



مدیریت ادعاء و اختلافات در طول چرخه حیات پروژه

بخش پنجم:

اجرای برنامه و مدیریت ادعاء، دعاوی و اختلافات در فاز ساخت/اجرا (Construction Phase)

ارائه دهنده:

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What we will learn?

☐ Claims management

- ❖ Introduction
- ❖ Project and claim documentation
- ❖ Contract and claim administration
- ❖ Types of claim
- ❖ Claim and dispute notification
- ❖ Claim and dispute tracking and processing
- ❖ Notes to consider before writing the claim

☐ Claims and disputes resolution

- ❖ Resolution methods
- ❖ Contract forms

What we will learn?

☐ Parties' considerations

- ❖ Construction manager
- ❖ General contractor and subcontractors
- ❖ Design consultant

☐ Lessons learned from case studies

- ❖ Recommendations
- ❖ Examples

☐ Final recommendations

Claims Management

(Introduction)

While virtually all the actions taken in the pre-design and design phases represent measures that help the owner avoid claims, the actions taken by the CM during the construction phase also help mitigate the potential impacts of unforeseen issues that may develop into disputes and claims.

Suggested terminology by CMAA

❑ A **typical hierarchy** of **potential disagreements** may include the following:

1. *A request for change*
2. *A request for equitable adjustment*
3. *A formal claim*
4. *Litigation*



Suggested terminology by CII

If the **owner admits** the claim of contractor and **grants him extension of time or reimbursement of additional cost**, or both,

the issue is sorted out.

However, if the **owner does not agree** to the claim put out by contractor and there are **differences in the interpretations**,

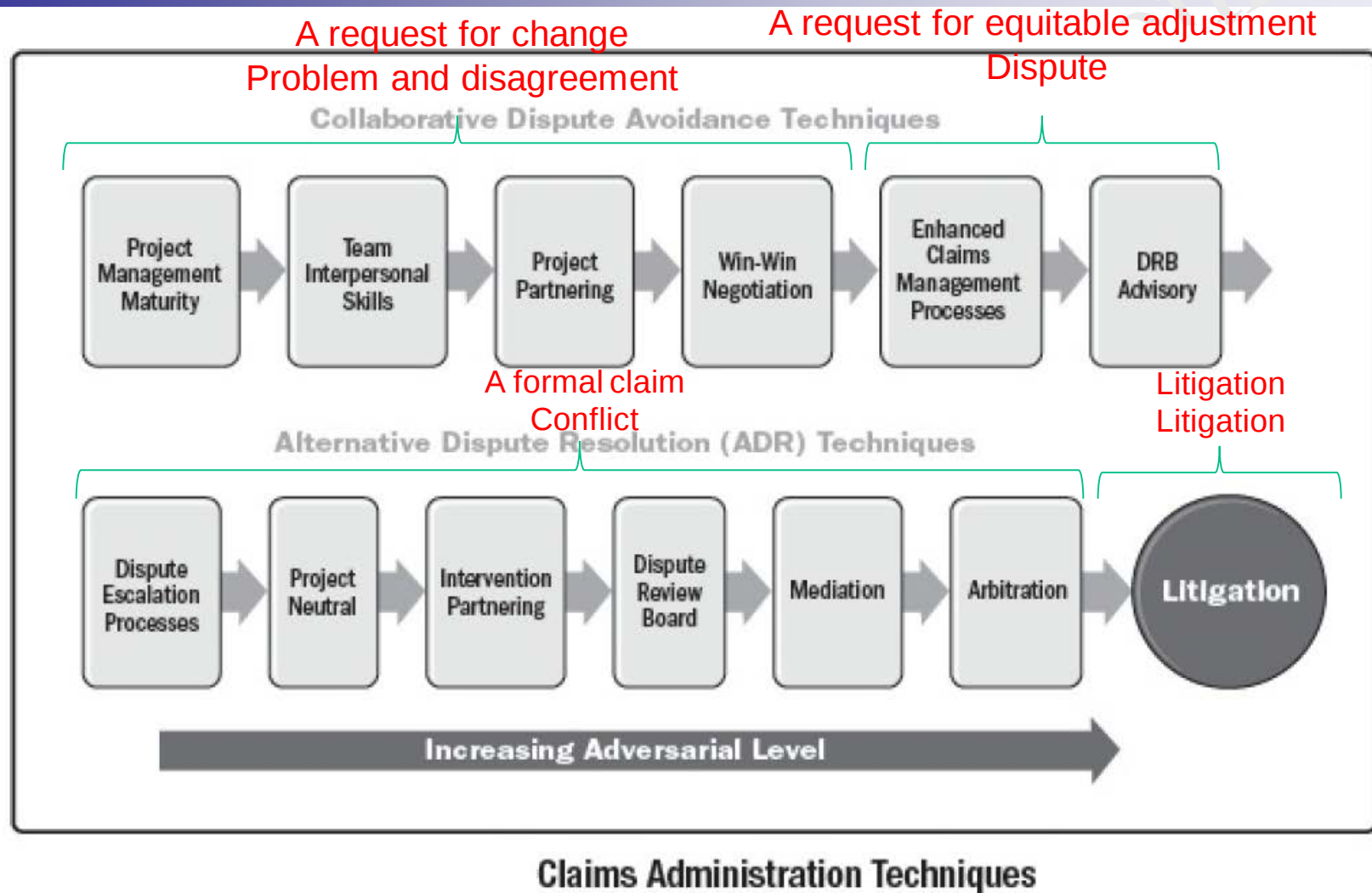
the issue takes the form of a dispute

Dispute

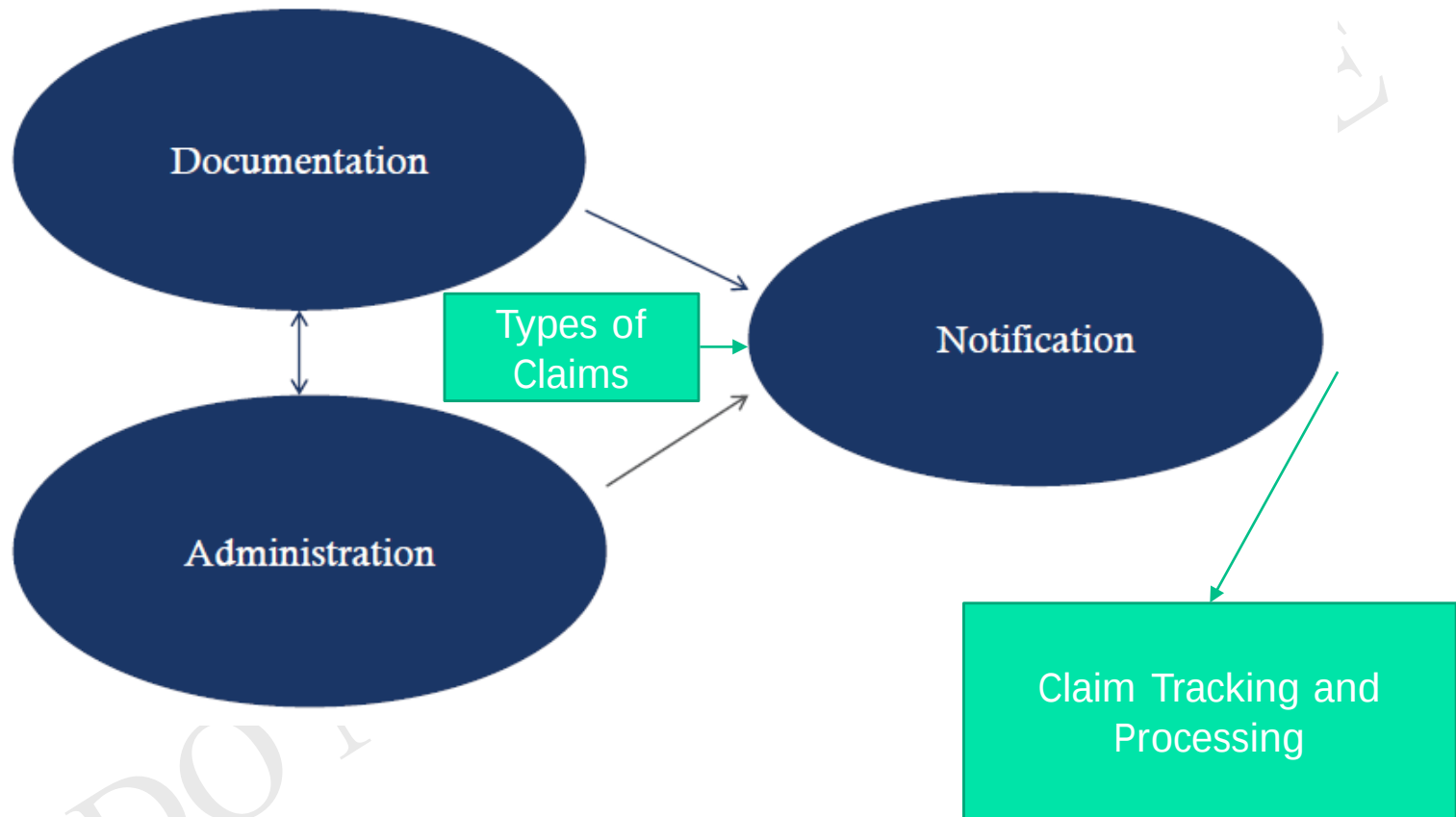
It is “**any contract question or controversy** that must be settled **beyond** the jobsite management”

Individuals Involved	Stages in the Claims Process				
	Problem	Disagreement	Dispute	Conflict	Litigation
Litigators					Formal court documentation and proceedings
Consultants & Neutrals				Assist with quantification and entitlement on an issue-by-issue basis	
Sponsors, Standing Advisors & Standing Neutrals			Attempts at resolution removed from day-to-day management		
Project Managers	Routine discussions & negotiations	Substantial honest negotiation on defined problem			
Level of Resolution	← On the Project →			← Removed from the Project →	

Suggested terminology by PMI



Suggested terminology for claim management in Construction Phase





Elements of every claim

❑ Every claim consists of **three elements**:

(1) **Identification of and entitlement to recovery**

- ❖ To identify a possible claim, **project personnel** must **understand** the **conditions entitling the contractor** to pursue such relief.

(2) **Impacts**

- ❖ The **contractor** must be able to **demonstrate** the **impacts** of the **change**.

(3) **Quantification**

- ❖ Quantification defines the **dollars and days** for which you believe you are **entitled to recover**.
 - ❖ These are your **“damages.”**
 - ❖ This often requires **proof** that:
 - Owner** proximately **caused** the breach
 - Resultant damages** were reasonably **foreseeable**

Claims Management

(Project and Claim Documentation)

Importance of complete project documentation

KEY POINT:

- ❑ The standard dictum of “put everything in writing” applies here.
- ❑ It is to be noted in this regard that, to be effective,
documentation must be prepared during the construction process.
 - ❖ Records created **after the fact** will not generally receive consideration.
- ❑ Project photographs, dated and identified, can be **very effective** when documenting for claims.

Importance of complete project documentation

KEY POINT:

It is also noted that frequently when a dispute arises and when the **contractor presents his documentation** or evidence to support his position, including photographs, *the other party will frequently seek to reach a settlement rather than allowing the claim and the dispute resolution process to proceed.*

Thorough and complete documentation is the key.

Importance of complete project documentation

- ❑ **Avoid** claims and disputes or at least **reduce** disputed issues.
- ❑ **Preserve** **right** to claim
 - ❖ A sense of entitlement **without proof** of **entitlement** leads **nowhere**
- ❑ **Defend** against **claims of others**

Remember that many claims and disputes **don't happen** on the
real time on the project,
but **significant disputes** happen **years after the claim arises.**

Remember that you don't know what is going to happen!

What to document?

Choose what data and level of detail should be tracked for defending against a claim

Remember the documents we mentioned in delay analysis course?

1. Programme records
2. Progress records
3. Resource records
4. Costs records
5. Correspondence and administration records
6. Contract and tender documents

Claims Management

(Project and Claim Documentation)

Record keeping and reporting by construction contract administration (CCA)

Introduction

- ☐ Documentation created by **construction contract administration (CCA)** is effective for
 1. **Communication** of the construction stage activity.
 2. **Historical record** of the construction stage activity.
- ☐ The documentation should be **maintained in a format** that can be **easily retrieved**.

Let's see some of them!

Non-conforming work notice

- ❑ **AIA Document A201** states that work **not conforming to the requirements** of the contract documents may be considered **defective**.
 - ❖ The A/E has the authority to **reject work** that does not conform to the requirements of the contract documents.
 - ❖ Only the owner **can accept nonconforming work**; the **A/E is not authorized** to do so.
 - ❖ The A/E, upon **discovery of nonconforming work**, should
 1. **Document** the **deficiencies in a field observation report** and
 2. **Present copies** to the contractor and the owner
 - ✓ A specific document in the **form of a Notice of Nonconforming Work** is an aid in **documenting and tracking nonconforming work** and the remedy.

NONCONFORMING WORK NOTICE

Project: _____ Report Number: _____
 _____ From: _____
 To: _____ Date Observed: _____ Date Reported: _____
 _____ A/E Project Number: _____
 Re: _____ Contract For: _____

Specification Section:	Paragraph:	Drawing Reference:	Detail:
------------------------	------------	--------------------	---------

Nature of Nonconformance:

Signed by: _____ Date: _____ Date Response Needed: _____

Proposed Correction (Response):

Amount of Time for Correction:

☐ Attachments

Response From:	To:	Date Rec'd:	Date Ret'd:
----------------	-----	-------------	-------------

Signed by: _____ Date: _____

Copies: ☐ Owner ☐ A/E ☐ Consultants ☐ _____ ☐ _____ ☐ _____ ☐ File

Field observation reports

- ❑ The A/E's **record of site visits** consists basically of
 1. Site observations and
 2. Communications
- ❑ Having the **previous site report** in hand while performing the **new observation** **provides continuity** as well as an opportunity to **update and close open items**.
- ❑ These reports are for the **benefit of the A/E** and may be used as **a means of communication** with the owner and the contractor.
 - ❖ AIA Document G711, Architect's Field Report, is a useful format.

*What should be included in the **field observation reports**?*



Field observation reports

❑ **Field observation reports** include the following standard information:

- Project name
- A/E project number
- Date of visit (including day of week)
- Report number
- Weather (clear, overcast, rainy, misting, foggy, hot, warm, cold, windy, etc.)
- Approximate temperature range
- Site conditions (clear, muddy, dusty)
- Time and duration of visit
- Others present during the visit
- Remarks:
- Status of project, work in progress, work completed
- Products delivered/stored materials onsite
- Items discussed
- Deficiencies noted
- Contractor comments/queries
- Signature and date of report



Field observation reports



Knowledge for Creating
and Sustaining
the Built Environment

PERIODIC FIELD OBSERVATION REPORT

Project: _____ Report Number: _____

Owner: _____ Date: _____ Time: _____

Re: _____ A/E Project Number: _____

Weather

☐ Clear ☐ Snow ☐ Warm
☐ Overcast ☐ Foggy ☐ Hot
☐ Rain ☐ Cold ☐ _____

Site Conditions

☐ Clear ☐ Dusty
☐ Muddy ☐ _____
☐ Temperature Range _____

Day

☐ Monday ☐ Thursday
☐ Tuesday ☐ Friday
☐ Wednesday ☐ _____

Persons Contacted:

Work Observed:

Items Discussed:

Remarks:

☐ Attachments

Signed by:

Date:

Copies: ☐ Owner ☐ A/E ☐ Contractor ☐ Consultants ☐ _____ ☐ _____ ☐ File

By: Alavipour, PhD, PMP, CM

Project representative's documentation

- ❑ A full-time project representative normally keeps a **daily log (journal)** in which **important events** that penetrate on the project site are **recorded**.
 - ❖ The **log** should contain **only facts** related to the project.
 - ❖ Logs should contain **sequential entries** with **no gaps**.
 - ❖ **Weekends** and holidays should be **accounted** for, **even if a “No Work” entry is required**.
 - ❖ Each entry can be **separated** by a **line and date or time**.
 - ❖ An entry made in error should **not be erased** but **crossed out with a single neat line**.
 - ❖ Logs should **not have the appearance** of information **inserted or removed** at a **time other than** when the **original** entry was made.

Project representative's documentation

- ❑ A full-time project representative normally keeps a **daily log (journal)** in which **important events** that penetrate on the project site are **recorded**.
 - ❖ In addition to the field reports addressed earlier, the daily log contains the following information:
 - ✓ Work performed, start or completion of any unit of work
 - ✓ Delivery of products
 - ✓ Construction problems and remedies
 - ✓ Documentation of significant delays
 - ✓ Documentation of oral instructions and questions
 - ✓ Observation of nonconforming work and actions taken
 - ✓ Visitors to the site
 - ✓ Inspections performed, tests taken
 - ✓ Signature and date of report

Project representative's documentation

- ❑ The A/E's project representative may be required to **complete and distribute weekly and monthly reports**.
 - ❖ The weekly/monthly reports **summarize** the **daily log** and specifically **address important issues** that remain unresolved.
 - ❖ The report also **addresses important activities** that occurred during the report period.
 - ❖ These reports give an **overview of construction activity and progress** in relation to the construction **progress** schedule.
 - ❖ **Attention** should be **drawn to items** that may **impact** the **schedule or the construction cost**.



Project representative's documentation

the Built Environment

DAILY FIELD OBSERVATION REPORT

Project: _____ Report Number: _____
Owner: _____ Date: _____ Time: _____
Re: _____ A/E Project Number: _____

Weather

☐ Clear ☐ Snow ☐ Warm
☐ Overcast ☐ Foggy ☐ Hot
☐ Rain ☐ Cold ☐ _____

Site Conditions

☐ Clear ☐ Dusty
☐ Muddy ☐ _____
☐ Temperature Range _____

Day

☐ Monday ☐ Thursday
☐ Tuesday ☐ Friday
☐ Wednesday ☐ _____

Persons Contacted:

Work Observed:

Items Discussed:

Materials Delivered:

Requested Revisions or Interpretations:

Nonconforming Work Reported this Date to Contractor:

Remarks:

☐ Attachments

Signed by:

Date:

Copies: ☐ Owner ☐ A/E ☐ Contractor ☐ Consultants ☐ _____ ☐ _____ ☐ File

By: Alavipour, PhD, PMP, CMI

WEEKLY / MONTHLY PROGRESS REPORT

Project: _____ Report Number: _____

Owner: _____ Report Date: _____

Contractor: _____ A/E Project Number: _____

Contract Completion Date/Time: _____ Approved Time Extensions (Days): _____

Date Construction Started: _____ Contract Completion Date/Days: _____

Revised Completion Date: _____ Percent of Project Completion: _____

Percent of Time Used: _____ Days Elapsed: _____

Is Project on Schedule: _____ If not, why? _____

Summary of Construction Activities Since Last Report:

☐ Attachments

Signed by: _____

Date: _____

Copies: ☐ Owner ☐ A/E ☐ Contractor ☐ Consultants ☐ _____ ☐ _____ ☐ File

Review, analysis, and evaluation

- ☐ **Feedback** should occur **during each stage of a project**, especially during the **construction stage**.
- ☐ During **large or complex projects**, feedback to the project team should be **continuous rather than periodic**.
- ☐ Documentation in the form of **photos or video recordings** of both **successful and less-than-desirable** execution of the project helps to transition the **review from the field** to in-house personnel.



