



MODULE 5

Notices

VIDEO 2

- **What Should be Included?**
- **Example Notice**
- **Consequences of Not Giving Notice**
- **Assignments Modules 4 & 5**

What Should be Included in a Notice of Claim?

- The notifying document should state that it is a notice
- Reference to the clause that provides entitlement
- Reference to Sub-Clause 20.1
- Describe the event or circumstances giving rise to the claim
- Reference to the date of the event or circumstances
- Request to the Engineer to advise any contemporary records he may require to be kept

Example Notice

Dawson Wilkinson Partnership
21 Main Street
Newtown

19 January 2016
Ref: LCG/NME/0150

Dear Sirs,

Red Rose Business Centre – Notice of Claim Due to Variation

We acknowledge receipt of the drawings for the fitting out of the 2nd and 3rd floors, sent under cover of Drawing Issue Note No. RRBC-DWP-DIN-023 dated 12/01/12, issued 'For Construction'. We consider this to be an instruction issued under Sub-Clause 3.3 (*Instructions of the Engineer*) and that the instruction constitutes a Variation as defined under Clause 13 (*Variations and Adjustments*).

Example Notice *cont.*

We consequently hereby give you notice under Sub-Clause 20.1 (*Contractor's Claims*) that we consider that this Variation entitles us to claim for an extension of the Time for Completion. We also consider that we are entitled to claim for additional payment for the additional works and for costs incurred due to the extended contract duration.

We shall keep contemporary records to substantiate the claims and would be grateful if you would advise us of any particular requirements you have in this respect.

We shall submit our fully detailed claim in due course.

Yours faithfully,

C. Woodward

Project Director

Cc: Jason Leonard Developments

The Consequences of not Giving Notice

- The Red, Yellow, Silver & Gold Books Sub-Clause 20.1 (*Contractor's Claims*) provides that:

“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.”

Summary

- The above condition is a condition precedent to entitlement

Can such conditions precedent be legally enforced?

- The Gold Book includes a provision whereby if the Contractor considers that there are circumstances which justify late submission of a notice, he may submit details to the DAB who may overrule the time frame

Other Requirements for Notices

- The Red, Yellow, Silver & Gold Books, Sub-Clause 1.3 (*Communications*) provides that:

“Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices and requests, these communications shall be:

- (a) in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Appendix to Tender; and
- (b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Appendix to Tender

Other Requirements for Notices

However:

(i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and

(ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

... When a notice is issued to a Party by the other Party or the Engineer, a copy shall be sent to the Engineer or the other Party, as the case may be.”

Summary

- The system of communication for notices shall be pre-agreed and as stated in the Appendix to Tender
- The address for communication for notices shall be pre-agreed and as stated in the Appendix to Tender
- Both the Employer and the Engineer should be sent a copy of notices
- The Gold Book requires notices to be specifically identified as such

Reporting of Notices

- The Red, Yellow, Silver & Gold Books Sub-Clause 4.21(f) (*Progress Reports*) requires the Contractor to include a list of notices given under Sub-Clause 20.1 (*Contractor's Claims*)



Modules 4 & 5 Assignment

Quantum and Notices

Study the assignments and answer the questions.

Refer to the Student Guidebook for details on how to access your assignments and submit them for grading