



MODULE 7

The Engineer's Responses & Determinations

VIDEO 2

- **What Should be Included in the Engineer's Response?**
- **Procedure for the Engineer's Responses**

What Should be Included in an Engineer's Response or Determination?

Sub-Clause 20.1 (*Contractor's Claims*) directs the Engineer to:

“...respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim ... (Emphasis added)”

- The Engineer is obliged to “make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances”
- The Engineer has an implicit obligation to demonstrate to both the Employer and the Contractor that the response or determination is fair and reasonable and that if either party chooses to raise the matter to a dispute, they will ultimately fail

What Should be Included in an Engineer's Response or Determination?

- The Engineer's response must therefore be a comprehensive document which sets out the findings clearly and includes the same criteria as a claim:
 - Examination of the cause
 - Examination of the effect and linkage to the cause
 - Examination of the final effect on the Time for Completion with explanations
 - Calculations of the additional payment with explanations
 - Examination of the contractual entitlement
 - Substantiation of all the above
 - Remember 'CEES' – Cause, Effect, Entitlement and Substantiation



What should be Included in an Engineer's Response or Determination?

- The response or determination should be presented in a similar way to a claim, remembering the four key points:

1 Make the reviewer's job as easy and as pleasant as possible

2 Ensure that the response is a stand-alone document

3 Assume that the reviewer has no prior knowledge of the project

4 Do not include any irrelevant information

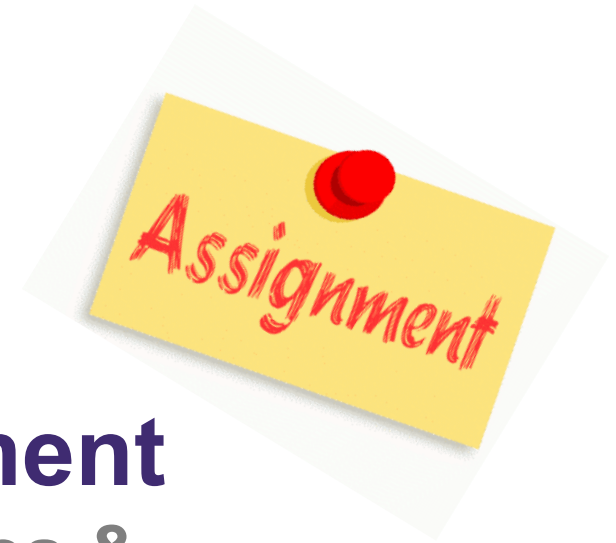


Suggested Procedure for the Engineer's Response

- Initial review
- Advise the claimant of any shortcomings and or raise queries which prevents the Engineer from reaching a determination
- Following receipt of additional particulars or a revised claim submission, proceed with an assessment
- Issue a detailed response document to both parties which sets out the findings
- After a suitable time for review by the parties, meet with the parties to accept comments

Suggested Procedure for the Engineer's Response

- Make any revisions to the response document that are appropriate following the receipt of comments
- Repeat the issue/meet/comments process if necessary until agreement is reached
- If no agreement is reached, proceed with a determination and issue a fully detailed document to set out the findings



Modules 6 & 7 Assignment

Claims Procedures, Responses & Determinations

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

Congratulations!

**You've reached the end of the
course.**