By: Alavipour, PhD, PMP, CM

Project: _____ ☐ Specification Item: _____
 _____ ☐ Drawing Item: _____
 To: _____ Date: _____
 _____ A/E Project Number: _____
 Re: _____ Contract For: _____

Detailed Explanation:

Suggested Improvement:

Supporting Data Attached: ☐ Specification ☐ Drawing ☐ Photograph ☐ Video ☐ _____

Signed by:

Date:

[illegible]



Request for interpretations

- ❑ The acronym **RFI** is sometimes used to mean **request for information**.
- ❑ **AIA Document A201 and FIDIC** state that the architect will **review and respond** to requests for information about the contract documents.
 - ❖ **RFIs** should be **limited** to **requesting an interpretation** of the documents or may be a request for information that may be **missing**.
 - ❖ The **A/E requirement** to respond to RFIs should **not give rise** to a practice of a contractor or subcontractor **not reviewing the documents** and **simply asking** where to find a particular piece of information.

Construction Specifications Institute (CSI) uses the acronym RFI to mean a request for interpretation, since that is a specific contractual obligation.

- ❖ RFIs asking for interpretation of an item in the contract documents, **may be initiated** by the **owner or by the contractor**.

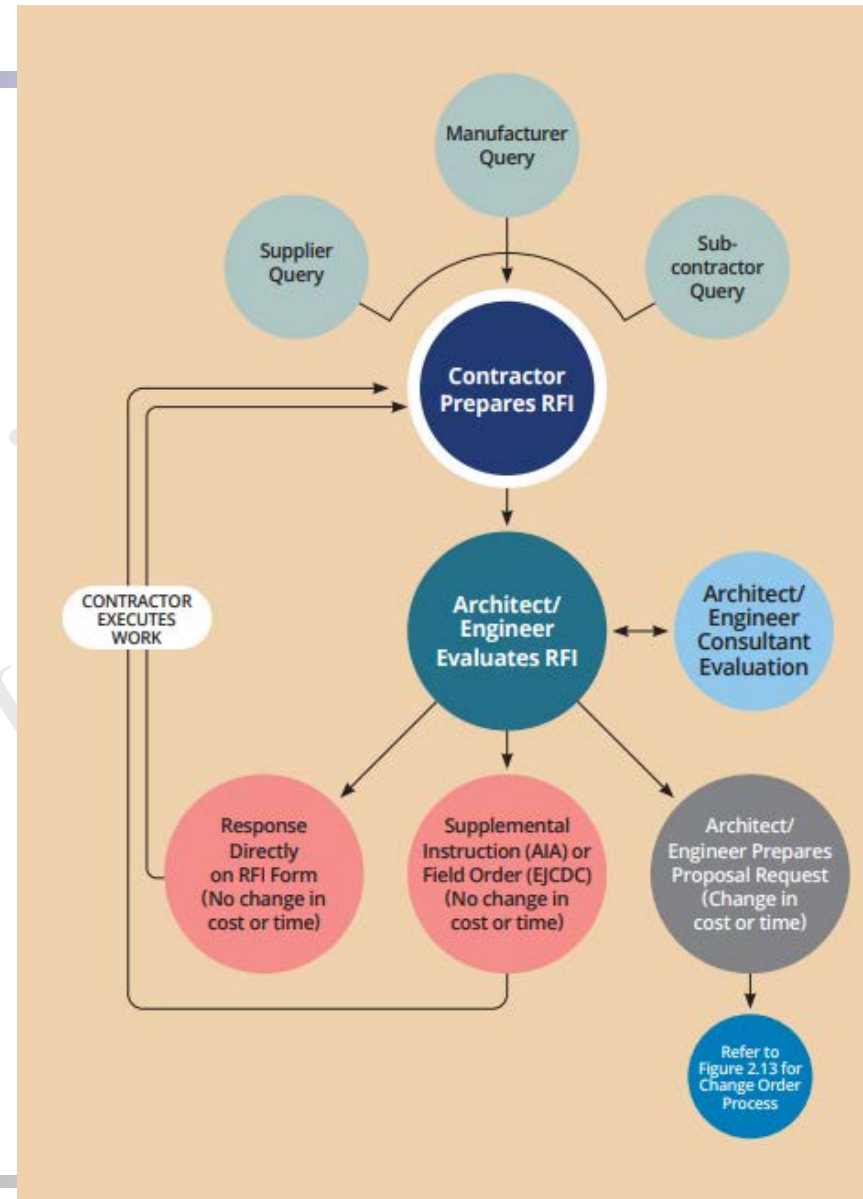
Request for interpretations

*Procedures should be established among the parties to the contract for the **management of RFIs**.*

Depending on the nature of the RFI, there are **several possible responses**.

The **reply** to the contractor could be:

1. Written directly on the RFI form as a **clarification**, or
2. **Minor change** in the work.
3. Revised drawings, revised specifications, or a **proposal request**.





- ☐ Rec'd = Received
- ☐ Ret'd = Returned



By: Alavipour, PhD, PMP,



REQUEST FOR INTERPRETATION

Project:	_____	R.F.I. Number:	_____
	_____	From:	_____
To:	_____	Date:	_____
	_____	A/E Project Number:	_____
Re:	_____	Contract For:	_____

Specification Section:	Paragraph:	Drawing Reference:	Detail:
------------------------	------------	--------------------	---------

Request:

Signed by:	Date:
------------	-------

Response:

☐ Attachments

Response From:	To:	Date Rec'd:	Date Ret'd:
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Signed by:	Date:
------------	-------

Copies:	☐ Owner	☐ Consultants	☐ _____	☐ _____	☐ _____	☐ _____	☐ File
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1.9

Delayed Drawings or Instructions

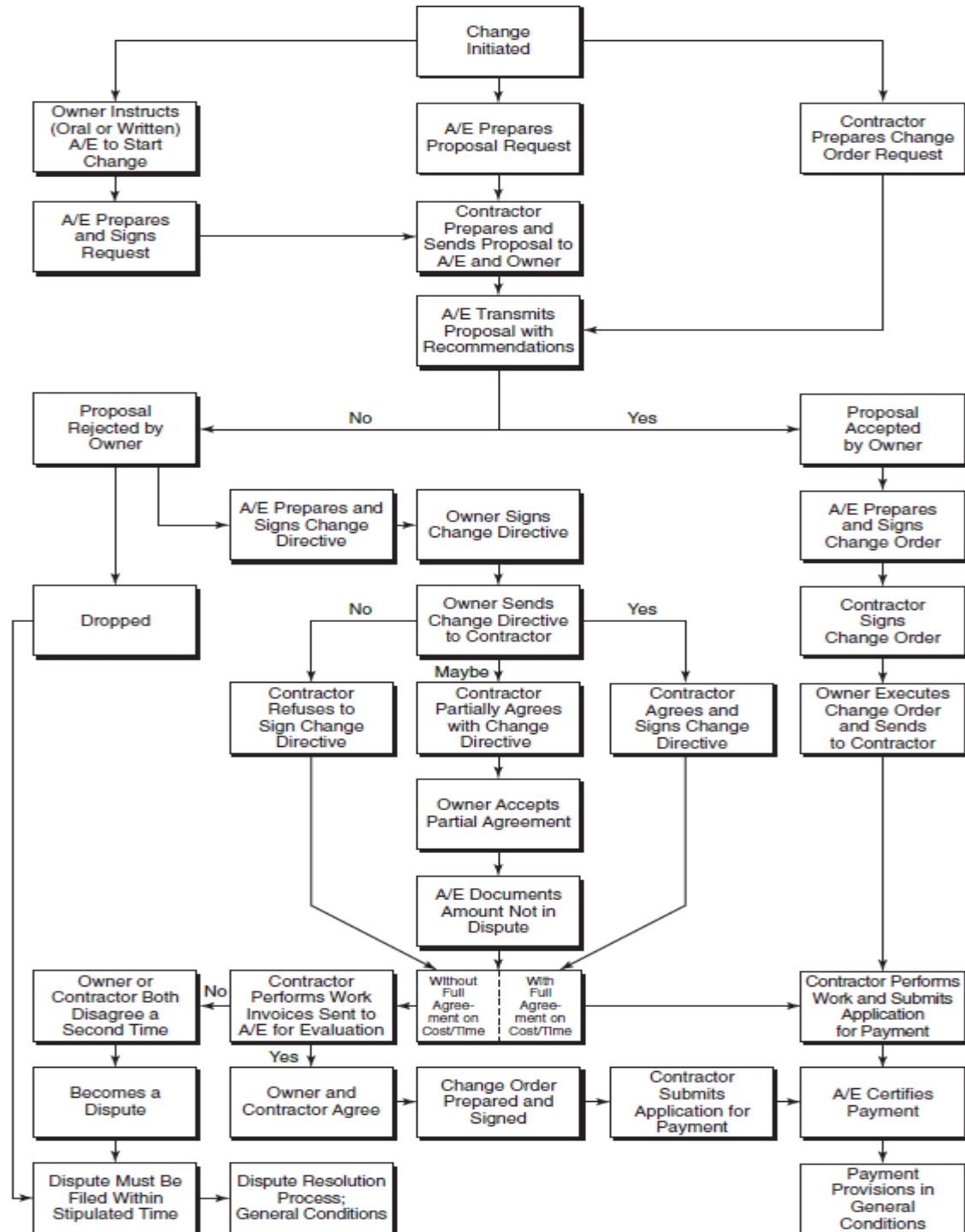
The Contractor shall give a Notice to the Engineer whenever the Works are likely to be delayed or disrupted if any necessary drawing or instruction is not issued to the Contractor within a particular time, which shall be reasonable. The Notice shall include details of the necessary drawing or instruction, details of why and by when it should be issued, and details of the nature and amount of the delay or disruption likely to be suffered if it is late.

If the Contractor suffers delay and/or incurs Cost as a result of a failure of the Engineer to issue the notified drawing or instruction within a time which is reasonable and is specified in the Notice with supporting details, the Contractor shall be entitled subject to Sub-Clause 20.2 [*Claims For Payment and/or EOT*] to EOT and/or payment of such Cost Plus Profit.

However, if and to the extent that the Engineer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such EOT and/or Cost Plus Profit.



By: Alavipour, PhD, PMP, CMIT



Proposal request

- ❑ A proposal request is a **written document**,
usually prepared by the **A/E**, that describes a **proposed change** to the project.
 - ❖ A proposal request is for **information only** and is not an instruction to
 1. Execute the proposed changes or
 2. Stop work in progress.

Proposal request

- ❑ The proposal request must include **enough detail** for the contractor to accurately estimate the **cost and time impact** of the proposed change on the project.
 - ❖ The proposal request should state the **reasons** for the **proposed change**.
 - ❖ This is not a change order or a directive to make changes to the project.
 - ✓ It is only a request for the contractor to **prepare** and submit a written and itemized quotation of changes in the contract sum or time that would result from the proposed change
if accepted.

Remember that I emphasized on TIA before ordering a change order?



- ❖ The request may be **supplemented** by additional or revised drawings and specifications.

2. The **proposal request** is sent to the **contractor for evaluation** of how the proposed change will *affect the contract sum and time*.

3. The contractor then responds to the owner with a change order request itemizing changes to the contract sum, the contract time, or both.

- ❖ The change order request should not be confused with a proposal request.





(Constru

Proposal request



AIA® Document G709™ – 2018

Proposal Request

PROJECT: *(name and address):*

CONTRACT INFORMATION:

Contract For:

Date:

Architect's Project number:

Proposal Request Number:

Proposal Request Date:

OWNER: *(name and address):*

ARCHITECT: *(name and address):*

CONTRACTOR: *(name and address):*

The Owner requests an itemized proposal for changes to the Contract Sum and Contract Time for proposed modifications to the Contract Documents described herein. The Contractor shall submit this proposal within _____ () days or notify the Architect in writing of the anticipated date of submission.

(Insert a detailed description of the proposed modifications to the Contract Documents and, if applicable, attach or reference specific exhibits.)

THIS IS NOT A CHANGE ORDER, A CONSTRUCTION CHANGE DIRECTIVE, OR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED IN THE PROPOSED MODIFICATIONS.

REQUESTED BY THE ARCHITECT:

PRINTED NAME AND TITLE

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www.dr

Proposal request

CHANGE ORDER TECHNICAL
JUSTIFICATION [FORM 03]

- ❖ This form is usually **prepared** by the owner's representative or a project engineer.
- ❖ The **intent** of this form is to **provide the owner** with documented credibility and justification relative to **completing** the work scope for a **potential Change Order**.

CHANGE ORDER TECHNICAL JUSTIFICATION

	Potential Change Order No. _____
	Contract Change Order No. _____
Contractor _____	
Contract No. _____	
Prepared / Submitted By ☐ Owner's Representative ☐ Engineer	
Name _____	Date _____

Description of Change _____

Reason for Change _____

Alternatives Considered _____

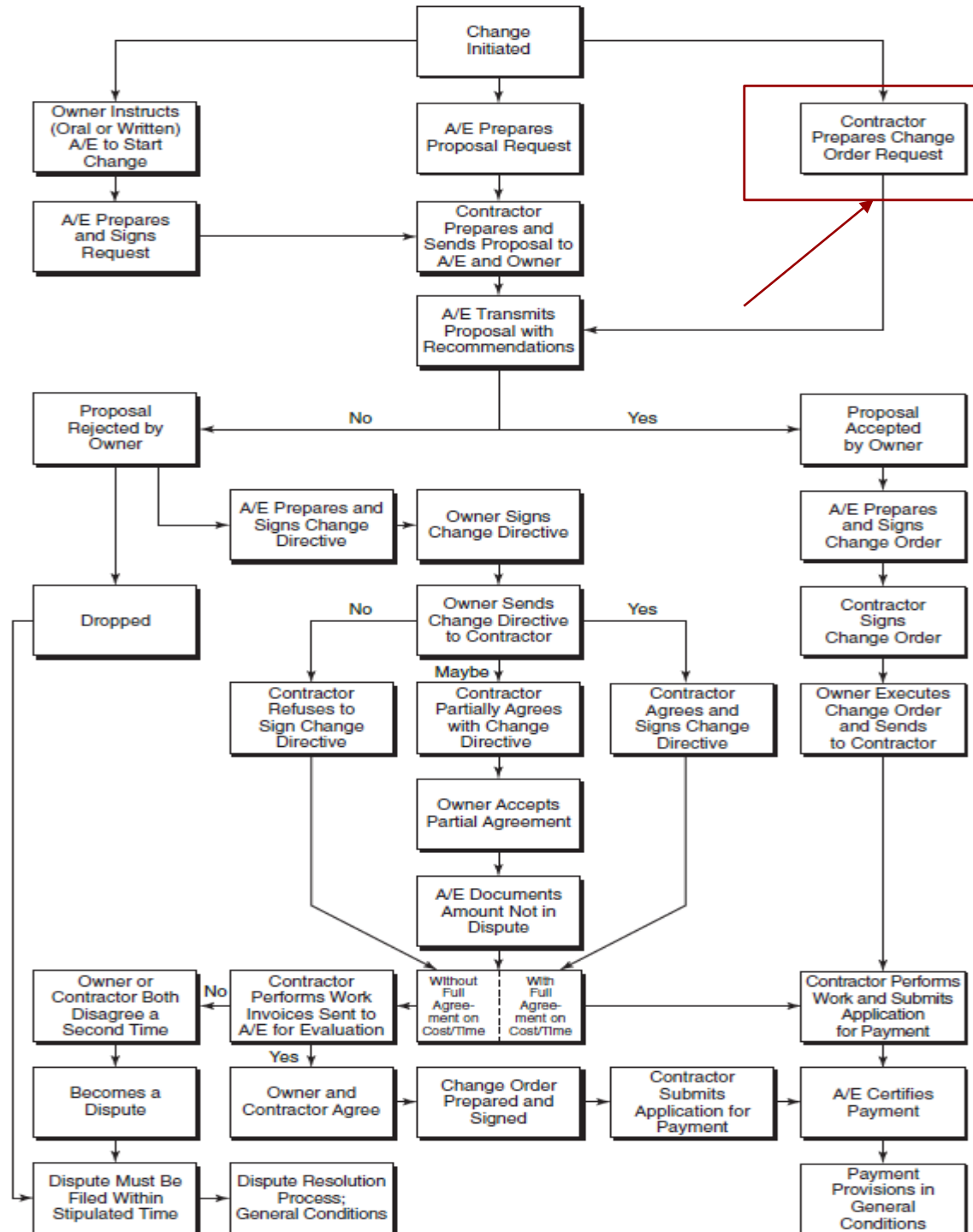
Impact of Non-Incorporation _____

Approved _____	_____
OWNER	DATE



- ❑ A **contractor-initiated change order request** should

- By: Alavipour, PhD, PMP, CMIT



CHANGE ORDER REQUEST (PROPOSAL)

Project: _____ Change Order Request Number: _____

 From (Contractor): _____
 To: _____ Date: _____

 A/E Project Number: _____
 Re: _____ Contract For: _____

This Change Order Request (C.O.R.) contains an itemized quotation for changes in the Contract Sum or Contract Time in response to proposed modifications to the Contract Documents based on Proposal Request No. _____.

Description of Proposed Change:

Attached supporting information from: ☐ Subcontractor ☐ Supplier ☐ _____ ☐ _____

Reason For Change:

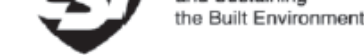
Does Proposed Change involve a change in Contract Sum? ☐ No ☐ Yes [Increase] [Decrease] \$ _____
 Does Proposed Change involve a change in Contract Time? ☐ No ☐ Yes [Increase] [Decrease] _____ days.

Attached pages: ☐ Proposal Worksheet Summary: _____
☐ Proposal Worksheet Detail(s): _____

Signed by:

Date:

By: Alavipour, PhD, PM



PROPOSAL WORKSHEET SUMMARY

Project: _____ Change Order Request Number: _____
To: _____ From: _____
Re: _____ Date: _____
Proposal Request Number: _____ A/E Project Number: _____

Complete and attach Proposal Worksheet Detail for each element of Work. Enter Worksheet Information below.

ADDITIONS:

	Sheet	Description	Material	Labor	Subtotal
1					
2					
3					
4					
5					
6					
7					
Subtotal					

DEDUCTIONS:

	Sheet	Description	Material	Labor	Subtotal
1					
2					
3					
4					
5					
6					
7					
Subtotal					

Subcontractor's Net: _____
Subcontractor's OH&P: _____
Subcontractor's Bond: _____
Subcontractor's Total: \$ -
Contractor's OH&P: _____
Contractor's Bond: _____
Insurance: _____
Tax: _____
WORKSHEET TOTAL: \$ -



Change order request



Knowledge for Creating
and Sustaining
the Built Environment

PROPOSAL WORKSHEET DETAIL

Project: _____

Change Order Request Number: _____

To: _____

From: _____

Contact: _____

Re: _____

Date: _____

Proposal Request Number: _____

A/E Project Number: _____

SHADED AREAS FOR A/E USE

ADDITIONS

	Ref. No.	Item Description	Quantity		UNIT PRICES		SUBTOTALS		TOTAL	
					Materials	Labor	Materials	Labor		
1										
2										
3										
4										
Subtotal (Enter this number on Worksheet Summary.)										

