

Analysis of Contractual Communication among parties to the contract with respect to disputes in construction

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Abstract - Construction industry have a very vital role in financial condition of any country. Disputes are the very important factors which affects the project. Communication plays crucial role in progress of all projects. As the project unfolds and the design is realized, information in the form of drawings, specifications and construction methods must be communicated from one expert to another. Therefore, using an appropriate communication method and communication medium to resolve construction and design problems is essential. This research paper contains various reasons of dispute, importance of communication in construction projects, various reasons behind lack of communication and their impact on performance of the project.

Key Words: : Construction disputes, Communication gap, Impact.

1. INTRODUCTION

Construction industry is the biggest asset to the financial status of any country. Construction industry has very strong impact on economy of different countries. Disputes are the tumor to the construction industry. This tumour is unavoidable due to various reasons. Construction disputes affects cost and time of completion, which results into time overrun and cost overrun. Communication is the very important factor for the functions like planning, designing, production, organizing and managing of any project. Poor or insufficient communication is one of the many factors behind disputes in construction projects. A successful project demand that professionals involved are experienced, appropriate, have the same mindset, are team players with complimentary skill sets and are managed to bring out their best work to meet the vision and goals of the project. Furthermore, communication between these professionals is an integral part of the construction process in any successful project. During a project, communication can occur in various directions depending on who is communicating. There is upward communication to management from ones organization and the customer's organization. Lateral communication takes place with customers and within project teams. Machinery needs to be put in place for further communication to take place, either downward communication (from superior to sub-ordinate), horizontal communication (between colleagues) or upward communication (from sub-ordinates to superior). There are various reasons for disputes in construction industry. People involved in the construction project are the key to successfully completing the project. Therefore it is necessary to invent techniques for encouraging people to communicate, cooperate, face the problems at their occurrence, and try to resolve the disputes as soon as possible. The key factor of solving disputes is how the organization approaches them.

1.1 PURPOSE OF WORK

Communication gap is the important reason for the disputes occurring on construction projects. Purpose of this research is to suggest methods to minimize the various disputes occurring due to lack of communication among different stakeholders of construction site.

2. LITERATURE REVIEW

From the existing literature reviewed, some following observations were noted:

1. It is the people involved in project who make the construction process work successfully, the only way to change the adversarial climate on project is to develop techniques for encouraging people to communicate, cooperate, deal realistically with problems at the time they occur, and resolve disputes as early as possible [1].
2. To avoid construction disputes implementing good management technique with regard to people policy and communication is more effective than attempting to shift risk to other parties by narrowing scope of services [2].
3. The success of project depends upon how the organization approaches problems and conflicts.
4. Majority of disputes have occurred due to lack of communication and misunderstanding between various stakeholders.[4].

5. There are four types of relationships between client and contractors: Adversarial, Guarded adversarial, Informal partners, Project partners.

3. RESEARCH METHODOLOGY

The disputes always made negative impact on progress of construction projects. Therefore disputes should be settled as early as possible. The researches believed that by using proper methods these disputes can be avoided or minimized. Therefore main objectives of the research were

1. To examine different causes of disputes in construction industry.
2. To find out the reasons behind lack of communication among different stakeholders.
3. To analyse the impact of lack of communication between the parties to the contract on the project performance.

To achieve the targets as mentioned above following methodology was adopted: For completing the first objective of the research various previously published papers are studied. Actual interaction with construction professionals is done. An online questionnaire was formed and circulated to the various stakeholders involved in construction industry. Qualitative analysis of the responses from stakeholders was done. By analyzing questionnaire survey various reasons behind lack of communication were identified. Impact of disputes on project performance was identified by doing analysis of dispute cases.

4. DATA COLLECTION, ANALYSIS AND INTERPRETATION

In order to complete research objectives various data collection was done. This data collection involved collection of minutes of meetings, actual written letters between client and contractor, contract documents, various dispute case studies, online questionnaire survey.

By studying the literature and case studies various reasons of dispute occurring in construction industry were identified. These various reasons are as follows:

1. Contract errors or omissions
2. Different site conditions
3. Non-compliance of contractual obligations
4. Failing to correctly administrate the contract
5. Claims error
6. Failure to account the cost
7. Communication gap
8. The design deficiency
9. Defective plans
10. Methods and specification performance
11. Construction processes
12. Owner satisfaction
13. Quality of work
14. Warranties
15. Time

For finding out importance of communication in organization and various reasons behind lack of communication questionnaire survey was done. The survey was floated to various stakeholders belonging to construction industry. The stakeholders involved in this survey was project managers, architects, engineers, rcc consultant, material supplier, board of directors etc.

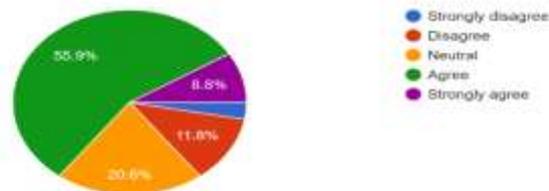
Do the relationships among the stakeholders affect the project

34 responses



From the following Pie-chart, we can conclude that majority of the stakeholders do agree that there is a lack of communication among various stakeholders in their respective organizations. Approximately 64% of the respondents have experienced improper communication in their organizations.

There is a lack of communication among the stakeholders of a construction organization
34 responses



Almost 94% of the respondent have agreed to the hypothesis considered in this situation (Lack of communication is a significant factor affecting the disputes in the construction industry). The results obtained from the questionnaire states the hypothesis assumed is true.

