

Webinar on

Differing Site Conditions – Who Really Owns The Risk?

• Areas Covered

- ☐ *Definition of Differing Site Condition (DSC)*
- ☐ *Why owners need a DSC clause*
- ☐ *History of the DSC clause*
- ☐ *Modern DSC clauses*
- ☐ *Conditions typically covered by DSC clauses*
- ☐ *What are “indications”*
- ☐ *What is a “material difference”*
- ☐ *Impact of contract disclaimers*
- ☐ *Conditions not covered by DSC clauses*

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- ☐ *Conditions sometimes covered by DSC clauses*
- ☐ *Roadmap for successful DSC claims – 6 essentials*
- ☐ *5 additional contract requirements*
- ☐ *Contractor's duty to proceed with work*
- ☐ *Reverse DSC claims*
- ☐ *Caging risk allocation under DSC clauses*
- ☐ *Practical recommendations for owners*
- ☐ *Practical recommendations for contractors*
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Learn about the intent of the Differing Site Conditions clause and how it operates and what conditions are and are not covered by the Differing Site Conditions clause.

PRESENTED BY:

James G. Zack - is the Principal, James Zack Consulting, LLC, and Senior Advisor, Ankura Construction Forum™. Mr. Zack is a Certified Construction Manager (CCM), a Certified Forensic Claims Consultant (CFCC), an Expert Certified Construction Claims Specialist (ECCCS), an Expert Certified Construction Delay Analyst (ECCDA) and a Project Management Professional.



On-Demand webinar

Duration : 90 Minutes

Price: \$200

Webinar Description

The Differing Site Conditions clause is one of the oldest clauses used in construction contracts, having been created by the U.S. Federal government in 1926. It is generally accepted that the object of the clause is to transfer the risk of latent site conditions to the owner, thus enticing contractors to reduce their contingency cost at the time of the bid. The promise of the clause is that if the contractor encounters a “materially different” condition during the execution of the work, the owner will compensate the contractor for the resulting cost and/or time. For more than 90 years this standard clause has been used widely in both public and private contracts. Most practitioners in the construction industry think they know what the clause means and how it operates. But, in the words of one of the mid-20th century “deans” of construction law, Max E. Greenberg, “It ain’t necessarily so!” Over the years, the Courts and Boards of Contract Appeals have been slowly changing the interpretation of risk allocation under the clause. A series of Court and Board cases have increased the contractor’s risk concerning differing site conditions. This webinar will explore the changes in risk allocation.



Differing Site Conditions or materially different latent site conditions are often encountered on projects during construction. Whether natural or manmade, unforeseen conditions can wreak havoc on project cost and schedule. Standard contracts typically have a Differing Site Conditions clause intended to provide compensation to the contractor if such conditions are encountered. And yet, as old as this clause is, all too often there are disputes concerning whether the condition is materially different; whether contract disclaimers are enforceable; and whether the owner really owes time and money to the contractor. These disagreements most often arise due to a lack of understanding of how the Differing Site Condition clause is supposed to work. This webinar hopes to fill this knowledge gap concerning this type of claim for both owners and contractors.



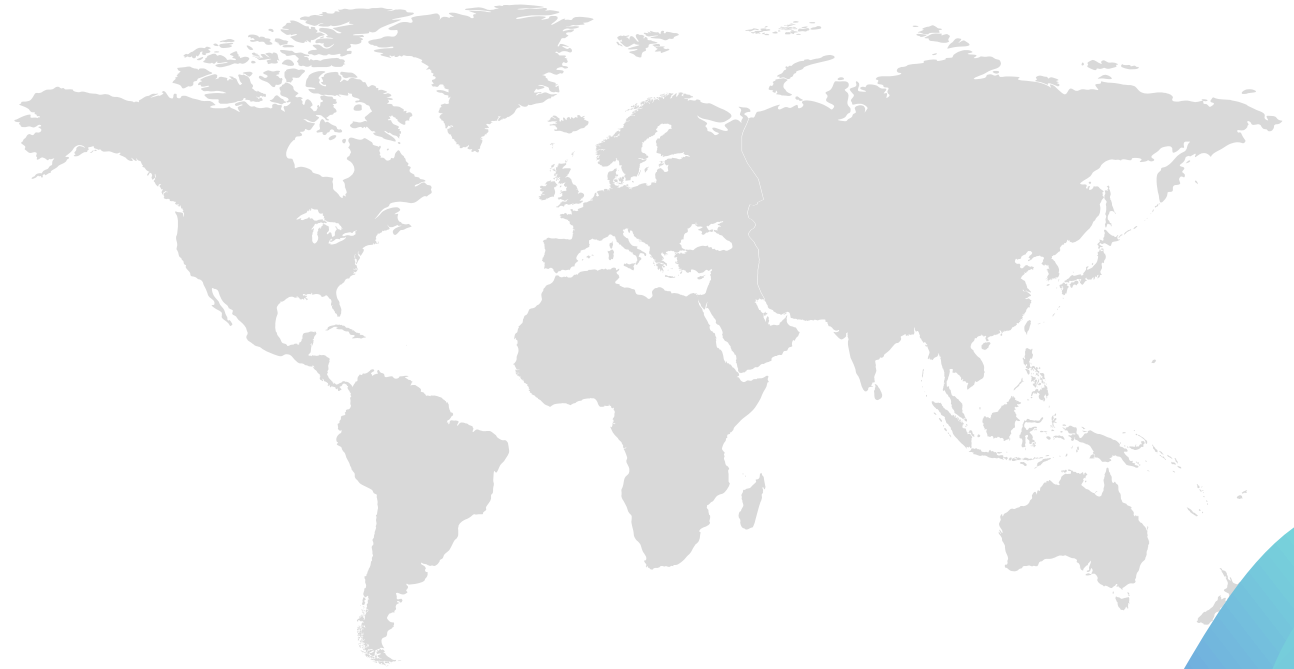
Who Should Attend ?

- *Owner & Contractor Project*

Managers

- *Resident Engineers or Architects*
- *Agency Construction Managers*
- *Construction Managers @ Risk*
- *Design Managers*
- *Legal Counsel representing owners*

or contractors



Why Should You Attend

- *Learn about the intent of the Differing Site Conditions clause and how it operates*
- *Learn what conditions are and are not covered by the Differing Site Conditions clause*
- *Understand what must be demonstrated to prevail on a differing site condition claim and what contractual requirements must be complied with in full*
- *Become familiar with several Court and Board of Contract Appeal decisions that are changing the “traditional” allocation of risk under the Differing Site Conditions clause*



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