

SCOPE OF WORKS CLAUSES

INTRODUCTION

Scope of Works clauses are commonly used to summarise the work included in a contract, particularly for complex engineering systems and for additions and alterations to existing work. A Scope of Works clause is useful but carries risks which can be mitigated by retaining the content but giving the clause a different name. This TECHnote discusses the benefits and risks and suggests approaches to writing an effective clause.

WHY NOT TO HAVE A SCOPE OF WORKS CLAUSE?

A Scope of Works clause is typically one to two pages long but strictly speaking, the scope of works of a contract consists of all the contents of all the documents. Calling a summary clause Scope of Works can be interpreted as meaning that anything not in the clause is outside the contract scope and, at worst, that the rest of the documents are not within the scope of works. This is clearly not the specification writer's intention, but it is an interpretation that, under the legal principle of *contra proferentem*, could lead to claims for extra payment for things not included in the Scope of Works clause. Adding vague requirements like "and all other things necessary" probably won't work contractually and adds uncertainty, the very thing that the clause is trying to overcome.

WHY HAVE A SCOPE OF WORKS CLAUSE?

The main purpose of Scope of Works clauses is to summarise the work in the contract for readers of specifications, especially tenderers, not familiar with the project. The summary allows them to get a quick overview of what work is required. As such, it can increase tenderers' confidence that they understand and have included everything required.

Increasing tenderers' confidence is reflected in lower tender prices.

THE NATSPEC APPROACH

Given the benefits of providing a summary of work and the risks of calling it a Scope of Works, NATSPEC provides a place to put the information in **RESPONSIBILITIES** clauses of relevant worksections. For example, *0701 Mechanical systems* worksection includes the following in the GENERAL, **RESPONSIBILITIES** clause:

Summary: The mechanical services are summarised as follows: [complete/delete]

To use this, the specification writer inserts a summary list of the principal mechanical systems and components in the contract. For a mechanical project it might include items like:

- Central chilled water plant consisting of two chillers located in the plant room on Level 8 with two cooling towers located on the roof above.
- Air handling plant located in . . . serving . . .
- Car park ventilation system . . .

The *Guidance* in **RESPONSIBILITIES** includes suggestions and cautions on how to include scope of works content in a contractually viable way, typically a summary of the systems and major components to be provided. Services engineers wanting to summarise their work in NATSPEC can use the summary in the **RESPONSIBILITIES** clause in *0701 Mechanical systems*, *0801 Hydraulic systems*, *0901 Electrical systems* or *1001 Fire services systems*. The important caution is not to call the clause Scope of Works or to imply that it includes all the work.

SUGGESTED APPROACH

Consider the following when writing a summary of works clause:

- Items in the summary should be brief and not try to include every related component.
- Minimise the use of quantities. If you do say something like "two 750 kW(r) screw chillers" make sure that the selections schedules do not say 800 kW(r) or you might only get 750.
- Avoid vague requirements like "and all other things necessary". It is a summary.
- Make sure the summary clause agrees with related contracts, does not omit work or include work in other contracts. Demarcation between contracts can be dealt with in *0138 Multiple contracts*. For the same reason, do not refer to "by others".
- Do not include payment of fees and the like. These are appropriately dealt with in the *Preliminaries* worksection.

Terminology

scope clause A clause, in a document such as a specification, which gives an overview in broad terms of the requirements given in detail elsewhere in the same document. Scope clauses do not add anything to the requirements of other clauses and can usually be omitted without any effect on them. The only purpose of a scope clause seems to be to give the reader a preliminary idea of the extent of requirements in the other clauses. This could be more safely provided by a separate statement not part of the same document. A danger of scope clauses is that they may lead to ambiguity between the scope described broadly and the scope described in detail. They obviously provide duplication of information and such duplication is notorious for breeding of errors, omissions and misunderstanding.

Standen, David (4th edition, 2011) *Construction Industry Terminology*

Relevant services worksections

0701 Mechanical systems
0801 Hydraulic systems
0901 Electrical systems
1001 Fire services systems