



CONTRACT ADMINISTRATION



CONTRACT ADMINISTRATION - THE CORNER STONE OF A SUCCESSFUL CONTRACT

Contract administration is fundamental to the smooth running of any construction contract yet the role of contract administrator is often given inadequate attention until a serious problem arises. To be effective it needs to be prioritised from the outset of the contract.

What is a Contract Administrator?

Contract administrators work for clients, contractors, engineers and architects. They monitor and actively seek to ensure compliance with the contractual provisions relating to information flow, notices, valuations, payments assessments, claims for money and extensions of time.

The Objectives of Good Contract Administration

· To Establish and Implement Fair Contract Terms

A contract will be a success if the client obtains a product of the required quality, within budget, by the required date and the contractor makes a reasonable profit. If these simple criteria are not achieved one of the parties is likely to be dissatisfied, resulting in time wasting and costly disputes for both parties. It is very important therefore that when contracts are set up they acknowledge the need to achieve these basic objectives.

Success is unlikely if an unrealistically short time is allowed for execution or if an unreasonably low tender is accepted. The contract administrator must actively encourage the client to establish sensible parameters for the contract in terms of the time and budget. Having established fair terms he must remain mindful of them during the progress of the contract. Where the contract administrator works for the client

he assists in the management of the contract to ensure it is carried out within the client's budget and timescales, but must recognise that the contractor must be allowed to perform his works as efficiently as possible.

· To Ensure Knowledge and Pursuit of Obligations

Contracts place obligations upon both of the contracted parties. Good contract administration will ensure that the parties are aware of where their obligations lie and that every endeavour is made to fulfil them. However this cannot be done passively, the parties must be encouraged to tackle problems immediately and resolve them in the manner required by the contract rather than allowing them to escalate.

· To Communicate and Disseminate Information

Good communication is essential both within and between the two parties to ensure that information is issued in adequate time for work to proceed as programmed and that potential problems, changes, claim items etc. are advised as early as possible enabling the most desirable method of overcoming any problem to be established and put in hand. Late notification or direction is likely to result in the contract taking longer than anticipated and incurring additional costs. This in turn may lead to claims and disputes.



· **To Confront and Resolve Problems**

A reluctance to confront bad news often leads to poor contract management. A contractor may be averse to notifying his senior management of problems he is experiencing or anticipating until it is unavoidable. However, early advice often enables alternative methods to be used to execute work or agreement with the client's agents to achieve the desired result by a different route. A client's agent may try to ignore/reject legitimate claims for additional time and/or expense because he does not want to upset the client. However, disputes will have to be resolved eventually, much better that they are tackled actively and positively at an early stage so that the problem can at least be minimised, which in itself aids resolution.

What Makes a Good Contract Administrator?

In order to achieve the above objectives a contract administrator must be competent, resolute and objective. He must be competent in order to gain the respect of those he deals with and discourage abuse of authority and contractual situations, both of which are likely to lead to unnecessary disputes. He must be resolute to ensure that matters are dealt with as required by the contract and objective to ensure that, within the contract parameters, the interests of both the client and contractor are properly balanced. Finally, he must be a team player for however good he is he cannot achieve his task of successfully completing the contract on his own.

Contract Form is No Substitute for Good Contract Administration

It is often said, after problems have arisen during the execution of a construction contract, that the form of contract was not wholly appropriate and that had a different form been used the difficulty being experienced would have been avoided, rarely however is this true.

The construction industry is notorious for projects resulting in significant claims and disputes. This has

led to clients using new and bespoke contract terms and conditions to avoid litigation. Bespoke Partnering Agreement and Alliance Agreements, which often sit over the contract terms and conditions, are intended and are often successful in reducing confrontation aspects of construction contracts. However, new contract forms and new approaches to contracting do not in themselves resolve contractual problems. Whatever contract form is used it is essential that it is administered properly. This is no less important with Partnering and Alliance Agreements. Poor contract administration is likely to result in claims and disputes, whatever the form of contract. Equally good contract administration will minimise or avoid claims and disputes. Partnering Agreements often seek to enforce measures that a good contract administrator would practice whatever the contract form.

To conclude, contract administration should be given consideration from the outset of a contract. It should serve to ensure that both contracted parties understand and uphold the contract, that information is communicated effectively and that potential problems are dealt with efficiently. If a contract administrator is effective his presence will be felt by the team as a supportive force driving the contract towards its goal. If the role of contract administrator is ignored or carried out poorly the contract is unlikely to be completed successfully.

A good contract administrator is essential to a successful contract.

IS Consulting has provided contract administration services to both client and contracting organisations and engineers and architects across the construction, transportation, engineering, pharmaceutical and petrochemical industries.