DEDUCTIONS

	Ref. No.	Item Description	Quantity		UNIT PRICES		SUBTOTALS		TOTAL	
					Materials	Labor	Materials	Labor		
1										
2										
3										
4										
Subtotal (Enter this number on Worksheet Summary.)										



Minor changes to the project or clarifications of the contract documents are defined as instructions or clarifications not involving adjustment of the contract sum or time.

Remember?
We talked about this in Design Phase!

By: Alavipour, PhD, PMP,



FIELD ORDER

Project: _____ Field Order Number: _____
From: _____
To: _____ Date: _____
A/E Project Number: _____
Re: _____ Contract For: _____

You are hereby directed to execute promptly this Field Order which interprets the Contract Documents or orders minor changes in the Work without change in Contract Sum or Contract Time.

If you consider that a change in Contract Sum or Contract Time is required, submit a Change Order Request to the A/E immediately and prior to proceeding with this Work.

Specification Section:	Paragraph:	Drawing Reference:	Detail:
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Description of Interpretation or Change:

☐ Attachments

Signed by: _____

Date: _____

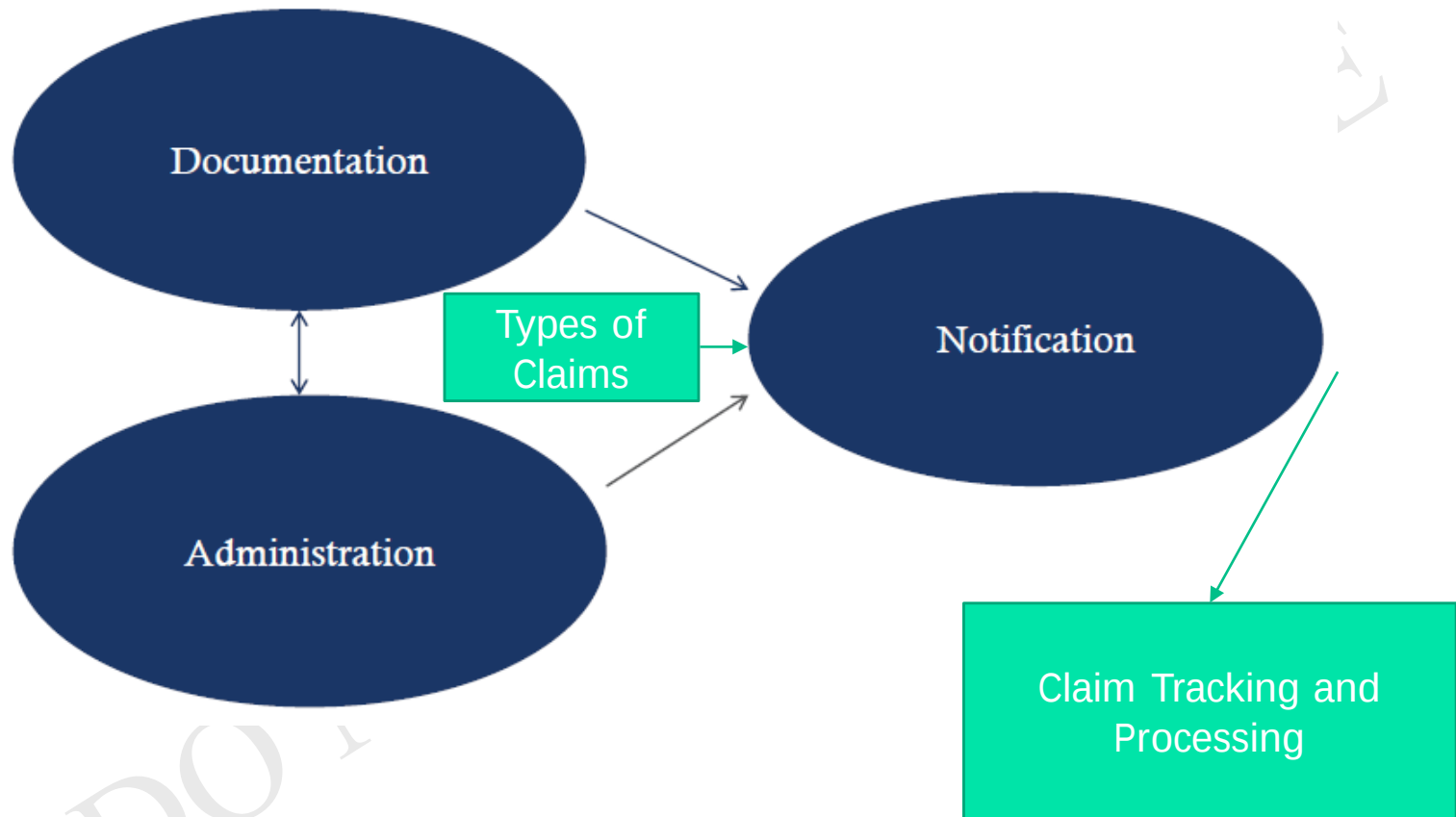
Copies: ☐ Owner ☐ Consultants ☐ _____ ☐ _____ ☐ _____ ☐ _____ ☐ File

Claims Management

(Project and Claim Documentation)

Record keeping and reporting by Contractor

Suggested terminology for claim management in Construction Phase



Typical project documentation

In addition to typical CCA records, the contractor's project manager should maintain records of items specific to the construction of the project. Some of these include:

- ☐ Bid documentation
- ☐ Estimates, manpower analysis, and quantity takeoffs
- ☐ Time cards
- ☐ Job cost accounting system
- ☐ Production reporting
- ☐ Material and delivery receipts
- ☐ Schedules and progress reporting
- ☐ Cash flows
- ☐ Correspondence, transmittal, and submittal logs
- ☐ Daily reports
- ☐ Photographs and videos
- ☐ Change orders
- ☐ Periodic reviews
- ☐ E-Mail and social media

We will talk about these items later

Typical project documentation

- ☐ Contract documents
- ☐ Payrolls
- ☐ Purchase orders
- ☐ Invoices
- ☐ Notice of commencement
- ☐ Notice of furnishing
- ☐ Meeting minutes
- ☐ RFIs and RFI responses and logs
- ☐ Request for change / Notices claims
- ☐ Punchlist
- ☐ Site access logs
- ☐ Funding sources
- ☐ Permits
- ☐ Payment applications

And many mores

Typical project documentation

Keeping accurate records of costs for equipment, overhead, direct cost items, and work orders is very important.

If the contractor combines **too many different cost items** into a **single job cost account**,
*the data can become meaningless particularly when used to **prepare analysis of damages**.*

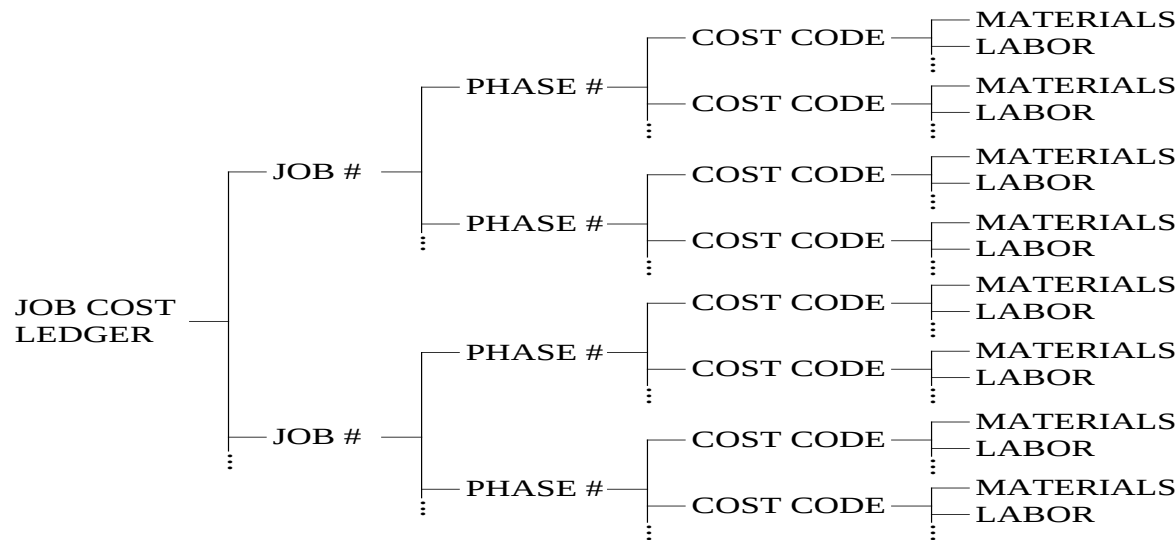
Let's look at some of these documents

Bid, estimate, and budgets

- ❑ Cost estimates could become one of the **key foundational documents** should a **claim** arise during project execution.
- ❑ The information contained in the estimate and supporting documentation can be used to establish
 1. Contractor's original quantities
 2. Production rates
 3. Anticipated costs
- ❖ Most job cost accounting systems allow the contractor to
 1. Record budgeted costs
 2. Compare them with actual costs
- ❖ The budget should be **developed at a level of detail consistent** with
 1. Cost coding reflected in the **job cost accounting system**
 2. Any billing or contractual requirements.



Bid, estimate, and budgets



Bid, estimate, and budgets

❑ Because the **bid estimate** is only an estimate,

contracting agencies **hesitate** to **allow** the bid estimate to **serve as the sole basis** for claiming extra costs,

but under extreme circumstances it may be the **only reasonable method** available.

Do you remember total cost method?

1. Actual cost to perform compared with the original bid estimated cost to perform,
2. Actual cost to perform compared with a “reasonable” estimated cost to perform, and
3. Actual cost to perform compared with actual cost of identical work
 - i. Performed under normal conditions on the affected project
 - ii. Performed under another **similar project**.



Time cards

- ❑ The **time card**, which usually serves as the **input source** for the **job payroll**,
 - ❖ **Individual's time spent** working on a **particular project** for each payroll period.
 - ❖ **Which individuals** worked on **any given day** and for **how long**.
 - ❖ **Number of hours** worked **overtime**, if any
 - ❖ **Number of hours** worked on **each task performed** that day.
 - ❖ **Each task or item** worked should be **coded to correspond** to the **cost code** reflected in the contractor's **job cost accounting system**.
 - ❖ **Record daily production** for each item worked if units installed are recorded along with the **actual time expended**.

*Time cards are usually prepared at the **foreman level** and then **later reviewed** by **supervisory and administrative** personnel.*



Time cards

مدیریت ادعاء و اختلافات در طول چرخه حیات پروژه
اجرای برنامه و مدیریت ادعاء، دعاوی و اختلافات در فاز ساخت/اجرا (Construction Phase)

Labor Time Reporting

Daily Labor Time Card

Project Highway Bridge
Date July 20

Project No. 200808-05

Wea ther Cloudy-windy
Prepared by G.A.S.

Employee Number	Name	Craft	Time Classification	Hourly Rate	Cost Code					Total Hours	Gross Amount
					03157.10.3	03157.20.3					
132	Winnowich, N.	F	ST	34.00		8				8	\$272.00
			OT								
221	Clouten, S.	C	ST	\$31.00		8				8	\$248.00
			OT								
248	Schluder, L.	C	ST	\$31.00		8				8	\$248.00
			OT								
319	Mills, R.	O	ST	\$33.00		2				2	\$66.00
			OT	0							
143	Gibson, E.	L	ST	\$22.00		8				8	\$176.00
			OT								
417	Sears, K.	L	ST	\$22.00		8				8	\$176.00
			OT								
176	Sibanda, M.	L	ST	\$22.00	2	6				8	\$176.00
			OT								
Total Hours					2	48				50	
Total Cost					\$44.00	\$1,318.00					\$1,362.00

Highway bridge, daily labor time card



Job cost accounting system

❑ The **job cost accounting system**, which is the **computer application** that **project costs** are **entered into**,

should include the **same activity list** that was contained in the **original estimate**.

In other words, assuming the **estimate** was made in **sufficient detail**, the **cost coding breakdown** should **bear some resemblance in format** to the system used in the **bid estimate**.

Remember how much I emphasized on this?

Cost estimating-Scheduling-Cost control

Departments should be unified!

Job cost accounting system

- ☐ With the **bid estimate** loaded into the **cost accounting system**, performing a **variance analysis** when **activity completion percentages** are **known** is somewhat **easy**.
- ☐ To the extent that the **cause of the variance** is the **responsibility** of the **owner**,
the **contractor** should
 1. ***Timely notify the owner***
 2. ***Request a change order for the impact***



Job cost accounting system

Weekly Labor Cost Report

Project Highway Bridge
Week ending July 21 (working day 27)

Project No. 200808-05
Prepared by S.K.S.

Cost Code (1)	Work Type (2)	Unit (3)	Total Quantity Budgeted (4)	Total Quantity to Date (5)	Percent Completed (6)	Budgeted Direct Labor (7)	Budgeted Labor to Date (8)	Actual Labor to Date (9)	Cost Difference (10)	Deviation (11)
31220.10.3	Excavation, unclassified	cy	1,667	1,667	100.00%	\$2,643	\$2,643	\$2,459	(\$184)	0.93
31222.10.3	Excavation, structural	cy	120	120	100%	\$2,985	\$2,985	\$3,353	\$368	1.12
31350.00.3	Pile-driving rig, mob. & demob.	job	—	—	100%	*\$4,374	\$4,374	\$4,004	(\$370)	0.92
31361.10.3	Piling, steel, driving	lf	2,240	2,016	90%	\$8,221	\$7,399	\$15,762	\$8,363	2.13
03150.10.3	Footing forms, fabricate	sf	360	360	100%	\$936	\$936	\$963	\$27	1.03
03150.20.3	Abutment forms, prefabricate	sf	1,810	1,810	100%	\$3,548	\$3,548	\$2,780	(\$768)	0.78
03157.10.3	Footing forms, place	sf	720	360	50%	\$360	\$180	\$165	(\$15)	0.92
03159.10.3	Footing forms, strip	sf	720	360	50%	\$158	\$79	\$48	(\$31)	0.61
03157.20.3	Abutment forms, place	sf	3,620	1,810	50%	\$7,312	\$3,656	\$3,504	(\$152)	0.96
03311.10.3	Concrete, footing, place	cy	120	60	50%	\$1,200	\$600	\$554	(\$46)	0.92
Totals to Date							\$26,400	\$33,592	\$7,192	1.27

*67% of budget for mobilization

Highway bridge, weekly labor cost report (#2)

Production reporting

❑ In the case of **loss of efficiency claims**,

one of the **preferred methods** for calculating and quantifying that loss relies on **actual production rates**

(REMEMBER MEASURED MILE METHOD?)

❖ To **utilize this method**,

having **access to actual production data**,

which typically **include information** about

1. **Actual labor and/or equipment hours**
 2. Corresponding **actual work units** installed,
- is essential.

*Sometimes, this information is recorded as **part of the daily reports** prepared under the contractor's supervision; however, it **can be recorded in a separate report**.*

Production reporting – Methods of quantifying the cost of lost productivity

❑ Example of poorly written daily report

Description	Begin Time	End Time	Quantity (LF)
Excavating Soil	700	913	
Excavating Rock	913	1400	
Excavation Soil	1400	1500	

Quantity 14.5

Duration 8

❑ Information captured to perform productivity analysis

Description	Begin Time	End Time	Duration	Quantity (LF)	Productivity
Excavating Soil	700	910	2.1	20	9.52
Excavating Rock	910	1400	4.9	10	2.04
Excavation Soil	1400	1500	1	10	10.00

Material and delivery receipts

❑ The **contractor** must be able to **prove** that it procured **permanent materials** and **equipment** and **temporary construction materials** in a **timely manner**, thus

1. Avoiding **unnecessary delays**
2. Potential **price escalations**

Remember how materials and purchase orders managed in **Financial Management Course**?

- ❖ Material records, including **purchase orders and invoices**, are required to
 - i. Verify **escalation costs**
 - ii. Establish proof that the **contractor did not cause delays** due to failure to have material on time
 - ✓ These **records also serve** as the basis on
 1. **Which escalation determinations** are made
 2. **Amounts** that will be allowed

Remember how we calculated **escalation cost** in **Delay Analysis Course**?



