

Contractors - You Will Lose When you don't know the Rules

Or

Why Set Yourself Up to Lose?



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Your Representative to the MMCD

- I've been proud to be one of the BCRBHCA reps on the MMCD project since 1991
- Throughout these 26 years, it has been my task to represent the Contractors' point of view in all MMCD deliberations on the general conditions and other "front end" documents such as the Agreement.
- I participated in drafting them, updating them and commenting on proposed changes.
- I've been a member of the Documents Committee since it was formed; and for various periods, I've been the chair of the Referee Committee, a member of the education committee and one of the two BCRBHCA reps on the MMCD Board.
- I've written all the MMCD manuals and training courses and I've instructed these courses since 1995.
 - It is with respect to training that I'm speaking to you today.

Why Set Yourself Up to Lose?

Imagine that you are the manager of a sports team and the following conditions exist....

Other Team	Referee	Your Team
Plays Often	Plays Often	Plays Relatively Infrequently
Always Plays "Home"	N/A	Always Plays "Away"
Wrote the Rules	Knows the Rules	Uncertain of Rules

If you were a betting person, what would you think?

Now Apply that Scenario to Our Business

- As a Contractor manager, you lead your “team”
 - You perform numerous contracts each year, but not all with the same contract language
- A municipal Owner leads the other “team”
 - They use the MMCD for essentially all the servicing work they do, and they write the rules (i.e. the Contract)
- The Referee (“Contract Administrator”) is paid by the Owner and is expected to know and understand the contract language and requirements in detail.

Training Matters

- Owners regularly send municipal staff to MMCD training.
- Consultants send CA's and inspectors to MMCD Training.
- In the 23 years I've been doing training for the MMCD, I suspect less than a dozen contractors have sent any staff for training.
 - Until this year, while we've taught over 2000 consultants and municipal staff, we've probably trained less than 100 contractors!
 - This is improving – this year, I've done full day training for two contractors who saw the value of having multiple staff trained.

Things You Don't Know will Cost You

Can you and all your staff answer these questions?

- Exactly what documents form the Contract?
- Whose signatures matter?
- What are the obligations of a CA to you?
- When does contra preferentum apply?
- What's the difference between Extra Work and a Change?
- How important are the Force Account and Dispute deadlines?
- When do the two waivers of claim happen?
- Can you enforce a deadline to have instruction put in writing?
- What are your rights and obligations during a Dispute?

Things You Don't Know will Cost You

(ctd.)

- Did you know you can be terminated for failing to provide an updated schedule, let alone not following it?
- What obligations does an Owner have to provide some permits and make the site available for work?
- What obligations do you have as Worksafe Prime Contractor?
- Did you know you must be the Builders Lien “payment certifier” for your Subcontractors if they want you to be?
- Do you know that acceptance and payment may not be final?
- Do you know your obligations re Change of Conditions, Delays and Hazardous Materials to avoid losing your rights?
- When may the Owner be obliged to pay interest?

Having Well Trained Staff Pays Off

- Whether you are dealing with a MMCD contract or CCDC or something else, making sure your estimators, Superintendents and project managers are well versed in the front end documents will pay off.
 - You will be able to estimate tighter
 - Your field staff will:
 - Miss fewer deadlines
 - Be better prepared to challenge instructions
 - Be more able to negotiate and protect your rights

MMCD Offerings

- The MMCD Association offers the following training courses:
 1. Certified Contract Administrator Course (2 Days)
 2. Superintendent Course (1 Day)
 3. Inspector Course (1 Day)
 4. Foremen Course (1/2 Day)
- These are offered three ways:
 1. In our studio/training center in Gastown
 2. By internet “Webinar”
 3. On location wherever there are 15 or more students
 - a) Can be in a general setting like a hotel
 - b) Or can be in your office

The Contract Administrator Course

- 2 Day course
 - Day 1 covers tender creation, the tendering process and award considerations
 - Day 2 covers the specifics of a C.A.'s role when administering a MMCD contract
 - It is a prerequisite for becoming a Certified C.A.
- Anyone can attend
 - Consultants (whether planning to write the exam or not)
 - Project Managers
 - Purchasing and finance people often do
 - Inspectors
 - Contractors

Superintendent Course

- Designed to cover the same topics as Day 2 from the CA course
 - The roles of the parties and the limitations of them
 - How to read and interpret the general conditions
- But focuses on the implications and deadlines that a Superintendent must know
 - Rights of a Contractor
 - Obligations for entitlement
 - Deadlines that mean everything

Inspectors Course

- 1 Day Course
 - Focuses only on the general conditions and how an Inspector inherits part of the CA's role and the consequential obligations
 - Also discusses other tasks an inspector may do for the CA and the Owner
 - Reviews proper documentation
 - What types
 - How often generated
 - Documentation security

Foremen Course

- ½ Day Course
 - Normally in the afternoon so Foremen can get crews set up in the morning
- Focuses on the things Foremen and Lead Hands need to know when dealing with the Contract Administrator or Inspectors on a MMCD contract and the things they can do to help the Contractor make money, save money or preserve its rights.

Superintendent Course Cost

- Registration fee includes:
 - Copy of the current MMCD Volume 2 (Value \$112 to \$150)
 - Student Guide with copies of
 - Course Slides
 - Other Front End Documents
 - Typical Forms
 - Extra Readings
 - Breakfast, Lunch and 2 Coffee Break Snacks
- Fee ranges from \$500 to \$1000 depending on what type of MMCD member or non-member your organization is.

(Supporting membership annual fees range from \$113 to \$1100 depending on your corporate size.)

Foremen Course Cost

- Registration fee includes:
 - Student Guide with copies of
 - Course Slides
 - Typical Forms
 - Coffee Break Snacks
- Fee ranges from \$175 to \$250 depending on what type of MMCD member or non-member your company is.

(Supporting membership annual fees range from \$113 to \$1100 depending on your corporate size.)

But What's the Payback?

- Every business person knows they must evaluate costs against payback. If training gave your personnel just one opportunity to:
 - collect for costs that would have otherwise been missed, what is that likely to save?
 - Submit a form on time to ensure entitlement to a Delay or Dispute, what income might that generate?
 - Gain one day on a schedule so as to reduce liquidated damages (saves \$500 to \$1000 or more)

Next Scheduled Courses

- Check our Website for the next scheduled course at:

www.mmcd.net

Or we will come to your office to train your staff for a negotiated fee.

One Last Thought

- MMCD “**Contract Consideration**” videos on YouTube which I created and present.
- There are about thirty 10 to 15 minute video clips on individual issues or problems one might have in an MMCD contract, such as:
 - Fair Standby Charges
 - Dealing with Delays
 - Partial vs. Staged Substantial Performance