



THE ACEK NEWSLETTER

ISSUE 02 | FEBRUARY 2021



Trending News:

Women in Engineering | March Events

Chairman's Note



Greetings from the Association of Consulting Engineers of Kenya!!!

Since our last edition, we have embarked on many more initiatives to ensure that ACEK Council delivers on the promise. We are glad that the country and specifically the built environment sector is steadily bouncing back into shape with a number of projects taking off. The Association has equally been busy through the council and various committees to ensure

we deliver.

A number of consultative meetings with our partners were held in the last one month. Of great interest to members is a series of meetings held with Konza Techno Polis Development Authority in partnership with IEK... ACEK would like to take an active role in the realisation of this dream. ACEK executive equally held a meeting with the Water Secretary to discuss partnership opportunities geared towards capacity development of stakeholders in the water sector.

Welcome to the second edition of ACEK Newsletter.
Exciting things are happening in ACEK!

Enjoy the read,
Eng. Henry A. Ndugah
Chairman ACEK



Inside this Issue

Page 03

Interview with former ACEK
Chairman

Page 04

Maintaining Professionalism in
the new normal

Page 05

Future Leaders

Page 06

ACEK Council Members

Page 07

Eligibility Requirements for
Membership

Page 08

Past Member Firms Projects

Purpose of Construction Works Contract Documents



An **express contract** is one whose terms are specifically stated, either orally or in writing. **A contract is bilateral** if both the offeror and the offeree make promises. Each party must perform and can expect the other party also to perform. **A contract is called unilateral** if only one party makes a promise. The offeror (the one who makes the promise) expects the offeree to accept the offer by actually performing an act, not by making a promise to perform the act. An implied contract is one where the terms are inferred, in whole or in part, from conduct and circumstances rather than from written or spoken words.

The only legal difference between an implied contract and an express contract is the way that mutual assent is given. An “implied-in-fact” contract is one where the conduct of the parties and the circumstances of the transaction make it reasonable to assume that the parties had an understanding between them, and thus a contract enforceable

by the court, in spite of the absence of spoken or written words of agreement.

The purpose of construction works contract documents is to make the contract express in writing, to make clear:

- The scope of work – through drawings and bill of quantities,
- The standard or specification to which work is done,
- Terms of engagement (Conditions of Contract),
- Consideration (Payment),
- Roles and responsibilities as well as risks of the parties to contract,
- How to handle disputes in case they arise, and
- How to bring the contract to closure.

During contract management precaution should be taken to create implied conditions or agreements. Therefore, reach decisions quickly and communicate in writing to avoid a situation where one party may assume acceptance by the other party. For example, if the performance guarantee has expired the contractor should be notified to renew it. If he is not notified it may be assumed that the Engineer or Employer has accepted. Contractors’ staff and sub-contractors should be approved in an express way. If they work without approval for long it may be assumed that they are approved. Implied conditions may lead to disputes in a contract.

Eng. Patrick S. Wambulwa,
Chairman, Tertiary Consulting Engineers Ltd and,
Hon. Secretary, Association of
Consulting Engineers of Kenya.
Email: patrick.wambulwa@tertiary.co.ke



Interview with former ACEK Chairman

ENG. George Mac'Odawa (2002-2004)



Eng. George Mac'Odawa is a practicing Consulting Engineer with over 36 years of international experience in engineering feasibility studies, engineering concept designs and construction supervisions. He is the founding Managing Director of Professional Consultants Ltd an Engineering Consulting firm which has been in practice since 1983.

Question: How many years have you been in ACEK and how has your journey been?

Eng. Mac'Odawa: I have been in the Association for well over 20 years. I have seen the massive growth and positive strides made by the

Association over the years.

Question: What were your Contributions to ACEK as a Chairman during your tenure

Eng. Mac'Odawa: I established best practice standards for the conduct of Consulting Engineers of Kenya.

I also promoted / still promotes professionalism in the industry. I worked towards improving work ethics in the industry

Question: What attracted you to ACEK and what has kept you within the Association for all these years?

Eng. Mac'Odawa: Joint advocacy on matters affecting consulting engineering firms. Networking with others in the Industry and sharing best practices.

Question: What has ACEK imparted to you as a member in the past years?

