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بروجاكس للتدريب والتطوير  
Projacs Training and Development

# Construction Contract Planning, Claims & Counterclaims (CMC Workshop 3, 4, 5, 6) – Certificate Program

تصميم وتخطيط عقود المشاريع وتحضير وإدارة  
المطالبات – معتمد عالمياً

06 – 17 April 2020

Kuala Lumpur / Malaysia

A Member of:



PROJACS ACADEMY



ProjacsAcademy.com



## Introduction

### **WORKSHOPS 3 & 4**

#### **CONTRACT PLANNING, DESIGN & ADMINISTRATION TO PREVENT DISPUTES:**

**Select the Most Appropriate Project Delivery System to Meet Project Objectives; and Time, Cost & Document Control, Dispute Management and Effective Communication**

#### **Overview**

These two workshops are designed to help you fully realize the risks of disputes associated with a project during its different phases, and to define and fully understand the parties' obligations to mitigate such risks. You will learn how to design the contract with measures to avoid the negative outcomes of such disputes. You will also learn how to select procurement strategies and procedures, along with how to select the best contractor for the project. You will also systematically cover the subjects vital to training good contract and field administrators to manage time, cost, documentation, and disputes during this phase. A variety of case studies will be presented.

### **WORKSHOPS 5 & 6**

#### **DISPUTE MANAGEMENT & RESOLUTION, CLAIM PREPARATION & SETTLEMENT**

**Claim Analysis & Assessment, Alternative Dispute Resolution, and How Claims & Counterclaims Arise, are Initiated, Submitted, Calculated, Analysed & Resolved Successfully**

#### **Overview**

In these two workshops you will analyse the issues when a dispute arises during construction and examine its time and cost impacts on a project, thus preventing the dispute from becoming a claim. The time and energy expended in addressing claims resulting from unresolved disputes, putting them forward and defending against them is out of all proportion to the cost/benefit expected. You will also learn how to deal with contract claims since most projects are modified and changes made within and outside the scope of work, in some instances delaying or accelerating the pace of work, which may result in a claim if the dispute is not settled. These workshops will provide expert, practical information and advice for the parties to analyze and understand the issues that arise when a claim is made, and also how to prepare and negotiate a settlement and produce a counterclaim if needed. They will help you to resolve such claims in a more effective manner and avoid lengthy and expensive litigation. A variety of case studies will be presented.

## Objectives

### **WORKSHOPS 3 & 4**

How to...

- Select the Most Appropriate Contract Strategy
- Design the Contract to Mitigate the Risk of Disputes
- Design a Dispute Resolution System
- Prepare Tendering Documents
- Analyze Bid and Award Contracts
- Select the Most Suitable Contractor
- Estimate Costs and Analyze Cash Flow
- Prepare Project Schedules and Resource Planning
- Review Contract Documents Before Construction
- Establish a Responsibility Matrix for this phase
- Control Project Documentation and Cost, Time and Quality
- Communicate Effectively during Contract Administration
- Prepare for Project Hand-Over

### **WORKSHOPS 5 & 6**

How to...

- Analyse Dispute Causes and Their Impact on Time and Cost
- Assess Parties' Entitlements and Negotiate Settlements
- Mediate Disputes
- Address Claims for Unforeseen Conditions at the start of the job
- Assess Claims for Variations
- Evaluate Claims related to Project Scheduling
- Counterclaim Against the Contractor
- Resolve Claims

## Course Outline

### **WORKSHOPS 3 & 4**

#### **Day 1**

##### **General Introduction to Contracting**

- The Life Cycle of Projects
- Reasons for Construction Disputes: Consultants, Clients, Contractors,
- Sub-Contractors
- Contractual Relationships
- The Parties' Obligations

##### **Selecting Contracting Strategies, Procurement Methods and the Impact on Disputes during the Project**

- Standard Forms
- Stipulated Price Contracts
- Unit Price Contracts
- Cost Plus a Fee Contracts
- Design-Build Contracts
- Construction Management Contracts
- Case Study

#### **Day 2**

##### **Contractor Selection**

- Selecting an Appropriate Form of Procurement to Minimize Disputes
- Designing a Dispute Resolution System
- Preparation of Construction Documents
- General Aspects of Tendering and Bidding
- Pre-Award Considerations
- Contractor's Pre-qualification, Value Engineering, Constructability
- Review
- Tender Selection and Awarding
- Owner's Responsibilities during Project Delivery
- Case Study

### **Day 3**

- Cost Estimation Methods and Project Budgets
- Cash Flow Analysis
- Project Planning and Scheduling
- Resource Management
- Software Applications
- Case Study

### **Day 4**

#### **Project Documentation and Control Systems**

- Contract administration in the field – roles of the parties
- Pre-construction activities
- Keeping good records
- On-site coordination meetings and communication
- Measures to Minimize Disputes
- Claim protection and mitigation
- Case Study

### **Day 5**

#### **Effective Cost and Time Control**

- Payments and payment certificates
- Procedures for change request processing and cost control
- Monitoring job progress and scheduling requirements
- Earned value and project control
- Monthly status reports
- Legal concerns in construction field administration
- Case study
- Conclusion

## **WORKSHOPS 5 & 6**

### **Day 1**

#### **Dispute Causes and Their Impact**

- Suspension of Work
- Re-sequencing of Work
- Variation Orders
- Variations in Estimated Quantities
- Differing Site Conditions
- Defective Specifications and Drawings
- Acceleration of the Work
- Force Majeure
- Termination for Convenience
- Termination for Default and Re-procurement

