

A Conceptual Framework for Managing Construction Claims in the Face of the COVID-19 Pandemic in Nigeria

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Abstract

Claims are inevitable and have become an indispensable part of modern construction. The complexities, risks and uncertainties surrounding construction business environment often lead to unforeseen circumstances which disrupt the progress of works and give rise to contractual claims. One of such unexpected events presently causing disruption for construction contractors is the coronavirus or COVID-19 pandemic, which is exerting a significant but unprecedented impact on the delivery of construction projects, resulting in delays and additional costs for contractors, suspension of works and a disruption of the construction supply chain. Due to its novelty, the COVID-19 pandemic has presented a distinctive challenge for construction claims management. Therefore, if construction project parties are to prevent claims from escalating into dispute, it is imperative that the claims arising from construction contracts, as a result of the COVID-19 pandemic, are effectively managed. This study therefore examined the deficiencies of existing construction claims management process with a view to providing a conceptual framework for more effective management of claims that may arise as a result of the COVID-19 pandemic in Nigeria. Questionnaire responses were received from 162 construction small, medium and large contractors in Akwa Ibom State, Nigeria. The result indicates that failure to interpret contract terms is the most significant deficiency in contractual claims management process. Other important deficiencies in the claim management process include contractors' inability to recognise claims events, failure to establish legal and factual grounds and poor records or documentation to support claims. With this, a conceptual framework for effective management of claims in the face of the COVID-19 pandemic was developed for use by contractors.

Keywords: Claims, contractors, COVID-19 pandemic, management, Nigeria

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1.0 INTRODUCTION

The construction industry in Nigeria is an important sector of the economy. Its contribution to Gross Domestic Product (GDP) grew from 3.69% in 2015 to 4.22% in the second quarter of 2016 (NBS, 2016). The sector also contributes about 71% of the Gross Fixed Capital Formation (GFCF) of Nigeria in 2014 (NBS, 2017), and has potential for employment generation (Adeagbo, 2014). In most parts of the world, construction projects are procured on a contract basis, and this practice is also applicable in the Nigerian construction sector. The construction contracting business environment is often characterised by complexity, dynamism and high degree of risks, and these often give rise to claims (Moza & Paul, 2018).

Construction claims arise from adverse or unpleasant events in construction contract which cause disruption and delay (Bakhary et al., 2017; Hadi, 2018), and it causes a contractor to incur losses and expenses for which he would not be reimbursed on a normal basis. It is a request made by a contractor for payment for losses or additional expenses incurred while carrying out his contractual obligations (Okafor, 2007; Shah et al., 2014). While contractors may sometimes shy away from submitting claims for fear of being labelled as claim-conscious, Stodjadinovic (2018) insists that a claim is a legitimate request for compensation. Moreover, stakeholders observed that a claim may be submitted by either of the contracting parties. Therefore, in a much broader sense, a construction claim is an assertion of right to money, property or a remedy by any of the contractual parties (Kumaraswamy, 1998) and may arise when either the client or contractor perceive that the other party has failed to live up to the terms of the contract (Lavigne, 1993). From the foregoing discussions, it is evident that construction claims arise when a party to a contract believes that in some way, by act of omission or commission, the other party has not fulfilled its obligations (Hadi, 2018; Kululanga et al., 2001).

Authors and researchers are unanimous that the unique, dynamic and complex nature of the construction sector has made claims inevitable. Therefore, construction claims have now been considered as a way of life and as an indispensable part of modern construction (Bakhary et al., 2015; Harris & Scott, 2001; Scott, 1997; Shen et al., 2017; Vidogah & Ndekugri, 1998; Zanelidin, 2005). Construction

contracting is inherently volatile as parties are constantly exposed to unanticipated risks, economic losses and unforeseen contractual liabilities while discharging their obligations (Lavigne, 1993). Moreover, competition compels construction contractors to undertake risky projects with less profit in order to remain in business (Hadi, 2018; Shah et al., 2014). As a result, claims for additional costs or for time extension often occur during construction (Zaneldin, 2005).