Eng. Mac'Odawa: Networking opportunities that's good for business. The other benefit I have enjoyed is the training opportunities for our Engineers on FIDIC Modules.

Question: A word for non – members yet to join ACEK?

Eng. Mac'Odawa: ACEK provides numerous benefits to Engineering Consultancy firms. Join and let's make the industry even better.



For more information please contact
Mary Mumbua
ACEK Secretariat
0717191593

Maintaining Professionalism – in the New Normal

By Lilian Ogombo CEO - ACEK



What Engineers Need to Consider

It's a truism that we learn the most valuable lessons during the toughest of times, and looking back to the past few months, there are takeaways that engineering profession can learn from:

The new norm has provided the ideal conditions within which the engineering profession can consider wider adoption of robust processes, collaborative risk mitigation plans and adaptation measures in delivering resilient infrastructure to withstand climatic and public health pandemics in order to reduce risk and offer continued delivery of critical services. These steps may include reviewing their current organizational resilience, developing business continuity plan (BCP) to immediately get organized, allocate resources, and adapt quickly to situations that are evolving constantly, strengthening organizational resilience and embark on capacity building in essential functions.

The engineering profession should begin to lay much emphasis on a people first approach to design - thinking of the user as the most important consideration when designing infrastructure systems. The User Centered Design (UCD) ensures that citizens' voices are heard,

and their needs are used to inform the design decisions. This process de-risks infrastructure projects and ensures that the end solution is fit for purpose. The engineer should also explore scenarios with vulnerable users by designing practical solutions to protect the most vulnerable.

The profession must also seek to consider the health and safety of the employees especially to those working off-site by setting practical guidelines for establishing a safe remote workstation, providing employees with tips for working from home such as simple exercises, switch off to minimize potential burn out, tackling inequality, trauma, isolation stress, mental wellbeing so as to make the home office more comfortable and productive.

The demand for data connectivity has risen considerably and data centers have been identified as 'essential infrastructure' across the globe, and their staff as vital to their continuing functioning. The profession should foster for collaborative approaches and technical assistance with clients and service providers to guide and foster a progress towards digital transformation initiative.

A critical and an important consideration in the error of information overdose is the promulgation of professional charter on duty of care which includes furnishing employees with accurate, clear and consistent virtual communication information about health and safety risks, to minimize the side effect of the 'infodemic' of fake news and questionable expertise through creating of a central resource for all employees to disseminates information from

trusted resources only.

The pandemic has exposed profound implications for engineering skills and the future diversity of the profession especially at a time when we need a generation of talented and diverse engineers to help rebuild the economy. To counter this, engineering firms need to re-prioritize on diversifying expertise based on likely demand forecast through continuous professional development, resource allocation to where they will add the most value, and agility enhancement to address the uncertainty that will remain for the foreseeable future to as to create a legacy of stay competitive and relevance.

The increasing threat of the pandemic demands research and development (R&D) of effective and fit-for-purpose tools and technologies. The engineering profession must be at the forefront in steering a more robust and comprehensive R&D strategy. The strategy should include, at a minimum, a defined coordinating entity; an investment plan; convergence of regulatory requirements across countries or regions for testing, approval, and licensure of new products; agreements on access to intellectual property (IP), if any, and to data and materials, manufacturing capacity, and distribution channels; commitment to rigorous scientific standards and the incorporation of social and political considerations for the successful adoption of technologies and best practices at local levels. Adequate funds should also be deployed in infrastructure and capabilities needed by all R&D stakeholders, targeted expansion or acceleration of ongoing R&D projects and innovation.

THE EVENTS CALENDAR 2021

18 th March	Water Webinar
22 nd March	World Water Day
25 th March	Annual General Meeting
28 th April	Renewable Energy – Creating a greener Future
1 st May	World Environment Day
18 th -19 th May	FIDIC Africa Annual Conference
16 th June	Project Finance – PPP and other Infrastructure Financing Models
22 nd -23 rd July	FIDIC Training Mod 1
26 th -27 th July	FIDIC Training Mod 4
12 th -14 th September	FIDIC Annual Conference
13 th -15 th October	ACEK Annual Conference
25 th 26 th November	FIDIC Training Mod 2
29 th -30 th November	FIDIC Training Mod 3
09 th December	ACEK Annual Dinner

UPCOMING ACEK ACTIVITIES (MARCH)

1. Chairman's Networking Cocktail
2. Water Webinar
3. Annual General Meeting

Future Leaders Women in Engineering - What if we only spoke from Data?

