



## **MODULE 6**

### **Procedure and Presentation of Claims**

#### **VIDEO 1**

- **Procedure for Contractor's Claims**
- **Interim Claims**

# Procedure for Contractor's Claims

- The various clauses providing entitlement to an extension of time and/or additional payment include the following:

“...the Contractor shall be entitled subject to Sub-Clause 20.1 (*Contractor's Claims*) to an extension of time and/or payment of Cost ...”

- The Contractor is consequently obliged to comply with the provisions of Sub-Clause 20.1 (*Contractor's Claims*) if he wishes to pursue the matter

# Procedure for Contractor's Claims

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

“The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all these records, and shall (if instructed) submit copies to the Engineer.

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed...”

# Summary

- The Contractor is required to keep records
- The Contractor shall submit a fully detailed claim including full supporting particulars
- The claim shall be submitted within 42 days after the Contractor became aware of the claim
- Under the Red, Yellow and Silver Books, the 42 day submission period is not a condition precedent
- Under the Gold Book, the 42 day submission period is a condition precedent, although the Contractor may request the DAB to consider any circumstances that justify a late submission and the DAB may overrule the time frame

# Procedure for Contractor's Claims

- The Red, Yellow, Silver & Gold Books Sub-Clause 20.1 (*Contractor's Claims*) includes the following condition to entitlement:

“The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.”

# Summary

- The requirements of the individual clauses that provide entitlement must be complied with in addition to the requirements of Sub-Clause 20.1
- If the Contractor fails to keep records or to submit the claim within the time frame specified, the Engineer may take into account the extent that this has prejudiced a proper investigation
- The conditions precedent for notices have precedence over any other condition

# Interim Claims

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

“...If the event or circumstance giving rise to the claim has a continuing effect:

‘(a) this fully detailed claim shall be considered as interim;

‘(b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Engineer may reasonably require; and

‘(c) the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer”

# Summary

- In some cases it is not possible to calculate the final effects of an event within the 42 day period for the submission of the claim
- In such cases, the Contractor must submit interim claims until the final effects may be determined
- The Contractor should submit a final claim within 28 days after the effect has ended