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Skills Enhancement on Arbitration and Dispute Resolution in the Public Sector

Course Overview:

Arbitration frequently includes a binding agreement and takes place when an arbitrator, usually an attorney, applies the law and facts to a dispute, resulting in an award or decision. Mediation and conflict resolution are two excellent choices for commercial issues between two parties that wish to stay friends and partners and collaborate in the future. Mediators are unbiased third parties, and mediation is not always legally binding. A claim is when you assert your ownership of anything, such as your medical records or the title to your property. When you make a claim or assert anything, you are claiming or asserting that it is true. On their tax returns, people declare dependents and deductions.

Course Objectives:

- How to Effectively evaluate and quantify claims
- To gain an understanding of the basis of contract claim: time, money, and quality.
- Know when the contractor is entitled to Extension of Time (EOT) claims
- Deal with variation claims and what to approve and what not to
- Understanding the overarching legal and pragmatic goals in managing claims
- Gains skill sets to be better prepared to deal with difficult issues.
- Knowing different dispute resolution methods to resolve claims disputes.

Course Coverage

Topic 1: Modes of Dispute Resolution:

- Expert determination
- Mediation
- Conciliation
- Arbitration
- Ad-hoc and institutional arbitration
- Venue of arbitration
- Enforcement of award
- Sovereign immunity and other problems of suing foreign governments
- Benefits and challenges of mediation of public disputes over arbitration

- Understanding implied waiver of sovereign immunity
- Mock arbitration & mediation

Topic 2: Contractual Claims:

- Overview of main contractual provisions relevant to claims and counter-claims.
- Types of claims, in construction and other areas – and their distinctive features
- Causes of typical claims.
- Re-measure disputes
- Set up project management assessment – PMA.
- Counterclaims – how they differ from claims.
- Rights of set-off.
- Force majeure- when it applies and when not.

Topic 3: Legal Framework for International Arbitration

- Arbitration Agreement or Clause
- Arbitration Conventions and Investment Treaties
- Arbitration Procedural Rules
- National Laws
- National Courts

Topic 4: Negotiation and Resolution of Contract Disputes:

- Contract Negotiation
- Dispute Resolution clauses
- Unequal bargaining positions
- Negotiation, compromise and settlement
- Litigation
- Arbitration

Topic 5: Contract Documents and Negotiations:

- Letters of Intent or Award
- Bank and Insurance of Bonds
- Letters of Comfort or Awareness
- Collateral warranties
- Alliance /Partnering Agreements
- “Side Letters”
- Project Finance arrangements
- Negotiating contract qualifications and amendments

Targeted Participants:

- All those involved in implementing contracts and handling claims and change orders
- Project Managers.
- Contract Administrators.
- Contract Engineers.
- Project Engineers.
- Risk manager.
- Project Owners/Employers.

- Contractors and equipment/material suppliers.

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