By. Eng. Nancy Abira and Eng. LaToya Ouna



11th February is a memorable day for Women and Girls in Science, most probably some got a card or a text recognizing their foot stamp- maybe a gift for the type that go overboard. Or maybe no one remembered- like my case. 23rd June is another opportunity- we celebrate International Day for Women Engineers.

Are these efforts yielding fruit? In 1961, women engineers made a paltry 1% of the engineering workforce globally. Times have changed, the disparities reduced. Europe has made big strides in balancing the proportions. Kenya is however still lagging behind;

Country	Women Engineers' Proportion
Norway	54.7%
Sweden	48.4%
UK	40.8%
South Africa	10%
Kenya	8%

What hinders the reform?

In 2018, Manglin Pilya, the CEO of the South African Institution of Civil Engineering made news.

www.acek.co.ke

"More men occupy high-profile executive positions because of their appetite for workload and extreme performance requirements at that level. When a woman engineer says she has to work twice as hard, what does she mean? Does she have to do the same job twice in comparison to a man? Women engineers are paid less than male counterparts due to women's 'agreeableness' and motherly instincts that prevent them from negotiating higher salaries"

The Institution distanced itself from his remarks, cited them unfortunate and ill informed- rightly so. I pause and ask, is there some level of truth in Pilya's words?

Women Engineers perceptions represent by far the most powerful data that can be used to develop tools to bridge the gap. Type a short phrase of "women in engineering" on Google and you are blinded by a million articles demystifying the adage of "Girls can do Math. Encourage girls to do engineering courses". Forgive me, I agree, girls can do math- quite well. But this almost solves only the symptom of the problem. Have we collected the stories of the women engineers? Do we ask to document their stories, and if we do- do we use that data to inform our strategies? In Kenya, the ignored part of the women engineering growth is mid-level and top management. We have seen an increase in numbers of young women join engineering at entry level but with diminishing prospects at career ascension to mid and top management. We celebrate the small wins, but we must still openly and critically discuss the barriers. In 2020, KURA appointed the first female engineer as (Ag) Director since inception in 2007- 13 years later. She joins the list of the few women engineers in tier

one and two management of government authorities.

I have always thought it interesting but rarely asked- In our profession, why do we have only women attend Women Engineering events? Is it because we only discuss women related aspects? Does it not pass the message that burden of under-representation lies only with women engineers? Does it not limit the reach of women engineers- in cognizance of their representation in the decision-making organs currently?

It is commonly stated in business that "what gets measured gets managed", and this is a missing step we encounter. As a profession we will "commit to diversity in the workplace", but how do we measure actionable steps towards achieving this? Do we know the numbers of women engineers' in engineering businesses? Running contracting and consulting firms? Board representations? Top management? Mid and entry level? PhD programs? Who should collect this data? And how do we use it to narrow the gaps?

This year the theme for 11th February was "Beyond Borders"- and so going beyond the existing borders. Can we at the very least ensure in all avenues discussing Women in Engineering in Kenya, have a data backed approach? Can we institute that it is no longer enough to say we are proponents of gender inclusivity in Engineering- but we must propose quantitatively what we are going to do in six months- one year- three years and provide method of measurement of the gap we intend to fill.

May we have a dataful March!

ACEK Council Members



Eng. Henry A. Ndugah
Chairman



Eng. Solomon M. Kitema
Hon. Treasurer



Eng. Patrick S. Wambulwa
Hon. Secretary



Eng. Peter Wanday
Former Chairman



Dr. Eng. Siphila Mumenya
Member



Eng. Jane Mutulili
Member



Prof. Eng. Lawrence Gumbe
Member



Eng. Matu Mwangi
Member



Eng. Gabriel Jabongo
Member



Eng. Tom Opiyo
Member



Eng. LaToya Ouna
Member



Lillian Ogombo
CEO

ACEK COMMITTEES

EXECUTIVE COMMITTEE (EC)