Schedules and progress reporting

❑ The primary value of schedules for claims is their use

as a tool to **prove or disprove** the effect of changes and/or delays on

1. Contractual interim milestones

2. Overall project completion

❖ Electronic native files of each CPM schedule

❖ Hard copies of each CPM schedule

should be preserved for **future review**

Schedules and progress reporting

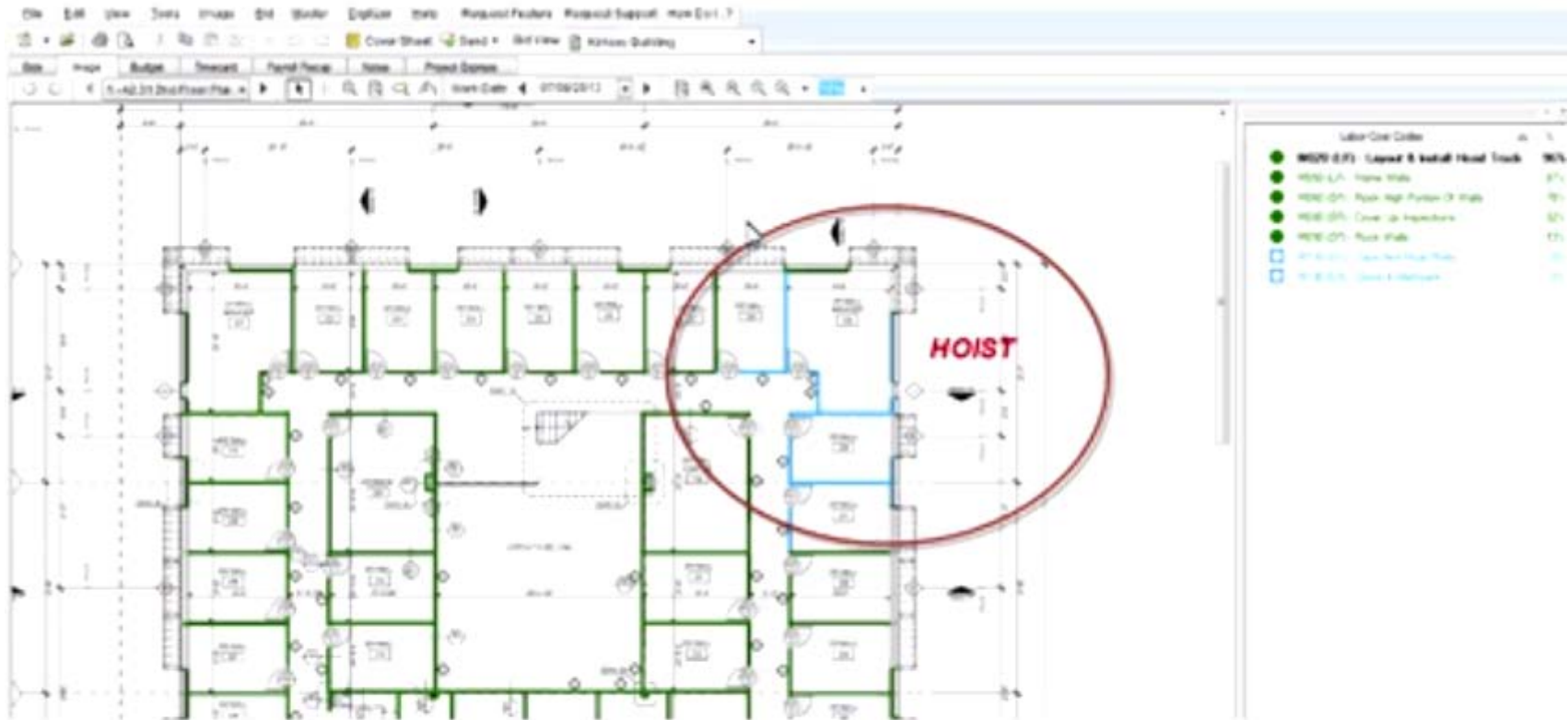
❑ This **practice includes**:

1. **Baseline**, or as-planned schedule
2. **Every update** prepared and submitted to the owner
3. **Any schedule analysis** for changes and delays
4. **Periodic** progress report
5. Schedule **narrative report**
6. **Notice** to the owner of any issues that are or will be delaying

Contractor's ability to progress the work and complete the project on time

Contractors, CM, and owners should consider use of a **schedule log** to **track the submission dates** of CPM schedule **updates** and their **approvals**

Schedules and progress reporting – Example of measuring progress by measuring quantities



Digital
Production
Control™

Schedules and progress reporting – Example of documentation for delays

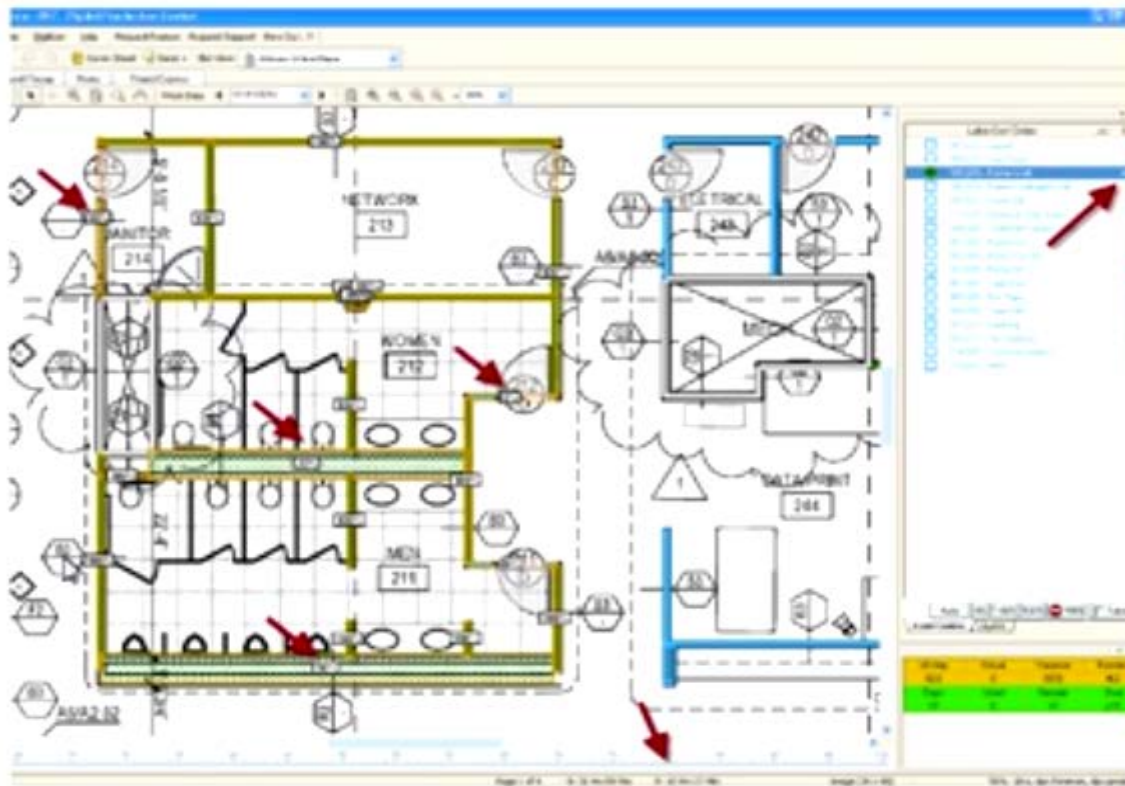
- ❑ This example documented the fragnets

ABC Office Building
Delays to Scheduled Activities
07/17/12

ID	Area	Activity	Delay		Elapsed
			Start	End	Time
1	2nd Floor	Unable to Proceed with metal framing until shoring is removed	6/1/2012	6/15/2012	11
2	2nd Floor	Unable to Complete metal framing due to delay of window mullions	6/18/2012		22
3	2nd Floor	Unable to Complete shaftwall due to delay in elevator fronts	5/11/2012		48

Schedules and progress reporting – Example of documentation for delays

- ❑ This shows the duration and location of a delay
 - ❖ You can easily prove your claim by using this documentation system
 - ❖ You can also add photo, video, etc.



Correspondence, transmittal, and submittal logs

❑ A good idea is for the **contractor** to **keep up-to-date**

1. Logs of all correspondence
2. Logs of all drawing transmittals
3. Logs of all submittals

❖ These logs should be **prepared and maintained separately**

❖ These logs should **track** the **sender** and **who received** each piece of correspondence, transmittal, or submittal.

✓ **This allows the contractor**

1. Easy access

2. Opportunity to pinpoint quickly those items that are **lagging in response or need action.**

3. References when preparing **new correspondence**.

Correspondence, transmittal, and submittal logs

- ❑ Some of other logs
 - ❖ Request for information (RFIs)
 - ❖ Proposed change order requests (CORs)
 - ❖ Site photographs

*This information is, of course, in the **contractor's files** and can be researched when needed for further detail.*

*But, the speed and convenience of having the information summarized in a log pays off when the **contractor must claim** on a prompt basis is important.*

Commercial software is available to **manage this process**.

Correspondence, transmittal, and submittal logs – Request for information (RFI) tracking

- ❑ RFIs is another **key factor** for dispute and claims.
 - ❖ The duration of the response process, particularly on critical items, can **impact** the progress of a project.
- ❑ It is critical that **CCA**
 1. Maintains a log of the RFIs
 2. Categorizes the basis of each RFI and monitor and track each document

Correspondence, transmittal, and submittal logs – Request for information (RFI) tracking

- ☐ The **RFI log** should **contain** the
 1. Specification section and/or
 2. Drawing number that the RFI pertains to
 3. Response duration for each RFI

Everything that is done for submittal tracking should be done for RFI as well

Correspondence, transmittal, and submittal logs – Request for information (RFI) tracking

What if the contractor submit improper RFIs such as providing notice?

The CCA should reject the RFI and direct the contractor to submit the proper notice as required by the contract

Correspondence, transmittal, and submittal logs – Example of RFI with audit trail

RFI

Submittal

CD

Inspection

Punch List

T&M Tags

Permits

Non-Compliance

RFS

back

Copy

New

RFI # 45

Created By General Contractor, Derrick Morgan

Date Created: 04/22/2014

Date Submitted: 04/22/2014

Status: Closed

Priority: Low

Due Date: 04/29/2014

+ Additional Send & Assignment Information

Subject: Question about 3" conduit E103

Folder:

File Index: 8 Construction

History

Apr 22 2014 3:55:20pm	Created By	General Contractor	Derrick Morgan		
Apr 22 2014 3:55:31pm	Submitted By	General Contractor	Derrick Morgan	Assigned To	Owner/Construction Manager Priority: Low, Due Date: 04/29/2014
Apr 22 2014 3:56:24pm	Read By	Owner/Construction Manager	Eric		
Apr 22 2014 3:56:47pm	Forwarded By	Owner/Construction Manager	Eric	Assigned To	Engineer Priority: Low, Due Date: 04/29/2014
Apr 22 2014 3:57:16pm	Read By	Engineer	Rodney Dawson		
Apr 22 2014 3:58:21pm	Responded to By	Engineer	Rodney Dawson	Response	1 - Engineer Response to RFI # 45
Apr 22 2014 3:58:21pm	Forwarded By	Engineer	Rodney Dawson	To	Owner/Construction Manager
Apr 22 2014 4:45:51pm	Forwarded By	Owner/Construction Manager	Eric	To	General Contractor
Apr 22 2014 4:45:58pm	Official Response	Owner/Construction Manager	Eric	Response	RFI Response # 1 - Engineer Response to RFI # 45
Apr 22 2014 4:45:58pm	Closed By	Owner/Construction Manager	Eric		



Correspondence, transmittal, and submittal logs – Example of RFI with audit trail

RFI

Submittal

CD

Inspection

Punch List

T&M Tags

Permits

Non-Con

[back](#)

RFI # 45

Created By	General Contractor, Derrick Morgan	Status:	Closed
Date Created:	04/22/2014	Priority:	Low
Date Submitted:	04/22/2014	Due Date:	04/29/2014

+ Additional Send & Assignment Information

Subject: Question about 3" conduit E103

RFI Response # 1

Closed

Subject: Engineer Response to RFI # 45

History

Apr 22 2014 3:58:16pm	Created By	Engineer	Rodney Dawson		
Apr 22 2014 3:58:21pm	Submitted By	Engineer	Rodney Dawson	To	Owner/Construction
Apr 22 2014 3:58:37pm	Read By	Owner/Construction Manager	Eric		
Apr 22 2014 4:45:51pm	Forwarded By	Owner/Construction Manager	Eric	To	General Contractor
Apr 22 2014 4:45:58pm	Marked Official By	Owner/Construction Manager	Eric	Shared With	General Contractor
Apr 22 2014 4:45:58pm	Marked Official By	Owner/Construction Manager	Eric	Shared With	Owner/Construction
Apr 22 2014 4:45:58pm	Marked Official By	Owner/Construction Manager	Eric	Shared With	Engineer
Apr 22 2014 4:46:47pm	Read By	General Contractor	Derrick Morgan		

Correspondence, transmittal, and submittal logs – Submittal tracking

- ❑ The **duration** of the **review process**, particularly on critical items, can **impact** the **progress** of a project.
- ❑ It is critical that the **CCA** **maintains** a **log of the submittals** and monitor and track the following information:
 1. The number of revisions for each submittal
 2. The duration of the review period
 3. Submittals for long-lead items

Correspondence, transmittal, and submittal logs – Submittal tracking

❑ Prior to each project meeting, the CM should compare

1. Status of submittals as reported by the contractor
2. Status of submittals as tracked by the CCA

❖ **Discrepancies** should be discussed at the **project meeting**

to resolve **differences** and

resolution should be documented in the meeting minutes.

Daily reports

❑ The contractor's project manager or superintendent prepares a **daily report**

❖ **Important events** that transpire on the project site are recorded.

❖ These reports should be objective, factual, and complete

❖ The following are the **most important records**.

✓ Diaries,

✓ Production records,

✓ General job progress reports

A **diary** is a record with **discreet entries** arranged by **date** reporting on **what has happened** over the course of a day or other period.



Daily reports

❖ **Michael S. Simon, a New York attorney** and author of legal reviews for **Engineering News-Record**, says,

❖ “I need to know what happened, when it happened, why it happened, who caused it to happen, and what we did about it.

I need to know all of this on a daily basis.

❖ As your legal counsel, I must say that no single document is more important than your daily reports.

The reports are often crucial to the outcome in negotiations or in court.

Write true and complete daily reports.

No one expects a job without problems.

*It's essential to **write down all the facts** that exist.”*

Contractor: _____
 Project Name: _____ Project No.: _____
 Address: _____
 Day and Date: _____ Report No.: _____
 Owner Name: _____ A/E Name: _____
 Telephone: _____ Telephone: _____
 Contact Name: _____ Contact Name: _____
 E-mail Address: _____ E-mail Address: _____

Weather:

Temperature at: 7:00 a.m. _____ 11:00 a.m. _____ 3:00 p.m. _____

Weather: _____ Wind Velocity: _____

Precipitation: _____ Total Precipitation to Date: _____

<u>Crew:</u>	<u>Name</u>	<u>Hours</u>	<u>OT Hours</u>	<u>DT Hours</u>	<u>Task or Activity Code</u>
Contractor:	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____

	<u>Company Name</u>	<u>Number of Workers</u>	<u>Hours Worked</u>
Subcontractors:	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

	<u>Company Name</u>	<u>Visitor Name</u>	<u>Reason for Visit</u>
Visitors:	_____	_____	_____
	_____	_____	_____
	_____	_____	_____



Work Progress (include Areas and Quantities where appropriate):

Contractor:

Subcontractors:

Equipment on Site
(including rental
equipment):

<u>Company Name</u>	<u>Equipment Description</u>	<u>Hours Used</u>

Material Deliveries:

Meetings:

Yes ____ No ____

Led by:

Minutes:

Yes ____ No ____

Recorded by:

Safety Meeting:

Yes ____ No ____

Led by:

Items Discussed:

Safety Inspection:

Yes ____ No ____

Inspected by:

Comments:

Injury Today?

Yes ____ No ____

Describe:

Issues Raised or Resolved:

Reported by:

 Reviewed/Approved by:



Daily reports

- ❑ A form used to record track-work production on rapid transit rail system

مدیریت ادعاء و اختلافات در طول چرخه حیات پروژه
(Construction Phase) اجرا و ادعاء، دعاوی و اختلافات در فاز ساخت/اجرا

Daily Production Report Form (Sample Form)

Contract 8A0033 Trackwork Constructors, Inc. Ballast Track Production Report

Job #204 Report No.: _____ Date: ____/____/____ Working Day No.: ____ Weather: _____

Operation*	Route	Track	Lane	From	To	Quantity	Comments
Excavation							
Embankment							
Subgrade preparation							
Subballast							
Top ballast (first lift)							
Distribute ties and track material							
Lay rail							
Gauge and spike							
Ballast (top off)							
Raise and line							
Adjust and anchor							
Other work							

Additional Information:

Contract No.: _____ Today's Date: _____ Weather: _____ Temperature Range: ____

Contractor's Staff:	Supervisory	Craftsman	Job Location	*Work Performed	Hours Worked

Subcontractors on Job:

Contractor:	Supervisory	Craftsman	Job Location	Work Performed

* Should correlate



Daily reports

- ❑ A form used to demonstrate the disruptive effect of extra work and interference on the track-work contractor for the project

مدیریت ادعاء و اختلافات در طول چرخه حیات پروژه

اجرای برنامه و مدیریت ادعاء، دعاوی و اختلافات در فاز ساخت/اجرا (Construction Phase)

Job Report Summary of Effect of Disruptions and Interference (Sample Form)

Contract 8A0033

Trackwork Constructors

Summary Narrative of Extra Work and Disruptions on Ballasted Track

Excerpts taken from Supervisor and Management Daily Diaries

Week Ending: _____

Date	Entered by	Disruptions	Entered by	Extra Work

Number of Shifts _____ $\frac{\text{Extra Work Volume}}{\text{Direct Work Volume}} = \text{_____} \%$ $\frac{\text{Extra Work Volume}}{\text{Total Work Volume}} = \text{_____} \%$

Miscellaneous Comments:

Photographs and videos

- ❑ Photographs provide **one of the best**—if not the best—record of job progress.
- ❑ The contractor should endeavor to take pictures of representative job **progress regularly**, preferably **no less than weekly**, or more frequently if needed.
- ❑ The **time-lapsed photographs** are very beneficial
if a **dispute arises** in determining the status of construction
at **various points in time**.
- ❑ When using **digital photography**, the contractor should ensure that
 1. Photographs are digitally dated,
 2. In some cases time stamped.

Remember we talked about this in Planning and Scheduling course?



Photographs and videos

❑ Additionally, a **log** should be maintained for **each photograph** that records the following information:

- ❖ **Photograph number**

- ❖ **Specific format** should be tied to the **filename** of the electronic photograph

- ❖ **Date** the photograph was taken;

- ❖ **Who took** the photograph; and

- ❖ **A brief description** of

1. Location
2. What the photograph depicts
3. Orientation of the view

Photographs and videos

- ❑ Contractors also should consider **video recording** any **high-risk activities**
e.g., big lifts, and possibly from multiple angles, or equipment testing.

These videos will be very valuable if an incident occurs.

Change orders

❑ There are **several different types of documents** frequently associated with the **change order process**. These documents include:

1. **Design clarifications provided** by the **designer**
 - ❖ e.g., “plan clarifications” or “supplemental instructions” or “minor changes”
2. **Request for change orders**
 - ❖ e.g., “proposal request” and “change order request (COR)”
3. **Design revisions directed** by the **designer**
 - ❖ e.g., “change directive” and “change order”
4. **Change Order Log provided** by the **designer**
5. **Change Order Status (COS) provided** by the **contractor (for unresolved changes)**

Change orders

☐ The GC should

1. Have a **change order request (COR) form** for
 - i. Each change or
 - ii. Potential claim encountered
2. Should **immediately complete** the form upon **observance** of
 - i. Change situation
 - ii. Claim situation



Change orders

❑ If the **GC** is directed to proceed with **work** that the contractor **believes** is a **change** and the **CM believes** that it is a **minor change** or only a **clarification**, the **contractor** should record its efforts in an **extra work form** so the **specific details** regarding the **contractor's actual efforts** are recorded on a **daily basis**.

❖ If **changed or extra work** is being performed at **multiple locations**,

multiple forms are recommended.

*Additionally, the GC should **attempt to obtain** the **owner's acknowledgment** of the **changed or extra work performed** on a **daily basis**.*

SAME THING SHOULD OCCUR FOR SC IN RELATION TO GC

What if the owner or GC does not accept or approve them?



Change orders

What if the owner or GC does not accept or approve them?

- ❑ Although **either of these acknowledgments** will likely **not** be perceived as **approval** of a change order or claim,

it does **establish for the record** what **specific work was performed** by the contractor should entitlement to a **change be recognized** at a **later date**.

- ❖ This **form** should **identify and quantify**

- ✓ Actual work performed;
- ✓ Specific location;
- ✓ Contractor's labor, material, and equipment

such that the activity can be **priced out later**.



Change orders

Important note!

- ❑ A separate file should be kept for each change,
 - ❖ With a **copy** of the **initiation form** (proposal request, change order request, change directive, change order)
 - ❖ Pertinent **correspondence**,
 - ❖ Associated **invoices**,
 - ❖ Extra **work forms** and/or **time cards**,
 - ❖ **Memos-to-file**,
 - ❖ Any **other items** relevant to the change order or claim.

*Keeping a separate folder **exclusively** for copies of all initiation forms is also advisable.*

This will serve as a **handy reference** when making **periodic reviews of the status** of job claims and change orders.



Change orders

Important note!

- ❑ To keep the owner informed of the status of unresolved change orders and claims, the **contractor** should prepare and submit a **periodic (e.g., weekly or monthly) status report** to the owner

reflecting the open and unresolved change requests and/or claims.

The purpose of such a report is to show the owner and/or its representatives

1. Which items are still **in progress**,
2. Which are **awaiting** the owner's and/or architect's/engineer's **action**,
3. Which are **ready to be negotiated**, and
4. Which are **negotiated** and **awaiting formal modification**.



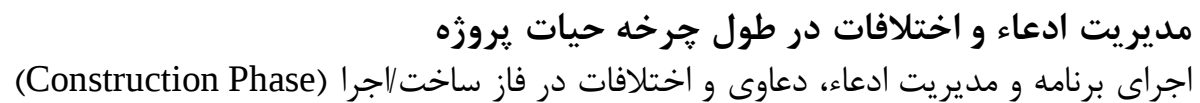
Change orders

مدیریت ادعاء و اختلافات در طول چرخه حیات پروژه
اجرای برنامه و مدیریت ادعاء، دعاوی و اختلافات در فاز ساخت/اجرا (Construction Phase)

☐ Change Order Status (COS) report

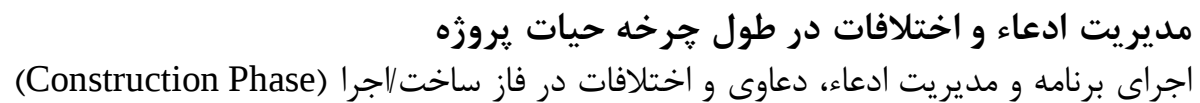
Contract No. _____ Date _____ Change Order Status Report No. _____

Extra Work Order #	Change Order #	Date Initiated	Description	Date of Request to Proceed	Date of Receipt of Notice to Proceed	Projected Cost (Ballpark Figure)	Proposal Submitted		Date Negotiated	Modification		Remarks (Current Status)
							Date	Amount		No.	Amount	



❑ Change Order Status (COS) report





❑ Change Order Status (COS) report



Change orders

☐ Change Order Status (COS) cover letter

مدیریت ادعاء و اختلافات در طول چرخه حیات پروژه
اجرای برنامه و مدیریت ادعاء، دعاوی و اختلافات در فاز ساخت/اجرا (Construction Phase)

TRACKWORK CONSTRUCTORS, INC.

P.O. Box
City, State, Zip

April 8, 2007
Ref#: 433

Owner's Representative, Inc.
Main Rail Yard Project
Street Address
City, State, Zip

Attention: Mr. A. Jones
Resident Engineer

RE: Contract Number 8C0033
Change Order Status Report No. 24

Gentlemen:

Submitted herewith is our monthly *Change Order Status Report No. 24* outlining the current status of all unresolved claims and change orders. We call your attention to the following figures and request you take whatever action necessary to process these items into contract modifications.

1. Outstanding Change Orders ____.
2. Outstanding Work Order Accounts _____. These _____ represent, in addition to the outstanding change orders in (1) above, a combination of directives by the resident engineer (RE), claims by Trackwork Constructors, and changes initiated by us with the RE's concurrence. All but _____ of these have been reduced to writing, yet there have been no change orders issued for any of them by the owner.
3. Trackwork Constructors has submitted cost proposals for _____ outstanding change orders (totaling \$_____) and _____ outstanding work orders (totaling \$_____) for a total dollar value of \$_____.
4. The remaining claims and change orders represent a projected total dollar value of \$_____, of which \$_____ has been expended by us to date. We expect to have proposals for these items to you shortly.
5. Outstanding time extension requests not associated with any of the previously referenced changes and/or claims.

We look forward to your earliest attention to these open items. Thank you.

Very truly yours,

B. Johnson
Project Manager

Periodic review

☐ In addition to

1. Updating the project schedule each month
2. Producing a change order status report periodically

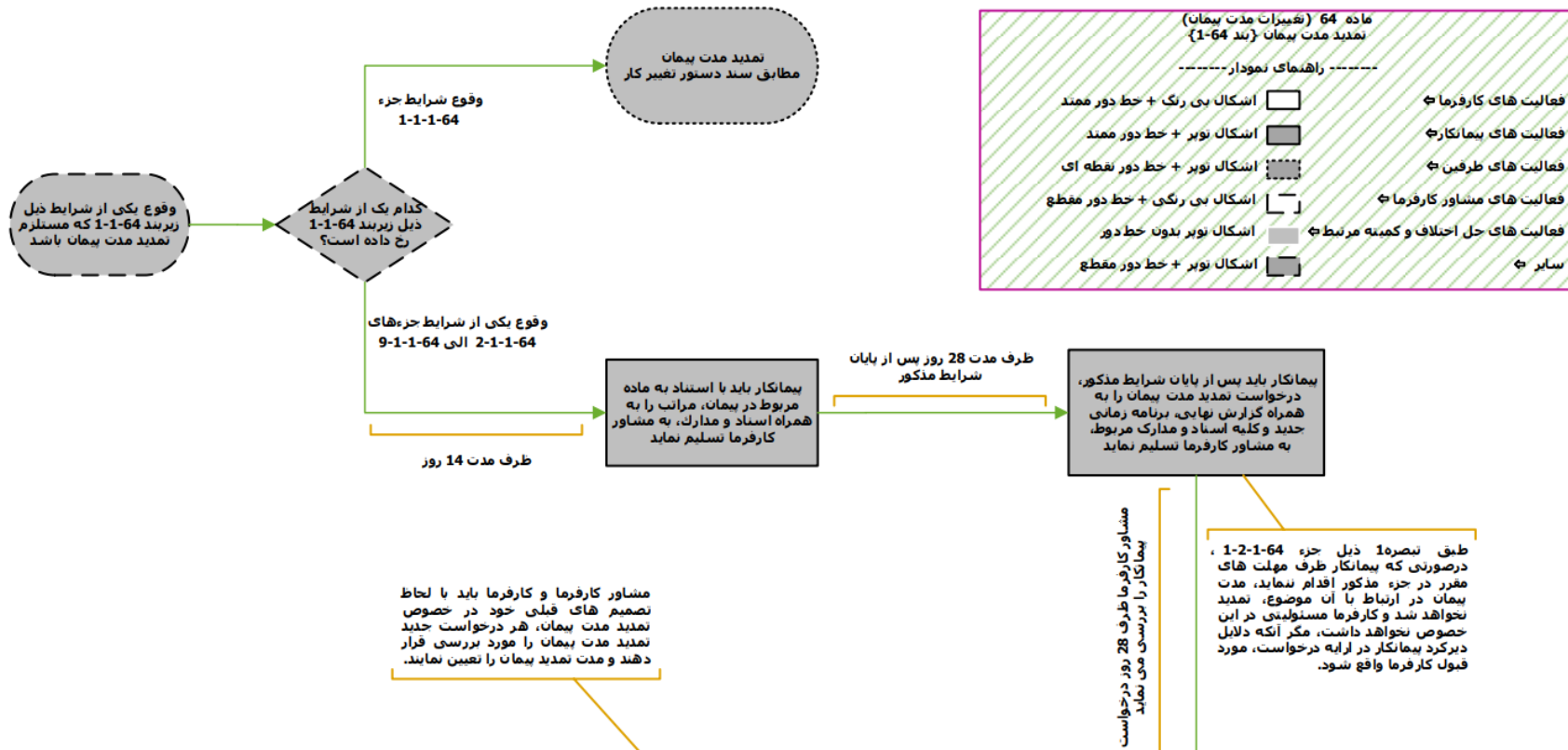
the GC should **endeavor to have a formal review session** of all documents to:

1. **Determine** whether **any actions** have been **overlooked** or
2. **Determine** whether **additional actions** need to be **taken**.

Periodic review

GC should **not wait** until the **end of the project** to file delay and/or impact, or extra work claims,
but
they should try to prepare and file them **as they are incurred**,
or
at least give notice of the potential claims.

Periodic review





E-Mail and social media

- ❑ The use of **e-mail** has become a **very common** form of communication, **not only** between **project personnel**, but also for **intradepartmental communication** and **communication outside** of the company, such as with subcontractors, vendors, owners, and regulatory bodies.
 - ❖ As such, companies must have **procedures in place** to retain e-mails.
- ❑ Unfortunately, **e-mails are not the only method** of transmitting inappropriate communications.
 - ❖ Therefore, the **company must educate** and train its employees about the proper use of e-mail, **social media**, and **other forms of electronic communication**.

Project correspondence

❑ We talked in detail about this in delay analysis course, however we should consider the following points:

- ❖ Every letter or email needs a prompt and complete reply
- ❖ Avoid letter-writing wars
- ❖ Address each issue raised directly
- ❖ Use references when responding
- ❖ Let the facts and the contract speak for themselves
- ❖ Be professional; remember you wear the “white hat” (a moral person)
- ❖ A letter should follow all oral direction
- ❖ Insist on timely notice and timely action
- ❖ Keep correspondence impersonal

Project meetings

- ❑ **Project meetings and minutes** are an important forum to **discuss**
 1. Current progress
 2. Status of submittals and RFIs
 3. Manpower and equipment
 4. Potential change orders
 5. Potential issues and actions

- ❑ **During the meeting**, the **CM** should review the **contractor's progress** **compared** to the **current approved project schedule**, including progress on the **critical path** and **overall progress** to ascertain the **contractor's ability** to meet the performance **obligations** under the contract.



Document management

❑ Many of the records mentioned may be **submitted to the Engineer** (or his representative or equivalent under various forms of contract) on a periodic basis **to sign off**.

❖ While it may **not always be possible to persuade** an **Employer's agent to 'sign off'** on such records,

i. If they are **submitted to such a party**

ii. If they are **not refuted** within a **reasonable time**,

*then it would be **difficult to deny** their accuracy at a **later date**.*



Document management

20.2.3 Contemporary records

In this Sub-Clause 20.2, "contemporary records" means records that are prepared or generated at the same time, or immediately after, the event or circumstance giving rise to the Claim.

The claiming Party shall keep such contemporary records as may be necessary to substantiate the Claim.

Without admitting the Employer's liability, the Engineer may monitor the Contractor's contemporary records and/or instruct the Contractor to keep additional contemporary records. The Contractor shall permit the Engineer to inspect all these records during normal working hours (or at other times agreed by the Contractor), and shall if instructed submit copies to the Engineer. Such monitoring, inspection or instruction (if any) by the Engineer shall not imply acceptance of the accuracy or completeness of the Contractor's contemporary records.

۱۸- و)

پیمانکار متعهد است که یک نسخه از برنامه، نمودارها و جدول‌های پیشرفت کار را در کارگاه آماده داشته باشد تا در صورت لزوم مهندس مشاور و کسانی که اجازه بازدید از کارگاه را دارند از آن استفاده کنند.



Document management

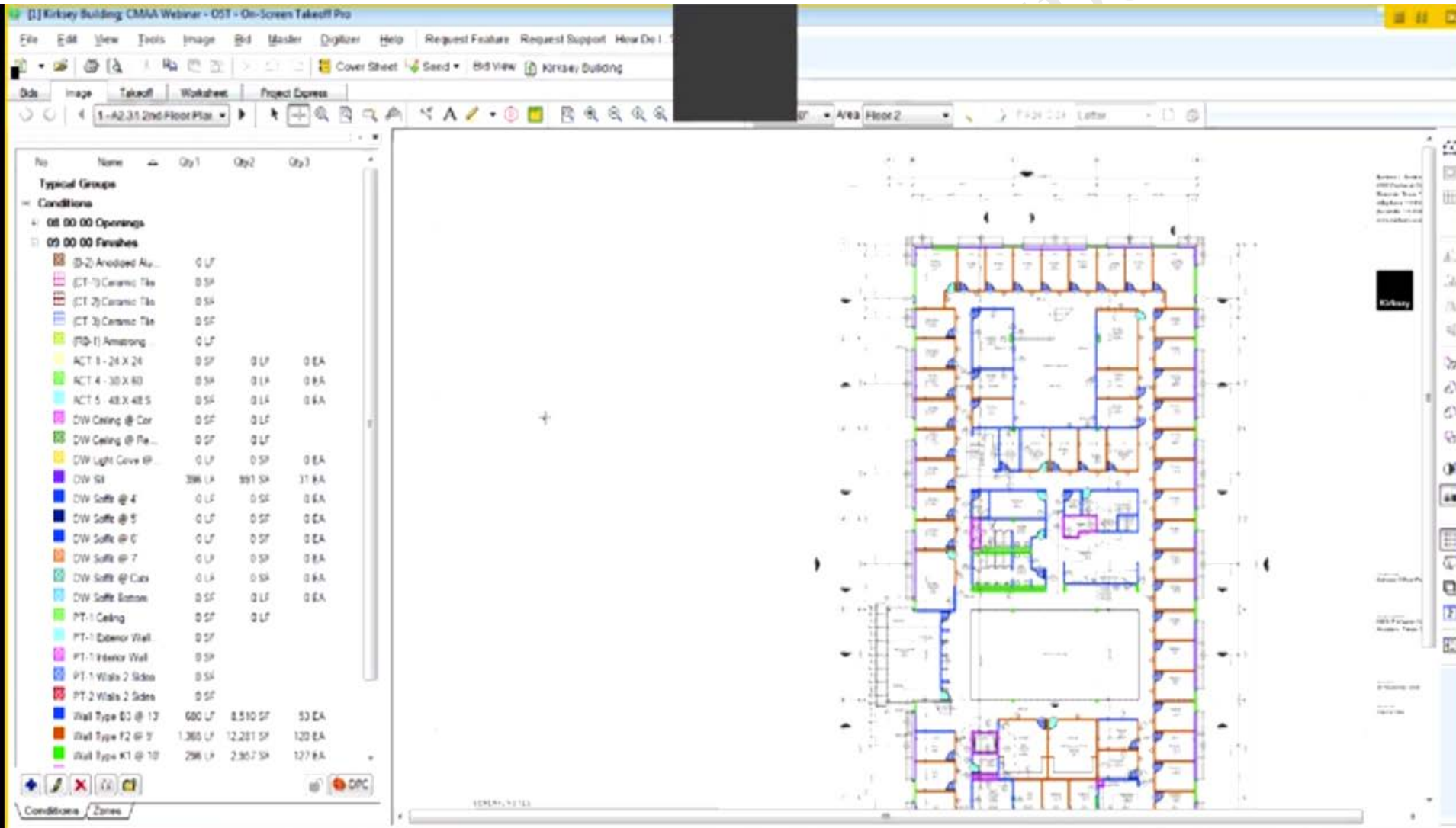
It is therefore extremely important that,

1. Firstly, a **robust contract administration system** is created and
2. Secondly that **systems and procedures** are put in place to **adequately record** the events and the effects on a **contemporaneous basis**.

Document management

Let's see some examples!

On-Screen takeoff

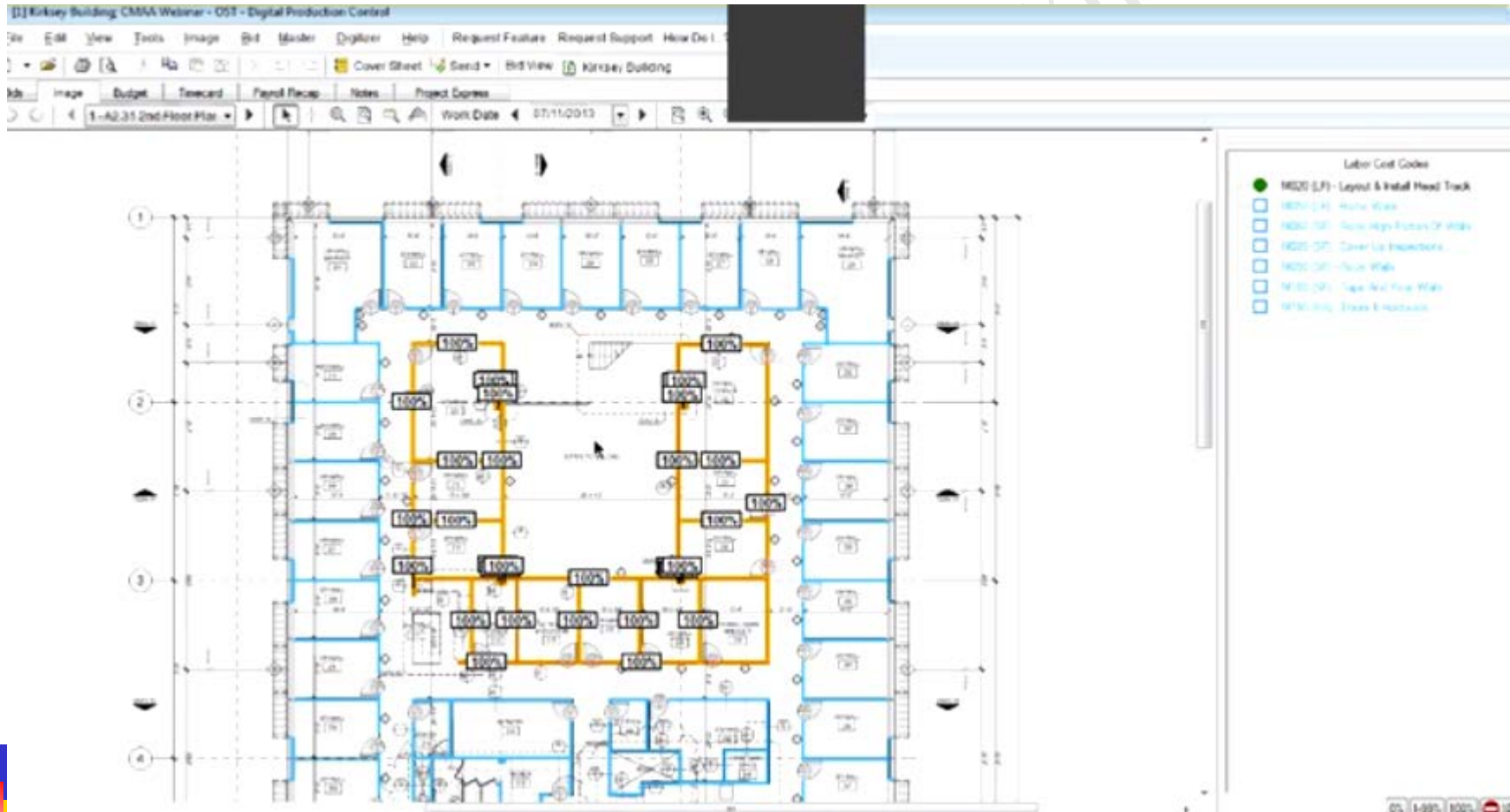


The screenshot displays the On-Screen Takeoff (OST) software interface. The main window shows a floor plan of a building, with various rooms and areas highlighted in different colors (blue, green, yellow, orange, red). The left pane lists the items being taken off, organized into groups. The right pane shows the details of the selected item, including its name, quantity, and unit.

No	Name	Qty 1	Qty 2	Qty 3
Typical Groups				
Conditions				
08 00 00 Openings				
09 00 00 Finishes				
01	(D-2) Anodized Al...	0 LF		
02	(CT-7) Ceramic Tile	0 SF		
03	(CT-7) Ceramic Tile	0 SF		
04	(CT-3) Ceramic Tile	0 SF		
05	(FID-1) Armstrong	0 LF		
06	ACT 1 - 24 X 24	0 SF	0 LF	0 EA
07	ACT 4 - 30 X 60	0 SF	0 LF	0 EA
08	ACT 5 - 48 X 48 S	0 SF	0 LF	0 EA
09	DW Ceiling @ Cor	0 SF	0 LF	
10	DW Ceiling @ Re...	0 SF	0 LF	
11	DW Light Cove @	0 LF	0 SF	0 EA
12	DW St	396 LF	391 SF	31 EA
13	DW Soffit @ 4	0 LF	0 SF	0 EA
14	DW Soffit @ 5	0 LF	0 SF	0 EA
15	DW Soffit @ 6	0 LF	0 SF	0 EA
16	DW Soffit @ 7	0 LF	0 SF	0 EA
17	DW Soffit @ Cais	0 LF	0 SF	0 EA
18	DW Soffit Bottom	0 SF	0 LF	0 EA
19	PT-1 Ceiling	0 SF	0 LF	
20	PT-1 Exterior Wall	0 SF		
21	PT-1 Interior Wall	0 SF		
22	PT-1 Walls 2 Sides	0 SF		
23	PT-2 Walls 2 Sides	0 SF		
24	Wall Type B3 @ 12	600 LF	8,510 SF	53 EA
25	Wall Type F2 @ 3	1,365 LF	12,281 SF	120 EA
26	Wall Type K1 @ 10	296 LF	2,367 SF	127 EA

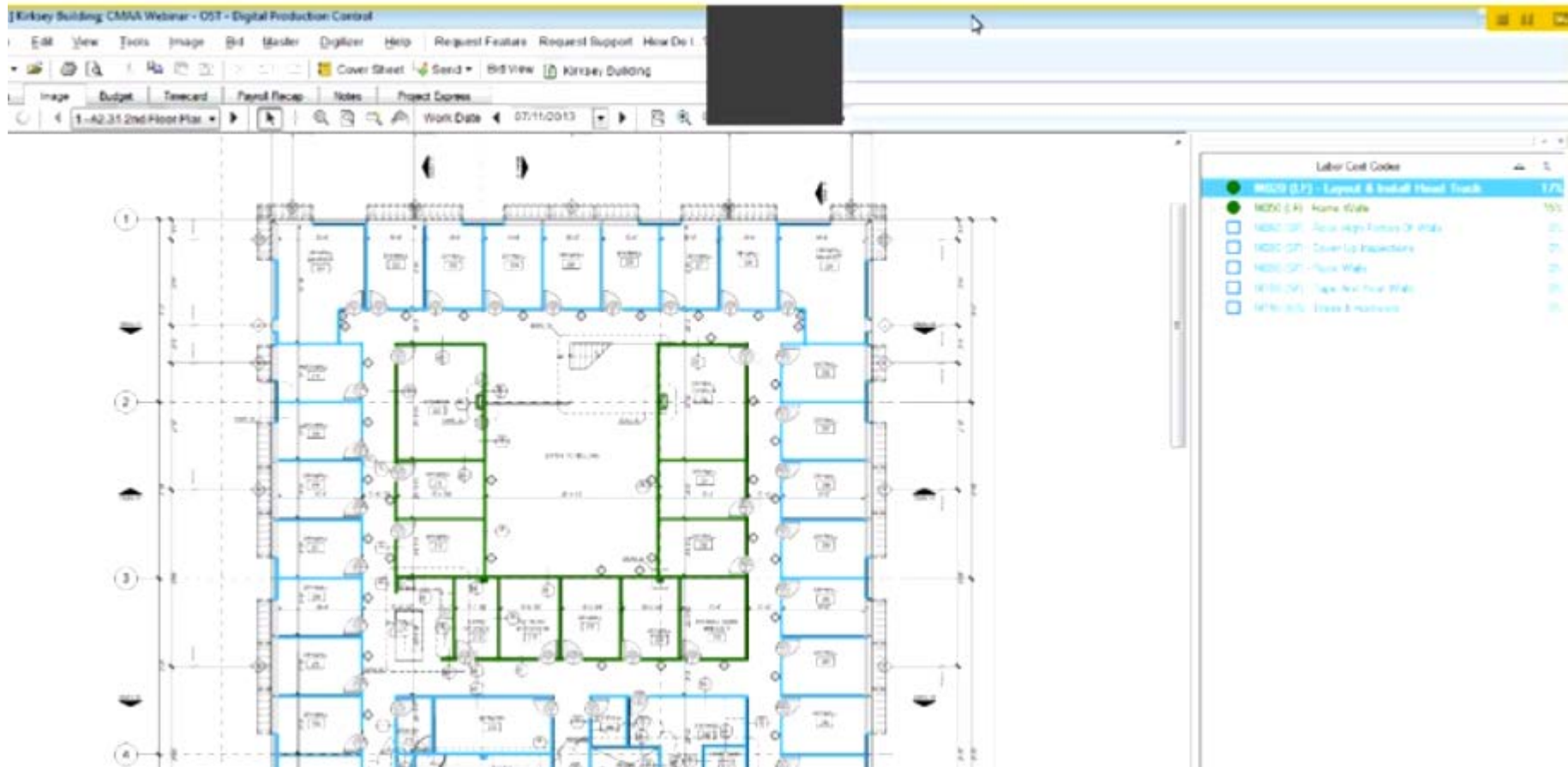
Example of scope

- ❑ You can track the completion of each scope by adding the percentage on the items



Example of scope

❑ Green color shows completion



Example of chronology and database

An example of a simple database that may be compiled in a spreadsheet is shown in Table.

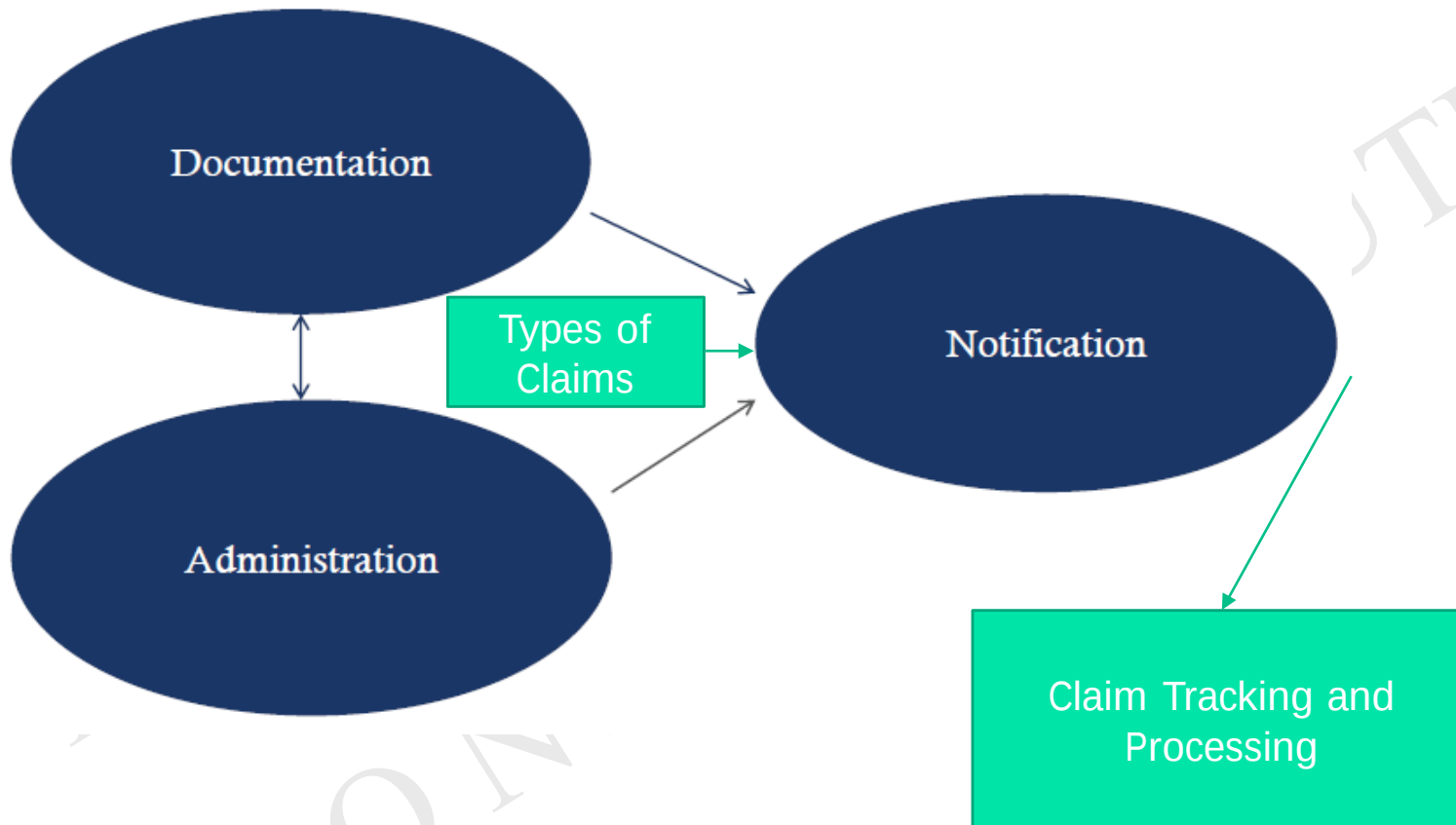
Johnson Construction Group
Northern ring road, Newtown
Document database – Waterproofing claim

Date	Type	Ref.	From	To	Subject	Contents
08-Jul-13	Letter	0306	JCG	APS	Supply and Apply Eliminator System (Spray Type Waterproofing)	Letter of intent
18-Jul-13	Mat App	44	JCG	ENGR	Materials Approval	Product and subcontractor approval
25-Sep-14	Test	C1194	APS	JCG	Test Certificate	Test Certificate 2A Underpass Bridge
14-Oct-14	Letter	2053	ENGR	JCG	Laying of Sub-grade at Different Locations in Type 1 waterproofing	Waterproofing under investigation. Instructed not to lay until approved. APS to provide requested information
16-Oct-14	Letter	001	JCG	APS	Waterproofing Type 1	Request technical clarifications. Enclosing mix designs
17-Oct-14	Letter	2196	JCG	ENGR	Laying of Sub-grade at Different Locations Waterproofing Type 1	Conf of verbal instructions. Proceed with sub-grade where waterproofing completed
17-Oct-14	Letter	2061	ENGR	JCG	Laying of Sub-grade at 1C-2A on Waterproofing Membrane Type 1	Letter of undertaking required from APS
25-Oct-14	Email	1194	APS	JCG	Waterproofing Type 1	Re Meeting 12 Oct. required RSA mix design to confirm compatibility. Pointing out conflicts in dwgs and request clarification
01-Nov-14	Letter	2114	ENGR	JCG	Waterproofing Membrane Type 1	Repeat request for APS to provide undertaking of product performance
02-Nov-14	Letter	2264	JCG	ENGR	Waterproofing Type 1–APS report	Request instructions re use of RSA and RSA specification
03-Nov-14	Letter	2123	ENGR	JCG	Waterproofing Type 1–APS report	Query why RSA is required. Repeat request for performance undertaking

Claims Management

(Contract and Claim Administration)

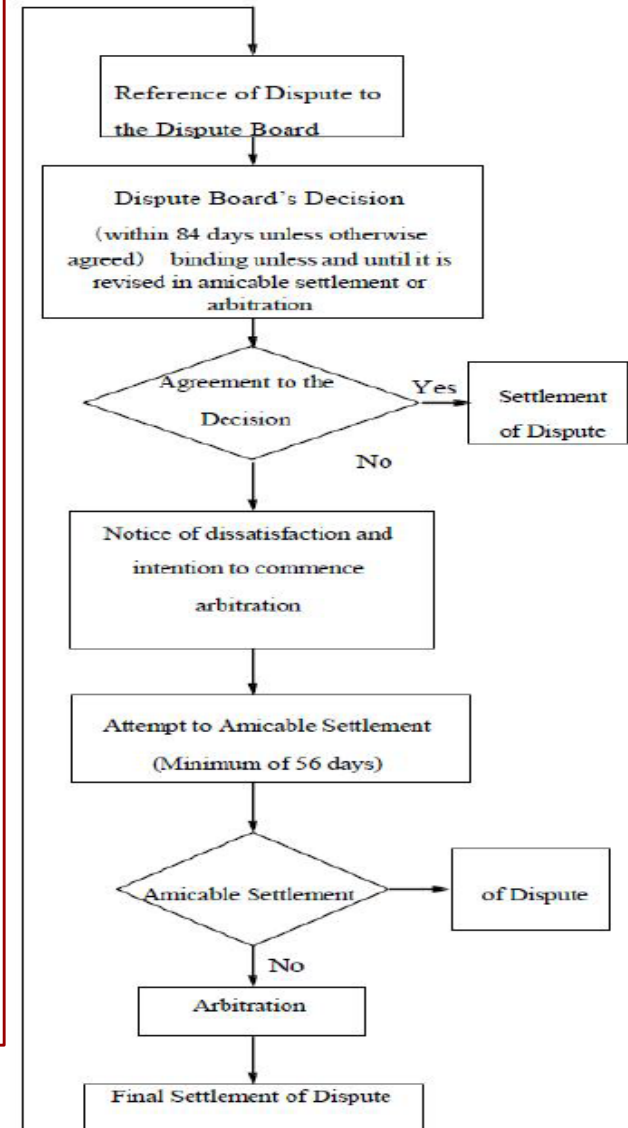
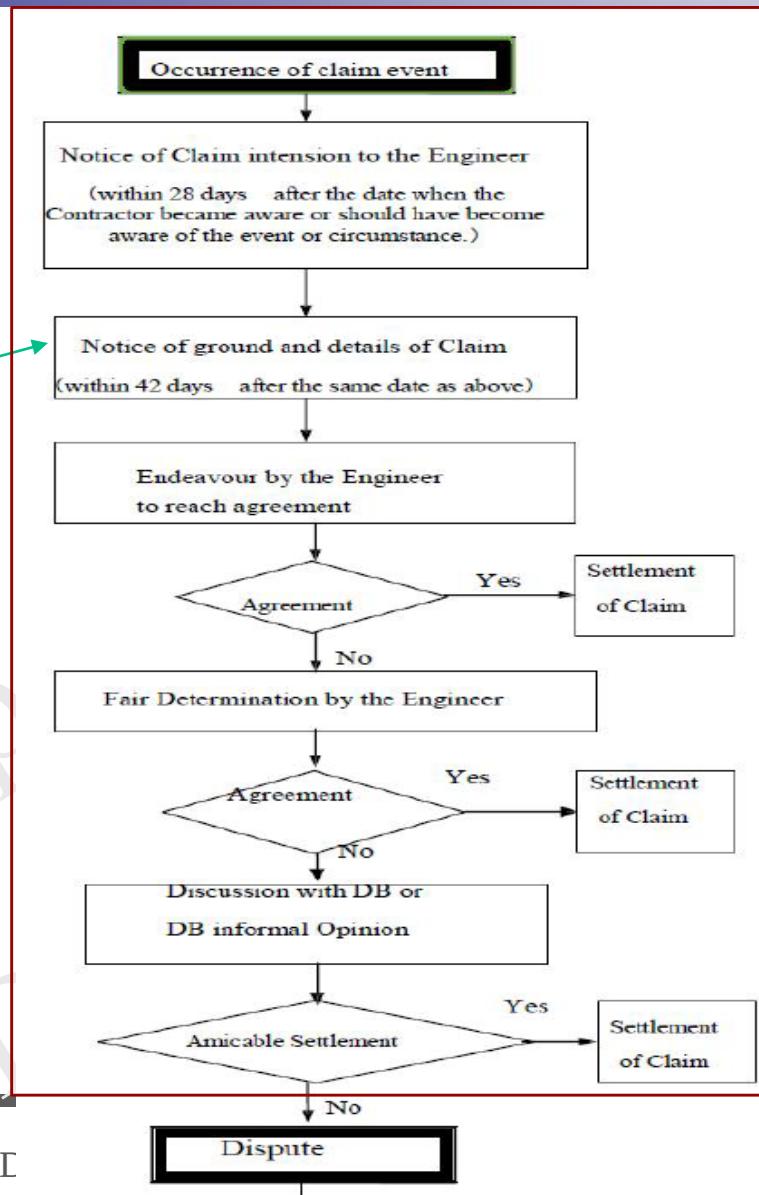
Suggested terminology for claim management in Construction Phase



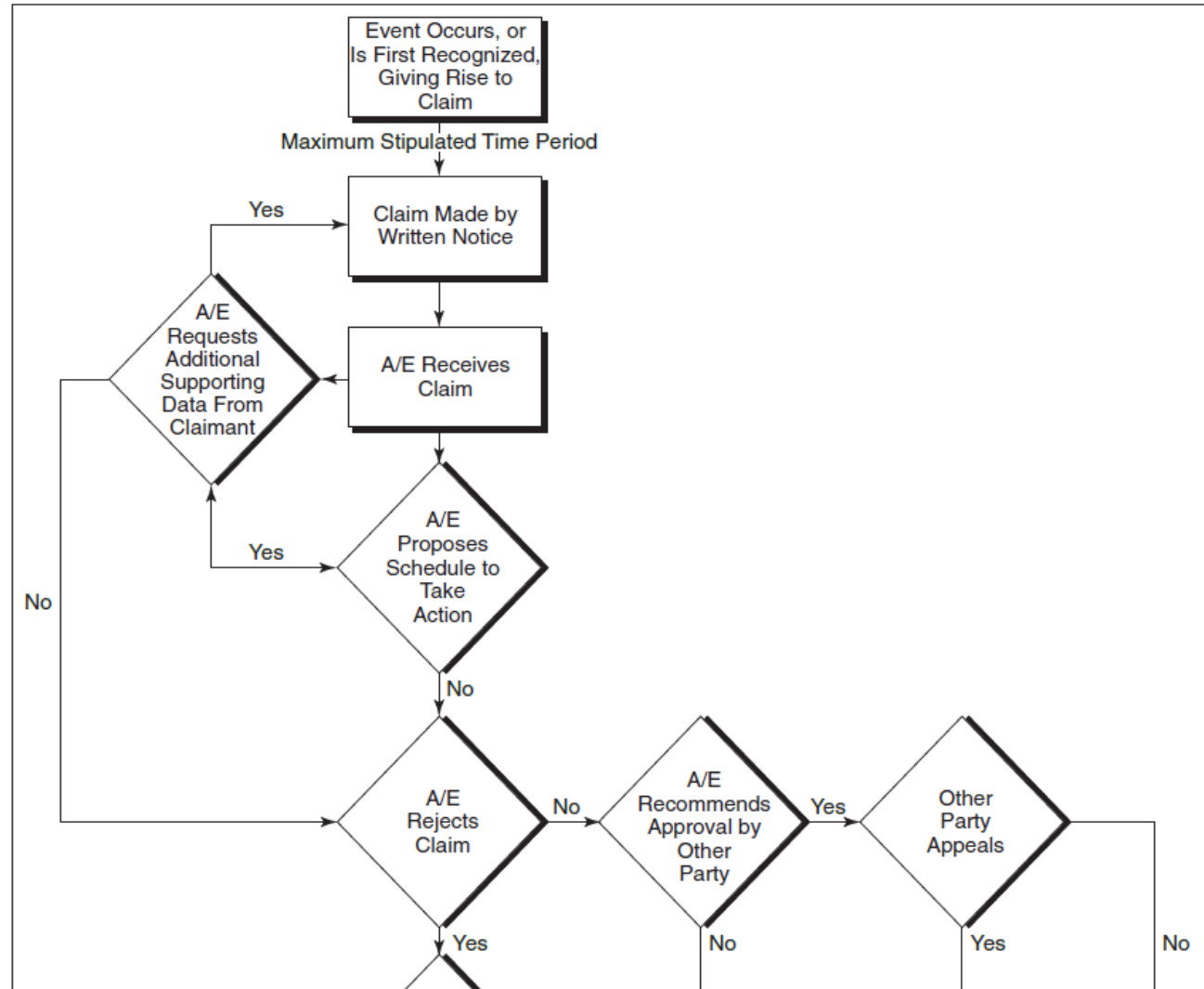
Claims management process – Sample 1

Submitting final details of the claim **within 42 days** of the **end** of the events giving rise to the claim

