

Claim Management in Construction

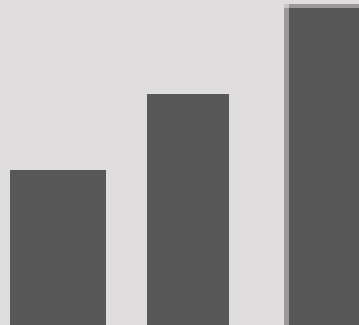


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Outline of the Presentation

- 🤝 Definitions
- 🤝 Basis and Sources of Claims
- 🤝 Phases of Claims Management
- 🤝 Types of Claims
- 🤝 Requirements for and Presentation of Claims
- 🤝 Technology and Claims Management



1. Simple Definitions

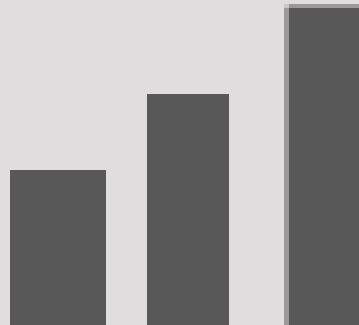
Construction Claim

- A claim is an assertion of a right to property, money or a remedy.
 - Construction Claim can be defined as a request by either party to the contract, **usually the Contractor**, for compensation for damages caused by failure of the other party to fulfil his part of obligations as specified in the contract. The compensation is usually in the form of the additional payment or an Extension of Time (EOT).
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1. Simple Definitions

Management

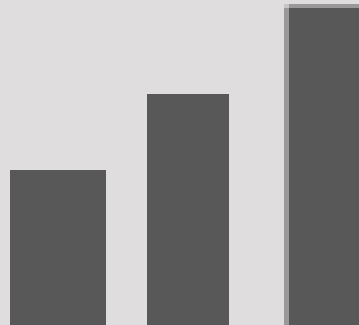
Management is the coordination and administration of tasks to achieve a **goal**. Such administration activities include setting a strategy and coordinating the efforts of all resources towards accomplishing the objectives.



1. Simple Definitions

Construction Claim Management

A continuous and coordinated effort made by contract administrators/claims Engineers that follows a predefined procedural and strategic steps in order to assure the party they represent is granted a compensation for the damages suffered as a result of the inactivity of the other party.



