

# PUBLIC WORKS CONFERENCE 2020

- STANDING CONCILIATOR
- ADJUDICATION

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# STANDING CONCILIATOR BASICS

- Used on Employer designed or Contractor designed jobs
- Mandatory if over €10M, optional below that
- Appointment agreed by Employer and Contractor post tender
- Helps Project Board deal with disputes under 10.5.4 & 10.5.5

# STANDING CONCILIATOR APPOINTMENT

- Procurement procedures vary
- Three- way contracts between SC, Employer & Contractor MF 16 and 18
- Reserved sum in PD for Contractor's share of fee
- SC contracts to attend site meetings and PB meetings

# STANDING CONCILIATOR

## ROLE ON PB

- Not a member of PB
- Usually attends and chairs PB meetings, if PB agrees
- Might have to draft the Format and Procedure
- Usually drafts the agreement to resolve a dispute
- Usually communicates with Contacts for each party

# STANDING CONCILIATOR MEETINGS

- SC attends site meeting periodically
- SC acts as mediator/conciliator when PB reviews disputes
- PB must advise Contacts of failure to agree
- SC usually advises Contacts of PB agreement or failure

# ADJUDICATION

## BASICS

- Construction Contracts Act 2013 S.6 and Code of Practice Governing the Conduct of Adjudications
- Imposed on Responding Party by law
- Must be a payment dispute
- Contract can't limit or exclude the Act – S 5 (b)

# ADJUDICATION TERMS

- Referring Party – makes the claim against Responding Party
- Referral – detailed claim
- Response – defence by Responding Party
- Reply – Referring Party replies to the Response
- Rejoinder – Responding Party responds to Reply

# ADJUDICATION PROCEDURE

- Referring P sends Notice to Responding P
- Adjudicator appointed – agreed or appointed by CCAS – 7 days starts
- Referring P sends Referral to Adjudicator & Responding P - 28 days starts then **PREPARE FIRST**
- Referral must include contentions supporting claims – Code para. 22
- Adjudicator sets out procedures and timetable



# ADJUDICATION PROCEDURE

- Usually Response to Referral – not mandatory
- Reply to Response and Rejoinder can follow
- Adjudicator decides if a hearing is needed – Code para. 27
- Hearing usually confined to disputed facts on important points
- Adjudicator issues Decision – reasoned one is standard

# ADJUDICATION POINTS

- Time limits usually start a day early
- Sensible to minimise number of claims
- 28 Days for Adjudicator to decide is standard but extendable
- Ensure contractual case is made, include relevant extracts
- Include, cross-reference and highlight supporting documents
- Be concise

THANK YOU



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