

A LESSON ON
LEARNING
BY **DOING**

HOW ONE
UNIVERSITY
IS RETHINKING
HOW IT TEACHES
CONTRACTING

BY KATE VITASEK





Give a man a fish and
you feed him for a day;
teach a man to fish and
you feed him for a lifetime.

—Proverb



The Torchbearer
statue.

In most cases, this age-old proverb rings true. However, contracting courses taught in a traditional classroom and continuing education credit settings often fall short. Simply put, they teach concepts, but do not allow for the “practice” of the concepts in a real setting. The University of Tennessee (UT) set out to change this.

It’s often said that if you want something done right, you should do it yourself, but this attitude can easily backfire when it comes to contracting. This is because contracts can and do involve a host of complicated strategic, economic, and operational issues. This is especially true for outsourcing contracts, which tend to be longer-term in nature and have higher dollar values.

It is also said that seeking help from those who are more experienced presents the best chance of success. This school of thought is likely why advisory services (e.g., consulting and legal firms) for creating outsourcing contracts mushroomed as companies set on a quest to outsource over the last 30 years. Outsource advisory firms began popping up in the mid-1990s, and by the mid-2000s, they were in full swing. Today, many of these firms promote programs where companies can “outsource their outsourcing” under a managed services agreement where the consulting firm will perform governance functions on their behalf.

But as outsourcing itself has blossomed and become a mainstay practice, many organizations are scratching their heads wondering if there is a better way.

David Handley—vice president, Business Partnerships, Vancouver Coastal Health (VCH)—was one of those individuals:

The Canadian government organizations are typical of today’s private companies. We have a budget-constrained organization that is trying to find a way to bring best practices for structuring outsourcing deals in house. This is especially true for the health authorities in British Columbia because we are facing tremendous health care cost increases and we must find ways to do things better, faster, and cheaper. Simply put, we don’t have a large consulting budget. We needed to instead invest in how we could create a scalable and sustainable approach for helping us bring outsourcing best practices to life across a variety of contracts.

VCH is like many organizations outsourcing today in that outsourcing is no longer “new.” As Handley explains:

We first began outsourcing over a decade ago. Today, it is common for us to use outsourcing as a strategic approach for lowering cost structures and improving service. In addition, many of our original outsourced deals are in their second or third generation. Traditional advisory firms are expensive, and we simply cannot justify using traditional consulting and legal firms to support us with all of our outsourcing deals. We needed to become experts ourselves in outsourcing.

The question is, can you combine the concept of learning from the best of the best while embedding skills in house? You don’t have

to look far to find a winning example in practice. The concept of “learning by doing” was pioneered in the medieval trade guilds as individuals progressed from apprenticeship to journeyman to a “master” of their trade. Today, journeymen complete a trade certificate and are able to work as employees, but they are not able to operate in a self-employed capacity or run their own business and teach others until they become “master” craftsmen.

Shay Scott, UT’s executive director of Supply Chain & Operations Programs, and managing director of the Global Supply Chain Institute, points to the Six Sigma Black Belt program as a similar approach for teaching white collar skills in the business community. “The Six Sigma Black Belt program closely follows that of the trade guilds’ ‘learning by doing’ mantra,” explains Scott.

The term “Black Belt” refers to project leaders, skilled in the use of statistical “Six Sigma” methods for quality improvement.¹ Six Sigma Black Belts have strong interpersonal communication and are dedicated to using Six Sigma methods for ensuring customer satisfaction. “Green Belts” are (in essence) apprentices, require less training and practice than Black Belts, and take responsibility for leading fewer and less complex projects. An individual qualifies for a Green Belt once they have successfully completed a Six Sigma project. Finally, “Master Black Belts” spend nearly all their time consulting, mentoring, and training Green Belts and Black Belts.²

From Theory to Practice

UT researchers have been lauded for their research in outsourcing best practices. Their work has led to six books and Contract Management Magazine has published several articles featuring UT’s research.³ A major finding of UT’s research was that key buyer and supplier stakeholders were not aligned during the contracting process. The result is typically a rigid legal contract where buyers get what they paid for—not what they wanted.

