Public procurement construction contract forms under the Austroads and the Australasian Procurement and Construction Council (APCC) Guide

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The Austroads and the Australasian Procurement and Construction Council (APCC) published in 2014 the Building and Construction Procurement Guide – Principles and Options, which outlines the various standard forms of contracts for different delivery models, as well as the dispute resolution procedures available.

The most commonly used standard form of contract for major works construction is AS2124-1992. It is widely used for straightforward infrastructure projects in the civil (road and bridge) and non-residential building sectors. This contract form provides general conditions of contract that govern the rights and obligations of the parties involved. The traditional contract, which is the most common form of a construction contract, is an example of this.

In addition to AS2124-1992, other standard forms of contracts also exist. For instance, GC21 is the standard form of construction contract that is prescribed for use by NSW state agencies, and it is also used in the ACT. NPWC3-1981 is the National Public Works Committee form of contract (Edition 3), which was published in 1981 and is still in use by member

agencies in the NT (both sectors) and VIC (road and bridge sector only). AS4000-1997 is the standard form that replaced AS2124-1992, but it has not been widely taken up by member agencies, particularly in the civil (road and bridge) sector.

Another delivery model is the design and construct (D&C) contract form, which is commonly used in D&C projects. AS4300-1995 is the most commonly used standard form of contract for this delivery model. However, other jurisdictions use agency templates or custom-designed agreements, such as GC21, NPWC3-1981, or modified versions of AS2124-1992.

Construction management is another delivery model used in the non-residential building sector. Modified versions of AS4916-2002 or AS2124-1992 are used in various jurisdictions. VIC agencies use either amended Department of Health construction management contracts or custom-designed agreements. In the civil (road and bridge) sector, construction management has only been used for road and bridge works procurements in the ACT, with a custom-designed agreement based on a standard 'Project Management Agreement' (PMA) being the form of contract.

The managing contractor delivery model is commonly used in the non-residential building sector. Modified versions of GC21 are used by NSW, SA, and the ACT. Other jurisdictions use agency templates or custom-designed agreements, such as the 'Managing Contractor Design and Construction Management' contract, which is the most common form of contract used for this delivery model in QLD. In the civil (road and bridge) sector, the managing contractor delivery model is currently only used in the NT, along with one previous use in VIC, supported by custom-designed agreements.

Direct managed arrangements in the construction industry utilize many different styles of contracts, predominantly short-form in-house trade agreements. Standard forms of contracts are not available for the Early Contractor

Involvement (ECI) delivery model. However, some jurisdictions, such as QLD and WA, have their own form of contract based on two separate agreements for Stages 1 and 2, which have been extensively tailored on a case-by-case basis to meet the requirements of each project.

The alliance delivery model has a template 'Project Alliance Agreement', which was recently released by the Department of Infrastructure and Transport, to be used as the basis for contract documentation for all alliances, unless prior approval is given. For public-private partnership (PPP) delivery models, high-level commercial principles are described in the National Public Private Partnership Policy and Guidelines, which must be taken into account by member agencies as part of the drafting process for any standard or custom-designed PPP contracts. PPPs are outcome-based rather than prescriptive with respect to specifications, performance standards, etc., and as such, standard forms of contract are not available. However, agencies may have their own form of contract, such as in NSW, where the member agency utilizes in-house template PPP or Build Own Operate Transfer (BOOT) deeds customized to accommodate project requirements.

Professional services arrangements in the construction industry are based on various forms of contracts, depending on the jurisdiction. AS4122-2010 is used by two jurisdictions (SA and TAS) as the basis for their professional services arrangements. The TAS agency also uses a whole-of-government 'Standing Offer for Services' form of contract for panel arrangements. The WA agency uses the 'Request Conditions and General Conditions of Contract' (2012), which is a document by the Government of Western Australia, Department of Finance. The remaining member agencies have their own standard in-house forms of contracts, which are tailored for each procurement. APCC member agencies use a mixture of AS4122 (2000 and 2010 versions), agency templates, and custom-designed agreements to secure their professional services arrangements.

Dispute resolution procedures in the construction industry in Australia are available to parties to help resolve disputes that may arise during the course of a project. These procedures aim to provide an efficient and cost-effective way to resolve disputes, without resorting to litigation. There are several dispute resolution procedures available, including negotiation, mediation, arbitration, and litigation.

The construction industry in Australia has various standard forms of contracts for different delivery models, which provide guidance on the contractual arrangements between the parties involved in the project. AS2124-1992 is the most commonly used standard form of contract for major works construction, but other standard forms of contracts also exist. Dispute resolution procedures, such as negotiation, mediation, arbitration, and litigation, are available to parties to help resolve disputes that may arise during the course of a project. By understanding the various contract forms and dispute resolution procedures available, parties can work together more effectively, and disputes can be resolved efficiently and effectively.

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