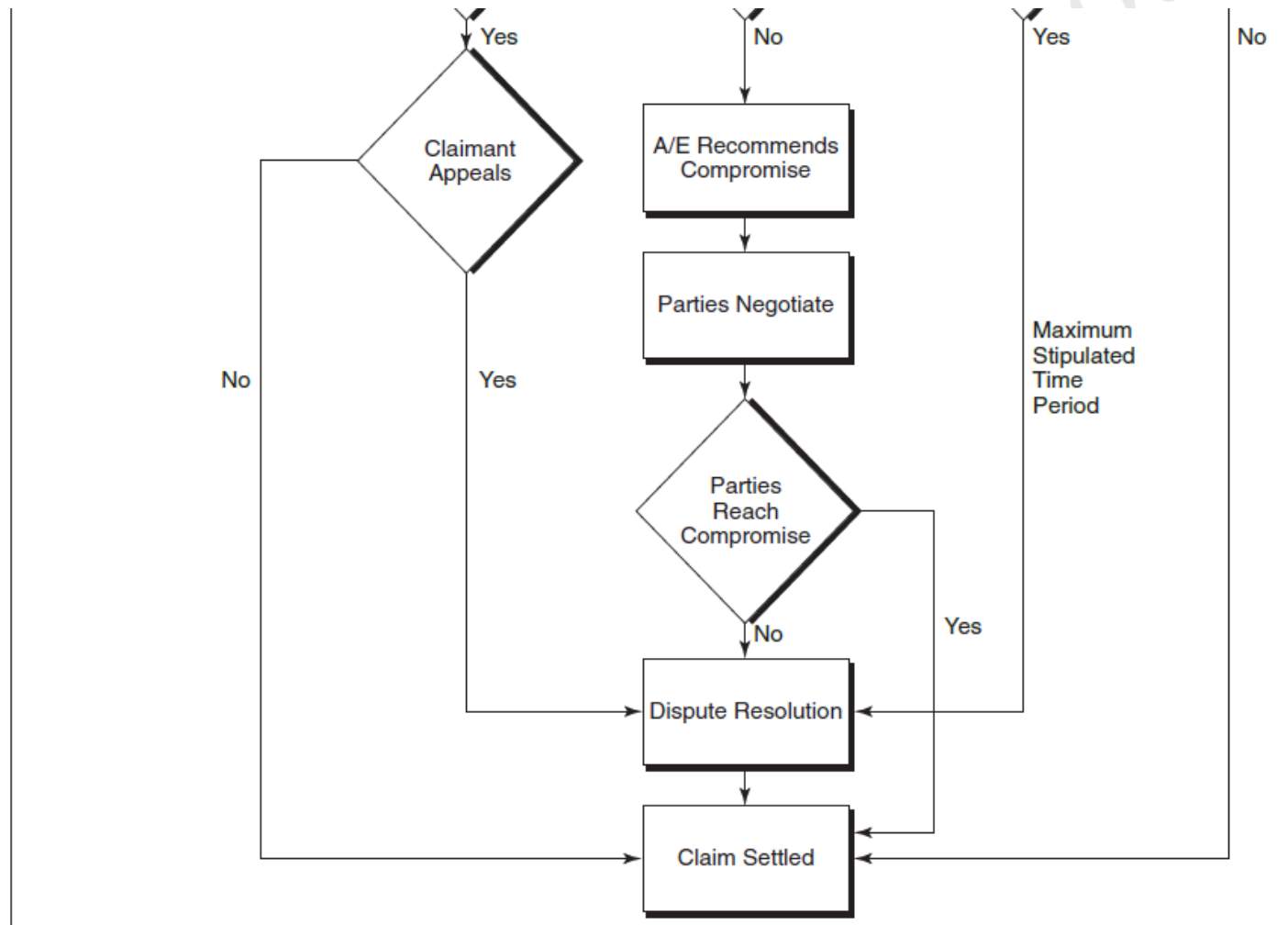
FIDIC 2017 changed this process



Claims management process – Sample 2



Claims management process – Sample 2



Submittals – Diagram

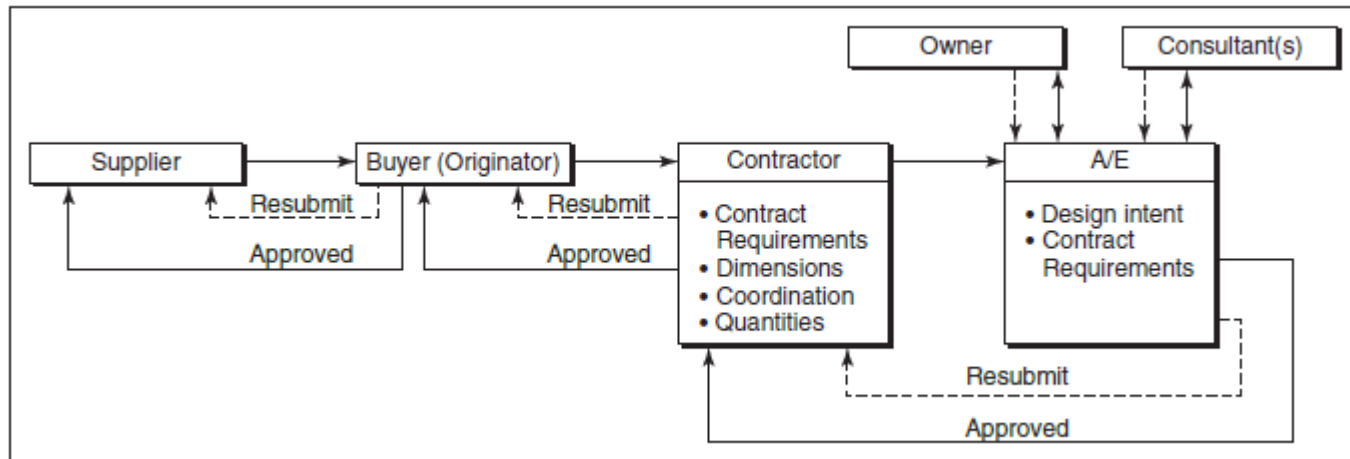


Diagram of Routing Submittals for Review and Approval

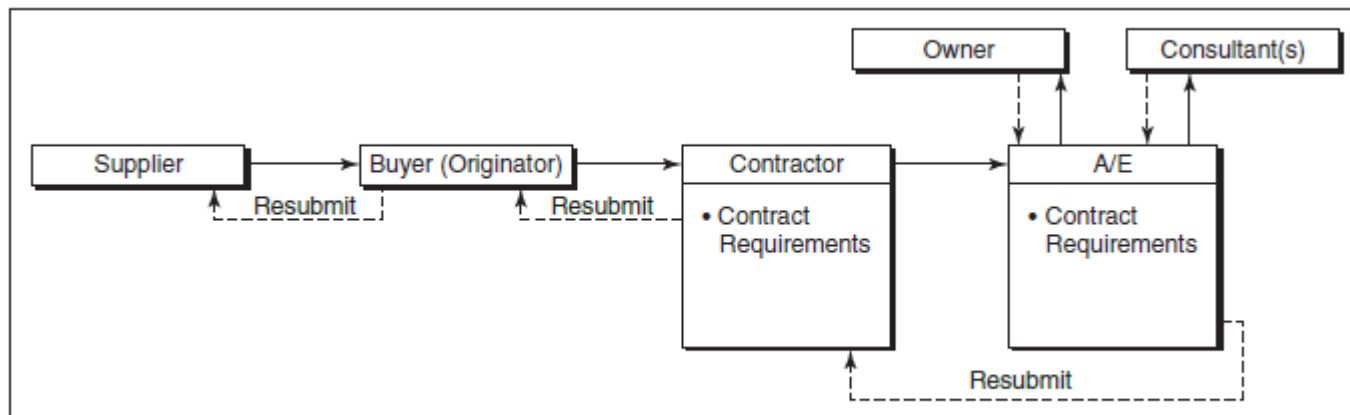


Diagram of Routing Informational Submittals

Submittals – Stamps

Contractor Review:
Contractor has reviewed in accordance with contract requirements:
☐ Approved ☐ Approved as Noted ☐ Revise/Resubmit ☐ Rejected/Resubmit
By: _____ Date: _____
Contractor

Sample Contractor
Submittal Stamp

A/E Review:
Approval is for conformance with information given and design concept expressed in contract documents. Approval does not authorize changes to contract documents.
☐ Approved ☐ Approved as Noted ☐ Revise and Resubmit ☐ Rejected/Resubmit ☐ No Action Taken or Required ☐ Not Required for Review
By: _____ Date: _____
A/E Firm

Sample A/E Submittal
Stamp

Submittals – Not required by the specifications

Submittals Not Required by the Specifications

Occasionally, the contractor submits information to the A/E for review and approval when the submittal was not required by the specifications. The A/E should be careful in processing these because the review and approval of them may involve accepting more responsibility than the A/E intended. When an A/E receives a nonrequired submittal, all copies should be returned without review to the contractor, with an annotation that the submittal is “not required for review.”

Submittals – Submittal log

CSI FORMS 12.1B AND 12.1C SUBMITTAL LOG FOR A/ES AND CONTRACTORS (Page 1)



Knowledge for Creating
and Sustaining
the Built Environment

**SUBMITTAL
LOG (A/E)**

Project: _____

A/E Project Number: _____

Owner: _____

Contractor: _____

[illegible]

SUBMITTAL TRANSMITTAL

Project: _____ Date: _____
A/E Project Number: _____

TRANSMITTAL A To (Contractor): _____ Date: _____ Submittal No. _____
From (Subcontractor): _____ By: _____ ☐ Resubmission

Qty.	Reference / Number	Title / Description / Manufacturer	Spec. Section Title and Paragraph / Drawing Detail Reference

- ☐ Submitted for review and approval
☐ Resubmitted for review and approval
☐ Complies with contract requirements
☐ Will be available to meet construction schedule
☐ A/E review time included in construction schedule
- ☐ Substitution involved - Substitution request attached
☐ If substitution involved, submission includes point-by-point comparative data or preliminary details
☐ Items included in submission will be ordered immediately upon receipt of approval
- Other remarks on above submission: _____ ☐ One copy retained by sender

TRANSMITTAL B To (A/E): _____ Attn: _____ Date Rec'd by Contractor: _____
From (Contractor): _____ By: _____ Date Trnsmt'd by Contractor: _____

☐ Approved
☐ Approved as noted

☐ Revise / Resubmit
☐ Rejected / Resubmit

Other remarks on above submission: _____ ☐ One copy retained by sender

TRANSMITTAL C To (Contractor): _____ Attn: _____ Date Rec'd by A/E: _____
From (A/E): _____ ☐ Other By: _____ Date Trnsmt'd by A/E: _____

- ☐ Approved
☐ Approved as Noted
☐ Revise and Resubmit
☐ Rejected/Resubmit
☐ No Action Taken or Required
☐ Not Required for Review
- ☐ Provide file copy with corrections identified
☐ Reproducible copies only returned
☐ Point-by-point comparative data required to complete approval process
☐ Submission Incomplete / Resubmit

Other remarks on above submission: _____ ☐ One copy retained by sender

TRANSMITTAL D To (Subcontractor): _____ Attn: _____ Date Rec'd by Contractor: _____
From (Contractor): _____ By: _____ Date Trnsmt'd by Contractor: _____

Copies: ☐ Owner ☐ Consultants ☐ ☐ ☐ ☐ ☐ One copy retained by sender

Formal record-keeping procedures and controls

Apply best practices in enforcing, monitoring and tracking document contract compliance

Advancement in construction technology make integrated project documentation solutions possible...

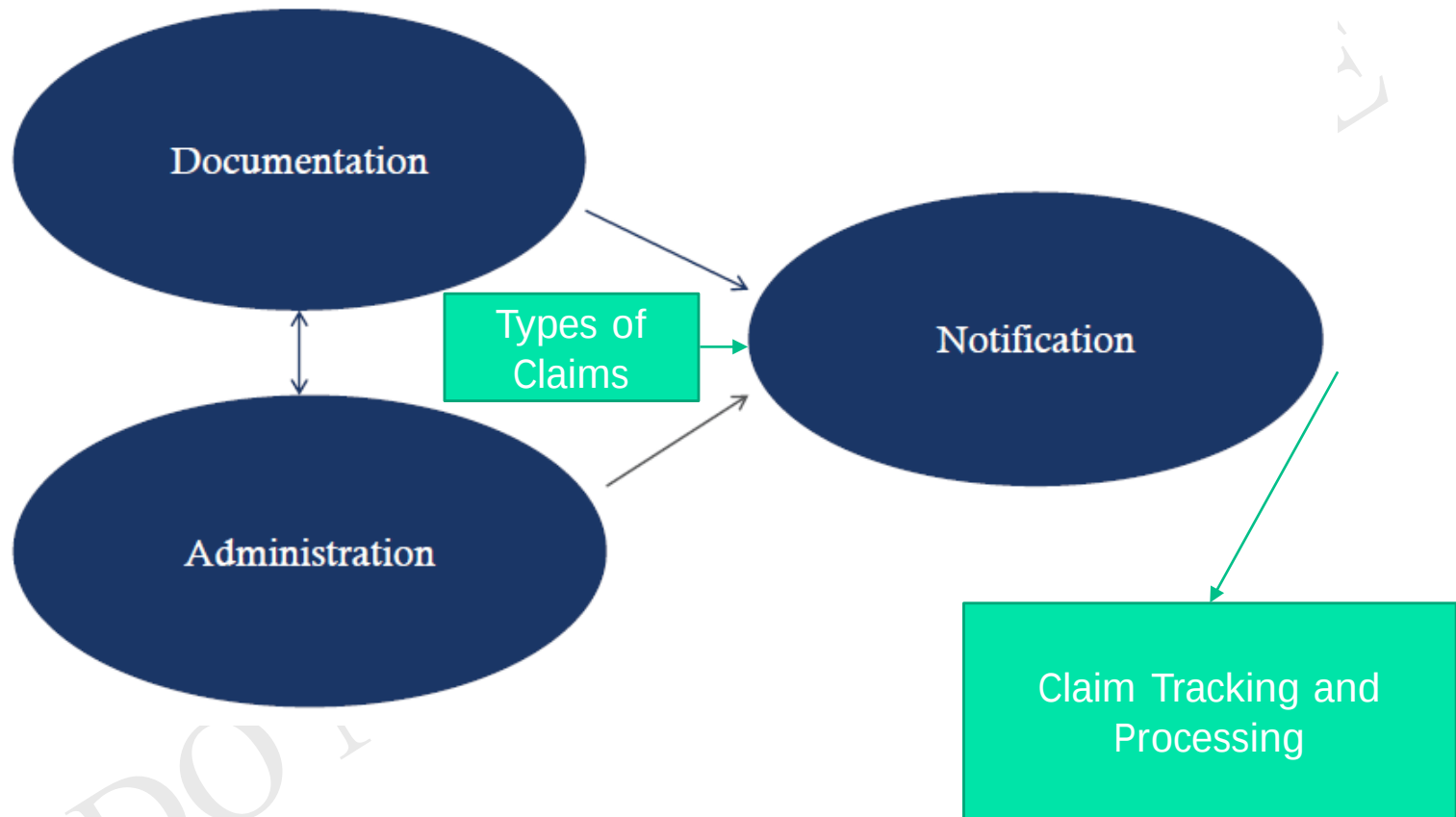
BUT THE INDUSTRY IS NOT THERE YET 100%

EVEN WITHOUT TECHNOLOGY, IT IS NOT AN EXCUSE FOR FAILING TO MAINTAIN THE BASIC RECORD-KEEPING PROCEDURES

Claims Management

(Types of Claim)

Suggested terminology for claim management in Construction Phase



Types of claims

- ❑ This is **different** from the cause of claims question.
- ❑ In the construction industry, the **dispute or claim by a contractor** against an owner is often based on **one or more of the following types of claims**:
 1. *Claims for variations (Extra work or change orders)*
 2. *Claims for extensions of time (Delay or EOT)*
 3. *Claims for additional payment due to prolongation (Compensation)*
 4. *Acceleration and Disruption claims*
 5. *Claims for damages under law*
 6. *Interim and final claims*

If a dispute or claim arises, the demand for **additional compensation should be presented in a manner required by the contract and should be an **accurate and proper measure of the damages** claimed.**

Claims for variations

- ❑ A **variation** is something that **changes the nature** of the project.
- ❑ This may consist of
 - ❖ **Additional** or **less** work,
 - ❖ A **change in the specification** for part of the work, or
 - ❖ In some cases a change to the **contractual basis** of the project such as the contract **price or period**.

*In most construction contracts, the **Employer** is **permitted** to make such changes, and this is **usually administered** by his **appointed agents** such as the **Engineer** under the **FIDIC** forms of contract.*

Claims for variations

Most standard forms of contract place the **obligation** on the **Engineer** to
issue instructions to vary the works

AND

most will specifically **prohibit** the **Contractor** from carrying out variations without
written instructions.



Claims for variations

- ❑ The FIDIC contract has this to say about the subject of variations.

Sub-Clause 1.1.6.9

“Variation” means any change to the Works, which is instructed or approved as a variation order under Clause 13 [*Variations and Adjustments*].

Sub-Clause 13.1 Right to Vary

Variations may be initiated by the Engineer at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.

The Contractor shall execute and be bound by each variation, unless the Contractor promptly gives notice to the Engineer stating (with supporting particulars) that the Contractor cannot readily obtain the Goods required for the Variation. Upon receiving this notice, the Engineer shall cancel, confirm or vary the instruction.

Each variation may include:

- (a) changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation),
- (b) changes to the quality and other characteristics of any item of work,
- (c) changes to the levels, positions and/or dimensions of any part of the Works,
- (d) omission of any work unless it is to be carried out by others,
- (e) any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes and other testing and exploratory work, or
- (f) changes to the sequence or timing of the execution of the Works.

The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Engineer instructs or approves the Variation.



Claims for variations

- ❑ The **FIDIC** contract has this to say about the subject of variations.