As David Frydinger, partner at Lindahl Law Firm in Sweden, and adjunct faculty member teaching UT’s Collaborative Contracting course, explains:

Business is dynamic by nature. And because outsourcing contracts are often multi-year agreements, the supplier is often backed into a corner to keep profit margins up and the result is “change order hell” for the client. What I like about the Vested methodology is it teaches lawyers and business people—on both sides of the table—how to create a fair and balanced, flexible contract framework. Yes, there is still a legal contract with the legal terms and conditions, but what the Vested methodology does is help business people actually chartered with making the relationship a success come together with their lawyers to ensure the business aspects of the deal are

sound. In essence, your contract is your business playbook and not just a document you stick in the drawer and hope you will never pull out.

UT researchers—passionate to help organizations put their theories and concepts into practice—sought to create a “learning by doing” educational program modeled after the Six Sigma Black Belt program. The goal? To institutionalize best practices from their research through a “Certified Deal Architect” (CDA) program. Key components of the program include augmenting traditional classroom training with “on the job” training, and to work with organizations to ramp up field-based support to reinforce and further embed the concepts in an applied environment.

According to Scott:

The CDA program seeks to teach individuals the art, science, and practice of how to structure and manage complex outsourcing agreements using UT’s award-winning “Vested” outsourcing methodology. The Vested methodology is based on UT research of studying some of the world’s most successful outsourcing relationships. To craft a Vested agreement, organizations architect their outsourcing agreement across 10 contractual “elements” that follow five “rules.”⁴ To bring the rules from theory to practice, we have created six courses that come together to create our CDA program. The comprehensive program takes practitioners from the basics of learning the key concepts and how to start, all the way through the implementation and eventually mastery.

As seen in **FIGURE 1** below, this is done through a series of online courses, by attending classroom courses at UT, and through faculty coaching.⁵

Learning How to Learn and Do

David Handley comments on why the CDA program was a good fit for VCH:

FIGURE 1.
CERTIFIED DEAL ARCHITECT PROGRAM



Outsourcing is not new to VCH. We knew we needed to increase our in-house level of expertise in how we were contracting for complex services if we were going to have a sustainable solution to contracting and managing our outsourcing deals. The more we looked at UT’s Vested methodology and CDA program, the more we liked it. For starters, the methodology is largely based on open source material which is widely available and free of charge. We were able to register for the Vested Orientation online course to get familiar and comfortable with what UT was teaching without having to spend any money. A few of our team members ultimately took the open source self-assessments, where we were able to get a good feel about how well we were structuring some of our contracts against the best practices that UT teaches.

VCH ultimately decided to test the Vested methodology for an environmental services contract that was about to expire:

We started out with a group of about 20 people taking the online “Five Rules That Will Transform Business Relationships” course. This included a cross-functional group of individuals ranging from sourcing, legal, and operations people.... We loved the online nature of the course because it really helped us get a broad group of people exposed to the concepts UT was teaching in an affordable way. From there, we chose a small team who was chartered to use the Vested methodology to create an environmental services contract with our service provider, Compass Canada (which does business as Crothall Health).

Key to the Vested methodology is having both the buyer and supplier select individuals who are part of a “deal architect” team that will ultimately co-create their contract. The joint VCH-Compass team used the “Creating a Vested Agreement” online course as the foundation for helping them put UT’s best practice concepts into practice.

Handley recalls the importance of the entire team taking the online course together:

We had a few on our team who originally resisted the fact they had to take the course. Some argued they had done deals before and only the newer team members should take the course. But that was the beauty of it. We were all learning the same thing at the same time. And for some that meant unlearning bad practices. The course gave us the basic language and toolkit so we could all be on the same page. That meant both the business people and the lawyers. It also meant both VCH and Compass.

Leta Hill, a vice-president of Compass, shares a supplier’s perspective:

The process was different from the onset. The “deal architect” team concept helped us ensure we had the right people in the room as we were going through the contracting process. Using the “Creating a Vested Agreement” online course helped us to all be on the same page together. We would take a module and then use the toolkit to help us work through key decisions that would be part of our contract. If I had

one word to describe the process it would be “alignment.” This was truly the first time I have ever seen such a high degree of alignment between a buyer and supplier. We both ended up with a far better contract than we ever expected....

Practice Makes Perfect

In addition to getting everyone on the same page, the “Creating a Vested Agreement” course is designed to increase the success factor of how people learn. UT’s Scott shares insight into why an integrated “learning and doing” approach is far better than the “learn all at once and then do later”–or worse, the “learn, then test and maybe don’t ever do”–model of traditional learning:

An old adage says that practice makes perfect. The CDA program helps individuals not just learn, but apply what they learn in real time, on a real deal. By integrating the “learning and doing” process, it significantly increases an individual’s ability to successfully apply the learnings in practice.

