

ADVANCED CONTRACT MANAGEMENT

INTRODUCTION

"Every contract imposes a duty of Good Faith and Fair dealing in the performance of the contract, including and honest and sincere intention to fulfill one's obligations". The Contract Management functions and the duties of the project managers, contract administrators, and contract analysts to ensure that the parties to a contract fulfil their contractual obligations. In addition, minimising and mitigating claims and disputes is an essential part of Contract Management to lessen the disruptive and costly effects on the execution and implementation of any project.

BENEFITS

This program will teach participants how to identify and avoid common design errors and construction mistakes through intense and interactive case studies and group discussions.

PRESENTER

Dr. Jamal F. AlBahar, PMP, AVS

Registered Arbitrator Dubai, U.A.E. and Kuwait - Associate Value Specialist, SAVE, USA

Active Member: PMI, CMAA, AACE, AAA, PMA, SAVE, CSI, President, PROMIS- Project Management Engineering Systems

Dr. AlBahar, is a regional expert in project management applications and a well recognized consultant in construction contracts and claims analysis. Dr. AlBahar is a frequent regional and international speaker on subjects related to project management, construction contracts, tendering procedures, claims analysis/evaluation, arbitration, and value engineering. Dr. AlBahar has conducted over 500 public and in-house training courses in the last 20 years on subjects related to contracts, claims analysis and pricing, project management, value engineering, budgeting and cost estimating, and effective project administrative procedures. Dr. AlBahar is a registered arbitrator in Kuwait, Bahrain and the U.A.E.

PROGRAM

DAY ONE

INTERPRETATION AND ENFORCEMENT OF CONTRACTS DETERMINING GOVERNING LAW

- Common law of contract, Civil law
- Law applicable to construction contracts

PRINCIPLES OF CONTRACT INTERPRETATION

- Parol Evidence Rule
- Principal Purpose Doctrine
- FIDIC approach
- Exculpatory "Onerous" Clauses

DAY TWO

BASIC CONTRACT PROVISIONS

- Authority and Notice, Client's Delay
- Political and Economic Risks
- Breach of Contract by Contractor and Termination

RISK MANAGEMENT

- Sharing of Project Risks
- Historical Records and documentation
- Risk Mapping Diagramming Technique
- Flow Charting and Interviewing Technique

THE COMMUNICATION PROCESS!

- How to reduce or eliminate ambiguity in communication between the parties
- Preparation of detailed contract schedule and updates
- The Conditions of Contracts and its relationship to Contract Administration and Potential Claims
- Essentials of effective project documentation

DAY THREE

THEORIES OF RECOVERY IN CONTRACTS

- Differing Site Conditions
- Delays and Acceleration
- Client's Negligence
- Interference with Contractual Relationship

CLAIMS AVOIDANCE AND ADMINISTRATION

- Design Changes
- Accord and Satisfaction Between the Parties

CLAIMS AGAINST CONTRACTORS

- Claims for Delay
- Contractor's Default

CLAIMS AGAINST CONSULTANTS

- Standard of Care
- Defective Design

DAMAGES

- Mitigation of Damages
- Reasonableness of Amount
- Actual Damages

DAY FOUR

REMEDY-GRANTING CLAUSES

1.VARIATION

- Constructive Variations; Notice
- Owner Nondisclosure

2.DIFFERING PHYSICAL CONDITION

- Conditions Anticipated
- Recovery Rights

3.DELAYS AND ACCELERATION

- Acceleration; Directed and Constructive
- Concurrent Delay

4.PRESERVING CONTRACTOR'S CLAIMS RIGHTS

- 28-Day Follow-Up
- Reservations of Rights

DAY FIVE

CLAIMS DEFENCES, ANALYSIS AND NEGOTIATION

1.BARGAINED FOR RISKS IN GENERAL

- No Damages for Delays Clauses
- Challenging Contractor Performance
- Tactical Considerations

2.CONTRACTUAL ENTITLEMENT FOR CLAIMS

- Entitlement from the Owner's perspective
- Entitlement from a third party perspective
- General recovery theories

3.NEGOTIATING A SETTLEMENT

- Understanding Your Opponent
- Skills of Contract Negotiations Techniques
- Making the Deal

PROJECT / CONTRACT CLOSE OUT

- Record document retention statuses
- Beneficial Use / Partial Utilization
- Defects Liability Period
- Post Completion Report - "Lessons Learned?"