

Peculiar Contract Problems in Building, Engineering & Infrastructure Contracts.

Delivered By:

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Structure of the Presentation

1. Overview of Building, Engineering, and Infrastructure Contracts
2. Definition of Contract Problems in Construction
3. Importance of Understanding Peculiar Contract Issues
4. Types of Contractual Problems
5. Risk Management & Mitigation Strategies
6. Conclusion & Recommendations



Overview of Building, Engineering, and Infrastructure Contracts:

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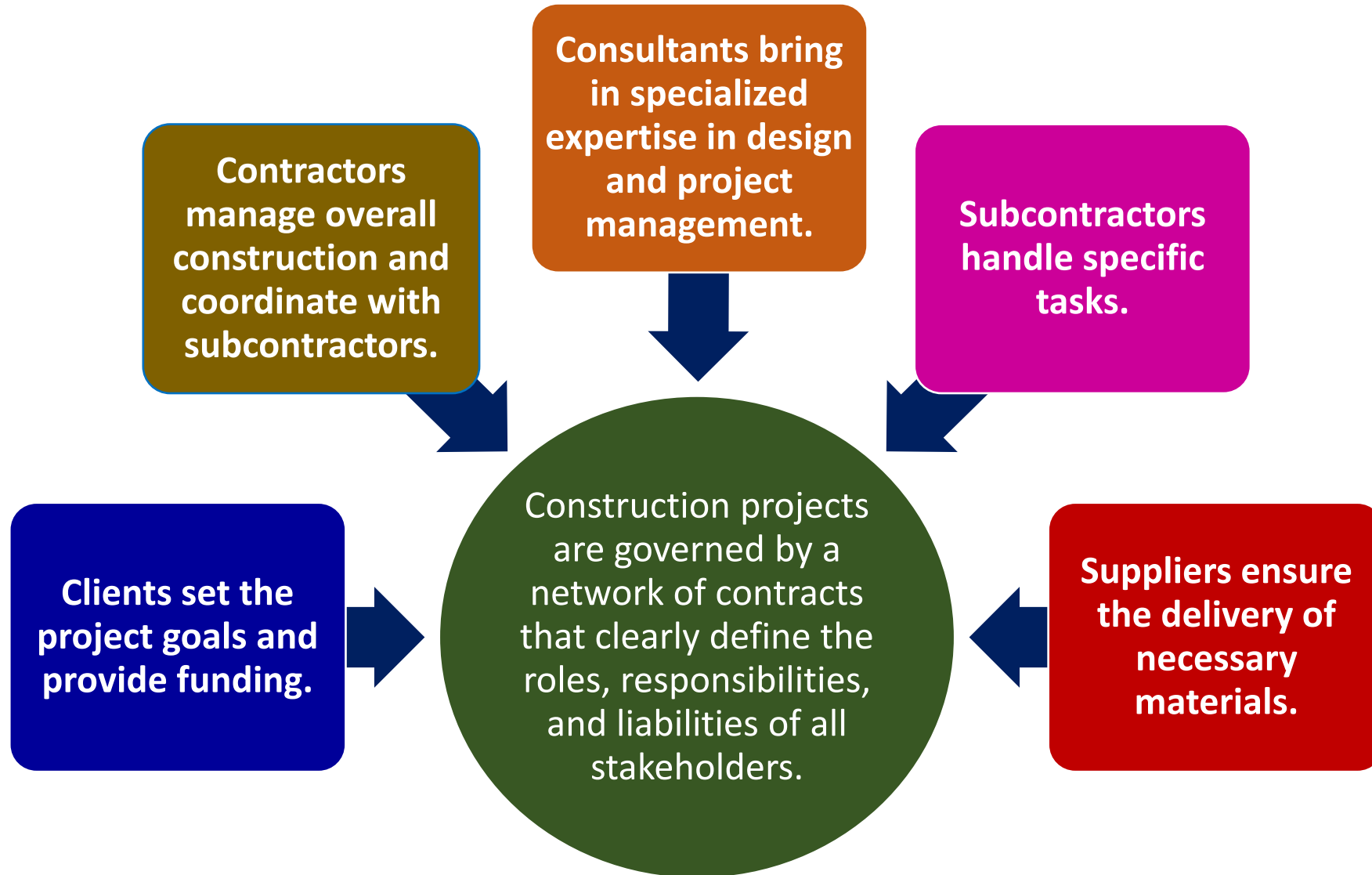
Types of
Construction
Contracts



Building, engineering, and infrastructure contracts are specialized agreements that define the design, construction, and maintenance of projects while managing risks, costs, and compliance. These include:

- **Building Contracts:**
- **Engineering Contracts:**
- **Infrastructure Contracts:**

Contractual Relationships Among Stakeholders (Clients, Contractors, Consultants, Etc).