2. Bases of Claims

Contractual

Extra-Contractual

Claim
Event

Breach
of
Contract


Tort

Quantum
meruit

Ex gratia

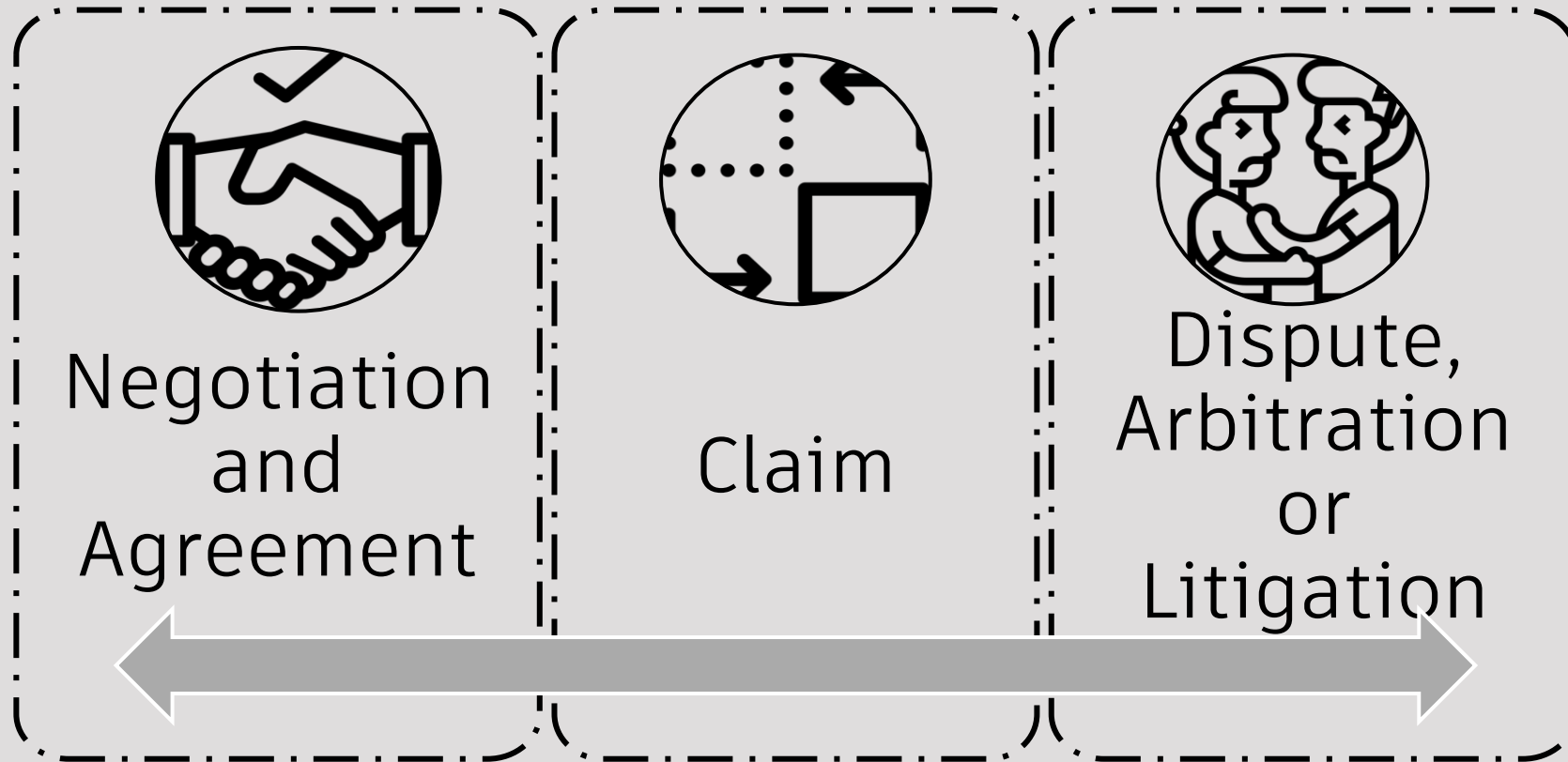
3. Sources of Claims

Claims can arise from various sources:

- Action or Inaction of the other party
 - Changes (Variations/Alterations)
 - Unknown facts or Faults on Contract Document
- ❖ *All changes might not result claims, what distinguishes a claim from a change is the element of disagreement between the parties as to what is due or whether or not anything is due.*
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- Three vertical bars of increasing height are located in the bottom right corner of the slide.

3. Sources of Claims

Fate of a Claim



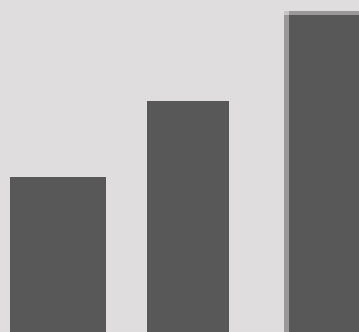
4. Phases in Claims Management

Phase 1: Claim Prevention

- Mostly applicable during project planning and contract formulation phase.

The best way to prevent claims is to have no claims to prevent!

