

Real Property Section of the Florida Bar

**CLE Presentation
to the Construction
Law Committee
November 9, 2015**



Hill International

**Claims Analysis & Forensic
Accounting Issues in
Construction**

**William K. “Bill” Thomas, CPA, CFE, CFF
Hill International, Inc.**

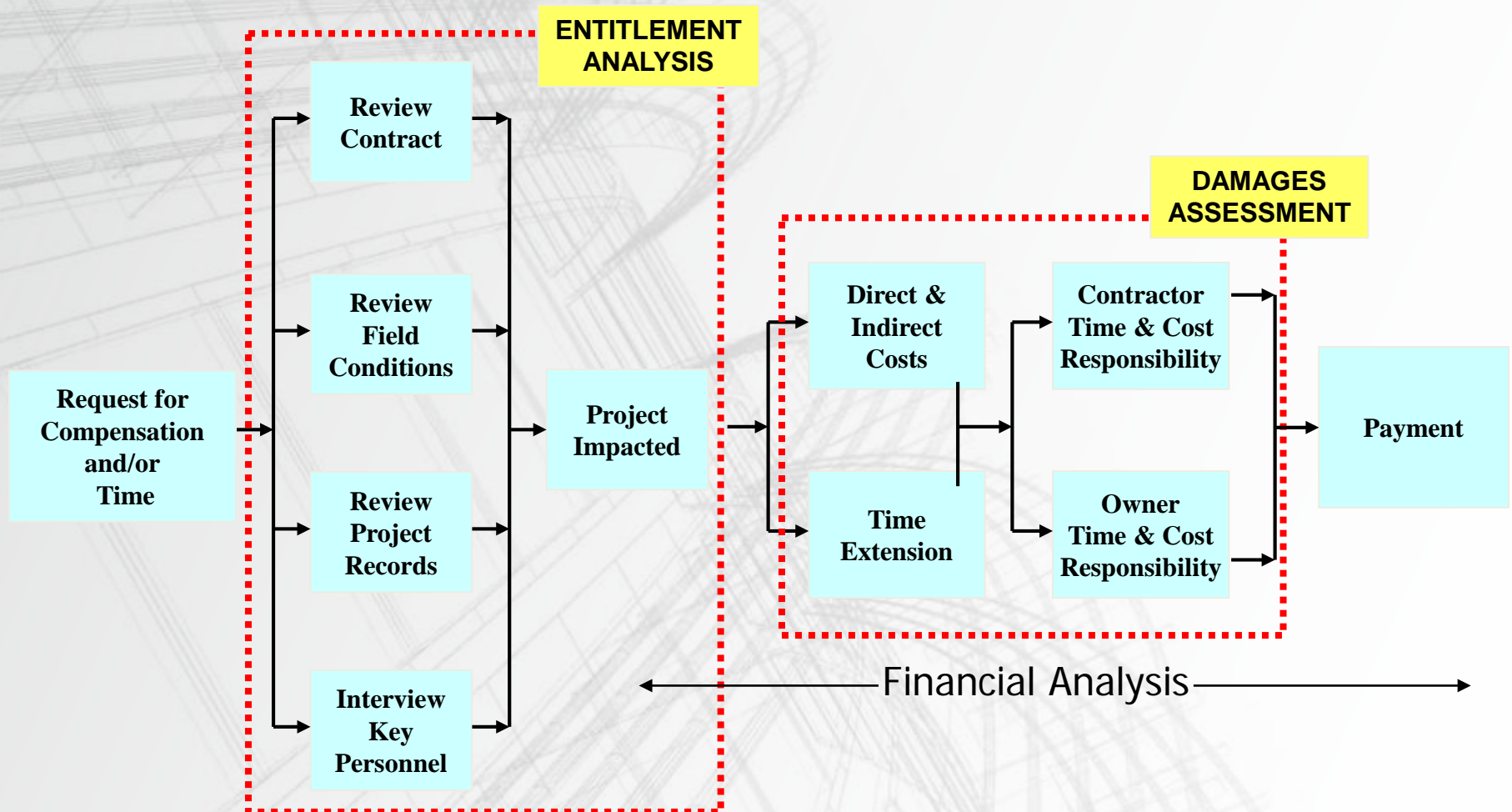
TOPICS TO BE COVERED



Hill International

- **Timing of Analysis**
- **Access to Information**
- **Review and Analysis Steps**
- **Common Red Flags**

