

Report on the Standard Forms of Contract Questionnaire sent to IACCM members

Introduction

The reason for the survey was to test the attitudes of commercial and contract managers in the UK to the use of Standard Forms of Contract, with specific reference to the reduction of cycle times in the contract process. The research will be used to inform an MSc dissertation entitled "Exploring the UK ICT services industry attitude to the adoption of a single Standard Form of Contract".

The survey was in two parts. The first part was designed to obtain the views of those who have experience of using a standard form of contract, and was sent to commercial and contract managers in the construction, engineering and chemical processing (which includes oil and gas) industries. The second survey attempted to test the attitudes of those in all UK industry sectors to the introduction of a standard form of contract, specific to an industry sector, and whether it was thought this could contribute to the reduction of contract cycle times.

Construction, engineering and chemical processing industries questionnaire

There were a total of 46 responses to this questionnaire, so any conclusions based on this survey must be caveated by the fact that this is a small sample. The responses were split fairly evenly across the 3 industry sectors:

Chemical Processing:	39%
Engineering:	30%
Construction:	22%
Other:	9%

A significant majority, 70% of the respondents, reported that they did, in general, use a standard form of contract, so its use is widespread in these industry sectors. There was also a very large majority (95%) who felt that using a standard form of contract, as opposed to using bespoke terms or the terms and conditions created by one of the parties, was more likely to improve contract cycle times ie reduce the time taken to complete contract negotiations.

The survey was also designed to assess how the standard forms of contract operate in practice, with questions asking if the respondents felt they were impartial, balanced contracts and if they were ever amended either before or during the contract negotiation process (excluding the insertion of pre defined optional clauses). Although a significant 73% of the respondents thought the documents to be impartial there was something of a contradiction in that 85% of standard forms of contract users made changes, as opposed to 15% who did not. This rather begs the question if standard forms of contract are popular and often used in these industries, and they are felt to be impartial documents, why is felt necessary to make amendments?

The survey appears to support the contention that standard forms of contract are popular with the construction, engineering and chemical processing contract communities and play a role in reducing contract cycle times, but it perhaps also hints that because so many do make amendments to the standard forms they are not used entirely in the manner they were designed for ie a set of contractual documents that are, by and large, accepted by the industry.

General standard forms of contract questionnaire

The standard forms of contract questionnaire sent to all industry sectors attracted a good response rate with 237 responses. The best represented sector was the Information, Communication and Technology sectors (ICT), made up of the “Technology / Software” and “Telecommunications” sectors, which represented 42% of the respondees. Other strongly represented sectors were Aerospace / Defence (18%), Oil / Gas / Minerals / Utilities (9%), Engineering / Construction (7%) and Public Sector / Government (5%).

The first question that was posed was what contracting process do you follow? There was a fairly even split between those whose contracts were based on their own standard terms and conditions (45%), and those who used a bespoke contract for each project (39%). 14% used a standard form of contract. In terms of the average cycle time to complete a contract, over half of the respondees estimated that their contracts took 2 – 6 months to complete. The full results were as follows:

0 – 2 months	16%
2 – 4 months	34%
4 – 6 months	24%
6 – 8 months	11%
8 – 10 months	4%
10 – 12 months	6%
12 months +	3%

Reducing contract cycle time was thought to be a high priority across industries; when asked, 75% said it represented a significant issue while 25% said they had other more pressing issues to be addressed before tackling the time it took to get a finalised contract. There was also a significant majority who supported the idea of using a standard form of contract – 61% thought it would be beneficial to use a standard form of contract if it were created specifically for their industry sector, and of these a huge majority felt such a contract should consist of a “suite” of contracts to take account of different types of projects (thus there would be one for consultancy, one for fixed price, one sub contracts etc).

Finally the questionnaire asked those who supported the idea of the introduction of a standard form of contracts to their industry sector, if they could think of a suitable industry body to oversee such a suite of contracts. Although 46% couldn't identify a potential industry body, a number of professional associations were suggested. The most popular was the IACCM itself with 13 votes in favour. Also mentioned a number of times were: the Office for Government Commerce (OGC), CRINE/Logic Contracts, Intellect and Ofcom.

Conclusions

Standard forms of contract do appear to be widely used in those UK industries where they already exist, and they are viewed as an effective tool for reducing contract cycle times. However, it is possible that in practice they are often amended by the parties involved. In those industries where standard forms of contract are not currently in use, a majority were in favour of the introduction of some form of industry specific standard form of contract rather than using company standard terms and conditions or terms bespoke to each project.

The next stage of research will be to undertake a series of interviews where these themes will be explored in more detail.

Once again my thanks to all who took the time to complete the surveys. If you require any further information on these survey findings please do not hesitate to contact me and I will be happy to discuss in more detail.

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