- Involves
 - ✓ Project Scope Assessment (delivery, time frame, budgeting ...)
 - ✓ Risk Identification and Mitigation (PS, Negotiation schemes ...)
 - ✓ Strength and Weakness of Stakeholders



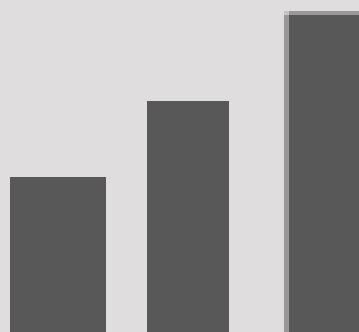
4. Phases in Claims Management

Phase 2: Claim Mitigation

- Since perfect conditions and control on every thing is impossible, best approach is to **mitigate** the possibilities of arising claim all through progression of the contract.

Timely and fast communication/decision towards sources of claims!

- Involves
 - ✓ Project plan – clear and described scope of work
 - ✓ Clarity of communication and language
 - ✓ Joint recognition of changes



4. Phases in Claims Management

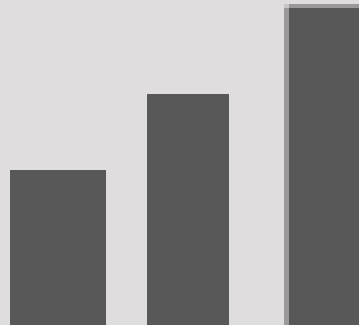
Phase 3: Claim Enactment

- This step provides an approach to successfully pursue a claim in a contract.

No party shall take extra financial burden for the default, omission and commission of other party!

Involves

- ✓ Claim Identification (Scope, Contract Terms, Change, Delays ...)
- ✓ Claim Quantification (Additional Time, Cost or Both)



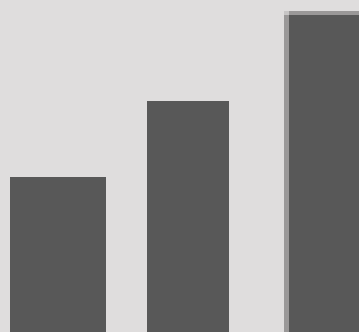
4. Phases in Claims Management

Phase 4: Claim Resolution

- Even if every effort is made to prevent claims, they may nevertheless emerge due to a justified disagreement.

The goal is to settle disputing issues as soon and at the lowest point in the parties as practicable!

