



CONTRACT CLAUSE STUDY DATA

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A Report To
The Construction Industry Institute
The University of Texas at Austin

Under the Guidance of
Task Force 83-5
Contracts

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FOREWORD

This report and its associated two floppy diskettes represent a portion of the work performed by the Universities of Texas and Illinois for the Contracts Task Force of the Construction Industry Institute (CII). CII funded this work in an effort to obtain good quality basic data on construction contracts and their impacts on project cost effectiveness; this data has substantial value as a foundation for further research. The Contracts Task Force has also recognized the direct value of this information to CII member companies. This report is presented for this purpose.

CII is not responsible for the accuracy or quality of the data contained herein. It lies with the user to proceed cautiously and recognize the limits of both data and interpretation. With this caution in mind, the user will be able to directly tap the data and draw many worthwhile insights from manipulating the responses.

David B. Ashley
November 24, 1985

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Introduction

Analyses of the responses to the contracts questionnaire yielded many interesting results. The information provided a wealth of new knowledge, however not all elements of the questionnaire could be studied in detail. Realizing that your company may have a particular area of interest still requiring investigation, these diskettes have been prepared to allow specific inquiries. The goal is to disseminate the results of this study as efficiently as possible.

Using Diskettes

To gain the full benefit of the information provided, the user must have a working knowledge of Lotus 1-2-3. The files are set up to run on an IBM or compatible personal computer and are provided as Lotus worksheet files.

How the information contained in each file is used is up to you. The data are presented as shown in Table 1. The left column contains a clause description, while the top rows, the question categories. It is a good idea to be familiar with the contracts questionnaire, so that meaningful searches can be performed. Lists of the 14 questions (Table 2) and 96 clauses (Table 3) are provided for reference. The Appendix contains a glossary for both clause names and questions. The first couple experiences with these diskettes should be exploratory. Experiment and become comfortable with the data.

Diskette Contents

The contents of each diskette is illustrated in Figures 1 through 4. The analysis was performed on a variety of combinations of contract and project types. Review of these files can provide positive insights into the behavior of several different contract and project types.

Contents Disk 1

Disk 1, Breakdown By Contract Type, contains the following six (6) files.

ALLRESPN.WKS - (All Respondents) The summation of all responses. There are 36 entries in this category.

FIXEDPRC.WKS - (Fixed Price Contracts) Represents the responses of those using fixed price or lump sum contracts. There are 16 entries in this category.

COSTREIM.WKS - (Cost Reimbursable Contracts) Represents the responses of those using cost reimbursable contracts. There are 20 entries in this category.

CPFF.WKS - (Cost Plus Fixed Fee Contracts) Contains the responses of those using cost plus fixed fee contracts. There are 11 entries in this category.

CPPF.WKS - (Cost Plus Percent Fee Contracts) Represents the responses of those using cost plus percent fee contracts. There are 3 entries in this category.

GMAXIMUM.WKS - (Guaranteed Maximum Contracts) Contains the responses of those using guaranteed maximum contracts. There are 4 entries.

Contents Disk 2

Disk 2, Breakdown By Project Type, contains the following eight (8) files.

HVYINDST.WKS - (Heavy Industrial Projects) Contains responses from projects that can be classified as heavy industrial. There were 31 entries to this category.

HVYFIXED.WKS - (Heavy Industrial Projects Using Fixed Price Contracts) Represents the responses of those classified as heavy industrial projects and using fixed price or lump sum contracts. There are 14 entries.

HVYCOSTR.WKS - (Heavy Industrial Projects Using Cost Reimbursable Contracts) Represents the responses of those classified as heavy industrial projects and using cost reimbursable contracts. There are 17 entries.

HVYCPFF.WKS - (Heavy Industrial Projects Using Cost Plus Fixed Fee Contracts) Represents the responses of those classified as heavy industrial projects and using cost plus fixed fee contracts. 10 projects are included.

PROCESPL.WKS - (Process Plant Projects) Contains the responses of those classified as process plant projects. There are 19 entries.

PROCSFIX.WKS - (Process Plant Projects Using Fixed Price Contracts) Contains the responses of those classified as process plant projects and using fixed price or lump sum contracts. There are 8 entries.