TIMING OF THE ANALYSIS





THE key to detecting mistakes & fraud



Right to audit contract provisions



Right to audit subcontractor's and material suppliers



Penalty and/or waiver of claim due to lack of access

ACCESS TO INFORMATION (DISCOVERY PROCESS)



“Audit” versus Discovery



Initial “Requests for Information”



Inventory documents received & compare to request



Supplemental “Requests for information”








Timing of receipt of records – early vs. late

REVIEW AND ANALYSIS STEPS

(PRELIMINARY)



Hill International

-  CPA must maintain “professional skepticism”
-  Read the change order/claim
-  Read applicable contract provisions/plan notes
-  Meet with Estimator & Project Manager
-  Gain an understanding of the project schedule

	Labor	Equipment	Materials	Subs	Jobsite Overhead	Work Item Identification
Detailed General Ledger	X	X	X	X	X	
Bid Estimate & Documents	X	X	X	X	X	X
Project Budget	X	X	X	X	X	X
Job Cost Detail Report	X	X	X	X	X	X
Accounts Payable Ledger		X	X	X		
Fixed Asset / Depreciation Schedule		X				
Equipment Usage (History) Report		X				
Payroll Ledgers	X					
Timesheets	X	X				
Foreman’s Daily Reports	X	X	X	X		X
Cancelled Checks	X	X	X	X	X	
Purchase Invoices		X	X	X	X	X
Subcontracts	X	X	X	X		X
Contractor Correspondence files			X	X		
Owner’s Daily Reports	X	X	X	X		X
Project Photos and Project Meetings	X	X	X	X		X

REVIEW AND ANALYSIS STEPS

(BUDGET VS. ACTUAL ANALYSIS)



Hill International



Prepare a budgeted cost vs. actual cost comparison for each significant work item



Determine if the claim mirrors the work items exhibiting profit fade



Must add approved change orders to budget



Gain an understanding of why budget expectations were not met

REVIEW AND ANALYSIS STEPS

(CHANGE ORDER/CLAIM PACKAGE)



Hill International



Obtain electronic copies of all spreadsheets



Verify mathematical accuracy of CO/claim summary calculations & supporting documents



Review CO/claim with the person that prepared it



Request permission to work with the financial person for financial documentation requests



Identify numbers or assertions with weak or no support

REVIEW AND ANALYSIS STEPS

(LABOR)



Hill International



Who worked on what, when, and where



Verify labor rates



Burden rate mark up – verify support



Determine if concurrent jobs have CO's and claims








Determine if claimed personnel are working on concurrent jobs

REVIEW AND ANALYSIS STEPS

(MATERIALS)



Hill International

-  Obtain backup of actual pricing
-  Identify material cost escalations
-  Examine when materials were ordered
-  Determine if contractor ordered materials from vendors who provided a quote prior to bid
-  Compare actual price to quote price from vendors

REVIEW AND ANALYSIS STEPS

(EQUIPMENT COSTS)



Hill International



Determine if claim is utilizing standardized rates or actual costs – what's authorized



Account for equipment usage



Labor timesheets – may note type and usage of equipment



Determine if concurrent jobs have CO's and claims



Determine if claimed equipment was used on concurrent jobs

REVIEW AND ANALYSIS STEPS

(SUBCONTRACTORS)



Hill International



Obtain quotes submitted prior to bid



Examine when subcontracts were executed



Review subcontract for allowances



Determine if sub started and finished on time



Review correspondence – from prime and subs

REVIEW AND ANALYSIS STEPS

(HOME OFFICE OVERHEAD)