Involves

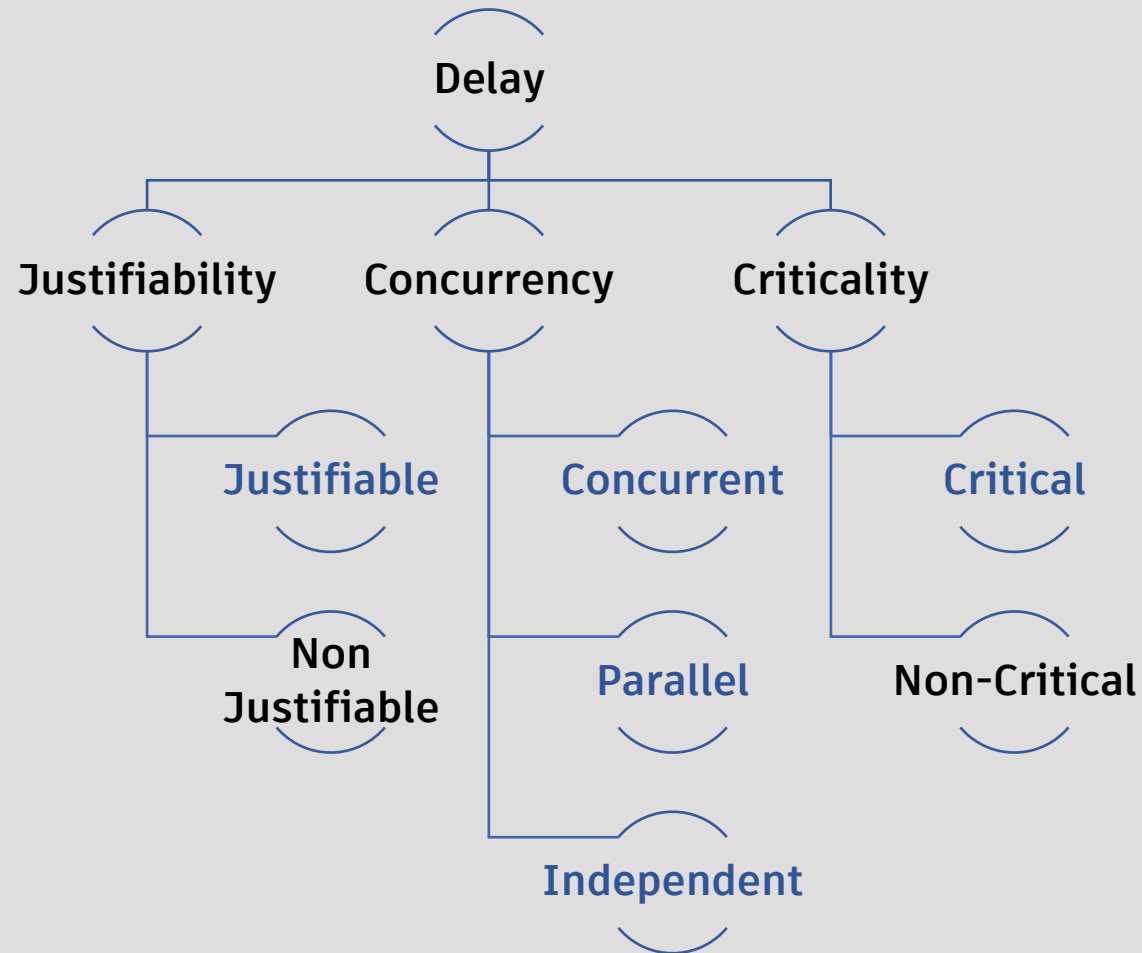
- ✓ Settlement of Claim (For factual and substantiated cases)
 - ✓ Evidence Based Decline (For cases with poor/no substantiation)
 - ✓ Alternate Disputes Resolution (Mediation, Arbitration ...)
- 

5. Types of Claims

Time Extension Claims

- EoT is a request for a change in the scheduled completion date due to a **delay** that is not the Contractor's fault.
- Causes of delays:
 - ✓ Exceptional Weather Conditions
 - ✓ Change Orders, Variations ...
 - ✓ Suspension Instructions
 - ✓ Obstruction (Physical/ Artificial)
 - ✓ Design Related and Site Possession (RoW removal, Incomplete design)

5. Types of Claims



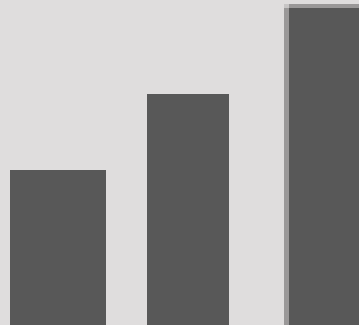
Tips

- Know the Contract and Scope of Project
- Give Notices for Probable Delays
- Document Everything
- Revise Work Programme

5. Types of Claims

Additional Cost Claims

- This is a claim for an increase in the Contract Sum due to occurrence of events giving rise to such claim.
- Causes :
 - ✓ Physical Damages due to Employer's Risk Events
 - ✓ Loss of Productivity
 - ✓ Prolongation and Disruption
 - ✓ Lost Revenue due to Suspension
 - ✓ Overhead Costs



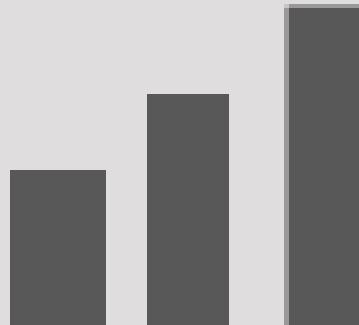
5. Types of Claims

Extension of Time Entitlements

- Initial Delays
- Interim Delays
- Final Delays

Cost Compensation Entitlements

- Prolongation and Disruption Costs
- Price Changes / Fluctuation Costs
- Payment and Release of Retention Money delay Costs
- Additional Works Costs



