

# **PERSIDANGAN PENGURUS-PENGURUS KANAN**

**JPS MALAYSIA**

**24-25 hb. Mei 99**

**SHAH ALAM SELANGOR DARUL EHSAN**

# Minimizing Contractual Claims & Disputes.

by  
Fadzilah Abdul Samad

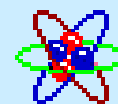
**Pengarah Ukur Bahan**

# INTRODUCTION



## Major factors giving rise to claims and disputes:

- ★ **Inadequate design considerations.**
- ★ **Poor preparation of contract documentation.**
- ★ **Inefficient contract administration.**

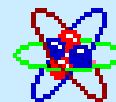


# INTRODUCTION

---

**Claims may be classified under two legal headings :**

- ★ **Contractual claims or Claims under the Contract,**
- ★ **Claims for Breach of Contract or Common Law Claims.**



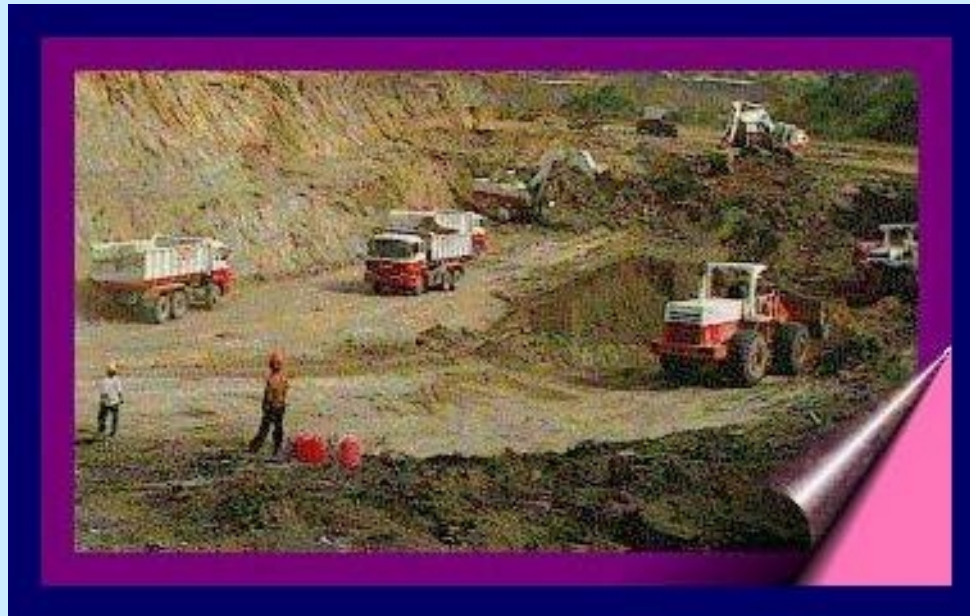
# CASE STUDIES.

## Claims in JPS

	<b>Classification</b>	<b>No. of Claims</b>	<b>%</b>
1.	Discrepancies in contract documents.	11	5.4
2.	Insufficiency / inaccuracy of data / information in tender/contract documentation.	10	5.0
3.	Method of measurement.	38	18.9
4.	S.O.'s Instructions (not amounting to V.O)	10	5.0
5.	Variations / New Rates.	78	38.8
6.	Delay and Extension of Time.	42	20.0
7.	Change in law / regulations.	9	4.5
8.	Late payment.	3	1.5
	<b>TOTAL</b>	<b>201</b>	<b>100</b>

# CASE STUDIES.

## Examples



# Case 1

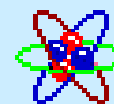
Persidangan Pengurus-Pengurus Kanan  
JPS Malaysia. Shah Alam. 24-25 Mei 99.  
BAHAGIAN UKUR BAHAN.

# CASE STUDIES.

## Examples



# CASE 2



Persidangan Pengurus-Pengurus Kanan  
JPS Malaysia. Shah Alam. 24-25 Mei 99.  
BAHAGIAN UKUR BAHAN.

# CASE STUDIES.

## Examples



**Case 3**



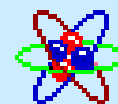
Persidangan Pengurus-Pengurus Kanan  
JPS Malaysia. Shah Alam. 24-25 Mei 99.  
BAHAGIAN UKUR BAHAN.



