboard.