

Claim Management in Construction Contracts



Introduction of Participants



Brief Overview Of The Session



Section 1: Introduction to
Construction Claims



Section 2: Claim Preparation
and Documentation



Section 3: Claim Evaluation and
Resolution

The background of the slide is a photograph of a construction site at sunset. A large tower crane is visible on the left, its arm extending across the top of the frame. In the foreground and middle ground, there are several structures under construction, heavily encased in scaffolding. Silhouettes of workers can be seen on these structures, some appearing to be working on a horizontal beam. The sky is a mix of orange, yellow, and blue, indicating the time is either dawn or dusk. On the right side of the slide, there is a white curved shape with a faint grid pattern.

Section 1: Introduction to Construction Claims

Understanding Construction Claims

Understanding Construction Claims

- Construction claims arise when one party to a construction contract seeks **compensation** or/and an **extension of time** due to unforeseen events or breaches by the other party.

Different types of claims



Delay Claims

- When the project is delayed due to factors beyond the contractor's control.
- Eg:
 - Delay in Site/ work front handover
 - Delay in Approval of Designs
 - Delay due to hinderances at site (like existing structures, pipelines, trees etc.)
 - Force Majeure (Covid-19 pandemic, flood etc)



Variation Claims

- When changes to the work scope lead to additional costs or time.
- Eg:
 - Change in specification
 - Increase in quantity (of supply/ site work)
 - Re-work/ abortive work
 - New scope

Disruption Claims

When work is disrupted, causing inefficiency.

E.g.:

- Congested Site
- Lack of available resources (construction material, skilled manpower etc)
- Time taking process of entry at site for workers on daily basis.
- Repeated clarifications/ observations from customer leading to slow progress.

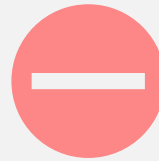
Issues:

- Difficult to evaluate
- Difficult to establish claim

Acceleration Claims



When the contractor is required to speed up work to meet deadlines.



E.g.: Customer asked for completion of project or a portion of the same before the scheduled completion.



Inclusions:

Cost of Increased resources



Overview of Contractual Framework

- Types of Contract Conditions:
 - Standard (based on some internationally accredited guidelines)
 - Adhoc / stand-alone

Some Standard Contracts

FIDIC

- Published by The **International Federation of Consulting Engineers** (commonly known as **FIDIC**). Head Office: Switzerland.
- Most widely referred conditions of contract.
- Fairly balance the contract conditions between both parties.

NEC

- New Engineering Contract (NEC) is created by the UK Institution of Civil Engineers.
- Largely used for government contracts in UK. Also used in several other countries.

JCT

- Joint Contracts Tribunal (JCT) by the Royal Institute of British Architects (RIBA), also publishes guidelines for construction contracts.

Most Common Types of Contracts

Government customers:

- Don't follow any standard form of contract.
- Conditions are heavily inclined towards customer.
- Restrictive clauses are used to avoid any claim from contractors.

Private customers:

- May have balanced conditions.
- Largely focus on expeditious completion of work
- Flexible in making cost adjustments

Legal & Contractual Framework



Contract conditions cannot supersede the Law of Land



Any condition that infinitely restrict the rights of one party is bad in law.



Any change in customer requirement (including change in sequence, early or delayed completion etc) is a variation event.



Some Points to Remember

- Always read contract conditions.
- Perception can be different than reality.
- Look for even the small differences between contract scope vs actual working.
- Make sure to list & highlight each variance in time.

Section 2: Claim Preparation and Documentation

Claim Preparation: Step-by-Step



Identifying the Event

Recognize when a claimable event occurs.



Notifying Parties

Timely notification as per contract requirements



Gathering Evidence

Collect relevant documents, photos, and logs



Quantifying Impact

Time & Cost Impact Analysis

Documentation and Record Keeping

Contract (relevant conditions)

- Basis of Claims

Correspondence

- Emails, letters, CRS, MoMs etc.

Site Records

- Photographs, DPRs, MPRs, Hinderance Register, site notes, site correspondence.

Schedules

- Approved Baseline
- Actual time taken in activity

Template for Claim Notification

Subject: Claim Notification for [Project Name]


Dear Sir,

We are writing to formally notify you of a claim in accordance with Clause [relevant clause number] of our contract dated [date of contract]. This claim arises due to [briefly describe the event or issue, e.g., unforeseen site conditions, delay in receiving drawings, changes in scope].

- Event Description [Provide a detailed description of the event or issue that has led to the claim]
- Event Date::
- Impact: [Time/ Cost OR Both]
- Est Impact on Time:: [Describe how the event has affected the project schedule, including specific delays]
- Impact on Cost: [Describe any additional costs incurred or anticipated as a result of the event]
- Supporting Documents; [Enclose the supporting documents whatever available, if any]

We are currently in the process of gathering and compiling all necessary documentation to substantiate this claim. The detailed claim will be submitted shortly.

Sincerely,



Tips for Effective Notification

- Make sure to provide all relevant details specific to the claim.
- Be clear and concise in your descriptions.
- Attach all necessary supporting documents/ photos and ensure they are well-organized.
- Refer to the relevant clauses from the Contract to substantiate the claim.

Tips for Record Keeping



Make separate folders for each Claim



Keep copy of all relevant documents in the folder in PDF.



Maintain a chronological register of claims/ delays.



Ensure to include discussion on claims/ variance in internal meetings.

Section 3: Claim Evaluation & Settlement

Evaluating Claims

- Cost impact analysis
 - Direct Cost Evaluation
 - Indirect Cost Evaluation
- Time impact analysis
 - Impact on specific activity
 - Impact on overall project





Cost Analysis

- Components
 - Rate Analysis of the Variation
 - Reference/ Supporting documents for establishing rates considered.
 - Clear record of additional cost incurred.
 - Proof of payment against cost incurred.

Time Analysis



Establish Start Date and End Date of Event.



List all impacted activities and evaluate the impact on each.



Compare with the duration of activity as per approved Baseline.



Evaluate the impact on overall project by putting the delay in Baseline.

Claim Resolution/ Settlement



Steps in Claim Settlement

- Mutual Negotiation
- Dispute Settlement Board/ Committee
- Mediation
- Arbitration
- Litigation



Feedback/ Suggestions



Thank You

