



Panel 3 - Making good actual expenses

ASA Conference on "Shaping Arbitral Proceedings to Deal with Recovery of Actual Expenses: the Expert's View"

Ian Osbaldeston



Geneva, 3 February 2017

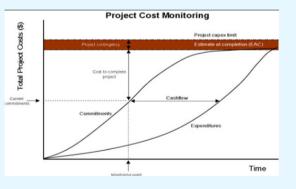


Construction Claims

□ What is cost?



□ How is cost monitored on construction projects?





□ The Experts view on auditing cost.





> What is cost?



- Different standard contracts have different meanings for 'cost'.
 - FIDIC defines 'Cost' as "all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off Site, including overhead and similar charges but does not include profit"
- **R**ates?
- Cost 'incurred' or 'to be incurred'? Different jurisdictions treat this differently.



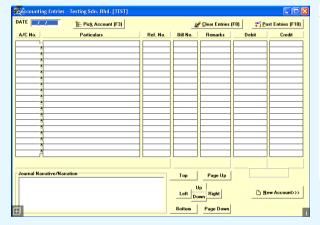
- \succ Costs relating to the works.
 - Labour, plant & equipment, materials, staff, overheads and subcontractors.
 - Costs are incurred:
 - Works
 - Variations
 - Due to increased level of resources
 - Due to resources required or longer
 - Due to resources being inefficient



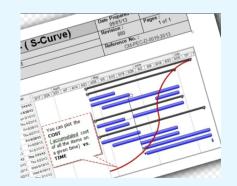




> How is cost monitored on construction projects?



	- 3	Account no	Account Name									
	6	075.001.001	DIRECT EFFORT COSTS	0.00	8,029,885.03	9,876,224.10	4,762,989.35	414,815.05	199,307.07	118,378.42	64,753.87	23,466,352.89
	7	075.001.001.001	TURKISH EMPLOYEES	0.00	1,024,282.67	961,116.48	506,200.38	260.00	0.00	81,935.43	63,001.37	2,636,796.33
-	8	075.001.001.001.001	STEEL FIXER	0.00	0.00	18,194.00	0.00	0.00	0.00	0.00	0.00	18,194.00
Т·	9	075.001.001.001.001.001	STEEL FIXER CHIEF	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1.	10	075.001.001.001.001.002	STEEL FIXER HELPER	0.00	0.00	18,194.00	0.00	0.00	0.00	0.00	0.00	18,194.00
-	11	075.001.001.001.002	CARPENTER	0.00	118,212.28	245,050.00	47,544.00	0.00	0.00	0.00	0.00	410,806.28
1.1	12	075.001.001.001.002.001	CARPENTER CHIEF	0.00	118,212.28	207,130.00	24,730.00	0.00	0.00	0.00	0.00	350,072.28
1.	13	075.001.001.001.002.002	CARPENTER HELPER	0.00	0.00	37,920.00	22,814.00	0.00	0.00	0.00	0.00	60,734.00
-	14	075.001.001.001.003	MASON	0.00	23,838.68	8,360.00	63,290.00	0.00	0.00	26,833.85	19,932.18	142,254.71
	15	075.001.001.001.003.003	MASON CHIEF	0.00	23,838.68	8,360.00	63,290.00	0.00	0.00	0.00	0.00	95,488.68
1.	16	075.001.001.001.003.004	MASON HELPER	0.00	0.00	0.00	0.00	0.00	0.00	26,833.85	19,932.18	46,766.03
	17	075.001.001.001.004	HARFIYAT ISCISI	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
-	18	075.001.001.001.005	PIPE FITTER	0.00	116,420.76	149,209.33	79,212.07	0.00	0.00	0.00	0.00	344,842.16
	19	075.001.001.001.005.001	PIPE FITTER CHIEF	0.00	116,420.76	141,366.33	79,212.07	0.00	0.00	0.00	0.00	336,999.16
1.	20	075.001.001.001.005.002	PIPE FITTER HELPER	0.00	0.00	7,843.00	0.00	0.00	0.00	0.00	0.00	7,843.00
	21	075.001.001.001.006	OPERATORS	0.00	647,796.19	444,745.05	244,228.18	0.00	0.00	0.00	0.00	1,336,769.42
	22	075.001.001.001.007	LABOUR	0.00	118,014.76	85,207.10	71,926.13	260.00	0.00	33,272.33	23,151.05	331,831.37
-		075.001.001.001.008	PAINTER	0.00	0.00	10,351.00	0.00	0.00	0.00	21,829.25	19,918.14	52,098.39
	24	075.001.001.001.008.001	PAINTER HELPER	0.00	0.00	0.00	0.00	0.00	0.00	21,829.25	19,918.14	41,747.39
L ·	25	075.001.001.001.008.002	PAINTER CHIEF	0.00	0.00	10,351.00	0.00	0.00	0.00	0.00	0.00	10,351.00
	26	075.001.001.001.009	CHARGE HAND	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	27	075.001.001.002	OTHER EMPLOYEES	0.00	7,000,002.36	8,915,107.62	4,256,788.97	414,555.05	199,307.07	36,442.99	1,752.50	20,823,956.56
-	28	075.001.001.002.001	STEEL FIXER	0.00	728,049.42	1,412,176.02	818,206.33	44,936.49	0.00	0.00	0.00	3,003,368.26
	29	075.001.001.002.001.001	STEEL FIXER CHIEF	0.00	728,049.42	1,210,949.02	815,461.89	2,581.77	0.00	0.00	0.00	2,757,042.10
1.1	30	075.001.001.002.001.002	STEEL FIXER HELPER	0.00	0.00	201,227.00	2,744.44	42,354.72	0.00	0.00	0.00	246,326.16
-	31	075.001.001.002.002	CARPENTERS	0.00	1,466,167.94	2,059,820.99	1,287,379.47	34,954.94	26,387.71	3,325.00	0.00	4,878,036.05
	32	075.001.001.002.002.001	CARPENTER CHIEF	0.00	1,466,167.94	1,462,879.49	384,380.47	2,147.00	0.00	0.00	0.00	3,315,574.90



