BMA ADVOGADOS

The FIDIC Rainbow Suite: Red, Yellow, Silver

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The *Fédération Internationale des Ingénieurs-Conseils* (FIDIC) is an international organization founded in 1913 to represent engineers and consultants worldwide. Headquartered in Switzerland, it brings together affiliated professional associations in around 100 countries, including Brazil. Over more than a century, FIDIC has become a leading global reference for standard-form contracts in construction and infrastructure, publishing model agreements widely used by governments, multilateral financial institutions, and the private sector in various jurisdictions.

FIDIC's standard-form contracts cover a wide range of contracting structures for construction works and engineering services. They are issued as a suite of contracts known as the Rainbow Suite, with each contract identified by a distinct color. Each volume presents a standard form contract, accompanied by guidance and commentary to support its use in practice.

From a structural perspective, the contracts are divided into General Conditions, covering matters such as performance, payment, timelines, risk allocation, and dispute resolution, and Particular Conditions, which supplement or amend the General Conditions to address project-specific requirements, such as local law and the currency of payment.

As for the parties, the contracts involve an Employer and a Contractor, and, in some models, an Engineer responsible for contract administration and supervision of the works.

Within the Rainbow Suite, three contracts are particularly relevant for large-scale projects: the Red, Yellow, and Silver Books. Unless otherwise noted, the references below are to the 1999 editions of these contracts.

Red Book: Employer-Designed Works

The Red Book is FIDIC's most traditional and widely used contract, typically applied where the Employer provides the design and the Contractor is responsible for execution. Under this structure, the Employer retains significant risk, including ground and site conditions risks (Red Book 1999, Sub-Clauses 4.7, 4.10 and 4.12), reflecting its role in preparing the design.

Yellow Book: Contractor-Led Design-Build Projects

The Yellow Book applies to design-build projects in which the Contractor is responsible for both design and execution, based on the Employer's requirements. Like the Silver Book, it provides for tests after completion and is commonly used in projects with defined performance criteria. Unlike the Silver Book, however, it retains the role of the Engineer and adopts a more balanced allocation of risk.

Silver Book: EPC/Turnkey Contracts

The Silver Book is designed for EPC/turnkey contracts, under which the Contractor assumes full responsibility for design, procurement, and construction, delivering a facility ready for operation. In this structure, the Engineer is replaced by the Employer's Representative, and more risk is allocated to the Contractor, with remuneration typically set on a lump-sum basis. While the Employer retains a significant share of risk under other Rainbow Suite contracts, the Silver Book shifts that burden to the Contractor in exchange for greater price and schedule certainty – features that are particularly important in project finance structures.

Despite their prominence internationally, FIDIC contracts have not been widely adopted in the Brazilian market. In practice, their use remains relatively limited and is often partial or adapted, reflecting both the consolidation of local contracting practices in the engineering and construction sector and specific features of the Brazilian legal framework, such as mandatory rules, contractor liability, limitation periods, and public procurement regimes.

Even so, shifts in the infrastructure market and the growing presence of international stakeholders in Brazil are creating a favorable environment for the use of FIDIC contracts.

Opting for a FIDIC contract is not merely a formal step, but a strategic decision that shapes risk allocation, aligns the parties' incentives, and influences the overall dynamics of the project, directly affecting its feasibility, timeline, and ultimate cost.

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