

Topic 8 Section 1

Contractual Relationships

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Systems Used to Organise Civil Engineering Works

There are two main systems under which civil engineering work is carried out:

- day labour (or direct labour), where an owner or principal carries out the work with his or her own organisation and pays all the costs as a direct commitment.
- contract, where an owner or principal engages a contractor to carry out the work at a mutually agreed price under the terms and conditions agreed to and recorded in the contract. The form of contract adopted for a job varies, depending on the type of work.

Site Organisation

The type of organisation set up on site to control construction work depends on whether the project is carried out by day labour or contract.

Day Labour Organisation

Under the day labour system, the principal's organisation manages the entire works. The site organisation simply reflects the internal structure of the principal's organisation. For example, a job performed entirely by day labour of the Department of Main Roads would be organised in accordance with that department's structures and internal controls.

Contract Organisation

In a contract-based site organisation, the contract itself is all-important. It is the agreement between the parties that, for a specified and agreed price the contractor will, under certain conditions, carry out work for the principal.

The contract documents are the physical evidence of the existence of the contract, and may include some or all of the following— conditions of contract, drawings, specifications, bills of quantities or schedule of rates.

Note!

Further information about how contracts are formed and the documents, terms and conditions typically included in contracts, is available from Topic 4, Contract Administration, in this series.

Under the contract system, there are two independent, but related, spheres of responsibility and control:

- a contractor's representative who acts for the contractor on site; and
- a resident engineer who acts as the superintendent's representative (SR) on site. It is the superintendent who represents the owner or principal.

Each of these people has a site organisation to assist them in the daily administration and construction of the works. However, the number of people and positions involved depends on the size and type of work being done.

Not all work related to the contract takes place on site. For example, accountancy, purchasing and other office functions may be centralised at the head offices of the controlling organisations.

Duties and Responsibilities of Participants in the Site Organisation

When a construction organisation is set up at a works site, the chain of command should be as direct as practicable, with each member of the staff having clearly defined duties and responsibilities.

If the site organisation is to work effectively, both the resident engineer and the contractor's representative must have complete control of the work within their respective areas of responsibility. They should have wide discretionary powers and authority to enable them to make decisions quickly and to minimise delays in the works program. If they do, employees on site can get on with the business of constructing the work in accordance with the requirements of the specification and drawings, using good engineering practices and in accordance with contractual obligations.

Principal Roles within Construction Organisations

The table shows the titles and main roles of people in the principal's and contractor's site organisations. These titles are generally understood and accepted within the construction industry, but may change from one organisation to another or from site to site.

Note!

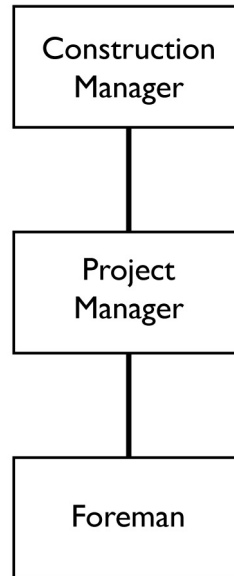
In the following definitions, the term 'person' may mean either a natural person, or (in relation to principal, contractor and owner) a legal person such as a company, corporation, or government instrumentality.

Participant	Alternative Designation	Role in Site Organisation
Principal	—	The person (usually the owner) who stipulates the type of work and the standard of workmanship required, and nominates the contract conditions.
Contractor	—	Offers to undertake work at an agreed price acceptable to the principal, in accordance with the conditions of contract.
Owner	—	The person who requires the works to be carried out on their behalf.