PRCSCOST.WKS - (Process Plant Projects Using Cost Reimbursable Contracts) Contains the responses of those classified as process plant projects and using cost reimbursable contracts. There are 8 entries.

OILREFNEW.WKS - (Oil Refining Projects) Represents the responses of those classified as oil refining projects. There are 8 entries.

Table 1. - Example of Contract Data Table

RESPONSE TYPE: ALL RESPONDENTS.

(SEE USER'S MANUAL FOR FURTHER DISCUSSION.)

CLAUSE DESCRIPTION AND NUMBER	CLAUSE INCLUDED	CLAUSE NOT INCLUDED	SHOULD HAVE BEEN	SHOULD NOT HAVE BEEN	RISK ALLOCATED BOTH	RISK ALLOCATED CONTRACTOR	RISK ALLOCATED OWNER	LIMIT ON RISK EXPOSURE	NO LIMIT ON RISK EXPOSURE	RESPONSIBILITY DEFINED
WORK SCOPE DEFINITION (1)	36			1	15	4	4	8	14	29
SUPPORTING/INCLUDING DOCUMENTS (2)	33	3		3	10	6	4	4	16	21
DEFINITION OF TERMS (3)	28	8	2	6	6	2	2	3	7	11
INTERPRETATION (4)	32	4	2	2	9	7	1	3	12	21
COORDINATION AND COOPERATION (5)	30	6	2	4	16	6		6	14	27
SECRECY (6)	30	6	1	5	8	13	2	10	12	23
DRAWING OWNERSHIP (7)	33	3	1	1	5	12	4	6	13	27
PATENTS AND ROYALTIES (8)	33	3		3	8	15	2	10	16	27
DESIGN CHANGES (9)	34	1		1	19	4	4	11	17	30
CONSTRUCTION CHANGES (10)	34	1		1	19	4	5	9	19	30
QUANTITY VARIATIONS (11)	11	20	1	19	9			3	5	9
WORKMANSHIP VARIATIONS (12)	30	6	1	5	6	21		13	13	27
INSPECTION; QUALITY CONTROL (13)	35	1		1	12	14	1	9	16	31
QUALITY ASSURANCE RESPONSIBILITY (14)	26	10	4	4	11	9	1	6	12	23
SUBMITTALS AND SAMPLES (15)	26	9	2	6	7	14		5	14	23
PERFORMANCE TEST (16)	19	16		14	6	10	1	7	10	16
MECHANICAL COMPLETION (17)	21	15	4	7	7	10	1	6	11	19
START-UP (18)	20	16		12	6	7	6	4	14	19
BENEFICIAL OCCUPANCY (19)	18	17	3	12	7	5	3	7	7	14
COMPLETION OF CONSTRUCTION (20)	28	8	2	2	9	11	3	13	10	24
TRANSFER OF CARE, CUSTODY, & CON'L (21)	25	11	4	4	12	3	3	9	7	20
RELEASE OF LIENS (22)	31	5	2	3	6	17	3	9	16	27
OWNER TERMINATION AND DEFAULT (23)	32	4		3	10	4	11	15	11	29
CONTRACTOR TERMINATION & DEFAULT (24)	34	2		1	11	14	3	15	14	31
ARBITRATION (25)	9	27	1	22	9			3	4	8
OFFICIAL COMMUNICATION CONTACTS (26)	32	4	1	3	13		1	3	8	23
AUDIT RIGHTS (27)	33	3		2	11	9	1	3	19	27
GOVERNING LAW (28)	34	1			15	2		4	13	17
MARITIME/ADMIRALTY LAW (29)	2	28		21	1				1	2
THIRD PARTY LIABILITIES (30)	30	6	2	3	17	10		12	13	25

Table 2. - Contract Clause Questions

- A) Is clause included in contract?
- B) If not, should it have been?
- C) Risk allocated to contractor, owner, or both?
- D) Limitations on risk exposure?
- E) Is responsibility defined in clause?
- F) Number of times clause utilized (none, few, many)?
- G) Impact of utilization (none, some, much)?
- H) "Strict" or "informal" enforcement?
- I) Was clarification necessary?
- J) Is this a company standard clause?
- K) Is this clause necessary?
- L) Should clause be improved?
- M) Was it subject of dispute?
- N) If yes, was it major?