	1	@ X	Ð			and Pro-	Poneer Element	*** [Caroos]	- Cont		_		1
	Edit M	Aulti-Edit Delete	Excel Imp	ort Rep									
-	. 7		(ed) s	haw 100	v items 🛛	Show W	oided						
triginal D	adget	\$8,599,000.0	0					Original Estin	nate \$8,250,000.00				
Gene	al 🛛	Budget Codes	Adus	tments	Badget Fun	ding	Cost Code Segment	s Cost Code Def	inflions				terre
		Costs	Descrip	dise	Balact Oty	<u>0.0.M</u>	Budget Unit Cost	Badget Amount	Billed Amount	Actual Amount	Parchase By D	sate On Site	.Øx
• 8	1-9	00-65-8-0100	Landscaping					- \$500,000.0	e -				
OR	1-01	00-65-8-0200	Site Survey					- \$250,000.0	o -				
OB	1-P1	0-ES-B-0300	Geotechnice	4				+ \$125,000.0	o .				
OB	1-91	0-ES-B-0400	Architecture	fees				- \$1,250,000.0					
OB	1-P	IO-ES-8-0500	New Constr	action				- \$5,375,000.0					
OR	1.0	0-55-6-5000	Continuents					51.000.000.0	0 1				
		File Edit View	Favorites	Teeb He	ip		Cost To Co						
	ľ						004 10 00	mpiece					
		Project : [CC	12089] Pia	neer Elem	estory		COATOCO	inpiece		View Date:	1/31/2013		
		Project : [CC Sorting: F	hase,Site,T)ype									
		Project : [CC Sorting: F	hase,Site,T	ype	Descript	tion	ORG BGT * 8	GT ADJ CUR BG		FND CST TO	COMPL*		
		Project : [CC Sorting: F B Phase Site	hase, Site, T	ypa ed (Dedoe	Descript	tion			Act OST Ant Art	FND CST TO			
		Project : [CC Sorting: F B Phase Site [C02009] Pi	hase, Site, 7 adget Code Type Bo oncer Elem	od Dadge	Descript	tion	ORG BGT * 8 Ant	GT ADJ CUR BG Ant	Ant Ant	PND CST TO Ant	COMPL *		
		Project : [C0 Sorting: P Phase Site [C02009] Pio 1 Pio 1 Pio	hase, Site, T indget Code Type Bo oncor Elem ES B	of Budge entary 0200 0300	Descript t		0RG BGT * 8 Ant \$250,000.00 \$125,000.00	GT ADJ CUR BG Ant 50.00 5220.0 50.00 5123.0	Amt Amt 00.00 \$0.00 00.00 \$0.00	PND CST TO Ant \$0.00 \$0.00	COMPL * Ant \$0.00 \$0.00		
		Project : [CC Sorting: F Phase Site [C02009] Pi 1 Pi0 1 Pi0 1 Pi0	hase, Site, T udget Code Type Bo oncer Elem ES B ES B	990 estary 0200 0300 0400	Descript t Site Survey Dectechnica Architectura	il i Fees	ORG BGT * 8 Aret \$220,000.00 \$125,000.00	GT ADJ CUR BG Ant 50.00 52200 50.00 51230 50.00 51230	Amt Amt 00.00 \$0.00 00.00 \$0.00 00.00 \$0.00	PND CST TO Ant \$0.00 \$0.00	COHIFL * Amt \$0.00 \$0.00		
		Project : [CC Sorting: F Phase Site [C02009] Pi 1 Pt0 1 Pt0 1 Pt0 1 Pt0	hase, Site, 7 udget Code Type Bo oncer Elem ES B ES B ES B	ype estary 0200 0300 0400 9000	Bite Survey Bite Survey Destectora Architectora	il I Fees	ORC BGT * 8 Ant \$250,000.00 \$125,000.00 \$1,250,000.00 \$1,200.000.00	GT AD) CUR BG Ant 50.00 \$220.0 50.00 \$125.0 50.00 \$1.250.0 50.00 \$1.250.0 50.00 \$1.250.0	Amt Ant 00.00 \$0.00 00.00 \$0.00 00.00 \$0.00 00.00 \$13,750.00	PhiD CST TO Ant \$0.00 \$0.00 \$0.00	COMPL * Aent 50.00 50.00 50.00 513,750.00		
		Project : [CC Sorting: F Phase Site [C02009] Pi 1 Pi0 1 Pi0 1 Pi0	hase, Site, T edget Code Type Bo oncer Clem ES B ES B ES B ES B	990 estary 0200 0300 0400	Descript t Site Survey Dectechnica Architectura	il I Fees V	ORC BGT * 8 Ant \$250,000.00 \$125,000.00 \$1,250,000.00 \$1,200.000.00	GT ADJ CUR BG Ant 50.00 52200 50.00 51230 50.00 51230	Amt Art 00.00 \$0.00 00.00 \$0.00 00.00 \$13,750.00 00.00 \$13,750.00 00.00 \$13,000	PND CST TO Ant \$0.00 \$0.00 \$0.00 \$0.00 \$22,500.00 [5	COHIFL * Amt \$0.00 \$0.00		



