

# Course Information Handout

## Management of FIDIC Contract

2020

# CONTENTS

1. Course convenors
2. Additional lectures
3. Units of credit
4. Course relevance
5. Learning and teaching philosophy
6. Course objectives
7. Student learning outcomes
8. Teaching strategies
9. Course assessment
10. Plagiarism
11. Course program
12. Text and recommended reading

## **COURSE OUTLINE CONTENT DETAILS**

### **1. Course convenors**

Dr. Yan Wang; e-mail: 49255076@qq.com

### **2. Additional lectures**

To be advised

### **3. Units of credit**

2 units of credit

Lectures: 32 hours

### **4. Course relevance**

The course introduces students to the theory and practice of contract administration under FIDIC. The course content covers a broad spectrum of issues related to the administration of FIDIC contracts including the history of the FIDIC form, the content of the FIDIC forms, making claims under the FIDIC forms, monitoring delay and disruption claims, formulation and presentation of claims, response to claims, the working of the dispute adjudication board under FIDIC.

The course content is highly relevant to the achievement of the overall program's objectives by:

- reinforcing students' knowledge of the analysis of the FIDIC general conditions of contract and
- improving students' knowledge of and skills in managing contracts under the FIDIC forms.

## **5. Learning and teaching philosophy**

The lecture material will be presented in the interesting and challenging manner with the aim of actively engaging students in the learning process and encouraging students to take responsibility for their own learning. To that end lectures will incorporate, among other things, debates to challenge students' views and beliefs, the analysis of case studies to give students an opportunity to gain new experiences, and discussion sessions for the purpose of allowing students to relate theory to practice and review their assignment work. Apart from developing individual learning skills, students will also be encouraged to learn cooperatively with their fellow students. They will be required to complete one assignment and make an oral presentation to the class on the outcomes of the assignment.

## **6. Course objectives**

The overriding aim of the lectures for this course is to provide candidates with an atmosphere favouring intellectual excitement, individual academic development and enthusiasm for the topics covered. The specific course objectives are to:

- provide an overview of the history and development of the FIDIC forms;
- discuss the different ways the Employer and contractor are treated when it comes to making claims;
- include a discussion on the use of condition precedent within the FIDIC form as well as a discussion about the different approaches under the civil codes and common law jurisdiction;
- look to the future and review the latest addition to the FIDIC suite of contracts;
- develop students' knowledge of important legal concepts of unjust enrichment, restitution and quantum meruit;
- expand students' knowledge of causes of contract disputes and alternative dispute resolution methods including arbitration, mediation, expert determination and adjudication;
- develop students' knowledge of contract insurance, and
- develop students' knowledge of the FIDIC General Conditions of Contract.

## **7. Student learning outcomes**

On completion of the course, students are expected to become competent in administering any form of FIDIC contract throughout each stage of the project lifecycle. In particular, students are expected to:

- fully understand the causes of contract disputes and remedies for resolving them;
- be competent in interpreting important legal concepts of unjust enrichment, restitution and quantum meruit;
- fully understand different types of insurances related to a construction project and be competent in administering them, and

- understand the FIDIC contract conditions and be able to actively participate in administering projects under FIDIC.

## 8. Teaching strategies

The course teaching staff will present the course material in an intellectually stimulating, thought provoking and participative environment. The teaching approach will comprise lectures given by the course convenors and expert lecturers, which will be combined with discussion and debate periods. Lectures will start with a brief review of the previously delivered material followed by the delivery of new material, after which issues raised in lectures and any other relevant issues will be discussed and debated. Students will be required to make a brief oral presentation to the class on the outcomes of their assignments.

Students are encouraged to participate during lectures wherever possible through scholarly discussion and debate. The course material comprises a series of topics, not all of which are closely linked together. Students are urged to study progressively on a week-to-week basis. After each lecture students should review the lecture material, read the prescribed text and any other readings. Apart from regular self-study periods of lecture reviews and readings, students will also be required to set aside the time for assignment work.