According to Kululanga et al. (2001), the management of claims is a major challenge facing contractors in the ever uncertain construction business environment. Construction claims are considered by many stakeholders as one of the most unpleasant events in a project (Hadi, 2018; Shah et al., 2014). It constitutes a burden to the construction sector with its numerous negative impacts on projects (Shen et al., 2017). Claims could cause a contracting party to incur significant additional costs (Bakhary et al., 2017), increase project costs beyond budget and also extends the construction completion time beyond the agreed schedule (Asuquo & Ogbu, 2010; Nworuh & Nwachukwu, 2004). Moreover, the settlement of claims often generates negative emotions (Bakhary et al., 2017) which are often accompanied by accusations, counter-accusations and feelings of dissatisfaction among contractual parties. At other times, especially where agreements cannot be reached, it could lead to expensive and time-consuming arbitrations or litigations (Bakhary et al., 2015). The resentment that is usually associated with claims is considered as detrimental to the development of a team approach in construction, and this has given the construction industry an unpleasant reputation.

From the foregoing, it appeared that the impact of construction claims is still high in spite of the extensive documentation often associated with construction contracts. It is true that most forms and conditions of contract recognised the reality of claims and have included provisions that entitle the contractor to monetary compensation and time extension when an unexpected event occurs (Ren et al., 2001; Tusingwire, 2020). Moreover, new forms of contract, with largely non-adversarial dispositions, and which encourage better relationship between parties, have been introduced in construction procurement to address the problem of claims. However, despite the contractual provision and the innovations in contract procurement and administration, the circumstances that give rise to claims continue to occur, and contractual claims have continued to escalate (Moza & Paul, 2018; Scott & Harris, 2004).

Construction works are sometimes delayed or disrupted for a variety of reasons, and several factors have been responsible for the occurrence of claims in construction projects ranging from contract documentation to changes in project conditions (Kululanga et al., 2001). Shen et al. (2017) posited that the complexities, risk and uncertainties surrounding construction projects can give rise to claims. One of such circumstances that could constitute a change in project condition and consequently give rise to construction claims is the novel coronavirus or COVID-19 pandemic which is currently ravaging the world. It began as an outbreak of pneumonia in Wuhan, China in December 2019 (Law, 2020; Wang & Wang, 2020), and by March 11, 2020, the World Health Organisation (WHO) declared it a global pandemic (Tusingwire, 2020). The first case of the disease in Nigeria was recorded in the commercial city of Lagos on February 27, 2020 (NCDC, 2020), and the number of cases grew to 7839, with 5350 active cases, 2263 cases discharged and 226 deaths recorded as at May 24, 2020 (Vanguard, 2020).

The COVID-19 pandemic has presented an extraordinary challenge, and is having a significant effect on the delivery of construction projects globally, and this also present a new outlook for construction claim management (FIDIC, 2020; Hoal, 2020; Tusingwire, 2020). The Nigerian construction industry is not immune from the impact of this global pandemic as it has recorded its own fair share of disruption in the delivery of construction projects (NIQS, 2020). This study therefore examined the deficiency in existing claims management process and to develop a conceptual framework for more effective management of construction claims in Nigeria in the face of the COVID-19 pandemic. According to Seo and Kang (2020), the management of claims has become a crucial aspect of construction project management, and it is capable of ensuring the successful delivery of construction projects. Therefore, the present study is significant in the sense that it unraveled shortcomings in the existing claims management practices of contractors, which in turn provided a basis for developing useful guidelines for effective management of construction claims in the face of a global disruption.