Risk of errors? Which is right?



- Monitored by who?
 - company accountants
 - **quantity surveyors**
 - accounts clerks on site
- Different standards of reporting
 - □ UK Financial Reporting Council ("FRC")
 - European Financial Reporting Advisory Group (EFRAG)
 - □ International Financial Reporting Standards ("IFRS")
 - **US** Financial *Accounting Standards* Board (FASB)





The experts view on auditing cost. Where to start and what to look for?

- > Where to focus?
 - Contract rates?
 - Time related resources
 - Staff costs salary, benefits,
 - Employment costs visas
 - Equipment costs cranes, generators,
 - Insurances CAR insurance, Employer's Liability insurance etc.
 - □ Head office costs actual or formula?
 - Hudson
 - Emden
- Sampling is acceptable (but check your contract!!!!)



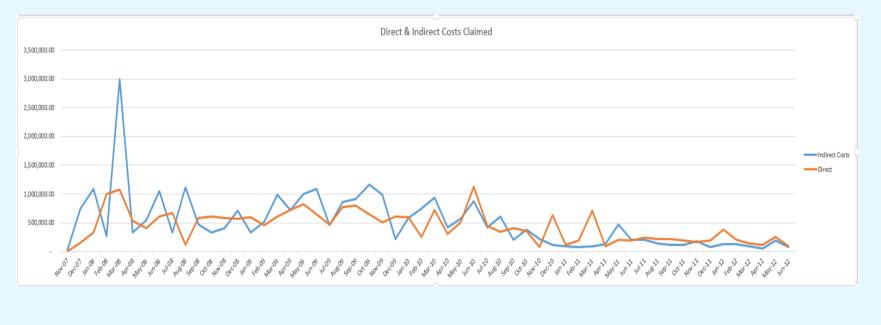






Sampling – the sensible approach – Time related

- □ Step 1 Cost profile
- □ Step 2 How many entries?
- □ Step 3 Costs booked/incurred in the correct months?
- Step 4 Miscellaneous items such as petty cash?
- □ Step 5 When are the periods of delay?
- □ Step 6 Where are the spikes/drops in cost?







Head office costs?



- □ Actual details of the resources used should be kept
- Formulas should be used as a last resort (or if the Contract says so)



The Hudson formula is:

Contract Profit Percentage x Contract Sum

Contract Period (weeks)

= Value of recovery of overheads per week