# CASE STUDIES.

## Examples

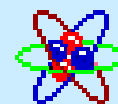
Case 4



# CASE STUDIES.

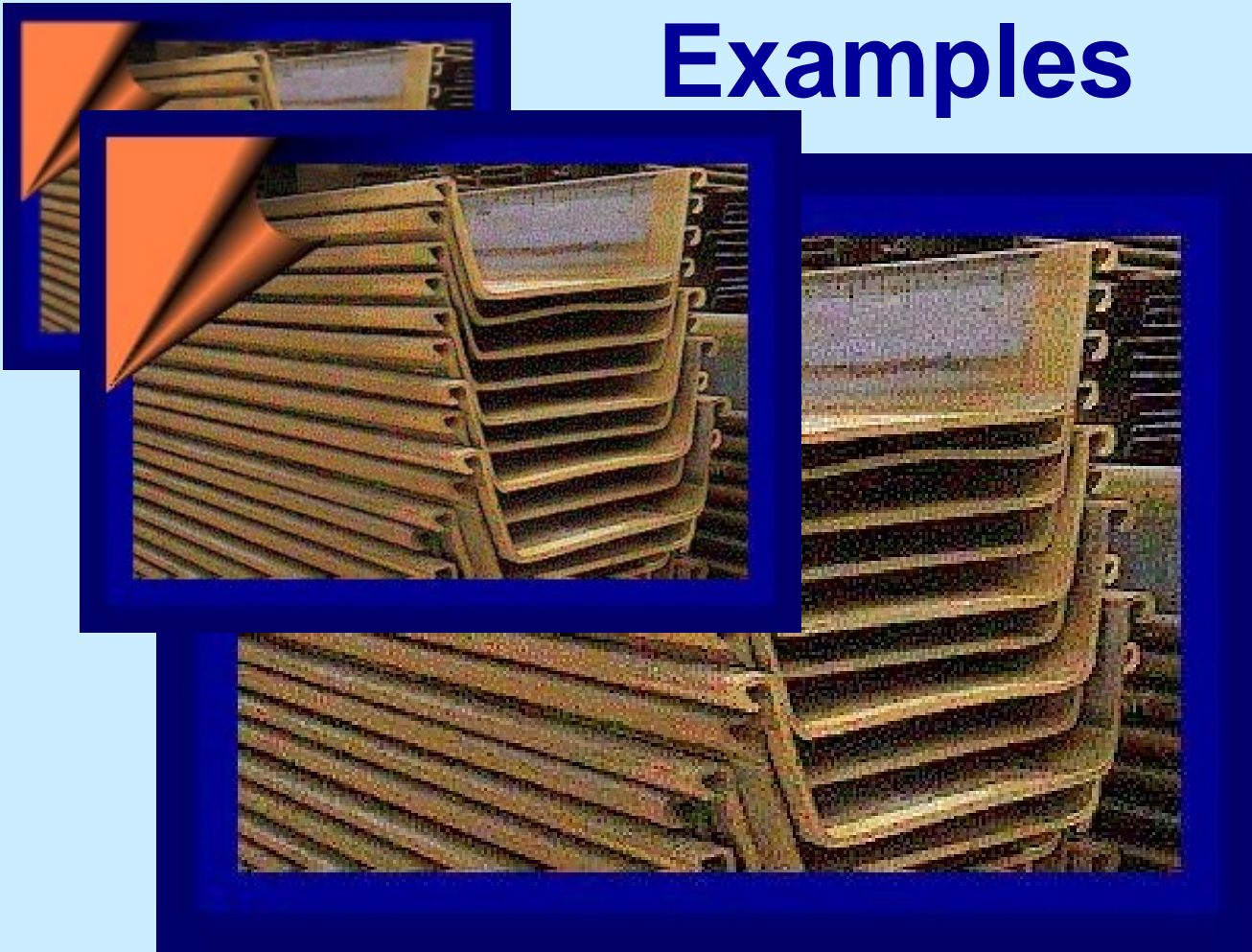
## Examples

# Case 5

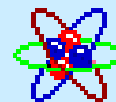


# CASE STUDIES.

## Examples



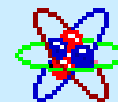
# Case 6



## AVOIDING DISPUTES

---

**"Prevention  
Is Better  
Than Cure"**



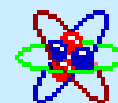
## Design Stage

**One major cause of delay:**

**S.O's Instructions requiring variations.**

**Changes required due to**

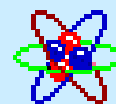
- **Unsuitability of the original design.**
- **Unforeseen site and/or soil conditions.**
- **Unavailability of specified materials.**



## Design Stage

Variations and additional costs could be avoided by carrying out prior to design

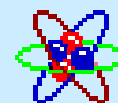
- **More thorough site/soil investigations.**
- **Latest survey to take account of new developments.**



## Design Stage

**Other factors which should be taken into consideration :**

- **Any peculiarities or special features of the site.**
- **Availability/sufficiency of suitable materials for filling/embankment formation.**
- **Number of houses/buildings affected by the works.**
- **Future developments or approved future use of the surrounding areas.**