■ 2.0 LITERATURE REVIEW

2.1 Impact of COVID-19 Pandemic on Construction

The effect of the COVID-19 pandemic on construction contracts is huge and has potential to increase to a staggering proportion. It has caused extreme impact and massive disruptions in construction activities globally (Hoal, 2020; Tusingwire, 2020). The pandemic has presented an unusual challenge to construction, and is having a considerable effect on the delivery of construction projects globally (FIDIC, 2020). It has led to the imposition of shutdown of construction sites, restriction on movement by government and the introduction of new standard operating procedures to be implemented on construction sites (Tusingwire, 2020), and these were neither contemplated by the project parties or reflected in the construction contracts. So many constructions projects have been suddenly stopped, or have not commenced as scheduled, or are at least subject to slowdown and delays arising from the workforce disruption caused by COVID-19 pandemic (Shaughnessy et al., 2020). The restrictions, partial or complete lockdown orders, and the implementation of the new operating guidelines, have limited construction operations and have led to substantial delays, additional costs, suspension of works and a disruption of the construction supply chain (FIDIC, 2020; Hoal, 2020; Tusingwire, 2020). Like in most other countries, Nigerian construction sector has been adversely affected by the dreaded COVID-19 pandemic, with huge impact on the construction supply chain and procurement of construction projects (NIQS, 2020).

2.2 Contractual Implications of the COVID-19 Pandemic

It is pertinent to examine how the contract clauses have allocated the unusual risks between parties. Possible liability clauses including potential relief outside the contract terms may have to be considered, with specific emphasis on clauses dealing with contract delays, extension of time and force majeure (Shaughnessy et al., 2020). It is instructive to note that most contract forms do not use the term force

majeure, and some do not specifically mention epidemic and pandemic in the force majeure clause. This makes it rather difficult to determine whether the disruption caused by COVID-19 can constitute a force majeure event. Force majeure refers to any superior or irresistible force, natural and unavoidable catastrophes that affect contract performance (Alshammari et al., 2017; Shaughnessy et al., 2020). It is an exceptional event beyond the parties' control that was not reasonably envisaged, could not practically have been avoided, and was not attributable to any of the parties (Shaughnessy et al., 2020; Tusingwire, 2020). Since COVID-19 pandemic is beyond the parties' reasonable control and has been identified as preventing parties from performing their contractual obligations, it may be classified as a force majeure event.

It would also be appropriate to examine contractual terms that can be depended upon to identify other remedies available to parties to protect their right and mitigate their losses in the face of this unusual circumstance of the COVID-19 pandemic. Here, the issue of liquidated damages for client, suspension of work, claims for additional cost, and escape from paying penalty by contractor may have to be considered. It is therefore not so clear how the impact of COVID-19 will be addressed in terms of claims and dispute during and after the pandemic (Tusingwire, 2020).

2.3 Management of Construction Claims in the Face of COVID-19 Pandemic

Ordinarily, timely completion of construction projects has been an enormous task due to the complexity, uncertainties and dynamism that characterised the construction projects. It is even more critical when a novel disease like the COVID-19 pandemic is considered. It is therefore imperative that the claims arising from construction be adequately managed if project parties are to prevent the situation from escalating into dispute. This is consistent with the observation by Long (2012) that the impact of construction claims can still be mitigated through timely management actions and effective contract administration. Construction claim management is the process of employing and coordinating resources to process a claim from identification and analysis, through preparation and presentation before proceeding to negotiation and settlement (Bakhary et al., 2015; Ren et al., 2001). However, Tochaiwat and Chovichien (2004) included dispute resolution and settlement as an additional dimensions of construction claim management process. Therefore, mitigating construction claims requires understanding their causes, understanding contractual terms and obligations, and engaging in early and continued non-adversarial communications, as noted by Zaneldin (2005).

To a large extent, claim management activities depend on the legal principles and management theories adopted at pre-contract stage (Ren et al., 2001). Therefore, for effective claim management, the contractor must specifically follow the steps stipulated in contract conditions, while the client too must follow the laid down procedure for tracking contractor's claims (Akinradewo, 2019). However, authors (Demachkieh et al., 2020; Ren et al., 2001; Seo & Kang, 2020; Vidogah & Ndekugri, 1997, 1998) are unanimous that the claims management practices in the construction sector are beset with certain deficiencies or complexities which could create difficulty in making successful claims. The deficiencies in existing claims management practices are presented in Table 1.