#### **Cost Estimation for Variations**

- Contract Stipulations to Calculate Cost of Variations
- Case Study

### **Day 2**

#### **Claims for Unforeseen Conditions at the Start of the Job**

- Contractor's Obligation to Investigate the Site
- Employer's Obligation to Give Information About the Site
- Unforeseen Behaviour or Conditions
- Engineer's Role in Mitigating Such Claims

#### **Claims for Variations**

- Variation Order Cost Estimates
- Job Factors Affecting Productivity
- Overhead and Profit
- Reservation of Indirect Costs
- Forms for Pricing Changes
- Case Study

### **Day 3**

- Scheduling Provisions
- Emphasis on Network Analysis Techniques
- Techniques for Delay with Construction Project Management (CPM)
- Concurrent Delays

## **Evaluation of Claims Related to Project Scheduling**

- Acceleration/Job Compression
- Checklist for Use of CPM in Litigation
- Claims for Delay
- Claims for Disruption
- The Relationship Between Loss and Expense and Extensions of Time
- Damages for Delay
- Case Study

## **Day 4**

### **Substantial Completion and Contract Close-Out**

- Contract Requirements
- Commissioning and Handing-Over
- Substantial Completion
- Preparation of Punch List
- Starting of Systems
- Case Study

## **Day 5**

### **Counterclaims Against the Contractor**

- Set-Off Claims by the Employer
- Liquidated Damage Claims by the Employer
- Claims by the Employer Arising from Defective Materials & Workmanship
- Claims by Sub-Contractors for Money Arising from Delay and Disruption caused by the Contractor Under the Contract

### **Claim Resolution**

- Negotiation and Mediation to settle claims by the parties
- Arbitration of claims
- Litigation
- Case Study
- Conclusion

## Training Method

- Pre-assessment
- Live group instruction
- Use of real-world examples, case studies and exercises
- Interactive participation and discussion
- Power point presentation, LCD and flip chart
- Group activities and tests
- Each participant receives a binder containing a copy of the presentation slides and handouts
- Post-assessment

## Program Support

This program is supported by interactive discussions, role-play, and case studies and highlight the techniques available to the participants.

## Schedule

**The course agenda will be as follows:**

- |                     |                  |
|---------------------|------------------|
| • Technical Session | 08.30-10.00 am   |
| • Coffee Break      | 10.00-10.15 am   |
| • Technical Session | 10.15-12.15 noon |
| • Coffee Break      | 12.15-12.45 pm   |
| • Technical Session | 12.45-02.30 pm   |
| • Course Ends       | 02.30 pm         |

## Course Fees\*

- **5,500USD**  
*\*VAT is Excluded If Applicable*



## مقدمة

### أهداف ومنافع البرنامج

الهدف الرئيسي من هذا البرنامج هو تعريف المهندسين ومدراء المشاريع على نظام فعال لإدارة النزاعات في العقود وتلافي أية نتائج سلبية نتيجة هذه النزاعات وذلك في مراحل المشروع المختلفة بدءاً من مرحلة التخطيط ثم الإدارة التنفيذية والمرحلة النهائية لإغلاق العقد وتسوية المطالبات. تتصف صناعة التشييد بالعدائية بين الأطراف مما يجعل حدوث النزاعات أمر شائع ووارد ولذا فإنه من الأهمية القصوى أن يتم إعداد مدراء المشاريع والعقود وتزويدهم بالثقافة والأساليب الفعالة لتناول هذه الخلافات والحد من وقوع أي أضرار سلبية على العناصر التي تحدد نجاح المشروع من حيث الوقت والكلفة والجودة. أما الورش من الخامسة حتى السادسة فهي تركز على إدارة المشاريع في مراحلها المختلفة أي مرحلة التخطيط للمشروع قبل البدء فيه ومرحلة تنفيذ المشروع حتى مرحلة إغلاق العقد وتسوية المطالبات. الورشة الخامسة تركز على مرحلة الإدارة الموقعية بدأً بتحديد دور الأطراف بتصميم المسؤوليات وشرح إدارة التغيرات ولتفادي تلاف المطالبات وكيفية الإدارة الموقعية الفعالية والتحكم الجيد بالوقت والكلفة الجيدة لتحقيق أهداف المشروع. الورشة السادسة تتعرض إلى ما بعد الانتهاء من المشروع وتسوية المطالبات المتبقية وتحديد المستحقات للأطراف المختلف عليها بغرض التسوية الودية وعرض الدروس المستفادة من المشروع.

## الحضور

لا غنى عن هذا البرنامج بالنسبة لكل من يعمل في مجالات التخطيط والإدارة التنفيذية بغض النظر عن مسؤولياتهم الخاصة، ومن يرغبون في تعلم الطريقة الصحيحة لإدارة النزاعات التي قد تنشأ بين أي من الأطراف أثناء أي مرحلة من مراحل سير وتنفيذ المشروع أو العقد وكذلك فهم إدارة وحل النزاعات الناتجة عن المطالبات. وُضع هذا البرنامج، على وجه التحديد، لأصحاب المشاريع، العقود، المقاولون، المقاولون من الباطن، المهندسون الاستشاريون، والمديرون للإدارات الخاصة بالإنشاءات، ممن يرغبون في اكتساب المعرفة والخبرة العملية اللازمين للإسهام بدور فعال وإيجابي في تحقيق أهداف مشروعهم أو عقدهم بنجاح. كما بهتم هذا البرنامج، أيضاً بالهيئات التنظيمية أو الحكومية، المهندسين، أخصائي التخطيط، مهندسي الديكور الصناعي، مهندسي ديكور المباني (المدنيين)، مندوبي مُلاك المشاريع أو الشركات، مُراقبي المشاريع، العاملين في عمليات التشغيل، ومُهندسي المرافق. يمكن حضور أي عدد من الحلقات التدريبية حسب رغبة المشارك.