



Australian Government

Department of Education, Employment and Workplace Relations

CPCBC4032A Apply contract law to sales processes

Release: 1

CPCBC4032A Apply contract law to sales processes

Modification History

Not Applicable

Unit Descriptor

Unit descriptor This unit of competency specifies the outcomes required to apply contract law to the sales process, for either residential or commercial construction. Knowledge of contract selection, pre-contract agreements, preliminary contracts, insertion of appropriate clauses and the inclusion of the contract in the sales process is essential.

Application of the Unit

Application of the unit This unit of competency supports the needs of sales consultants, builders and other professionals in the building and construction industry responsible for applying relevant legislation to the sales process.

Licensing/Regulatory Information

Not Applicable

Pre-Requisites

Prerequisite units Nil

Employability Skills Information

Employability skills This unit contains employability skills.

Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.

Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Apply contract law as it relates to the sales process.	1.1. Contract law is applied according to relevant federal and state legislation and common law principles, including the law of contract, offer and acceptance. 1.2. Importance of contract to sales process and implications of contract law are explained to client. 1.3. Types and purpose of contracts employed within the industry and are explained to the client. 1.4. Clauses in the contract are described to the client and the reasons for inclusion and impact are explained. 1.5. Appropriate measures to be taken in the event of an anomaly in the rendering of the contract are determined and explained to the client.
2. Identify other legislative requirements applying to the sales process.	2.1. Contracts are negotiated in accordance with other federal, state or territory laws, regulations and codes , including the Trade Practices and Fair Trading Acts and regulations. 2.2. Cooling off periods, definitions of building work and provisional sum (PS) and prime cost (PC) allowances are applied.
3. Identify and apply types of pre-contract agreements.	3.1. Identify pre-contract agreements that meet legal and organisational requirements. 3.2. Pre-contract clauses are discussed and agreed with the client. 3.3. Apply correct pre-contract agreements.
4. Finalise the pre-contract agreement with customer.	4.1. Clauses that reflect client's requirements are included in pre-contract agreement. 4.2. Documents are signed in accordance with legal and organisational requirements. 4.3. Payment or deposit is received from client in accordance with legal and contractual requirements. 4.4. Documents are processed according to organisational policy.

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge required for this unit.

Required skills

Required skills for this unit are:

- ability to communicate by telephone, facsimile, email and in writing
- communication skills to:
 - enable clear and direct communication, using questioning to identify and confirm requirements, share information, listen and understand
 - come to agreement with the client
 - participate in discussions
 - provide information to clients
- read and interpret:
 - codes of practice
 - complex legal text
 - contracts
 - legislation
 - regulations
- use and interpret non-verbal communication
- use language and concepts appropriate to cultural differences
- written skills to complete workplace documentation, including the drafting of responses to queries relating to the finer points of contracts.

Required knowledge

Required knowledge for this unit is:

- contract types and the circumstances they cover
- definitions and interpretations commonly applied to contracts
- definitions of building work
- Fair Trading regulations, including cooling off periods
- legal meanings of terms and clauses in building and construction contracts
- relationship between the organisation and its clients.

Evidence Guide

EVIDENCE GUIDE

The evidence guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the

EVIDENCE GUIDE

Assessment Guidelines for the Training Package.

Overview of assessment

This unit of competency could be assessed by the effective application of contract law to a building sale contract.

This unit of competency can be assessed in the workplace or a close simulation of the workplace environment, provided that simulated or project-based assessment techniques fully replicate construction workplace conditions, materials, activities, responsibilities and procedures.

Critical aspects for assessment and evidence required to demonstrate competency in this unit

A person who demonstrates competency in this unit must be able to provide evidence of the ability to:

- explain importance of contract in the sales process to the client and how contract is applied
- select right contract for particular project and explain reasons for that choice
- select appropriate clauses and conditions within contract and explain impact of those clauses
- administer contract to standard required by the organisation and within any legal or regulatory requirements that may exist within the state or territory in which the work is being done
- determine and explain appropriate measures to be taken in the event of an anomaly in rendering contract.

Context of and specific resources for assessment

This competency is to be assessed using standard and authorised work practices, safety requirements and environmental constraints.

Assessment of essential underpinning knowledge will usually be conducted in an off-site context.

Assessment is to comply with relevant regulatory or Australian standards' requirements.

Resource implications for assessment include:

- documentation that should normally be available in either a building or construction office

EVIDENCE GUIDE

- relevant codes, standards and regulations
- office equipment, including calculators, photocopiers and telephone systems
- computers with appropriate software to view 2-D CAD drawings, run costing programs and print copies
- technical reference library with current publications on measurement, design, building construction and manufacturers' product literature
- suitable sales area appropriate to the construction process.

Reasonable adjustments for people with disabilities must be made to assessment processes where required. This could include access to modified equipment and other physical resources, and the provision of appropriate assessment support.

Method of assessment

Assessment methods must:

- satisfy the endorsed Assessment Guidelines of the Construction, Plumbing and Services Training Package
- include direct observation of tasks in real or simulated work conditions, with questioning to confirm the ability to consistently identify and correctly interpret the essential underpinning knowledge required for practical application
- reinforce the integration of employability skills with workplace tasks and job roles
- confirm that competency is verified and able to be transferred to other circumstances and environments.

Validity and sufficiency of evidence requires that:

- competency will need to be demonstrated over a period of time reflecting the scope of the role and the practical requirements of the workplace
- where the assessment is part of a structured learning experience the evidence collected must relate to a number of performances assessed at different points in time and separated by further learning and practice, with

EVIDENCE GUIDE

a decision on competency only taken at the point when the assessor has complete confidence in the person's demonstrated ability and applied knowledge

- all assessment that is part of a structured learning experience must include a combination of direct, indirect and supplementary evidence.

Assessment processes and techniques should as far as is practical take into account the language, literacy and numeracy capacity of the candidate in relation to the competency being assessed.

Supplementary evidence of competency may be obtained from relevant authenticated documentation from third parties, such as existing supervisors, team leaders or specialist training staff.

Range Statement

RANGE STATEMENT

The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.

Contract law includes:

- Builders Registration Acts in various States and Territories
- common law
- federal and state legislation, such as:
 - Home Building Contracts Act 1991 in Western Australia
 - Home Building Act and Regulations 1989 in New South Wales.

Clauses in the contract include:

- cost adjustments
- extensions of time
- offers and acceptances
- payments

RANGE STATEMENT

- retention of moneys
 - scope of work
 - terms and representations.
- Other federal, state or territory laws, regulations and codes* include:
- common law
 - Commonwealth Trade Practices Act
 - consumer credit codes in each State and Territory
 - Fair Trading Act 1987 in Western Australia.
- Pre-contract agreements* include:
- offer and acceptance documentation
 - preliminary contracts
 - preparation of plan agreements.
- Pre-contract clauses* include:
- conditions
 - scope of work
 - time for completion.

Unit Sector(s)

Unit sector Construction

Co-requisite units

Co-requisite units Nil

Functional area

Functional area