



KING FAHD UNIVERSITY OF PETROLEUM & MINERALS

CONSTRUCTION ENGINEERING & MANAGEMENT DEPT.

Construction Claims Avoidance

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Introduction

- A claim is a tool used by contractors to request more time and/or money.
- Construction contracts are seldom written in such a way not to leave a room for different interpretation.



Objective

- Objective of this term paper is to discuss avoidance procedures for claims in construction industry.
- Procedures will include owners, contractors and design offices – thus, all parties.
- A conflict of interest is existed between those parties. Hence, each procedure will be discussed individually.



Methodology

- Construction Claims Avoidance published papers and articles were searched.
- A literature review was done and the suitable ones were selected.
- However, there are many other methods not included in this term paper.
- The ones will be discussed can not stand alone and eliminate claims but it can reduce them.



Can Construction Claims be Avoided?

- Only a small percentage of the construction claims can not be avoided.
- As shown in the term paper 145 projects out of 175 had suffered from delays and claims.
- Average delay was 5.69 months.
- Owners who spend 4-5 months in investigating planning and designing more than what they actually did saved at least 20% of the actual cost.



Owners Protection Against Claims.

- Accountants and auditors are rarely invited to join contract award/negotiation team.
- 2 categories of cost are existed: direct and indirect.
- The owner need a strategy put by accountants to distinguish between both costs.
- Contractor should define each category of cost as direct or indirect.
- **THE X-CHART:** Accountants should analyze the contractors X-chart and look into the contractors accounting system at the pre-award audit.
- When claims arises, we can audit it with high accuracy.
- **CONTRACTORS INTERNAL CONTROL:** must be checked over accounting systems.
- **DOCUMENT FORMAT:** Owner should tell contractors in what format he expect them to submit the billing for work performed.



Contractors Protection Against Claims.

- Contractors frequently fail to protect their contractual position.
- **DESIGN CHANGES IMPACTS:** Contractor should include a notation to preserve the right to claim for impact costs when they can be accurately determined.
- **RECORD KEEPING:** Contractors should maintain a record keeping system that accurately tracks and monitors project activities.
- **NOTICE PROVISIONS:** Contractors are advised to make a checklist of all requirements of notice provisions as in this Figure.

Type	Clauses in Contract Agreement	Clauses in General Conditions	Clauses in Supplementary Conditions	Number of Days for Notification
Delay/Time Extension				
Changes/Extras				
Acceleration				
Differing Soil/Site Conditions				
Disputes				

Figure 1—Notice Requirement Checklist



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- **DISCLAIMER CLAUSES:** owners may disclaim liabilities for many of the unforeseen risks like:
 - ◆ No Damage for Delay
 - ◆ Examination of the Work Site



- **PRODUCTIVITY CONTROL SYSTEM:** Labor activity control, accurate reporting and management attention in early stages are some advise to efficient Control System.
- **UTALIZATION OF CPM:** contractor is strongly advised to use it.



Integrated Approach for Avoiding Delay Claims.

- **PARTNERING:** it promote harmony and cooperation on a project.
- **CONTEMPORANEOUS PERIOD ANALYSIS:** is designed to ensure that project delays are analyzed within the context of the schedule existing at the time when the delay occurred.
- **USE A PROJECT NEUTRAL:** An independent construction industry expert who is used to facilitate the resolution of dispute.
- **MEET AND AGREE OFTEN:** at least monthly to review CPM schedule update in details.
- **OBTAINING ALL PROJECT TEAM MEMBERS APPROVAL.**
- **FRAGMENT SCHEDULE:** It provides the team with great flexibility and ability to prepare recovery schedules for the project.



Summary & Conclusion

- Claims may be prevented or avoided but can not be eliminated.
- Owners have to audit and have the advise of accountant in the pre/award stage using the X-charts and Contractors Internal Controls.
- Owners should inform the Contractor of the Documenting Format.
- Record keeping and CPM are very important for all parties.
- Partnering between parties can resolve a lot of claims.
- Project neutral is very important in case of dispute.