While the course convenors are happy to provide one-on-one assistance to students outside schedule lectures (by appointments only), students must bear in mind that they must take control of their own learning by attending lectures, contributing to discussion and by studying progressively.

## 9. Course assessment

Students will be assessed by way of assignment and workshop. The breakup of marks is as follows:

Outcome of Assignment	80%
<u>Performance of workshop</u>	<u>20%</u>
	100%

### *Assignments*

Students will be required to prepare one assignment. Students will be assessed based on the following criteria:

- extent and quality of information search
- depth of insight/understanding of issues
- analysis of data
- depth and clarity of arguments
- how well the report is structured, referenced and presented.

Date of issue of assignment: week 12  
Date of submission of assignment: week 17

## 10. Plagiarism

Plagiarism is the presentation of the thoughts or work of another as one's own.\* Examples include:

- direct duplication of the thoughts or work of another, including by copying work, or knowingly permitting it to be copied. This includes copying material, ideas or concepts from a book, article, report or other written document (whether published or unpublished), composition, artwork, design, drawing, circuitry, computer program or software, web site, Internet, other electronic resource, or another person's assignment without appropriate acknowledgement;
- paraphrasing another person's work with very minor changes keeping the meaning, form and/or progression of ideas of the original;
- piecing together sections of the work of others into a new whole;
- presenting an assessment item as independent work when it has been produced in whole or part in collusion with other people, for example, another student or a tutor; and,
- claiming credit for a proportion a work contributed to a group assessment item that is greater than that actually contributed.†

Submitting an assessment item that has already been submitted for academic credit elsewhere may also be considered plagiarism.

The inclusion of the thoughts or work of another with attribution appropriate to the academic discipline does *not* amount to plagiarism.

## 11. Course program

Lecture	Topic
1-12	<b>FIDIC an overview: the latest developments, comparisons, claims and a look into the future</b>
1	<b>The FIDIC form: a brief history</b>
2-3	<b>The new FIDIC forms 1999</b>
4-5	<b>The content of the new FIDIC forms</b>
5-6	<b>The MDB version of the new Red Book</b>
7-9	<b>Making a claim under the FIDIC form – the Employer</b>
10-12	<b>Making a claim under the FIDIC form – the Contractor</b>
13-16	<b>Introduction to FIDIC dispute adjudication board provisions</b>
17-18.	<b>Monitoring delay and disruption claims: prevention</b>
19-28	<b>Formation and presentation of claims</b>
29-30	<b>Response to claims: counter-claims</b>
31-32	<b>Avoidance, resolution and settlement of disputes</b>

## 12. Text and recommended readings

### *Recommended readings*

- Akintoye, A., Beck, M. and Hardcastle, C. (editors) (2003). *Public-private partnerships*. Blackwell Publishing, Oxford.
- Bennett, D.M. (1995). *Brooking on building contracts*, 3<sup>rd</sup> ed, Butterworths, Melbourne.

- Cox, A. and Townsend, M. (1998). *Strategic procurement in construction*. Thomas Telford, London.
- Davenport, P. (1995). *Construction claims*. Federation Press, Sydney.
- Davenport, P.J. and Harris, C. (1997). *Unjust enrichment*. Federation Press, Sydney.
- Duncan Wallace, I.N. (1995). *Hudsons building and engineering contracts*. 11<sup>th</sup> ed., Sweet and Maxwell, London.
- Eilenberg, I.M. (2003). *Dispute resolution in construction management*. UNSW Press, Sydney.
- Goldfayl, G. (2004). *Construction contract administration*. 2<sup>nd</sup> edition, UNSW Press, Sydney.
- Walker, C. and Smith, A.J. (editors) (1995). *Privatized infrastructure: the BOT approach*. Thomas Telford, London.

### ***Journals***

- *Building and Construction Law Journal*, The Law Book Company.