

PROJECT MANAGEMENT



Effective Contractual Claims Management

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Effective Contractual Claims Management

Introduction:

Managing claims of any sort under a contract are simply part of the contractual lifecycle. Whether they be simple claims for payment, variations, extensions of time or even payment, the process needs to be understood and managed well. Effectively managing any one process will pay for the investment in this course many times over! More complex claims may also arise: claims for damages, claims for delay or late completion and again these processes need to be addressed early in the piece and understood. The overall aim of this course is to provide participants with the knowledge, concepts and skills needed to deal with claims, discrepancies and disputes between the principals and the contractors. Participants in this course will learn how to analyze contractual issues, identify techniques that are helpful in handling difficult situations and recognize the best practices in resolving disputes amicably.

Who Should Attend?

Procurement Managers, Purchasing Staff, Engineering, Operational and Maintenance Personnel, Contracts Engineers, Administrators, and Managers, Commercial, Financial and Insurance Professionals, Project and General Management, Contracts & Contracting Unit Professionals, Project Professionals, Procurement & Purchasing Staff, Purchasing Professionals and Procurement Officers, Commercial Professionals, Contract Administrators, Contract Administration Professionals, Contract Managers and Contract Professionals, Supply officers, Buyers, Project Coordinator's, Project Managers and other Project Professionals, Claims Personnel, Legal Advisers, Contract Strategists, Business Audit Officers, Engineers, Project Construction Professionals, Contract Administrators, Contract Professionals and Project Coordinators, Buyers, Purchasing Professionals and Procurement Officers, Contracts Managers, Project Managers, Tenders, Contracts, Buyers, Purchasing, Financial Personnel, Tendering, Purchasing, Project Management Professionals, Engineering, Operational, Trade, Finance, and Maintenance Professionals, all others who are involved in the planning, evaluation, preparation and management of tenders, specifications, awards, and contracts that cover the acquisition of materials, equipment, and services and who are in organizations whose

leadership want high levels of competency in those involved in these activities, those from a Project Management or General Management background who do not think they have sufficient understanding of contract issues, those new to the function, preparing for a major project, or experienced managers looking for a refresher, anyone involved in the management of risk, those involved in implementing and administering contracts and handling claims and change orders; also those involved in any conflict or dispute with a contracting party and interested to learn how to avoid or resolve these contractual issues, those involved in contract and business related negotiations, those involved in any aspect of implementing, managing or administering contracts in the post-award phase.

Course Objectives:

By the end of this course, delegates will be able to:

- Identify and avoid causes for contractual claims and change orders
- Outline the major elements of a contract and the basic concepts of contract interpretation
- Recognize and analyze the different types of owners' claims and contractors' claims and how to deal with each type
- Demonstrate, through actual situations, the different approaches to handle claims, variation orders and conflicts through mutual collaboration
- Apply negotiation as a main concept in resolving disputes and conflicts in order to reach a final settlement

Course Outline:

Overview

- Elements of a contract
- Why do claims occur: the red flags
- Change management
- Variation orders
- Definitions of claims and disputes
- Sources of claims and change orders

The Claims Framework

- Claims definition
- Sovereign immunity
- Judicial and administrative forums
- Performance claims today
- Other compliant forums

Preparation of Claims

- Contract review
- Review of requirements
- History of the procurement
- Other analyses
- Access to information before litigation
- Freedom of information act
- Choosing a forum

Sources of Claims

- Recognizing a claim in the making
- The allegation
- Breach claims
- Remedy clauses
- Damages
- Informal resolution
- Changes
- Other clauses
- Duty to disclose superior knowledge
- The duty to cooperate/not hinder
- Impossibility of performance
- Labor laws
- Government remedies, termination for default or cause
- Re-procurement
- Terminations for convenience
- Basis for settlement

Knowing your Contract

- Stages in contracting
- Scope of work
- Contract terms and conditions
- Basic concepts in contract law

- Force majeure
- Notices: the neglected clause
- Breach of contract
- Right to remedy
- Indemnifications and liabilities
- Contract termination
- Payment terms
- Common types of mistakes
- Contract administration
- Tools and techniques for contract administration
- Parties' obligations

Claims Nature and Types

- Performance of contractors
- Changes and modifications
- Types of changes and variations
- Directed changes
- Constructive changes
- Cardinal changes
- Writing a variation order
- Documentation of the event
- Owner's claims
- Defective work
- Warranty claims
- Contractor's claims
- Changed conditions
- Constructive changes
- Delays and suspensions
- Deficiencies in plans and specifications
- Program extensions
- FIDIC claims
- Drafting a claim
- Claim evaluation
- Cost calculations
- Reaching a settlement

Resolving Claims and Disputes

- Monetary damages
- Disputes and settlement of disputes

- Alternative dispute resolution
- Negotiation: common practices
- Mediation: neutral third party
- Arbitration: binding and non-binding
- Resolution through legal means

Negotiation

- Partnering with suppliers
- Negotiation objectives