

Best Practices in Claims Management

INTRODUCTION

- A project starts and begins with a contract. The contract sets the stage for the project and the parties need to be well versed on how to navigate the contract and know the legal principles involved. In order, to successfully make and substantiate a claim or alternatively to defend such a claim, parties need to have the knowledge and various skills to manage claims, which in turn will be invaluable to parties involved in project management.
- This training course will give all the best practices that will put you on the right track to avoid expensive mistakes which will affect the outcome of your project. The training course will address the key issues required to successfully deliver contracts with reference to international contract forms and best practice. The topics outlined below will be central to the successful management of risk by both contractor and employer and cover the main pertinent core contract administration and claims requirements.

This training course will highlight:

- Identify and manage project contract claims relating to delay and variations in contracts
- Mitigate the risk exposure on projects through better management of claims
- Learn how best to resolve claims promptly in a fair and reasonable manner
- Understand the rights and obligations of both parties
- Assess, analyze and evaluate contractor claims
- Know how to defend claims and make counterclaims
- Resolving Claims Disputes and avoid expensive litigation and arbitration

OBJECTIVES

By the end of this training seminar, you will be able to:

- Gain a full understanding of contract and contract claims.
- Have knowledge on how to streamline the claims process.
- Understand evaluation methods to identify claims and know what defences that are available
- Gain the knowledge to make you an asset to any claim management team.
- Insight into real life projects and scenarios with lessons learnt.

TRAINING METHODOLOGY

- The training course will be instructor lead either virtually or face to face with interactive sessions and detailed case studies. This training course will utilize a variety of proven learning techniques to ensure maximum understanding, comprehension and retention of the information presented. This includes exercises designed to improve and sharpen the skill sets of delegates in planning, analysing, negotiating and managing claims through interactive sessions using quizzes, case studies, discussion groups and scenario building. The objective of the interactive sessions is to enable participants to apply the knowledge and understanding gained during the course. This will help delegates practical insights into managing the contract risks and enhancing their rewards.

ORGANISATIONAL IMPACT

The organisation will benefit by:

- Having a contract claim team who have a deep understanding of contracts claims management and procedure
- Saving costs and management time in resolving claims by honing the skills of the claim management team.
- Providing options to management on how best to deal with contracts claims and solutions available.
- Analysing and strategizing on the best approach to handles disputes resulting from claims.
- Learn to use alternative dispute resolution processes to resolve claims disputes.

PERSONAL IMPACT

The delegates will be having the following benefits:

- How to evaluate and quantify claims
- Gain an understanding of the basis of contract claim: time, money and quality.
- Know when the contractor is entitled to Extension of Time (EOT) claims
- Deal with variation claims and what to approve and what not to
- Understanding the overarching legal and pragmatic goals in managing claims
- Gains skill sets to be better prepared to deal with difficult issues.

- Knowing different dispute resolution methods to resolve claims disputes.

WHO SHOULD ATTEND?

This training course is suitable to a wide range of professionals but will especially benefit:

- Contract Professionals
- Project Managers
- Contract Administrators
- Contract Engineers
- Project Engineers
- Risk manager / Contract Risk Professionals
- Project Owners/Employers
- Contractors and equipment/material suppliers
- Contract Administrators and
- Quantity Surveyors
- Legal advisers

Course Outline

Contractual Claims

- Overview of main contractual provisions relevant to claims and counter- claims.
- Types of claims, in construction and other areas – and their distinctive features
- Causes of typical claims.
- Re-measure disputes
- Set up project management assessment – PMA.
- Counter claims – how they differ from claims.
- Rights of set-off.
- Force majeure- when it applies and when not.

Variations

Variations & Delay Claims

- Disputes on variation claims
- Obligation to perform Work
- Extension of Time (EOT) & Acceleration
- Acts of Prevention by the Employer
- Rights of Set-off

Delay Claims

- Obligation to complete on time.
- When is “time is of the essence” ?
- Early warning of delays.
- Acceleration claims.
- Disruption claims.
- Acts of Prevention

Claims Presentation

- Requirements for claim presentation
- Notices
- Timing, and time limits
- Are time limits binding?
- Defining features of claims evaluation and management
- Recognizing the causes of claims
- Warning signs of disputes
- Recording claims

Reviewing Claims

- Realistic appraisal
- When to make admissions – and denials
- Offers of settlement.
- Independent review

Contract Completion & Close Out

Contract Completion Critical Issues

- Date of Completion Dates
- Acceptance of punch list of defects - What is the effect?
- Passing of title and risk - safety & insurance
- Warranties and Guarantees.
- Passing of Intellectual Property rights
- Defects and Exculpatory Clauses

Administrative and Contractual Closure – Checklist

- Receipt and formal acceptance of contractual terms
- No claim or investigation pending.
- All actions on contract price revision and changes concluded.
- All outstanding contract issues settled.

- Partial or complete termination involved & actions to be taken.
- Contract audit if required.
- Transferring lessons learned to future project.

Dealing with Disputes – Considering the Different Options

- Defects Liability period, contract claims and employer remedies
- Termination of Contract – rightful & wrongful termination
- Securing project closure and learning from the outcomes
- The Use of Dispute Resolution Boards for Construction Contracts
- Mediation of Claims Disputes

Breaches of Contract and Remedies

- Breaches of contract
- Quality of workmanship & Re-work
- Rejection, Full & Partial Rejection
- Liquidated damages and penalties
- Warranty claims
- Special issues with EPC & Turnkey contracts

Managing Claims and Disputes

- Involving lawyers
- Managing the legal process
- Setting goals
- Decision trees
- Controlling costs – and including them in your thinking