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Capacity Building

“The value of training for the Parties & Engineer undertaking FIDIC Contracts in Africa”

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Synopsis of content of paper

1. Importance of the preparation of Particular Conditions to the FIDIC Contracts

Ensuring the drafters of Particular Conditions understand the FIDIC Contracts thoroughly & so amendments/additions are made with competence & avoiding conflicts within the Contract. A poorly prepared Contract may well lead to claims & disputes that could have been avoided.

2. Role of the MDBs’ in supporting Employer competence to execute FIDIC Contracts

Vast sums of money are allocated to Governments by the MDBs’ but how much attention is given to ensuring the recipients have the necessary skills to execute the deployment of these funds through FIDIC Contracts? Should there be specific funds provided for both upfront and also during Contract execution upon which the Employer can draw upon to ensure his staff has the appropriate knowledge to meet the Employer’s responsibilities under the FIDIC Contract?

3. The Engineer’s Role under the FIDIC Contracts

Selection of the Engineer is normally through tender from suitably qualified consulting engineering companies, who’s H/Q is often not based in Africa. Usually the Engineer delegates under S.C 3.2 his duties to a Resident Engineer (RE). This person has significant influence on the success or not of the Contract but are there any checks on the person’s thorough understanding of the FIDIC Contract?

The value of the “Off-Site” Engineer has been a key component of the FIDIC Contracts & although in the 1999 Contracts the Engineer is under S.C 3.1 a) “deemed to represent the Employer” under S.C 3.5 he initially “shall consult with both Parties with the endeavour to reach agreement”. This is not an option but a responsibility of the Engineer.

How well do Engineers & the Employers understand this fundamental aspect of the Contract & do they utilise it appropriately to avoid disputes?



4. Responsibilities of the Contractor

How many FIDIC Contracts are completed within the Time for Completion & the Contract budget? Whilst some blame may be laid at the door of the Employers & the Engineers, equally the Contractors must take their responsibility for these Contract failures

How many Contractors ensure their Contract Representatives fully understand their responsibilities under the FIDIC Contract & what steps do they take to encourage training of all their senior staff in their contractual responsibilities?

It appear that there is a trend to put more & more reliance on claims consultants & lawyers to recover costs that could have been avoided if the Contractor had met his Contract responsibilities from the outset of the Contract.

5. Role of GAMA to enhance capacity building of engineering personnel in undertaking FIDIC Contracts in Africa

GAMA may consider being the focus for raising the professional standards of competence in the use of the FIDIC Contracts amongst Employers, Engineers & Contractors in Africa.

It may do this in cooperation with FIDIC but also most importantly the MDBS, to establish a series of practical capacity building activities which may include:-

- A centre for training in the FIDIC Contract Conditions
- Provide testing of competence of representatives of Employers, Engineers & Contractors in the use of the FIDIC Contract Conditions.
- Create a culture amongst Employers & Contractors that their representatives have to undertake training & passed competence tests in the use of FIDIC Contracts
- Provide guidance to Employers in the preparation of Particular Conditions with the partnership of the MDBS' to raise standards & maintain fairness between the Parties
- Establish a good management manual for use by the Parties to a FIDIC Contract
- Develop a network of FIDIC Contract consultants who may be called upon to give specific contractual advice to the Parties to a FIDIC Contract in Africa separate to the DAB process
- Establish annual awards to the Parties for the most well executed FIDIC Contract in Africa & individual awards of competence for the Engineer & Resident Engineers

The above will obviously cost money & this is where the MDBS' may consider that a small % (say 0.1%) of their loan value to borrowing countries is allocated to the above activities that are managed by GAMA. Contractors & others may also sponsoring the training centre
The objective is the raising the competence of those executing the FIDIC Contracts leading to project savings and also helping to achieve sustainable capacity building in people.

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