Hill International



Check contract for allowances



Examine general ledger overhead accounts



Review types of costs – items not usually related to the job or the operation of the company. Boats, vacation condo, personal property



Insure contractor passes 4-part test

UNABSORBED HOME OFFICE OVERHEAD



Hill International

Requirements for any Unabsorbed HOOHD claim:

- Delay must be compensable
- There must have been a reduction in the stream of income from payments for direct costs incurred, resulting in less income available for HOOHD costs
- There must **not** have been an opportunity for the contractor to mitigate its damages by taking on other work during the delay period.
- Contractor had **no** excess capacity.
 - Crew availability
 - Available equipment
 - Available bonding capacity
 - Submission of bids on other projects

UNABSORBED HOME OFFICE OVERHEAD CALCULATIONS



Hill International

Formula

Result

Eichleay	\$ 2,092,678
Modified Eichleay (1)	\$ 3,249,504
Modified Eichleay (2)	\$ 3,158,809
Hudson	\$ 3,087,192
Ernstrom	\$ 539,696
Manshul 1	\$ 299,114
Manshul 2	\$ 1,470,978
Carteret	\$ 113,796
Allegheny	\$ 548,000
Emden	\$ 4,300,017
Tru-Craft	\$ 3,191,903
FDOT	\$ 3,528,219

REVIEW AND ANALYSIS STEPS

(OTHER CONSIDERATIONS)



Hill International



Job site expenses are usually posted to detailed job cost report – check for contract allowance



Consider contacting persons no longer employed with contractor but were involved



Document discussions with contractor as they occur



Working with other experts



Access to work papers of Contractor's CPA

Benefits of Conducting Analysis

(During Construction or Shortly Thereafter)



Hill International

- ✓ Could identify inflated costs within CO/claim due to use of standardized rates (equipment, labor, etc.).
- ✓ Could identify errors within CO/claim due to inappropriate or not produced supporting documentation.
- ✓ Most appropriate for unusual change orders, prolonged disagreements, and complex issues.

Benefits of Conducting Analysis

(During Construction or Shortly Thereafter)



Hill International

- ✓ **Conducting an analysis may be the most cost effective tool in learning all the facts.**
- ✓ **An analysis is equivalent to “free discovery” of information.**
- ✓ **The analysis reduces the potential risks of errors and fraud in construction CO's and claims.**

FRAUD RISK AREAS IN CHANGE ORDERS & CLAIMS



Hill International



No audit clause in the contract



Damage calculations are not prepared in conjunction with/or reviewed by a financial person.



Inconsistent use of cost variables for analysis.



Improper use of mark-ups.



Inefficient work or lost productivity claims – improper measured mile calculations.

FRAUD RISK AREAS IN CHANGE ORDERS & CLAIMS



Hill International



Claim for expenses incurred that should have been bid in pay or schedule of values items.



Loss of bidding capacity and/or lost future profits.



Including overhead expenses in the claim as part of direct costs.



Claiming time periods that were previously included in supplemental agreements & work orders – ignoring any waiver clauses.



Moving Target – claim statements by Contractor that costs submitted may be changed as additional information becomes available.

FRAUD RISK AREAS IN CHANGE ORDERS & CLAIMS



Hill International



Same labor burden rate for all employees – clear overstatement of worker's compensation rates.



Excessive number of claimed delay days during the project. Check for weather days and change order days previously granted.



Lack of Certification of claimed costs - if contractually required.

FRAUD RISK AREAS IN CHANGE ORDERS AND CLAIMS



Hill International



Claiming equipment damages in excess of the cost to purchase the equipment claimed.



Claim amounts approach original contract price.



Unwillingness to produce requested records.



Waiting to address issues until the end of the project.



William K. “Bill” Thomas, CPA, CFE, CFF

billthomas@hillintl.com



Hill International, Inc.

(813) 314-2442

www.HillIntl.com