Table 1 Literature sources of deficiency in claim management process

S/n	Deficiency in claim management process	Source(s)
1	Failure to interpret contract terms and conditions	Ren et al. (2001); Tochaiwat and Chovichien (2004)
2	Inability to recognise claim events	Kululanga et al. (2001); Tochaiwat and Chovichien (2004)
3	Failure to establish legal/factual grounds for claims	Hadi (2018); Tochaiwat and Chovichien (2004)
4	Poor records and documentation to support claims	Bakhary et al. (2015, 2017); Ren et al. (2001); Tochaiwat and Chovichien (2004); Vidogah and Ndekugri (1997, 1998)
5	Failure to comply with claims reporting procedures	Hadi (2018); Tochaiwat and Chovichien (2004)
6	Poor claims negotiation capability	Kululanga et al. (2001); Tochaiwat and Chovichien (2004)
7	Poor presentation/articulation of claims impact	Kululanga et al. (2001); Tochaiwat and Chovichien (2004)
8	Insufficient information	Tochaiwat and Chovichien (2004); Vidogah and Ndekugri (1998)
9	Disagreement arising from negotiation	Demachkieh et al. (2020); Ren et al. (2001); Tochaiwat and Chovichien (2004)
10	Failure to make effort towards claims mitigation	Vidogah and Ndekugri (1998)
11	Response to architect/engineer's request for information	Vidogah and Ndekugri (1998)
12	Problem with quantification of claims	Stojadinović (2018); Tochaiwat and Chovichien, (2004); Vidogah and Ndekugri (1998)

Essentially, these deficiencies centre around the interpretation of the contract conditions, recognition of claim events, adequacy of information and information sharing process, availability of effective claims management tools, inefficient claims negotiation processes, establishment of legal grounds for claims and compliance with claim reporting procedures, poor documentation and record keeping, poor claim presentation, and claim quantification problems. Other shortcomings of claim management process which were not considered in this study include difficulty in relating loss or expense with specific causal event (Demachkieh et al., 2020) and failure to establish key performance indicators for claim management processes (Seo & Kang, 2020).

3.0 METHODOLOGY

A literature review was undertaken to identify common deficiencies in construction claim management practices as well as appropriate strategies for effective claims management. A cross-sectional survey research approach was adopted for the study, with construction contractors serving as the respondents. Construction claims often come as a request by a contractor for compensation for loss and/or expense incurred or damage suffered (Okafor, 2007; Shah et al., 2014). This informs the decision of the researchers to select construction contractors as the study respondents. In a situation where there are restriction orders on movement and most people are compelled to work from home, the questionnaire survey method appeared to be the most convenient way to reach out to respondents. A questionnaire was designed and distributed to construction contractors of all categories operating within Akwa Ibom State, Nigeria. These include small, medium and large contracting organisations. The classification of contractors was based on the classification of enterprises provided in a report by NBS (2019). Their classification was based on two criteria, which are the number of employees and value of asset. The employment-based classification takes precedence over other forms of classification and was therefore adopted in this study. The report classified enterprises with less than 10 as micro size, those with 10-49 employees as small size and those with 50-199 employees as medium size. It therefore implies that only enterprises with more than 200 employees can be designated as large size enterprises. For the purpose of this study, the micro size enterprises have been put together with the small size category, since it may be difficult to find a truly micro size contractor in the construction contracting business.

The construction sector in Akwa Ibom is very active with a significant number of important construction works currently ongoing. Maritz and Ogwueleka (2012) observed that the oil rich status of Akwa Ibom State ensures that it receives a high revenue allocation from the Nigerian federation and deploy same into the massive procurement and construction of infrastructure projects. Most of the construction works are executed on the basis of a contract signed between a client and a contractor, and it is likely that there could be a contractual breach by one party or the occurrence of an event that will cause delay or disruption as the construction work proceeds in the face of the ravaging COVID-19 pandemic. According to Vconnect Global Services Limited (2019), there are 918 building and civil construction contractors operating in Akwa Ibom State. The sample size was determined using Taro Yamane's formula for determination of sample size. According to Singh and Masuku (2014), the formula is given by $n = N / [1 + N (e)^2]$. Where n is the sample size, N is the population size, and e is the level of precision. At 95% confidence level or 5% precision level, the sample size for a population of 918 construction contractors is calculated to be 279 contractors.