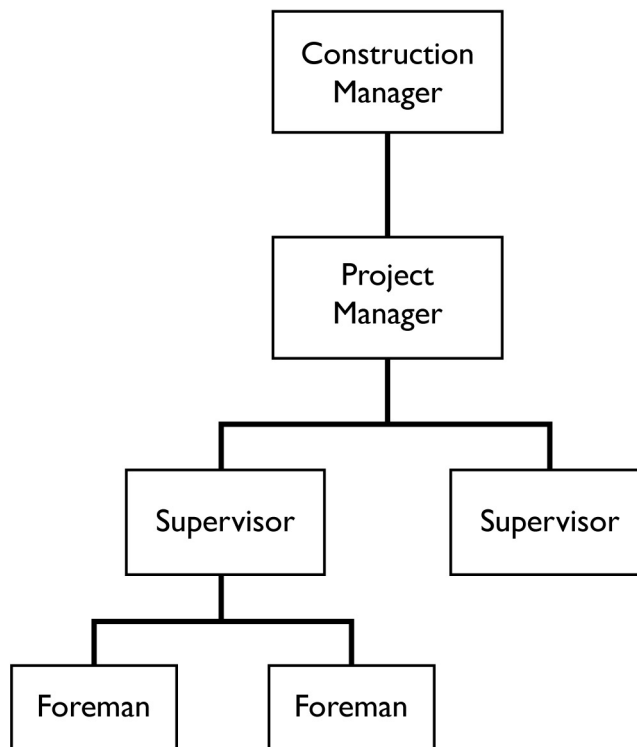
Participant	Alternative Designation	Role in Site Organisation
Superintendent	Engineer	The person nominated in the contract who, both parties agree, should impartially ensure that both the principal and contractor properly perform their respective obligations under the contract. (The term is used in Australian Standard 2124–1992 and is clearly defined in Clause 2, Interpretation).
Resident engineer	Superintendent's representative	The person to whom the superintendent has delegated some of the powers under the contract, and is responsible for the direct administration of the works being undertaken by the contractor.
Contractor's representative	Project manager	The person appointed by the contractor to manage the works and represent the company on site.
Contractor's quality representative	CQR	The person appointed by the contractor to administer the project's quality plan.
Inspector	Clerk of works	The person on the resident engineer's staff who is concerned chiefly with workmanship, including quality control.
Site engineer		The person who deals with all technical issues and undertakes duties as delegated by the resident engineer.
Supervisor		The person, usually located on site, who is responsible to the contractor for making day-to-day decisions about the running of the contract. Often, this is the same person as the contractor's representative or project manager.
Foreman		The person responsible for the activities of a number work gangs, e.g. earthmoving crew, drainage gang.
Leading Hand		The person in charge of a gang of men performing a specialised part of the works, e.g. earthmoving, drainage.

Relationships within the Construction Organisation

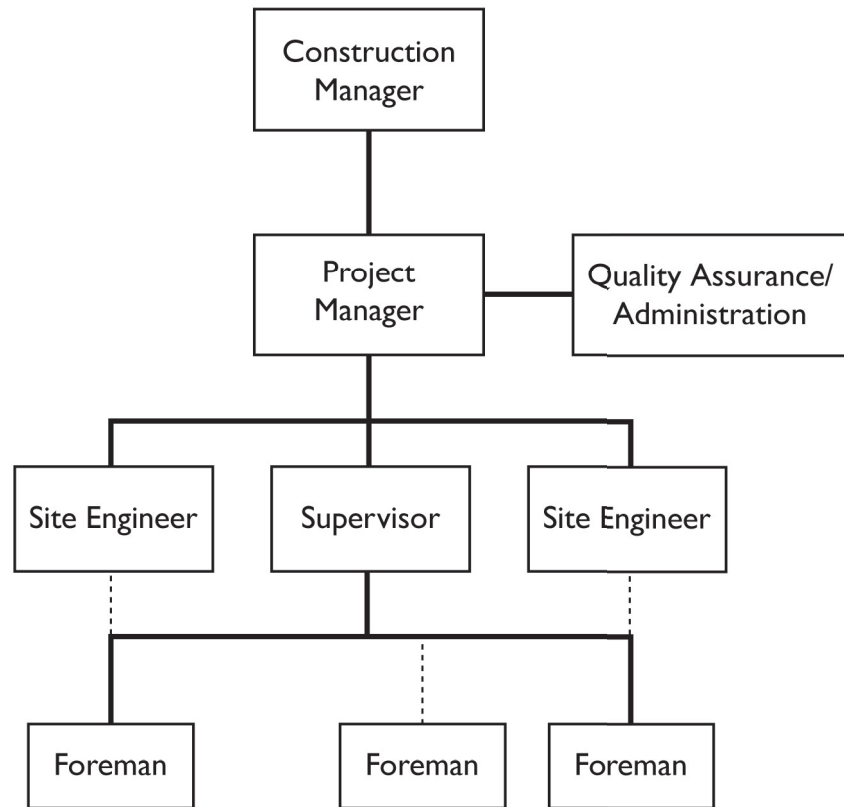
The drawings on the next page show typical site organisations that a contractor might use for a small, a medium and a large project. The site organisation is simplest on small projects, e.g. local government work; on a larger contracts, it involves more people and more working relationships.



Simple Contractor's Organisation



Organisation for Medium Range Contract



Large-scale Organisation

The first of the drawings represents the organisation set up for a small local government project; the second is for a medium-sized project; the third is for two large projects running simultaneously.

Note!

The actual value in dollars of a 'small', medium and "large" project changes with time. The meaning of 'small', medium and "large" may also change according to the type of work a contractor normally performs.

