

## Trained or Untrained? Being Claim-Ready

**Executive summary.** Contractors that deal with tough projects, tough clients, and/or tough contracts need to be in a mindset of always being claim-ready. Here's the start to being claim-ready.

**When you say "claim"-ready, you mean?** A "claim" in this context is really meant to mean impact, or change order, or yes, ultimately a claim. But the purpose of this article is to get the reader ready to offensively (not defensively) pursue their time or cost impacts. Read on.

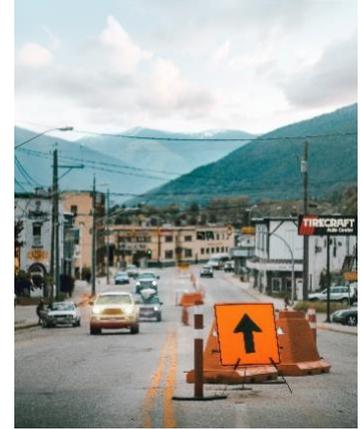
**When you say claim-"ready", you mean?** In the sense of the term claim-"ready", it's meant to be ready for going on offense in chasing your time and/or money that is rightfully yours due to an action outside of your control. "Ready" means today. Not three weeks from now. "Ready" does not mean "ready to start preparing, from scratch, my request for equitable adjustment".

So, if this is the 3<sup>rd</sup> week of this impact you're experiencing and you decide to pull the trigger today on the pursuit of this owed time and money, you can immediately get into the meat of the issue if you're a claim-ready contractor. Versus, after the 3<sup>rd</sup> week you now make the decision to start preparing for battle by gathering documents, mining for data, and analyzing and quantifying losses.

A claim-ready contractor can start today on the preparation of meaningful data which drives to a credible and fair request for equitable adjustment from a client.

**Ok, I give. How do I become a claim-ready contractor?** Here's five steps.

- ❖ **Step 1: BELIEVE** it can happen to you. If it's never happened and you haven't lost thousands, or millions, of dollars on a job on something that seemed so ridiculous and unfair, believe from others that one day you will likely have a problem.
- ❖ **Step 2: Get EDUCATED.** Talk to others in the industry in what the change management process is like and what it takes to navigate through it. Learn from the mistakes of others.
- ❖ **Step 3: Discrete DOCUMENTation.** Document on the daily reports, the progress meeting minutes, emails, texts, photos, submittals, RFIs, and letters. And be discrete in your numbering – use a sequential numbering system for dailies, meetings, RFIs, letters, et cetera. This will help when it's time to write a chronological narrative.



- ❖ **Step 4:** Know and **FOLLOW THE CONTRACT**. Know the Contract better than the owner and hold him/her to it. When you get to a claim situation there's only three things that matter to those lawyers: the Contract, the Contract, and the Contract. Know when to notify. Know when to submit schedules to substantiate your time loss. Know when to submit a cost estimation to substantiate your financial loss.
- ❖ **Step 5:** Be **PROFESSIONAL**. This behavior should ooze from each task executed in each of the steps above. Be timely and choose strong and factual and contractually compliant language when communicating.

**My story.** I've written thousands of letters putting owners on notice. Prepared thousands of Potential Change Order (PCO) requests, and several "claim" packages. There's never time on a job to do this work. You've got to make the time by working on that 2<sup>nd</sup> Sunday. However, if you get in the habit of following the steps 1 through 5 above you'll be well on



your way to being prepared that day you decide to take it to the next level. The better you can prepare along the way the easier it will be.

What is really bad is a non-believer. Someone who has never been in a claim before and letter writing and numbering is a waste of time. That happened to me in Western Washington. My project manager flat out refused to do the documentation

necessary to frame the request for time and cost impacts. So, this resulted in my flying to Seattle to sit in a double wide trailer for 2 ½ days straight over the weekend collating and stitching together emails and photos to make our point. It was painful and time consuming. Then we got our butts kicked in mediation because our position had been weakly and untimely presented to the owner.

It's like the seat belt and the trench box. Both were invented because people died. It was only after these deaths that the community and industry, respectfully, accepted these protections. Don't wait until you suffer a financial death to become claim-ready. Be trained! [QR]



**Work Safe!**