



## **The “Proof Is in the Paper”: Day-One Documentation That Wins Construction Disputes**

In construction disputes, outcomes rarely turn on who tells the better story at mediation or arbitration. They turn on who can prove it. Schedules slip, scopes evolve, and costs grow—but years later, when a claim is evaluated, the facts that matter most are the ones captured contemporaneously, in writing, and tied to the project’s original bargain. The attached one-page [documentation guideline](#) reflects this reality by identifying the records that establish entitlement, demonstrate causation, and support quantification across the life of a project (from RFP through closeout).

### **Entitlement Starts Before the Contract Is Signed**

As the guideline makes clear, entitlement disputes are often decided based on pre-contract records rather than post-dispute recollections. Documents such as requests for proposal, pre-bid meeting materials, bidder questions and answers, proposal assumptions, and contract negotiation communications (including redlines and discussion summaries) define what was promised and what risks were knowingly accepted. When these materials are preserved and organized, parties can resolve scope disputes by pointing to contemporaneous evidence rather than debating intent years later.

### **Project Baselines Define the “Before” Condition**

Once the contract is executed, the guideline emphasizes preserving project baselines that establish how the work was intended to proceed. Approved baseline schedules (in native format), estimated labor hours, bills of materials, cost breakdowns, and staffing plans provide the reference point for evaluating deviation, disruption, or inefficiency. Without these benchmarks, claims become abstract; with them, the “before” condition is documented and defensible .

### **Execution Records Connect Cause and Effect**

During construction, disciplined execution-phase documentation is what connects events to impacts. The guideline highlights the importance of retaining issued drawings and revisions, RFIs, submittals, inspection reports, change directives, non-conformance reports, and change order logs. Just as important are recurring project records—daily field reports, schedule updates, look-ahead schedules, meeting minutes, and progress photos—which establish when changes occurred, who knew about them, and how they affected downstream work.

## **Quantification Lives or Dies on Contemporaneous Data**

Quantification is often the most heavily scrutinized aspect of a construction claim, and the guideline underscores that it must be grounded in real-time data. Actual labor hours by trade, quantities installed per period, earned-value metrics, and cost tracking by cost code provide the factual basis for tying increased costs to specific events. When this data is consistently captured, damages analyses can be traced to documented facts rather than broad assumptions vulnerable to attack.

## **Documentation Is a Project Strategy, Not a Litigation Afterthought**

The central lesson embedded in the guideline is that dispute readiness is a project-management discipline, not a litigation reaction. Owners, designers, and contractors who follow a structured documentation framework from pre-contract through execution are better positioned to resolve issues early, defend decisions confidently, and avoid disputes altogether. In construction, people change and memories fade—but the records identified in the guideline endure, and they often decide the outcome.

## **CHECKLIST**

### **1. Entitlement: What Was Promised?**

*Capture these before and at contract execution.*

- Request for Proposal and supporting materials
- Pre-bid / pre-proposal meeting notes and presentations
- Bidder questions and answers
- Submitted proposal and stated assumptions
- Contract negotiations, redlines, and discussion summaries
- Record of contract revisions and reasons for changes

**Why it matters:** These documents define the original scope and risk allocation—often the deciding factor in change and extra-work disputes.

### **2. Baselines: How Was the Work Supposed to Proceed?**

- Approved baseline schedule (native format preferred)
- Labor hour estimates by trade
- Bill of materials and quantities
- Baseline cost breakdown (labor, materials, indirects, markup)
- Staffing and resourcing plans

**Why it matters:** Baselines establish the “before” condition against which delay, disruption, and inefficiency are measured.

### **3. Causation: What Changed, When, and Why?**

- Issued drawings and revision logs
- Submittals and transmittals
- RFIs and responses
- Inspection reports and NCRs
- Change directives, proposals, and logs
- Daily field reports and progress photos
- Schedule updates and look-ahead schedules
- Meeting minutes and formal correspondence

**Why it matters:** These records link events to impacts and show contemporaneous knowledge and response.

### **4. Quantification: What Did It Cost?**

- Actual labor hours by trade and period
- Installed quantities by period
- Earned-value data
- Cost tracking by cost code and period
- Cost forecasts and updates

**Why it matters:** Damages are proven with data, not estimates. Consistent tracking supports defensible quantification.

***If it is not documented, it is difficult to prove.*** The most successful construction claims—and the disputes that never materialize—are built on records created in real time, following a deliberate documentation framework from day one.

For further information on these developments, please contact [Kristi Belt](#).