Definition of Contract Problems in Construction:

Definition of Contract Problems in Construction



Contract problems in construction are the disputes, ambiguities, or failures to meet contractual obligations that arise during a construction project.

These problems often stem from unclear or incomplete contract provisions, miscommunications among stakeholders, or unforeseen changes during project execution.



Importance of Understanding Peculiar Contract Issues:

Importance of Understanding Peculiar Contract Issues

Understanding unique contract issues in construction is essential due to the complex risks, obligations, and uncertainties in building projects. Clear, detailed contracts help stakeholders:

Mitigate Risks & Prevent Disputes: By defining procedures for change orders and handling unexpected issues.

Allocate Responsibilities Precisely: Ensuring every party's duties and liabilities are clearly set to avoid overlaps.

Enhance Financial Control: Through defined payment schedules and damage provisions, which aid in budgeting.

Facilitate Dispute Resolution: Via established mechanisms like arbitration or mediation.

Ensure Legal Compliance: Meeting all regulatory requirements to avoid legal penalties.

Empower Informed Negotiation: Leading to balanced risk management and more favorable contract terms.



Types of Peculiar Contractual Problems:

Scope Creep & Design Changes

Scope creep refers to unauthorized or uncontrolled changes to a project's original scope, often leading to increased costs, extended timelines, and heightened risk of disputes among stakeholders.

Causes of Scope Creep include the following:

- Inadequate Project Planning:
- Evolving Client Requirements:
- Ambiguous Contract Terms:



Scope Creep & Design Changes cont.

Impact of Scope Creep includes:

Increased Project Costs:

Extended Timelines:

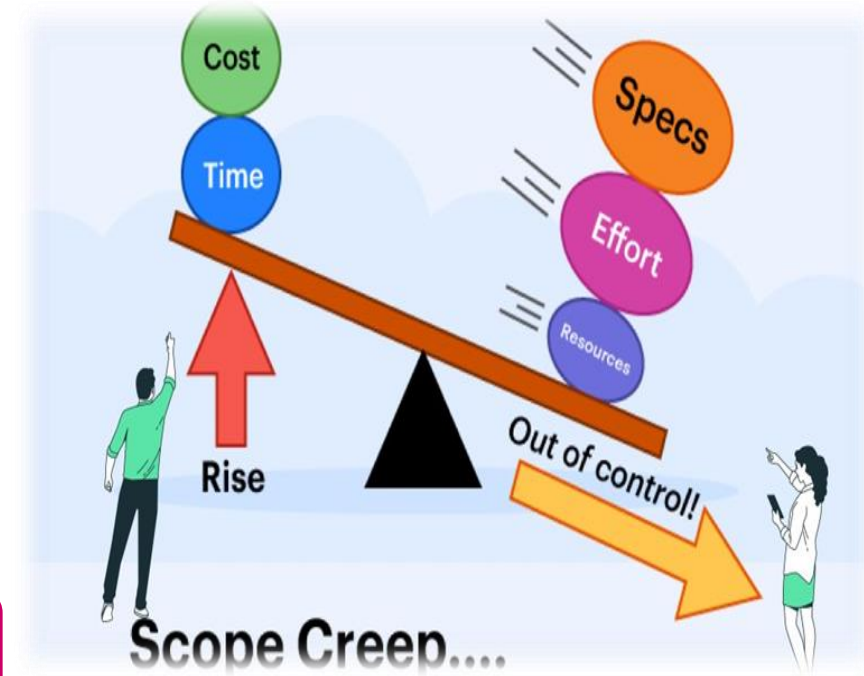
Heightened Risk of Disputes:

Mitigation Strategies include:

