

1 July 2019

## Experiences in Contract / Claim Management Notice of Determinations + Dispute Adjudication + Amicable Settlement

PADECO Co., Ltd. as an International Consultant served for the Ministry of Regional Development and Infrastructure (MRDI) of Georgia / Road Development (RD) Authority.

We supervised the execution of construction of East-West Highway with three lots / three contracts with a total length of 56.5 km and a total sum of 380 Million GEL. The Project was financed by Japanese Donor JICA and the Contract Administration was based on the FIDIC Pink Book (Multilateral Development Bank 2005) / Construction Condition of Contract.

We deployed Mr. Helmut F Giesa for the claim resolution of a Contractor's Claim (approximately 50 Million GEL) in 2015 and 2016. Helmut has done a sophisticated retrospective disruption and delay analysis for the three Contracts. He studied the work programmes (baseline, revised WPs), viewed known delay-impacts from the end to identify the Effect-Cause-relationship enabling the Claim Expert to assess the reasons / grounds of entitlements and quantify the delays + costs.

The preliminary results have been discussed between Employer and Contractor. Despite his high negotiation skills as a Claim Expert, he could not achieve an agreement.

Hence the Contract Expert prepared his own ascertainment and issued a fair and reasonable Notice of Determination (12 Mill GEL) in compliance with the Contract Law / Sub-Clause 02.5.

The Determination has been challenged and the Parties submitted a referral / Statement of Cases (SoC) to the Dispute Adjudication Board. The Contract Expert drafted the Response of SoC (RSoC) and all other required DB-correspondence on behalf of the Employer.

The Contract Expert gave assistance to the Employer to draft a 84-day program/road map to obtain a decision of the sole DB-Member: duration of responses, rejoinder and rebuttal of the referring and responding Party, presented the case in the Hearing; and DB-Decision [SC20.4]

The Decision of the Dispute Board Member was not accepted and a Notice of Dissatisfaction [SC 20.4] informed the Parties. The Contract Expert lead the Employer's process to reach an Amicable Settlement. The dispute could be settled – with the merits and Quantum – as mentioned in the Contract Expert's Notice of Determination. The Amicable Settlement [SC20.5] was endorsed from all Parties and became final and binding.

Some notes about the Contract / Claim Engineer with his high experiences, know-how and skills may be mentioned to understand the performance and deliveries of Helmut Giesa:

a. Technical Requirements / Product know-how for highways, tunnels and bridges; b. Resource planning and utilization (performance indicators for operations, productive & non-productive resources, equipment, plants, fuel / lubricants and material flow), c. Schedule planning / Process know-how (sequences, dependencies, floats, head and tail slacks), Tracking and Trending in Time and Contract Price, d. Financial Management / Earn Value Analysis (primary and secondary head costs, direct costs, site mobilization, site dismantling, time- and value related indirect cost, overhead, surcharges, breakdown of unit rates) e. Administrative experiences as a Project Leader / Technical Assistant in Roads Authorities in Germany, Sierra Leone. f. Contract Procedures and Contract Substantiation of Causes for Entitlements/Merits and Effects for Quantum; g. Auditor, Evaluator, Facilitator of Compliance, time- & cost scheduling, contract management.

These inevitable pre-conditions in technical, financial, administrative and contractual management capabilities have enabled the Claim Expert Helmut to settle the three disputes amicably / successfully.



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