The “Creating a Vested Agreement” online course consists of 17 self-paced, interactive video-based modules that deliver critical knowledge, step-by-step practical instructions, and a comprehensive Vested Toolkit that provides tools, templates, and resources designed to help organizations create a Vested agreement. (See **FIGURE 2** below.)

FIGURE 2.
CREATING A VESTED AGREEMENT
COURSE CURRICULUM

Part 1: Laying the Foundation	
Introduction	How To Use This Course & Toolkit
Module 1	Getting Ready
Module 2	Contracting By The Rules
Part 2: Contracting by the Elements	
Module 3	Business Model
Module 4	Shared Vision & Intent
Module 5	Statement Of Objectives
Module 6	Performance Metrics
Module 7	Performance Management
Module 8	Pricing Model - Part 1
Module 9	Pricing Model - Part 2
Module 10	Pricing Model - Part 3
Module 11	Pricing Model - Part 4
Module 12	Pricing Model - Part 5
Module 13	Relationship Management
Module 14	Transformation Management
Module 15	Exit Plan /Special Concerns
Part 3: Staying Vested	
Module 16	Finalizing Your Agreement
Module 17	Transitioning To Your New Agreement



Handley explains why the UT integrated learning by doing approach is so effective:

The beauty of the UT approach is that while you are learning about Vested and outcome-based contracts, the “homework”—or term paper, if you will—results in a real buyer/supplier contract. You learn the theories and then have to put the theories into practice in real time. If you find yourself falling short on the practice, you can immediately go back to the online course or reach out to a coach who can help you apply the concepts in practice.

As part of the CDA program, organizations are paired with a UT CDA graduate at one of 10 Centers of Excellence around the world and receive eight hours of coaching support as part of the course. Scott notes:

Vested Centers of Excellence are kind of like Master Black Belts, in that they spend nearly all of their time consulting, mentoring, and training Green Belts and future Black Belts. In short, local Centers of Excellence fill the gap between what we are teaching in the course and what people are “doing” in the field when they are working to complete an outsourcing agreement. Teaming an organization such as VCH with a regional Center of Excellence enables them to get hands-on, real-time advice from local experts when they have questions.

VCH opted to have additional onsite training days where their Center of Excellence would facilitate workshops and provide ad-hoc coaching. Handley says:

We loved the fact that we could easily access a Center of Excellence that would augment the online class by helping us in a more hands-on way. We were able to use our training budget and work with the Forefront Group as a Center of Excellence under a train-the-trainer capacity. It let us tap into their experience and bounce ideas off each other as we learned how to put the Vested theories into practice.

Donna Massari was the CDA working with Vancouver Coastal Health. She is a principal at The Forefront Group, one of the U.S.-based Vested Centers of Excellence. According to Massari:

The Vested methodology is really effective because the approach shifts the focus away from a consultant “doing” the work for a client to one of us transferring knowledge and skills to the client. Clients get the formal training from the UT courses and we supplement this training with on-the-job training through a series of workshops and coaching sessions. In essence, we provide strategic support and guidance all the way through to the end.

In short, students have gone through an apprenticeship program or become the equivalent of a Six Sigma Green Belt in the art, sci-

ence, and practice of structuring an outsourcing relationship. They are not yet experts, but they can apply the skills and have applied the best practices they have learned on a real contract.

Magnus Kuchler, partner at EY Advisory Services and the leading force behind the EY Vested Center of Excellence, likes the Vested methodology because it helps clients “learn how to fish” and it is both flexible and scalable to the client’s unique needs. Kuchler says:

The level of support typically varies based on the size and complexity of the deal. But the end game is the same: transfer skills to the organization so the company can have the skills in-house.

From Implementation to Mastery

Typically, organizations have a variety of stakeholders on the deal architect team. The number can vary, but typically ranges from a low of four people (two from the buyer and two from a supplier) to a high of sometimes over 20 people. The individuals leading the outsourcing effort can opt to go on and pursue a CDA.

A key component of the CDA program is attending two onsite training courses and completing a “Validation” course with one-on-one coaching from a UT faculty member where the CDA candidate and UT faculty review their contract for any structural flaws against the Vested Five Rules. Scott says:

A key goal of the CDA program is to ensure organizations have leaders who can explain the “why” and “how” of the Vested methodology in a broader scale than just “one deal.” The onsite courses and Validation course helps increase the person’s skill level from an equivalent of a Six Sigma Green Belt to a Black Belt.