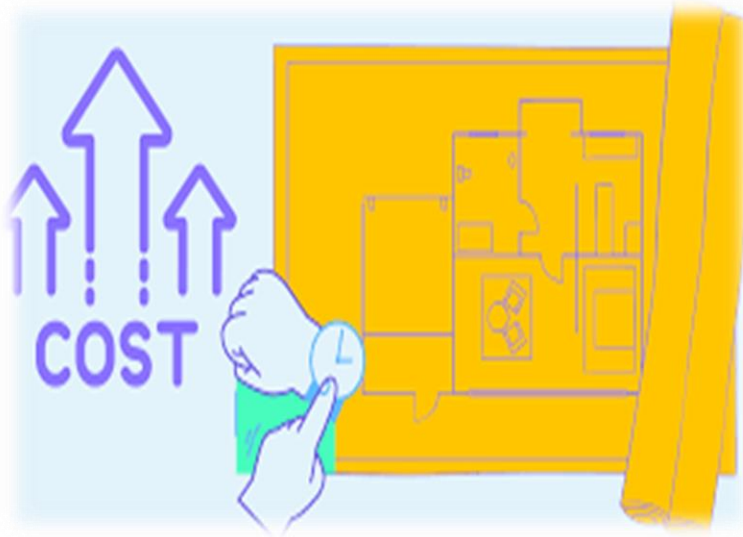
Comprehensive Planning:

Stakeholder Communication:

Robust Change Control Processes:



Delays & Time Overruns



Delays and time overruns in construction projects can significantly impact costs, schedules, and stakeholder relationships.

Common Causes of Delays are:

- **Poor Site Conditions:**
- **Labor Shortages:**
- **Material Supply Chain Issues:**
- **Design Errors:**

Impacts of Delays:

- **Force Majeure Events:**
- **Liquidated Damages:**
- **Escalated Project Costs:**
- **Contract Termination Risk:**

Delays & Time Overruns Cont.

Mitigation Strategies include:

Comprehensive Planning: Thoroughly assess site conditions and resource availability before project commencement.

Clear Contract Terms: Define responsibilities, timelines, and penalties to set clear expectations.

Effective Communication: Maintain open channels among stakeholders to promptly address issues.

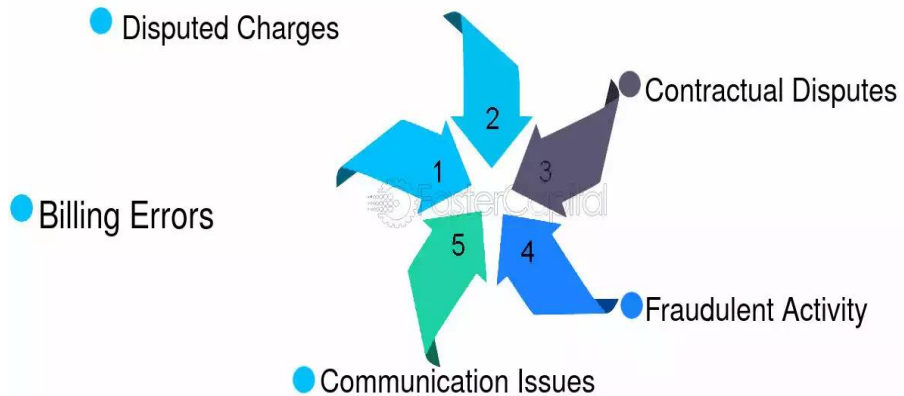
Contingency Planning: Prepare for unforeseen events with backup plans and resources.



Payment Disputes & Cash-Flow Issues.

Payment Disputes & Cash-Flow Issues are Caused by the following:

Common Causes of Payment Disputes



- **Delayed Client Payments:**
- **Valuation Disputes:**
- **Poor Financial Management:**

Mitigation Strategies include:

- **Clear Payment Terms:**
- **Progressive Valuation Processes:**
- **Cash-Flow Forecasting:**
- **Prompt Dispute Resolution:**

Force Majeure & Unexpected Risks.

Unforeseen events beyond the control of contracting parties, often called “force majeure” that prevent or significantly disrupt contractual performance. Such provisions excuse or suspend obligations when these events occur.

- **Common Examples include:**
- **Natural Disasters:** Earthquakes, floods, hurricanes.
- **Pandemics:** COVID-19 lockdowns and health measures.
- **Wars & Civil Unrest:** Armed conflict or widespread political instability.
- **Regulatory Changes:** Sudden laws or export bans affecting materials or labor.

Legal Implications can lead to:

- **Suspension of Obligations:**
- **Time Extensions:**
- **Contract Termination:**



Defective Work & Quality Issues.

Are Caused by:

- Substandard Materials:
- Labor Shortages:
- Contractor Negligence:

Impact includes:

- Increased Costs:
- Legal Liabilities:
- Reputational Damage:



Disputes & Litigation.