- I. Eng. Henry A. Ndugah - Chairman
- II. Eng. Patrick S. Wambulwa - Hon. Secretary
- III. Eng. Solomon M. Kitema - Hon. Treasurer

ADVOCACY (POLICY, STANDARDS AND ETHICS COMMITTEE) - PSE

- I. Eng. Peter Wanday - Chair
- II. Eng. Solomon M. Kitema - Member
- III. Eng. Matu Mwangi - Member
- IV. Eng. Andrew Wahome - Member
- V. Eng. James N. Mwangi - Member
- VI. Passy Wairimu - Co-opted (FL)

CAPACITY BUILDING & TRAINING COMMITTEE (CBT)

- I. Eng. Jane W. Mutulili - Chair

- II. Eng. Solomon M. Kitema - Member
- III. Eng. Patrick S. Wambulwa - Member
- IV. Eng. LaToya Ouna - Co-opted (FL)
- V. Hesbon Okari - Co-opted (FL)

MEMBERSHIP & HUMAN RESOURCE COMMITTEE (MHR)

- I. Prof. Eng. Larry Gumbe - Chair
- II. Eng. Jane Mutulili - Member
- III. Eng. Gabriel Jabongo - Member

RESEARCH & PUBLICATION COMMITTEE (RPC)

- I. Dr. Eng. Siphila Mumenya - Chair
- II. Eng. Tom O. Opiyo - Member
- III. Prof. Eng. Larry Gumbe - Member
- IV. Hon. Eng. Nicolas Gumbo - Member
- V. Eng. Nancy Abira - Member (FL)

BECOME A MEMBER



ACEK offers numerous benefits and keep the membership on top of important, ever hanging issues and trends in the sector.

1. Advocacy

Close liaison with government and other industry bodies on contractual and legislative issues. Lobbying for better procurement laws.

2. Networking & Knowledge Sharing with other consulting engineers both locally and globally.

ACEK organizes a number of events throughout the year, both local and internationally being a member of FIDIC Africa and FIDIC.

3. Business Support to Members

Identification and Sharing of business

opportunities. Access to database of regional and international consulting firms.

4. Capacity Building

ACEK has well-coordinated local and international industry specific training. Members enjoy discounted training rates.

5. Becoming a member of both FIDIC and FIDIC Africa through ACEK

ACEK is a member of FIDIC and Africa. Members automatically become members of these international organizations through ACEK.

6. Public and Private Sector Support

The association acts as a public watchdog on engineering issues and acts as an interface between the public and consulting engineers.

ELIGIBILITY REQUIREMENTS FOR MEMBERSHIP

- ACEK Members profess to possess the relevant qualifications, expertise and facilities to offer the highest quality of service in their engineering disciplines of expertise while adhering to the highest ethical and professional standards.
- To join ACEK, an Engineer must be registered with the Engineers Board of Kenya (EBK) in the category of Registered Consulting Engineer.
- Must be a corporate member of the Institution of Engineers of Kenya (IEK)
- Must be actively practicing engineering as a partner, director or sole principal in a firm registered as a legal entity under the Laws of Kenya.

Past Member Firms Projects



Masinga Water Project



Wind Power Farm in Northern Kenya.



Construction of Serengeti Homes Apartments, Ngong Road



Karemeno Water Supply Tunnel



Petroleum Terminal and a Loading gantry at Konza

VIRTUAL FIDIC CONTRACTS TRAINING COURSES- EBK APPROVED COURSES

Module 1 - 22nd – 23rd July 2021

(The Practical use of the 2017 FIDIC Conditions of Contract for Construction – Red Book and Design & Build – Yellow Book)

Module 4 - 26th -27th July 2021

“The Contract Management & Administration of the 2017 FIDIC Conditions of Contract”
(Construction Contract and Plant& Design-Build)

Module 2 - 25th - 26th November 2021

(Management of Claims and Dispute Resolution Under the FIDIC Contracts Red and Yellow Book 2017)

Module 3 - 29th - 30th November 2021

Understanding DABs- The program aims to: - explain the use of DABs in the FIDIC 2017 Construction and Plant and Design-Build Contracts and the application of Dispute Board rules and procedures.

WHO SHOULD ATTEND?

