

# Understanding Claims Under the FIDIC Contracts

## INTRODUCTION

- This course on claims and the FIDIC forms of contract provides an in-depth examination of the FIDIC Red, Yellow, Silver and Gold books to provide a full understanding of the circumstances under which claims may be made, what may be claimed, the claim procedures and requirements for the Engineer's responses and determinations.

## ORGANISATIONAL IMPACT

Organization will benefit as a result of:

- Maximise company profitability
- Create a claim strategy
- Ensure the project team identifies and manages claims efficiently
- Identify and demonstrate entitlement to additional time
- Ensure that contract administration systems help to identify, support, and substantiate claims
- Maintain client goodwill
- Avoid costly and time-consuming disputes

## PERSONAL IMPACT

At the end of this training course, the participants will benefit as a result of having learned the following:

- Control project time and cost
- Create a claim response or defence strategy
- Identify, control, and respond to claims properly and efficiently
- Evaluate and verify entitlement to additional time
- Ensure that contract administration systems help to avoid, identify and controls claims and that records are available for claim defence

## Course Outline

### Module 1 - Introduction to the FIDIC Forms of Contract and Claims

- The first module provides an introduction to the Red, Yellow, Silver and Gold books and their differences and usage. It also defines a claim, explains what may be claimed and discusses the allocation of risk within each form of contract.

### Module 2 – Employer’s Claims

- The second module contains in in-depth examination of the clauses that allow the Employer to claim from the Contractor and the procedures that should be followed.

### Module 3 - Contractor’s Claims

- This module contains in in-depth examination of the clauses that provide entitlement to the Contractor to make a claim.

### Module 4 – Quantum

- Module 4 discusses what may be claimed under different circumstances and discusses important principles to bear in mind when making a claim and calculating quantum. Topics examined are extensions of time, cost and profit.

### Module 5 - Notices

- Failure to submit notices may be fatal to an otherwise just claim. This module explains the requirements for various notices, what a notice should contain and how and when notices should be submitted. Also discussed are the consequences of not giving notice, conditions precedent and whether these may be legally applied.

### Module 6 –Procedure and Presentation of Contractor’s Claims

- Contractor’s claims often fail, not because the claim is not just, but because the Contractor has failed to prove his case effectively. Module 6 discusses the FIDIC procedure and requirements for a claim submission and expands on these to explain how a claim may be properly and professionally presented so as to reach resolution in a timely manner.

### Module 7 – The Engineer’s Responses and Determinations

- Disputes and ill-will often arise because the Engineer either does not make an award for a just claim or does not properly explain the reasons behind a rejection or the award of a lesser amount than that claimed. The Engineer also often fails in his obligations to consult with the Parties and attempts to reach amicable settlement. The final module discusses the purpose of

an Engineer's response, what should be included within the response and suggests a procedure for dealing with claims so that the Engineer's obligations are met and disputes are avoided.

## Module 8 - Finalising the Claim

- Understand why the Executive Summary and Statement of Claim are important parts of a claim narrative
- Learn what should be included in these sections and how to effectively draft them
- Appreciate the importance of substantiating every statement made, every fact relied on and each calculation included in the claim
- Understand how to best provide substantiation to assist the reviewer and to ensure that your claim is a stand-alone document
- Learn how to organise and present exhibits, programmes, calculations and other documents. Ensure anything relied upon in the claim narrative is designed to make the reviewer's job easy and efficient
- Appreciate the importance of having a peer review carried out before finalising the claim