In an attempt to determine the suitability or reliability of the instrument to elicit the required responses from construction contractors, a pilot study was conducted by administering a test-questionnaire on two construction firms within the study area. The observations made were then used to improve of the final version of the questionnaire. Moreover, the content validity of the instrument was assessed by two senior lecturers in the Departments of Quantity Surveying in a public university within the study area. The respondents were required to express their viewpoints on the issues raised, based on their experience in construction contracting business. The preliminary section of the questionnaire elicited information on profile of the respondents and characteristics of their firms. Deficiency of existing claims management approaches were also identified from literature and presented for respondents to measure their level of significance. The evaluation was done on a 5-point Likert-type scale (1 - not significant; 2 - low significance; 3 - moderately significant; 4 - more significant; 5 - most significant); where a claim management deficiency scores a mean value less than 3.0, it is not considered as important. Data were processed and analysed with the aid of SPSS 20 (Statistical Packages for Social Science, version 20). Descriptive statistics such as frequency distribution, percentages and mean score were used.

4.0 RESULTS

Of the total questionnaire administered, 162 adequately completed copies were returned, and this represents a 58% response rate. Table 2 represents the information on the respondents' characteristics.

Table 2 Respondents' characteristics

	Frequency	Percentage (%)	Cumulative Percent %
Designation of Respondents			
Civil Engineer	55	33.95	33.95
Architect	33	20.37	54.32
Quantity Surveyor	36	22.22	76.54
Others	38	23.46	100.00
Nature of Operation of Firm			
Building construction	83	51.23	51.23
Civil engineering	28	17.28	68.51
Building & Civil engineering	51	31.48	100.0
Years of Experience in Construction Industry			
1 - 5 years	19	11.73	11.73
6 - 10 years	44	27.16	38.89
11 - 15 years	58	35.80	74.69
16 -20 years	34	20.99	95.68

Above 20 years	7	4.32	100.0
Size of Firm in terms of Number of Employees			
1 - 49 employees	87	53.70	53.7
50 - 199 employees	63	38.89	92.59
Above 200 employees	12	7.41	100.0
Inevitability of construction claims			
Strongly agree	17	10.49	10.49
Agree	76	46.91	57.40
Disagree	69	42.59	100.0

*N = 162

Engineers constitute the highest proportion of respondents with 33.95% while Architects, with 20.37%, make up the least proportion of respondents for the study. Majority of the respondents (51.23%) are engaged solely in building construction works while the least share of 17.28% were drawn from contractors concentrating on civil engineering operations. About 61% of the respondents have worked in the construction industry for more than 10 years, with about 46% of the respondents working in firms with not less than 50 employees (medium to large firms). In addition, majority (about 90%) of construction firms sampled in the study are of the opinion that construction claims are inevitable. This further confirm the endemic nature of claims in construction contracts and also strengthen that assertion that construction claims have been accepted as an integral part of modern construction management.

Table 3 depicts the responses of study participants on the deficiency in claims submission that could lead to rejection of contractors claims. The result indicates that failure to interpret contract terms and conditions is the most significant deficiency in contractual claims management process, with an overall mean score of 4.27 on a 5-point scale. Other important deficiencies include inability to recognise claims events, failure to establish legal and factual grounds and poor records or documentation to support claims with mean scores of 4.23, 4.13 and 4.11 respectively. All other deficiencies of claim management process also appear to be significant as they recorded mean scores not less than 3.5 on a 5-point measurement scale. However, there are slight variations in the rankings of the perceived deficiencies in claim management process by small, medium and large construction contractors.

