



ARTICLE

“Sufficient Information” in construction contracts: Merely a question of fact!

The term “Sufficient Information” appears in two standard forms of building contract used in Singapore (PSSCOC¹ and SIA Standard Form of Contract²) and relates to particulars a contractor must provide to the contract administrator³ in support of his extension of time application. Nothing wrong with that we hear you say, quite normal in fact and to be expected when trying to estimate how much extension of time to grant.

What constitutes “Sufficient Information” can be extremely subjective and from experience the requirement is often met after numerous exchanges of correspondence between the contractor and contract administrator. This is very much a trial and error process with the contract administrator taking the usual position of not saying exactly what information he requires. To some, this may be viewed as an opportunity or license to procrastinate, particularly as both the PSSCOC and SIA Standard Form of Contract only obliges the contract administrator to determine extensions of time when he is in receipt of sufficient information.

Sadly, such discretionary powers may be used to defer the prospective award of extension of time until a convenient date in the future or when the Works are near to or at completion, at which time the full extent of the delay is apparent. In the case of the SIA Standard Form of Contract, the contract administrator can wait until the Final Certificate is issued.

This puts the contractor in the position of not knowing what extension to expect (if any). Does he speed-up work to avoid possible delay damages or continue in the belief that an extension of time will be granted. So, what must a contractor do? Is there an industry test or check list that can be used to show how and what information is to be presented or is it simply a question of cobbling together as much information as possible and submitting to the contract administrator in the hope that he will do the rest? Quite often it is the latter that seems to be the norm with little or no attempt being made by the contractor to establish the facts or circumstances surrounding the alleged delay event.

What amounts to “Sufficient Information” is by and large a question of fact and to be objectively answered in light of the contract administrator’s knowledge of the delaying event. If we assume the contract administrator has very little knowledge of the event, which is sometimes conveniently the case, then as a minimum the information

¹ Public Sector Standard Conditions of Contract (2005 Edition) Clause 14.3 (1) & 14.3 (3)

² Singapore Institute of Architects (SIA) Standard Form of Contract (Sixth Edition) Clause 23.4

³ Superintending Officer or Architect

to support the contractors extension of time application should typically include fact based narratives that explain the alleged cause or causes of delay and how these affect progress and completion which is illustrated by appropriate methods of delay analysis. This approach is generally in keeping with the requirements of clause 14.3(1) of the PSSCOC.

Documentary evidence, comprising letters, method statements, instructions, progress reports and photographs, meeting minutes and construction programmes are required to support the assertions made by the contractor. These are records which the contractor would be obliged to keep in any event and in keeping with the requirements of most standard forms of contract.

Contractors and contract administrators may continue to have different views and ideas as to what constitutes “Sufficient Information” and the types of documentation to be provided. However, adopting the above basic principles will aid the timely assessment and award of extension of time with any further amplification required by the contract administrator being limited to any specific information.

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