The courses provide the necessary knowledge for, and targets, professionals from Government Ministries and its Agencies, Private Sector Employers, Consulting Engineers, Contractors, Quantity Surveyors and Architects, Legal Advisers in the construction sector, and ALL those involved with the procurement, implementation and management of large Works Contracts

COURSE MATERIALS

All delegates will be provided the following materials, in English:

- Soft copy of presentation
- Soft copy of case studies
- CPD Accredited Certificate for 12 EBK PDU points per module

TO BE PURCHASED BY PARTICIPANTS

- Hard copy of Red and Yellow Books from ACEK Office
- Soft copy of FIDIC Red and Yellow Books (www.fidic.org/bookshop)

COURSE RECOGNITION

Association of Consulting Engineers of Kenya (ACEK) is fully accredited as a CPD provider and the courses validated by Engineers Board of Kenya. 12 Professional Development Units (PDUs) will be awarded per course

The training is FIDIC accredited and the trainer is fully FIDIC accredited. Each participant will receive a certificate of attendance per module

For more details, get in touch with ACEK Secretariat on Tel: +254 020 2249085
Mobile: +254 717191593 | E-mail : aceksecretariat@gmail.com, acek@acek.co.ke

Available FIDIC Publications

EPC/Turnkey Contract (Silver Book) 2nd Ed 2017

Plant and Design-Build Contract (Yellow Book) 2nd Ed 2017

Construction Contract (Red Book) 2nd Ed 2017

Design-Build-Operate Contract (Gold Book)

1st Ed 2008

Short Form of Contract (Green Book) 1st Ed

1999

Construction Contract MDB Harmonised Ed (Pink book) Version 3: June 2010 Harmonised Red Book

FIDIC Golden Principles Free

Construction Subcontract 1st Ed 2011

Client-Consultant Agreement (White Book) 5th Ed 2017

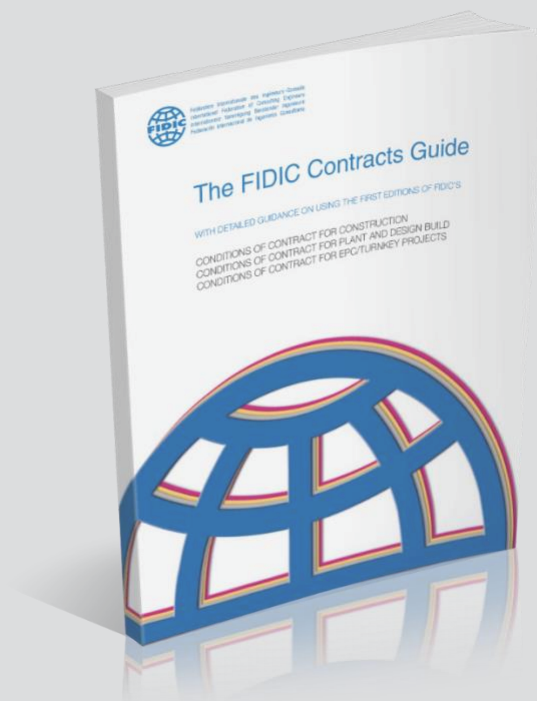
FIDIC Procurement Procedures Guide 1st Ed 2011

FIDIC Contracts (1999 editions) Guide 1st Ed 2000

Sub-Consultancy Agreement 2nd Ed 2017

DBO (2008 Gold Book) Contract Guide 1st Ed 2011

FIDIC Guide to Practice, The Business of a Professional Services Firm 2015 Edition



EDITORIAL TEAM

- I. Dr. Eng. Siphila Mumanya- Editor in Chief.
- II. Eng. Tom O. Opiyo-Member
- III. Prof. Eng. Larry Gumbe-Member
- IV. Hon. Eng. Nicolas Gumbo-Member
- V. Eng. Nancy Abira- Member
- VI. ACEK Secretariat

THE CONSULTING ENGINEER MAGAZINE

A quarterly magazine published by ACEK. Members and partners are invited to contribute articles as well as advertise.

Contact Us: Commodore Office Suites 6H, P.O Box 72643 – 00200, Nairobi, Kenya.
Tel: +2540202249085 | Mobile: 0717191593 Email: acek@acek.co.ke | www.acek.co.ke