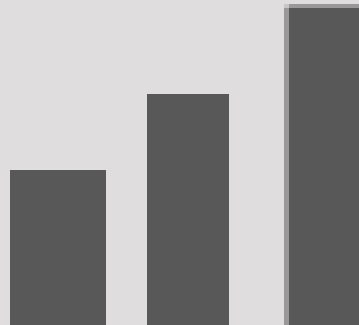
6. Requirements for Claim

Procedural Requirements

- Notice within the time frame
- Burdon of Proof

Substantiation Requirement

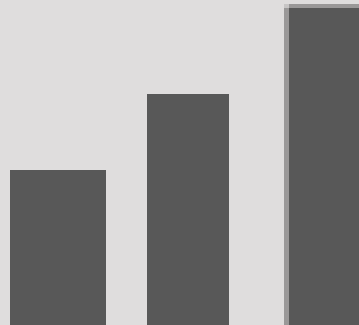
- Recording
- Provision of Documents
- Presentation



6. Requirements for Claim

Presentation

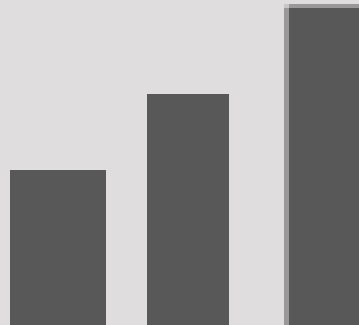
- Introduce the Project and the Document
- State the Events that Gave Rise to Claim
- Define Contractual/ Legal Basis
- Draw Entitlement (connect event with contract)
- Compute and Quantify Entitlement
- Present Evidences



6. Requirements for Claim

Contemporary Records

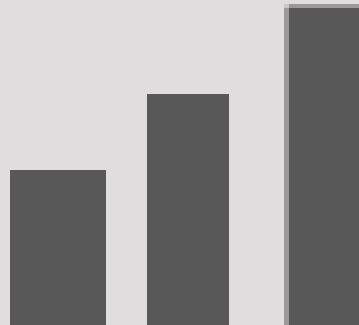
- Day Works
- Approved Master Program with Updates
- As-built Program
- Progress Photographs or Video records
- Agreed measurements of covered works
- Delay notifications



6. Requirements for Claim

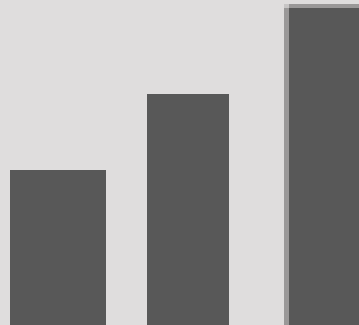
Contemporary Records

- Claim notifications
- Material orders and invoices
- Cost control
- Actual Implementation Records
- Evidences proving occurrences of excepted risks and
- Evidences for occurrence of adverse weather Condition



7. Technology and Claims Management

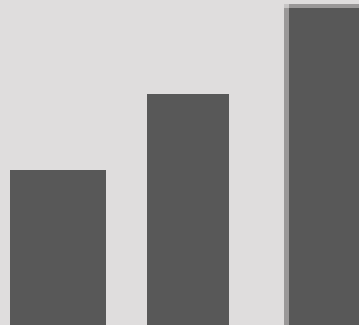
- Success of Claims Management mainly depends on the success of **justification** of facts. Procedural Alignment and Substantiation of particulars is also requirement for successful CM.
- Construction should be assisted with Technological tools to Collect Data, Process Information, Monitor Performance, Record and Access Documents.
 - Work Programs
 - ERP/ DBMS



Closing

Clauses Related to Claims - PPA

Case Study



Thank
You!