According to Handley:

It’s one thing to be on a team that is crafting a deal, but it is another to be able to lead a team. We knew that to be truly successful, we would not only need to be able to use the “Creating a Vested Agreement” class to get us to a successful environmental services outsourcing deal with Compass, but also that a few of us would need to lead VCH as we looked to strengthen our in-house skills in crafting and managing outsourcing deals.... The UT onsite courses allowed us to make that leap.



In the case of VCH and Compass, each organization chose to send three people from their respective organizations to complete the UT CDA program. Handley comments:

I knew from seeing how well the Vested methodology worked with the Compass agreement that VCH should take the next step to invest in the complete CDA program for at least a small number of our people.... [S]o Kremena Daskalova[, senior director, Contracted Lower Mainland Support Services,] and Tim Cox[, director, Contract Development and Support,] participated in the program. Kremena plays a key role in the procurement and management of strategic outsourcing contracts and she directly oversees management of the Compass contract and Tim's background as a lawyer made him a perfect fit for the program. I also decided to become a CDA as I realized I would be able to influence many other business relationships as the leader of VCH's business partnership group.

Compass also had three members of the initial deal architect team members become CDAs. Leta Hill was one of those. The others were Compass' attorney and the VP of sales that originally led the acquisition of the seven-year (plus one seven-year renewal option) contract between VCH and Compass.

Replicating Success

In 2010, UT researchers set out to share the best practice lessons from their award-winning research in how to develop win-win outsourcing contracts, but what resulted was not only best practices in outsourcing, but a complete rethinking of how to teach organizations about applying the best practices in real outsourcing deals. The result? A shift away from the traditional "learn and do later" to one of an integrated "learning by doing" approach. Gone was "role playing" in how to negotiate and in its place was "real playing," where teams would come together and learn by doing using a common framework and a coach to provide real-time, hands-on feedback.

EY's Kuchler explains why EY is on board with the Vested methodology:

As one of the world's leading outsourcing advisory firms, EY does hundreds of outsourcing deals a year. We liked the UT research and found their approach of "learning by doing" sound. The Vested model combines the best-of-the-best approach. Organizations can lean on us to help them, but they can simultaneously learn how to be better at outsourcing. Who wants to create an outsourcing deal if your client can't understand it or sustain it?

Handley sees the benefit for organizations such as VCH as well as for himself:

As the head of Business Partnerships for [VCH], I often also get asked to assist a variety of groups in their outsourcing efforts—many of which are far more complex and strategic than ever before. The CDA program

not only helped us create a great partnership with Compass, but it also gave us the skills and confidence to replicate success across many other programs and suppliers.

In short, UT's approach taught us how to fish. 

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Post about this article on *NCMA Collaborate* at <http://collaborate.ncmahq.org>.

ENDNOTES

1. Uwe H. Kaufmann and Arne Buthmann, "Why Six Sigma Black Belts Make Better Leaders," *iSixSigma* magazine (January 28, 2018), available at www.isixsigma.com/new-to-six-sigma/roles-responsibilities/why-six-sigma-black-belts-make-better-leaders/.
2. *Ibid.*
3. See, e.g., Kate Vitasek and Mike Ledyard, "Vested Outsourcing: A Better Approach for Better Results," *Contract Management Magazine* (November 2010); Kate Vitasek and Jeanette Nyden, "Vested Outsourcing: The Path to a Long-Term, Win-Win Contract" (July 2012); Kate Vitasek and Karl Manrodt, "Contract Management the Vested Way" (August 2012); Kate Vitasek, "Finding the Right Sourcing Business Model" (July 2016); Kate Vitasek, "A Prescription for Collaborative Healthcare Outsourcing" (October 2016); Kate Vitasek, "Collaborative Bidding Can Transform the Competitive Process" (November 2016); Kate Vitasek and David Frydinger, "Are You Suffering From the Contracting Paradox? Introducing the Relational Contract" (May 2017); and Kate Vitasek, "Outsourcing Essentials—Go Back to School to Get Outsourcing Right" (September 2017).
4. See, e.g., "Contract Management the Vested Way" (*ibid.*) and "Vested Outsourcing: The Path to a Long-Term, Win-Win Contract" (*ibid.*).
5. The fundamentals of the Vested methodology are available as part of the open source online Vested Orientation training class. The basic course and toolkit are available free of charge for organizations to learn the fundamentals of the Vested methodology.

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