Lack of communication is a significant factor causing the disputes in the construction industry
34 responses



Considering the major reasons stated by the respondents, following are significant reasons responsible for lack of communication:

1. Difference in the Skill levels
2. Weak organization structure
3. Improper Communication Channels
4. Lack of an effective platform
5. Casual attitude of the stakeholders

For completing the third objective detailed analysis of different cases of disputes was done. By analysing 20 case studies relationships between client and contractors were classified into four types. Case studies also helped to find out impact of communication gap on the project performance.

Table No. 1

| Case No | Name and type of work | Parties involved | | | Assessment of relationship | Classification of types of relationship | Effects on parties |
|---------|--|------------------|----------------------------------|------------|---|---|---|
| | | Party no. | Name | Role | | | |
| 1 | Agreement regarding land for five star hotel including hotel shopping arcade | 1 | Airport Authority of India (AAI) | Client | In this case both client and contractor were pursuing their own | Adversarial | Client had to extend lease as contractor was ready and willing to perform its part of the agreement |
| | | 2 | Grover International | Contractor | | | |

| | | | | | | | |
|---|---|---|--|------------|--|---------------------|--|
| | (Construction of hotel) | | limited (GIL) | | interest at the other parties expense | | |
| 2 | Four laning and strengthening of the existing two lane section (Widening of existing road) | 1 | National Highway Authority of India (NHAI) | Client | Both parties refused to hear each others problems and pushed for their own interests | Adversarial | The client is restrained from en-cashing the bank guarantees and contractor should keep the same alive |
| | | 2 | Sew Infrastructure Ltd | Contractor | | | |
| 3 | The national thermal power station (NTPS), construction of port used for coal import (construction of port) | 1 | National thermal power station (NTPS) | Client | Client was not accepting any problems showed by contractor | Adversarial | Client had to payback extra made money from contractor |
| | | 2 | XYZ | Contractor | | | |
| 4 | Construction of Veer Baji Palsakar masonry dam (construction of dam) | 1 | State Government of Maharashtra | Client | Client and contractor was only seeing their own benefit at the expense of other party | Adversarial | The owner had to pay contractor as mentioned in contract |
| | | 2 | M/S Atur India Pvt. Ltd. | Contractor | | | |
| 5 | Florida department of transportation (road construction) | 1 | Tampa-Hillsborough County Expressway Authority | Client | Client made changes in the contract without notifying contractor | Adversarial | Client was responsible for the expended cost and had to pay the extra amount |
| | | 2 | Hubbard Construction Company | Contractor | | | |
| 6 | Construction of girls hostel at NID, Gujarat | 1 | National institute of design | Client | Client hired his own professionals without telling contractor and demanded changes in construction | Adversarial | Client was responsible for dispute and had to give compensation to contracting firm. |
| | | 2 | Xyz project management consultancy | Contractor | | | |
| 7 | Widening and upgrading existing road (widening of the road) | 1 | National Highway Authority of India (NHAI) | Client | Parties cooperate within boundaries of the contract | Guarded adversarial | All claims made by NHAI were rejected by arbitrator and by the court. |
| | | 2 | Sew Infrastructure Ltd | Contractor | | | |
| 8 | Four laning of NS-26 project (widening of existing road) | 1 | National Highway Authority of India (NHAI) | Client | In this case involved parties gave importance to each other but see them as suspicious allies | Guarded adversarial | Claims of contractor were dismissed by the arbitrator |
| | | 2 | Bhageeratha Engineering Ltd. | Contractor | | | |
| 9 | Widening of | 1 | National | Client | All the claims | Guarded | Client had to pay the |

| | | | | | | |
|--|---|-----------------------------|------------|---|-------------|----------------------|
| four lanes and rehabilitation of existing carriageway of Pune - Satara highway (widening of existing road) | | Highways Authority of India | | done by contractor was by referring contract conditions | adversarial | money to contractor. |
| | 2 | ITD Cementation India, LTD | Contractor | | | |

Like this total 20 cases were analyzed. From this data impact of lack of communication among parties on project performance is identified. Following are the impacts on project performance:

1. Cost overrun
2. Time overrun
3. Litigation cases
4. Damaged reputation of company
5. Loss of profitability
6. Deterioration of relationships among stakeholders
7. Extension in award procedures
8. Rework
9. Loss of professional reputation.

5. CONCLUSION

From the all above analysis we can conclude that relationships among stakeholders affects the project. Communication gap can result into delaying of project, overbudgeting of the project, need of rework etc. Communication gap is the root cause of majority disputes occurring in the construction industry. A method could be suggested that will help the construction organization to minimize communication gap among stakeholders.

REFERENCES

1. Luka Goji Tipili (2014) Evaluating the effects of communication in construction project delivery in Nigeria, Global Journal of Environmental Science and Technology: ISSN-2360-7955, Vol. 2(5)
2. Rui Cunha Marques (2017) Is arbitration right way to settle conflicts
3. Charles T. Jahren (1990) Investigation of construction disputes Journal of Management in Engineering, Vol. 6, No. 1
4. Foley J, Macmillan S (2005). Patterns of Interaction in Construction ream meeting
5. Project management handbook (2007). Communication management
6. <http://www.scribd.com/doc/7875707/Project-CommunicationSummary-by-Sachitn-Mehra>.