

**UNIVERSITY COLLEGE LONDON**

University of London

**EXAMINATION FOR INTERNAL STUDENTS**

For The Following Qualification:–

*B.Sc.*

**ES3116: Contract Administration and Law**

**COURSE CODE : ENVS3116**

**UNIT VALUE : 0.50**

**DATE : 08–MAY–06**

**TIME : 10.00**

**TIME ALLOWED : 3 Hours**

## **ENVS 3116 CONTRACT ADMINISTRATION AND LAW**

**Answer FOUR questions.  
All questions carry equal marks.**

### **QUESTION 1**

Your Local Authority client is seeking competitive tenders for the Design and Build of a new £15M multi-purpose Leisure Centre Development on the basis of the most economically advantageous tender. As the Construction Project Manager to the client, you are required to propose how you would assess, through both the Principal Design and Build Contractors tender documentation and a supporting tender interview, for each of the Principal Design and Build Contractors bids.

Appraise the factors that you would wish to evaluate, and discuss the quality evaluation process that you would propose to follow in order to make your recommendations on the most economically advantageous tender.

**(25 marks)**

## QUESTION 2

Using the information below, advise the main contractor on the amount of the interim valuation due at the end of month 7. In accordance with clause 18.1, the employer has taken possession of part of the works, valued at £350,000.

(Note: Within your answer you should provide details of all assumptions made and where necessary also, provide a commentary to illustrate your assumptions and calculations.)

### Contract details

JCT 98 Conditions of Contract, private edition with quantities.

Contract Sum of £5M, is broken down as follows:

Building works	£4,050,000
External works	£ 500,000
Preliminaries	£ 450,000

Contract period – 12 months

Retention 3%

Fluctuations clause 38.

### Valuation details

Value of works completed to the end of month 7 are as follows:

Valuation item	Value/£
Measured contractors work	£1,700,000
Structural Steel Frame	400,000
Electrical (NET)	125,000
Heating	100,000
Mechanical/Engineering Services	150,000
Services connections	25,000
Materials on site	20,000
Fully glazed windows/door sets off site	65,000
Adjudicators award of loss and expense claims for Substructure changes	17,500
Fluctuations, increases in Employer NI contributions	500
Previous payments up to and including valuation 6	2,300,000

**(25 marks)**

### QUESTION 3

“If there is one legal principle Architects can be guaranteed to remember it is that they have an obligation to hold the balance fairly between the parties when they are named in the contract as the Contract Administrator” Sergeant M. The importance of being impartial; Building, 21/1/2005 pages 58-59.

Discuss this statement with reference to case law and to the certification process.

**(25 marks)**

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### QUESTION 4

A claim for additional payment under one of the standard forms of construction contract will normally require the contractor to keep contemporary records as evidence of loss. The rationale for this being to avoid painfully prolonged disputes, because if the contractors records prove loss there will be no doubt as to what the contractors loss is, but if the contractor does not have such records, the claim for additional payment will fail.

In *Attorney General for the Falkland Islands v Gordon Forbes Construction Ltd* (2003) the court decided that if a contemporary record was in some way ambiguous, or if it was necessary to show how and when the documentary record came into being, then it would allow further evidence by way of witness statements. However, the court decided that it would not break the strict rule of evidence in construction contracts in that if a claim for additional payment arises, the contractors must meet their contractual obligations to supply contemporary records in order to show cause, effect and entitlement.

Discuss this statement and explain what contemporary records you would expect a contractor to keep in order to show cause, effect and entitlement.

**(25 marks)**

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## QUESTION 5

a) "The Expert Witness has always enjoyed a special position in English Law; they are the only people who can give opinion evidence to a court. However, this calls for the Expert to be impartial if they are not to risk the wrath of the court". Bessey J. The bitter truth; Building, 11/3/2005, page 46.

Discuss this statement with reference to the requirements of the Civil Procedure Rules 1998 (SI 1998/3132) and the case of the Great Eastern Hotel Co Ltd v John Laing Construction Ltd (2005).

**(13 marks)**

b) The performance bond remains alongside the parent company guarantee as the employer's principle protection against contractor default.

Discuss.

**(12 marks)**

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## QUESTION 6

A dispute has arisen between a domestic sub-contractor and the main contractor over a construction package for piling works being undertaken for a Property Development client to construct a major new commercial building. The project is being undertaken under the JCT 1998 with Contractor's Design form of contract.

The domestic sub-contractor alleges that he has experienced delays to his work programme on site in order to accommodate design changes as a result of ground conditions and Property Developer client variations. The domestic sub-contractor submitted documentary evidence and a financial statement in the form of a contract claim to the main contractor 10 weeks ago. Despite telephone calls and follow up letters, all the main contractor has done is to just acknowledge the receipt of the domestic sub-contractor's claim.

The contract allows for Mediation, where the sub-contract refers to JCT Practice Note 28, Adjudication and Arbitration as the dispute resolution methods.

Appraise these dispute resolution methods relative to this dispute and advise the domestic sub-contractor accordingly.

**(25 marks)**

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**END OF PAPER**