Sub-Clause 13.3 Variation Procedure

If the Engineer requests a proposal, prior to issuing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

- (a) a description of the proposed work to be performed and a programme for its execution,
- (b) the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 8.3 [*Programme*] and to the Time for Completion, and
- (c) the Contractor's proposal for evaluation of the Variation.

The Engineer shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [*Value Engineering*] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work while awaiting a response.

Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Engineer to the Contractor, who shall acknowledge receipt.

Each variation shall be evaluated in accordance with Clause 12 [*Measurement and Evaluation*], unless the Engineer instructs or approves otherwise in accordance with This Clause.

Claims for variations

☐ The provisions mentioned are **quite clear** as to the **authority of the Engineer** to

1. Vary the works
2. Procedures to be adopted

☐ **If** this **procedure is adhered** to,

there would be **no reason to submit a claim** because

1. Variation
2. Entitlement to additional payment

*have **already been acknowledged**.*

Claims for variations

In reality, however, the Contractor may not be requested to **submit a proposal**,
and

instructions for variations **may not be issued** under a formal variation order.

*Even **Construction Change Directive***

It is quite common for instructions to be **issued by**

1. Letter
2. Response to a request for information
3. Issue of revised drawings or
4. Way of a verbal instruction

Therefore, this should be predicted in the contract. Let's see!

Claims for variations

- ❑ **Sub-Clause 3.5 of FIDIC** contemplates that this may be the case and provides the following:

3.5

Engineer's Instructions

The Engineer may issue to the Contractor (at any time) instructions which may be necessary for the execution of the Works, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer, or from the Engineer's Representative (if appointed) or an assistant to whom the appropriate authority to give instruction has been delegated under Sub-Clause 3.4 [*Delegation by the Engineer*].

Subject to the following provisions of this Sub-Clause, the Contractor shall comply with the instructions given by the Engineer or the Engineer's Representative (if appointed) or delegated assistant, on any matter related to the Contract.

Claims for variations

- ❑ **Sub-Clause 3.5 of FIDIC** contemplates that this may be the case and provides the following:

If an instruction states that it constitutes a Variation, Sub-Clause 13.3.1 [Variation by Instruction] shall apply.

If not so stated, and the Contractor considers that the instruction:

- (a) constitutes a Variation (or involves work that is already part of an existing Variation); or
- (b) does not comply with applicable Laws or will reduce the safety of the Works or is technically impossible

the Contractor shall immediately, and before commencing any work related to the instruction, give a Notice to the Engineer with reasons. If the Engineer does not respond within 7 days after receiving this Notice, by giving a Notice confirming, reversing or varying the instruction, the Engineer shall be deemed to have revoked the instruction. Otherwise the Contractor shall comply with and be bound by the terms of the Engineer's response.

But, here there is question. Let's see!

Claims for variations

How does the Contractor therefore ensure that he is **compensated** properly in a case where he considers **comprises a variation**,

but

which has **not been instructed or approved** as a **variation order**?

Firstly, the **Contractor** should **acknowledge receipt** of the **instruction** and **confirm** that he considers the **instruction to be a variation** under the provisions of Sub-Clause 13.3 [*Variations and Adjustments*].

- ❖ The **Engineer may agree** with this and, if so, he should **issue a variation order as confirmation**.

What if Engineer disagrees?



Claims for variations

If **no such confirmation** is forthcoming or if the **Engineer disagrees**, then

Contractor's recourse under FIDIC is contained in the provisions of Clause 20 [Claim, Disputes and Arbitration], which has this to say:

A Claim may arise:

- (a) if the Employer considers that the Employer is entitled to any additional payment from the Contractor (or reduction in the Contract Price) and/or to an extension of the DNP;
- (b) if the Contractor considers that the Contractor is entitled to any additional payment from the Employer and/or to EOT; or
- (c) if either Party considers that he/she is entitled to another entitlement or relief against the other Party. Such other entitlement or relief may be of any kind whatsoever (including in connection with any certificate, determination, instruction, Notice, opinion or valuation of the Engineer) except to the extent that it involves any entitlement referred to in sub-paragraphs (a) and/or (b) above.

Claims for variations

This sub-clause thus provides that

if the **contractor considers** that an instruction given by the **Engineer** should be followed by a **variation order**

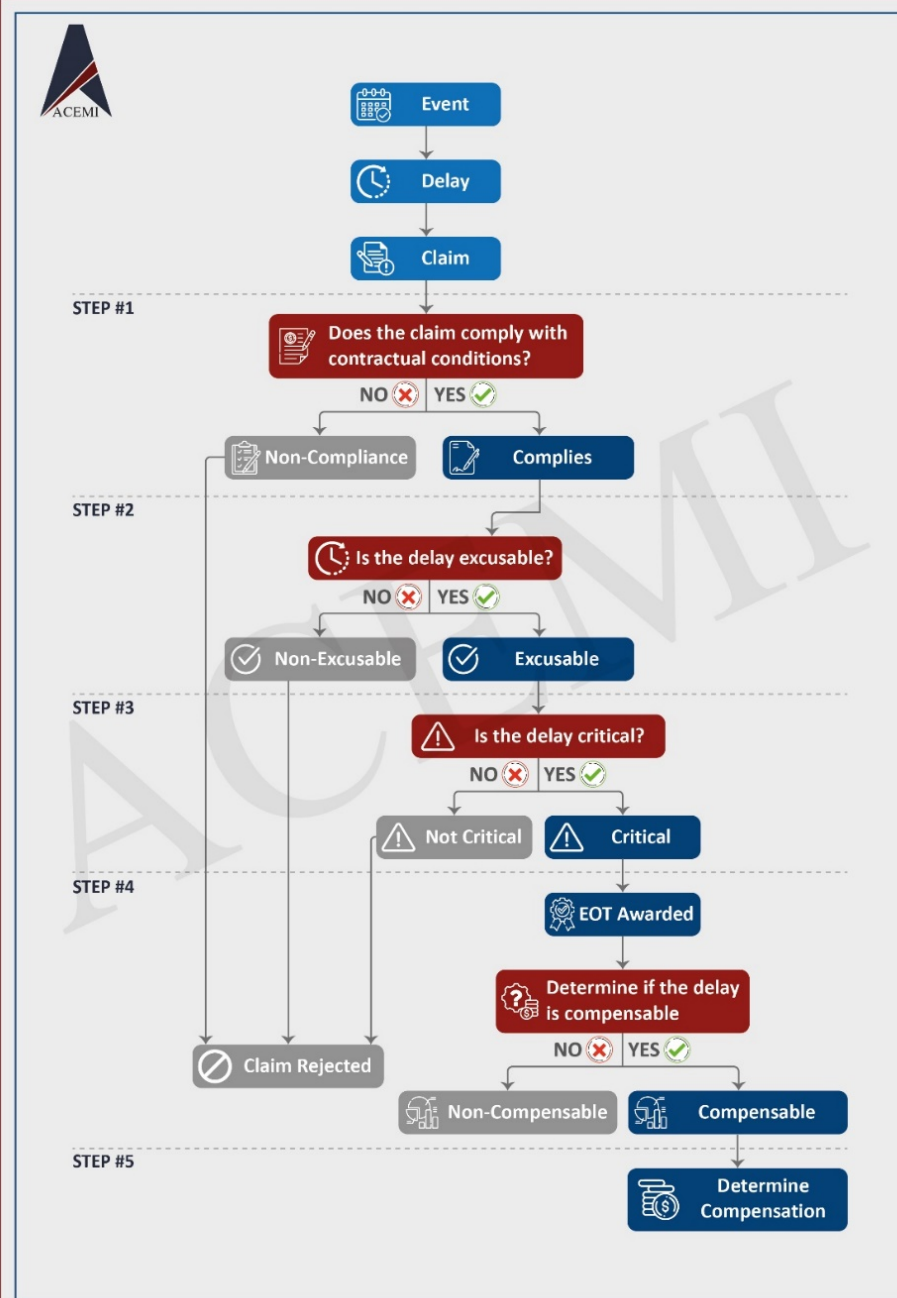
then he should

- 1. Give notice** of the event or circumstances to the **engineer**
- 2. Proceed** to submit a **fully detailed claim**.



Claims for extensions of time

- ❑ Other than variations, the **most common reason** for the submission of a claim is for an **extension to the time** for completion of the works.
- ❑ It
 1. **Establishes** new completion date for the project and
 2. **Prevents** the engineer from deducting **liquidated damages or penalties** for delay
- ❑ An *award of an extension* of time may also, however,
 - ❖ **Entitle** the contractor to **additional payment** as **compensation** (for example increase in **overheads**) for a **longer period**
 - ✓ The latter case is referred to as a claim for **prolongation costs**.



Is the delay excusable?

Is the delay catered for in clause 8.5(a)?

The Contractor shall be entitled to an extension of the Time for Completion if and to the extent that completion is or will be delayed by any of the following causes:

A Variation (unless an adjustment to the Time for Completion has been agreed under clause 13.3 [Variation Procedure]) or other substantial change in the quantity of an item of work included in the Contract.

YES ☒ NO ☒

Has an adjustment to the Time for Completion been agreed under clause 13.3 [variation procedure]?

YES ☒ NO ☒

EOT to be dealt with in terms of clause 13.3 (variation procedure)

Is the delay catered for in clause 8.5 (b)?
b) a cause of delay giving entitlement to EOT of time under a clause of these Conditions

YES ☒ NO ☒

Does the clause require additional notification?

YES ☒ NO ☒

Did the contractor give the required notification?

YES ☒ NO ☒

Was the delay as a result of the contractor's failure?

YES ☒ NO ☒

Non-Excusable

Does the clause provide for other requirements to be met?

YES ☒ NO ☒

Did the contractor meet the requirements?

NO ☒ YES ☒

Non-Excusable

Excusable

Is the delay catered for in clause 8.5 (c)?
c) exceptionally adverse climatic conditions

YES ☒ NO ☒

Is the delay catered for in clause 8.5 (d)?
d) unforeseeable shortages in the availability of personnel or goods caused by epidemic or governmental actions

YES ☒ NO ☒

Is the delay catered for in clause 8.5 (e)?
e) any delay, impediment or prevention caused by or attributable to the Employer, the employer's personnel or the Employer's other contractors.

YES ☒ NO ☒

Non-Excusable

Nr	Clause	Additional notification	As a result of contractor's failure	Specific requirement
1.9	Delayed drawings	☐	☐	☐
2.1	Right of access	☐	☐	☐
4.7	Setting out	☐	☐	☐
4.12	Unforeseeable conditions	☐	☐	☐
4.23	Archaeological	☐	☐	☐
7.4	Testing	☐	☐	☐
8.6	Delays by authorities	☐	☐	☐
8.10	Suspension of work	☐	☐	☐
10.3	Interference with tests for completion	☐	☐	☐
13.6	Adjustments for changes	☐	☐	☐
16.1	Contractor's entitlement to suspend work	☐	☐	☐
18	Exceptional Events	☐	☐	☐

Claims for extensions of time

Most forms of contract include specific provisions with regard to extensions of time,

1. Circumstances under which they **may be granted**
2. Procedures to be followed by the parties in the event of an extension of time being warranted.



Claims for extensions of time

❑ FIDIC is no exception and has this to say on the matter:

❑ This provision actually *require the contractor to submit a claim in order to start the procedure by which an extension of time may be awarded.*

Sub-Clause 8.4
Extension of
Time for
Completion

The Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1 [Taking Over of the Works and Sections] is or will be delayed by any of the following causes:

- (a) a Variation (Unless an adjustment to the Time for Completion has been agreed under Sub-Clause 13.3 [Variation Procedure] or other substantial change in the quantity of an item of work included in the Contract,
- (b) a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions,
- (c) exceptionally adverse climatic conditions,
- (d) Unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, or
- (e) Any delay, impediment or prevention caused by or attributable to the Employer, the Employer's personnel, or the Employer's other contractors on the Site.

If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Engineer in accordance with Sub-Clause 20.1 [Contractor's Claims]. When determining each extension of time under Sub-Clause 20.1, the Engineer shall review previous determinations and may increase, but shall not decrease, the total extension of time.



Claims for extensions of time

Sub-Clause 20.1 [Contractor's Claims] outlines the following requirements for the submission of claims:

Sub-Clause 20.1
Contractor's
Claims

If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

Claims for extensions of time

FIDIC 2017

20.2

Claims For Payment and/or EOT

If either Party considers that he/she is entitled to any additional payment by the other Party (or, in the case of the Employer, a reduction in the Contract Price) and/or to EOT (in the case of the Contractor) or an extension of the DNP (in the case of the Employer) under any Clause of these Conditions or otherwise in connection with the Contract, the following Claim procedure shall apply:

20.2.1 Notice of Claim

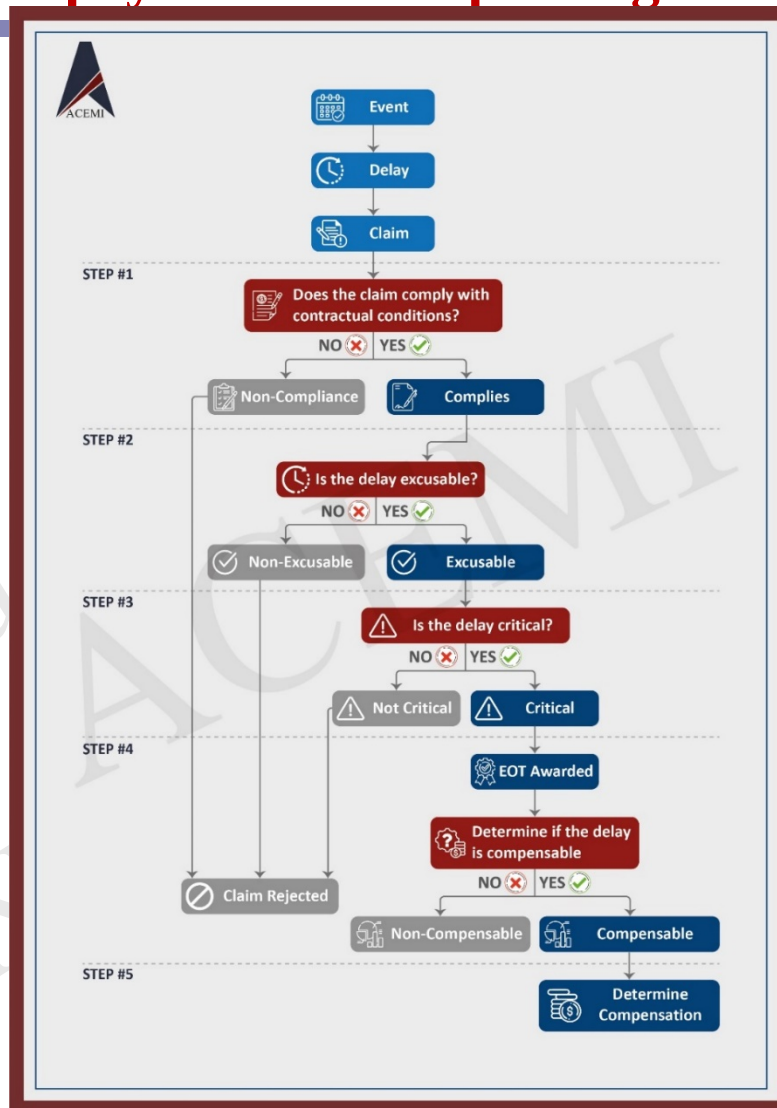
The claiming Party shall give a Notice to the Engineer, describing the event or circumstance giving rise to the cost, loss, delay or extension of DNP for which the Claim is made as soon as practicable, and no later than 28 days after the claiming Party became aware, or should have become aware, of the event or circumstance (the "Notice of Claim" in these Conditions).

If the claiming Party fails to give a Notice of Claim within this period of 28 days, the claiming Party shall not be entitled to any additional payment, the Contract Price shall not be reduced (in the case of the Employer as the claiming Party), the Time for Completion (in the case of the Contractor as the claiming Party) or the DNP (in the case of the Employer as the claiming Party) shall not be extended, and the other Party shall be discharged from any liability in connection with the event or circumstance giving rise to the Claim.

Claims for additional payment due to prolongation

- ❑ EOT will **not automatically** result in an entitlement to **any additional payment** for **prolonged period**.
- ❑ If the contractor is also entitled to the compensation,
He should be obliged to **submit a claim** for the **additional payment**
 - ❖ This is in **addition to the payment** for the **additional work**
 - ✓ Additional work usually would be measured at the **rates and prices** contained in the **contract**.

Claims for additional payment due to prolongation



Claims for additional payment due to prolongation

- ❑ Again, under FIDIC, the Contractor's recourse is contained in the following provisions:

20.2

Claims For Payment and/or EOT

If either Party considers that he/she is entitled to any additional payment by the other Party (or, in the case of the Employer, a reduction in the Contract Price) and/or to EOT (in the case of the Contractor) or an extension of the DNP (in the case of the Employer) under any Clause of these Conditions or otherwise in connection with the Contract, the following Claim procedure shall apply:

20.2.1 Notice of Claim

The claiming Party shall give a Notice to the Engineer, describing the event or circumstance giving rise to the cost, loss, delay or extension of DNP for which the Claim is made as soon as practicable, and no later than 28 days after the claiming Party became aware, or should have become aware, of the event or circumstance (the "Notice of Claim" in these Conditions).

If the claiming Party fails to give a Notice of Claim within this period of 28 days, the claiming Party shall not be entitled to any additional payment, the Contract Price shall not be reduced (in the case of the Employer as the claiming Party), the Time for Completion (in the case of the Contractor as the claiming Party) or the DNP (in the case of the Employer as the claiming Party) shall not be extended, and the other Party shall be discharged from any liability in connection with the event or circumstance giving rise to the Claim.

Claims for additional payment due to prolongation

It is a common practice for contractors to link claims for prolongation costs to claims for extensions of time and to present both as one single claim.

While this **may be appropriate in straightforward circumstances**, consideration should be given to **dealing with the two subjects separately**. *Why?*

1. A claim for **EOT** often reviewed more quickly, whereas additional payment claims often, by their very nature, become **protracted** while *details of monetary calculations for prolongation are considered, discussed and negotiated.*
2. Likely that different personnel will examine the time and monetary issues.
3. While the Contractor may claim a certain number of days for an extension of time, Engineer may determine that a lesser time is warranted for compensation.

Claims for additional payment due to prolongation

It is a common practice for contractors to link claims for prolongation costs to claims for extensions of time and to present both as one single claim.

If it is **decided to submit two separate claims**, **care must be taken** to comply with the time frames prescribed in the Contract for the submission of the prolongation costs.

So, what is the better approach?

A sensible way of dealing with this is to submit both the extension of time claim and the claim for additional payment at the same time,

but

as separate and discrete submissions.

Acceleration and disruption claims

ACCELERATION

- ❑ It could be that the **Employer** has **prevailed** upon the Contractor to **accelerate the work** to
1. Mitigate delays caused for which the employer is **allocated the risk (recovery schedule provided)**, or
 2. Complete the project earlier than the time for completion provided for in the contract (**accelerated schedule provided**)

What costs would be incurred to the contractor?

موسسه مهندسی و مدیریت ساخت علوی پور (ACEMI)

دفتر آموزش



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