Common Causes include:

- Ambiguous Contract Terms
- Unrealistic Expectations:
- Misinterpretation of Clauses:

Methods of Resolution are:

- Litigation:
- Arbitration:
- Mediation:
- Adjudication:



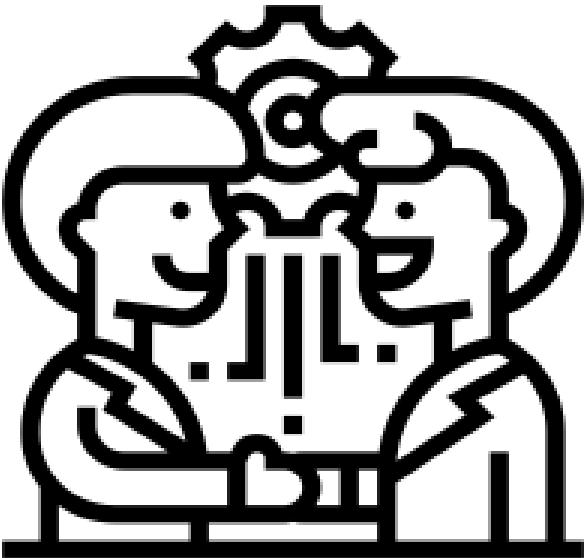


Risk Management & Mitigation Strategies for Managing Peculiar Contract Problems:

Risk Management & Mitigation Strategies for Managing Peculiar Contract Problems



CONTRACT MANAGEMENT



Effective risk management in construction contracts centers on clarity, preparedness, and ongoing oversight by ensuring the following:

- **Clear, Detailed Contracts:**
- **Contingency Provisions:**
- **Risk Sharing & Insurance:**

Risk Management & Mitigation Strategies for Managing Peculiar Contract Problems Cont.

Active Monitoring & Communication:

- **Structured Dispute Resolution:**
- **Expert Oversight & Reviews:**





Recommendation & Conclusion:

Recommendations

The following recommendations are proposed:

Enhance Contract Clarity:

Draft detailed scopes of work and technical specifications to minimize ambiguities and unauthorized changes.

Incorporate comprehensive change management processes to manage modifications in project scope, design, and schedule.

Implement Robust Risk Management Practices:

Allocate risks appropriately across stakeholders using performance bonds, insurance, and liquidated damages clauses.

Establish contingency funds and force majeure provisions to address unforeseen events and external disruptions.

Adopt Advanced Contract Management Tools:

Utilize digital platforms and AI-powered contract review software to centralize documentation, track progress, and automate notifications.

Regularly monitor contract compliance and project progress through integrated communication and reporting systems.



Recommendations Cont.

Foster Transparent Communication and Collaboration:

Maintain continuous dialogue among clients, contractors, consultants, and subcontractors through regular meetings and shared digital workspaces.

Document all communications, especially regarding change orders and scheduling updates, to ensure a unified understanding of responsibilities and expectations.



Establish Clear Dispute Resolution Mechanisms:

Embed structured dispute resolution procedures such as mediation, arbitration, and, as a last resort, litigation into contract terms to address potential conflicts efficiently.

Regularly review and update dispute resolution provisions in line with industry best practices.



Engage Expert Review:

Involve legal counsel and industry experts in the contract drafting and review process to identify and rectify potential loopholes or ambiguities before project commencement.

Conduct periodic contract audits to adjust risk management strategies and contractual terms as project conditions evolve.



Recommendations Cont.



By integrating these recommendations, stakeholders can better navigate the complexities of construction contracts, reduce the potential for disputes, and ultimately secure more predictable and successful project outcomes.

Conclusion

In conclusion, effectively managing peculiar contract problems in building, engineering, and infrastructure projects is fundamental to ensuring project success.

conclusion

The complexity and high stakes of these projects necessitate a robust framework for risk management, clear communication channels, and precise contractual provisions.

Addressing issues such as scope creep, delays, and unanticipated changes through well-drafted contracts can mitigate significant financial and operational risks.

Moreover, proactive contract management, using both traditional practices and modern digital tools, ensures that all parties clearly understand their roles, responsibilities, and the mechanisms for handling deviations or disputes.

Call to Action



As Quantity Surveyors, Take Charge of Your Projects Today!

- Don't let contract pitfalls derail your next construction project. Embrace clarity, precision, and proactive risk management to secure predictable outcomes and safeguard your investments.
- Whether you are a client, contractor, or consultant, streamline your contractual processes, mitigate risks, and foster collaboration across all project phases.
- Now is the time to move from uncertainty to confidence, ensure every detail is covered, every responsibility is clear, and every risk is managed.



Thank you

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