# Tender Documentation

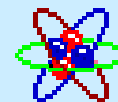
## Tender Document

### *Forms*

- **Basis of tender.**
- **The Contract.**

### *Defines*

- **The scope of works to be performed, the quantity, quality and workmanship required, the terms and conditions of Contract and the price to be paid for it.**





# Tender Documentation

## Specifications

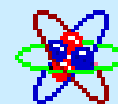
- **The scope of works must be clearly defined and correspond to works indicated on site plan and measured in Bill of Quantities.**
- **Definitions and terms used must be consistent throughout.**



# Tender Documentation

## Specifications (cont'd.)

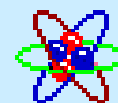
- **Technical specifications should be provided for all items of work and should be comprehensive, clear, appropriate and relevant to the work. Specification of detailed working methods or mode of construction to be avoided.**
- **Performance specifications must not give rise to impractical or unreasonably costly methods of construction.**



# Tender Documentation

## Specifications (cont'd.)

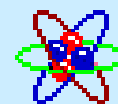
- **All relevant bye-laws, regulations and special requirements of Local Authorities should be highlighted.**
- **Ensure that materials specified, the sizes and dimensions stated are available in the market.**
- **Geotechnical or soil investigation reports provided should be used as a guide only.**



# Tender Documentation

## Preamble and Bill Quantities

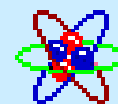
- **The Preamble should specify the method of measurement of major components and items in the Bill of Quantities, especially if they deviate from the Standard Method of Measurement.**
- **The unit of measurement stated in the Preamble must be consistent with the measurement in the Bill of Quantities.**



## Tender Documentation

### Preamble and Bill Quantities (cont'd.)

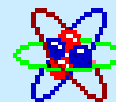
- **If general composition (item coverage) of unit rate given, ensure no ambiguities or duplication with other items, and consistent with the items measured in BQ.**
- **Item descriptions in the BQ must be concise, clear and accurate.  
Lengthy descriptions should be avoided.  
Avoid repeating the details already described in the Specification.**



## Tender Documentation

### Preamble and Bill Quantities (cont'd.)

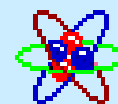
- **Avoid putting annotations or explanatory notes in the BQ.  
All special requirements and explanations should be given in the Specification or Preamble.**
- **Items and materials described and dimensions given must correspond to the drawings and/or Specification.**
- **Ensure all cross-references and clause numbers stated in the BQ are correct.**



# Tender Documentation

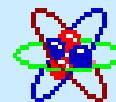
## Drawings

- **All drawings must be clear and up-to-date.**
- **All details of required works must be shown, especially if the contract is based on Lump Sum.**
- **Dimensions given for various components must be consistent throughout.**



## Construction Stage

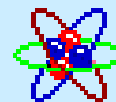
**Effective contract administration  
is the **key** to smooth  
implementation and running  
of project.**





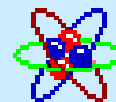
## Construction Stage

- **Possession of site must be given to contractor as completely as possible. Clearing of squatters and all land acquisitions should be done before calling tender.**
- **Ensure that all necessary drawings, instructions, details and other information are furnished to the contractor in due time. Variation works should be ordered as early as practicable.**



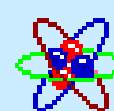
## Construction Stage

- **Ensure that tenders for Nominated Subcontractors are called and awarded on time, having regard to the contractor's programme of works.**
- **The scope and extent of any variation work ordered must be such that it is contemplated by the contract .  
Any work omitted must be such that it is actually not required.**



## Construction Stage

- **Do not issue S.O.'s Instructions on form JKR 203U for any matter which is necessary and incidental to the works.**
- **Verbal instructions confirmed in writing by contractor must be checked immediately for accuracy.**
- **All certificates under the Contract must be issued in due time. Failure to issue either Extension of Time Certificate or Non Completion Certificate may result in time becoming 'at large'.**

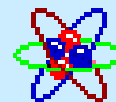


# CONCLUSION



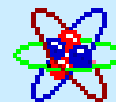
**A successful project is one which is completed**

- **Within the specified time.**
- **According to the desired quality requirements.**
- **With no cost increases due to large variations and claims.**



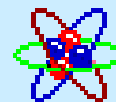
## This can only be achieved by

- **Careful planning.**
- **Proper design.**
- **Good documentation.**
- **Effective contract administration.**
- **Cost control.**




**By avoiding claims and disputes,  
there will be**

- **Less tension.**
- **More cooperation .**
- **More conducive working environment.**





## Specification writing



Write so that others know  
what you're thinking and  
not what you think they  
should think you're  
thinking.



TERIMA KASIH

*Elbert Hubbard*

[modified]