Commencement of the Contractual Relationship

The contract commences when the principal issues a letter of acceptance to the contractor. At that point, it is necessary to set up the basic administrative and technical procedures that will allow the two groups to work together.

Pre-Start Processes

In many cases, the parties to the contract reach agreement on administrative and technical procedures at an informal meeting—for example, between the superintendent, resident engineer and contractor's representative. There is an option to hold a formal pre-start conference, as described in the following discussion. This is common where government contracts are involved. However, where the work is being performed for a private owner (e.g. in a residential subdivision), the informal meeting is usually considered adequate.

Formal Pre-Start Conference

Shortly after the issuing of the letter of acceptance, the superintendent or resident engineer convenes a pre-start conference. The matters normally discussed at this conference include:

- Appointment of resident engineer and the extent of his or her delegated responsibility
- Appointment of inspectors and the extent of their authorisation
- Appointment of the project manager (contractor's representative)
- Contractor's supervisors and their responsibilities
- Nomination of contractor's quality representative (CQR)
- Nomination of safety officers
- Award, pertinent regulations and hours of work
- *Workplace Health and Safety Act* and others that may affect the operations on site
- The system of communications between the two organisations
- Procedures for materials testing, measurement, survey requests, inspections and progress payments
- Contract documents and any relevant issues that require clarification.

After the pre-start conference, the superintendent will issue a written confirmation of all issues discussed at the meeting. This is made available to all of the resident engineer's staff. All staff are urged to read and fully understand the issues set out in the document.

On-site Working Relationships

The working relationships that are established between people in the resident engineer's and contractor's organisations are important, in that they will ultimately determine the outcome of the contract.

In the administration of contracts, the working relationships between people in the two organisations (contractor's and principal's) should include an appropriate level of flexibility. Ultimately the project must be built to the specifications; however, people often find they need to use initiative, or to interpret the intent of the specifications where the documents are incorrect or unclear.

The key to successful completion of the contract is good communication between the two organisations. The following principles should always be applied:

- All staff must, at all times, aim to build and maintain good relations on site.
- There must be regular contact between the various representatives, and an appropriate system of communication between them. The aim of this is to avoid (or at least minimise) potential differences of interpretation, especially those that could give rise to on-site disputes.
- All players expect to work with, and be guided by, the plans and specifications.
- All contractual obligations are met promptly. There should be no impediment to the flow of money, provided that the standard of work is accordance with the contract documents.
- The superintendent or resident engineer must have the principal's authority to make, and be capable of making, important decisions without unnecessary delay.

Every person responsible for administering a contract, at whatever level, has a responsibility to maintain an excellent working relationship with all staff in both organisations (i.e. the principal's organisation and the contractor's organisation). In short, all staff should attempt to maintain a spirit of friendliness and co-operation.

A good working relationship between both organisations is necessary, because it is impossible to write a contract so that it covers all possible situations or outcomes. Some negotiation between the principal and the contractor may be needed to overcome these difficulties or problems. For example, parties to the contract may informally agree to disregard some of the provisions of a contract. Often, the reason for doing this is to ensure that the parties maintain their good working relationship. Interpersonal skills are covered in more details in a later section of this topic.

Section 1 – Assessment Activities

For information on how these assessment activities may be used as part of the learning process, see the section on 'Assessment' in the 'Topic Descriptor' section at the front of this topic.

Theory Questions

The following questions allow you to assess your progress in understanding the material presented in Section 1. The questions may be of any of the following types:

- multiple choice (identify correct answer or answers)
- multiple choice (identify incorrect answer or answers)
- fill in the gaps in a sentence or statement
- identify a sentence or statement as TRUE or FALSE
- write a few sentences or a short paragraph.

Answers to the question are shown in the separate 'Answer' section.

Question 1

The day-labour organisation is controlled by a contract and is managed by the resident engineer and contractor's representative.

True

False

Question 2

The contractor's representative and engineer need to treat everyone in the organisation with respect, regardless of whether they work on the site or not.

True

False

Question 3

As a supervisor, the best attitude to have is: 'I don't make decisions – that is what the workers are paid to do'.

True

False

Question 4

At which meeting would a principal name the contractors, specify their responsibilities, appoint inspectors and discuss award and relevant government regulations?

Question 5

If the turfing subcontractor was looking to win more work from the contractor, would it be acceptable practice for a worker on the contractor's pipelaying crew on site to accept leftover turf as a gift?

Yes

No

Practical Exercises

Practical Exercise 1

After you have become familiar with the people who work on the project, and their roles, draw up a rough sketch of the organisational charts for the principal's and contractor's organisations. Discuss them with your supervisor. How would the charts change on a larger or smaller construction job?