



Panel 3 - Making good actual expenses

ASA Conference on “Shaping Arbitral Proceedings to Deal with
Recovery of Actual Expenses: the Expert’s View”

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Geneva, 3 February 2017

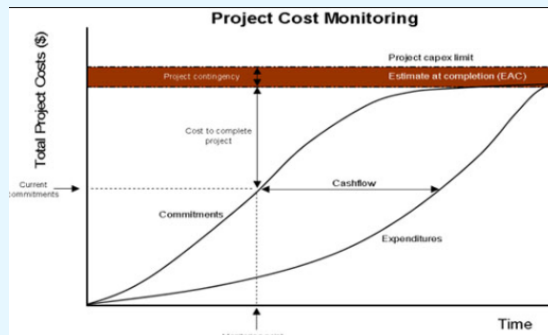
Making good actual expenses

➤ Construction Claims

❑ What is cost?



❑ How is cost monitored on construction projects?




TLC		WSH	
Val. Act	Val. Bdg	Val. Act	Val. Bdg
12	1	1	1
2,634	100.0	208	100.0
2,121	82.4	170	81.4
463	17.6	39	18.6
180	6.8	32	15.4
65	2.5	11	5.5
65	2.5	11	5.5
118	4.4	21	9.9
12	0.6	1	0.3
5	0.2	3	0.4
84	3.2	11	5.5
9	0.3	6	2.7
0	0.0	0	0.0
0	0.0	0	0.0
283	10.7	7	3.2
17	0.6	2	0.9
9	0.3	1	0.4

❑ The Experts view on auditing cost.

Making good actual expenses

➤ 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"*
- ☐ Rates?
- ☐ Cost 'incurred' or 'to be incurred'? Different jurisdictions treat this differently.

Making good actual expenses

➤ Costs relating to the works.

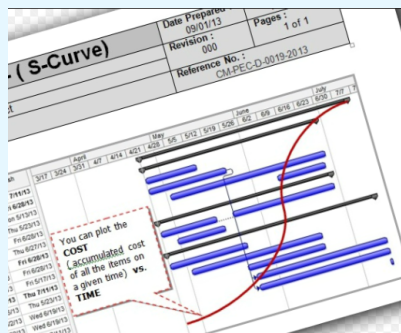
- ❑ Labour, plant & equipment, materials, staff, overheads and subcontractors.
- ❑ Costs are incurred:
 - Works
 - Variations
 - Due to increased level of resources
 - Due to resources required or longer
 - Due to resources being inefficient



Making good actual expenses

➤ How is cost monitored on construction projects?

	Account no	Account Name	2007	2008	2009	2010	2011	2012	2013	2014	TOTAL
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	64,763.87	23,466,352.89
7	075.001.001.001	TURKISH EMPLOYEES	0.00	1,024,282.47	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
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
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	118,212.29	245,050.00	47,544.00	0.00	0.00	0.00	0.00	410,806.29
12	075.001.001.001.002.001	CARPENTER CHIEF	0.00	118,212.29	207,130.00	24,730.00	0.00	0.00	0.00	0.00	350,072.28
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	19,532.18	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
16	075.001.001.001.003.004	MASON HELPER	0.00	0.00	0.00	0.00	0.00	0.00	26,833.85	19,532.18	46,366.03
17	075.001.001.001.004	HAFIYAT (SICI)	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	116,420.75	149,209.33	79,212.07	0.00	0.00	0.00	0.00	344,842.15
19	075.001.001.001.005.001	PIPE FITTER CHIEF	0.00	116,420.75	141,366.33	79,212.07	0.00	0.00	0.00	0.00	336,999.16
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	644,145.95	244,238.18	0.00	0.00	0.00	0.00	1,536,179.42
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
23	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
25	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
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	818,208.33	44,939.49	0.00	0.00	0.00	3,003,369.26
29	075.001.001.002.001.001	STEEL FIXER CHIEF	0.00	728,049.42	1,216,949.82	815,461.80	2,581.77	0.00	0.00	0.00	2,757,042.10
30	075.001.001.002.001.002	STEEL FIXER HELPER	0.00	0.00	201,227.00	2,744.44	42,364.72	0.00	0.00	0.00	246,326.16
31	075.001.001.002.002	CARPENTERS	0.00	1,466,167.94	2,069,820.99	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



Risk of errors? Which is right?

Making good actual expenses

➤ 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?

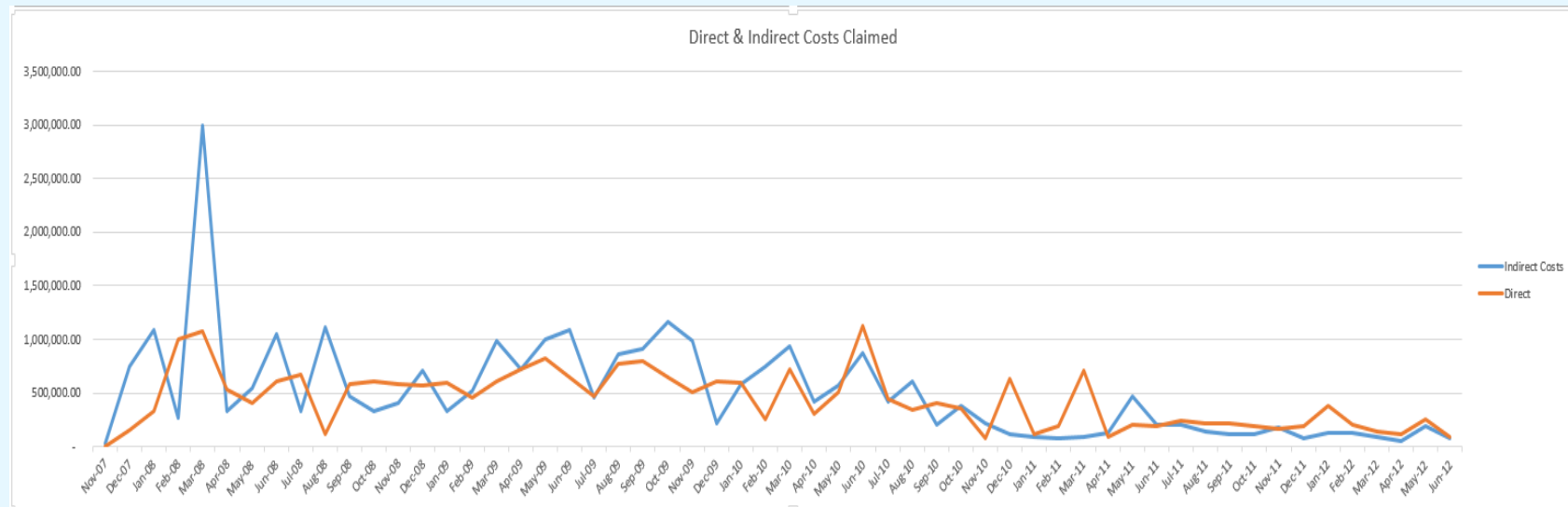
➤ Where to focus?

- ☐ 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:

$$\frac{\text{Contract Profit Percentage} \times \text{Contract Sum}}{\text{Contract Period (weeks)}} = \text{Value of recovery of overheads per week}$$