Table 3 Deficiency in contractors' claim management process

Deficiency in contractors claim management process	Small contractors		Medium contractors		Large contractors		Overall	
	Mean	Rank	Mean	Rank	Mean	Rank	Mean	Rank
Failure to interpret contract terms and conditions	4.46	1	4.38	1	4.32	2	4.27	1
Inability to recognise claim events	4.19	5	4.33	2	4.34	1	4.23	2
Failure to establish legal/factual grounds for claims	4.22	4	4.26	4	4.18	4	4.13	3
Poor records and documentation to support claims	4.24	3	4.28	3	4.25	3	4.11	4
Failure to comply with claims reporting procedures	4.31	2	4.12	6	4.16	6	4.09	5
Poor claims negotiation capability	4.16	6	4.08	7	4.24	5	4.05	6
Poor presentation/articulation of claims impact	4.04	7	4.16	5	3.86	10	3.97	7
Insufficient information	3.82	11	3.94	9	4.11	7	3.88	8
Disagreement arising from negotiation	3.90	9	4.02	8	3.98	9	3.74	9
Failure to make effort towards claims mitigation	3.76	12	3.74	11	4.04	8	3.72	10
Response to architect/engineer's request for information	3.97	8	3.78	10	3.64	11	3.52	11
Problem with quantification of claims	3.85	10	3.29	12	3.40	12	3.36	12

*N = 162

■ 5.0 DISCUSSION

Failure to interpret contract terms and conditions emerged as a key deficiency in the claims management process. Some construction claims could be lost due to inability to identify them. Therefore, the proper and accurate detection of claim is the foremost and crucial ingredient of the construction claim management process (Bakhary et al., 2015; Kululunga et al., 2001), as it forms the foundation for proper claim management (Tochaiwat & Chovichien, 2004). Demachkieh et al. (2020) noted that the identification of claims events makes

it difficult to relating a loss and/or expense incurred to a particular causal event, and the authors have suggested the use of global claims to overcome this. One means of identifying claims is to have a sound, comprehensive and objective understanding of the terms and conditions of the construction contract. Vidogah and Ndekugri (1998) observed that understanding of terms of standard contract forms is still inadequate in spite of the massive effort put in interpreting the terms. The increasing complexities of construction processes and the conditions of also increase the likelihood of claims and disputes in construction (Moza & Paul, 2018). Most parties to a contract are known to interpret contract terms from their own perspective and for their own benefit, resulting in a situation where the same clauses are often being interpreted differently (Ren et al., 2001).

Failure to establish legal and factual grounds for claims was also considered as a significant deficiency in the claim management process. When claims are submitted, they are often examined to determine if there is a legal and procedural basis for reimbursement of costs incurred, as it has to be established whether the adverse event caused delays or financial loss (Stojadinović, 2018). Another important deficiency of the claim management process found in this study is poor records and documentation to support claim. According to Tochaiwat and Chovichien (2004), records and documentation play an important role in the settlement of contractual claims. Where claims are not supported by accurate records and evidence, it may be difficult to convince the other party that a claim event had occurred, it may even be difficult to determine the compensation to be paid if this is not backed by hard facts. Although adequate documentation may be laborious and expensive to retrieve and organise, it is nevertheless extremely important for the validation of a proposed claim and for the entire construction claim management process (Hadi, 2018; Ren et al., 2001).

In addition, the study found failure to comply with the claims reporting procedures as another significant shortcoming of the construction claim management process. There are standard and acceptable procedures for the other party to be alerted of any change, event or claim. Notification of claims should be done in a timely and non-adversarial manner, and the letter of notice should be clear, concise, conciliatory and cooperative in nature (Tochaiwat & Chovichien, 2004). The notice of claims is also expected to be issued on time without delay, as the time limit for claims notification is crucial to successful claim management (Kululanga et al., 2001; Tochaiwat & Chovichien, 2004; Tusingwire, 2020). The contractor is required to notify both the client and consultant about claim events and their causes, as failure to do so may result in the loss of the right to any compensation (Hadi, 2018).

5.1 Conceptual Framework for Managing Construction Claims in the Face of the COVID-19 Pandemic

According to Ren et al. (2001), industry practice has shown that the main challenge with claims management lies with the ineffectiveness of the various management activities at each stage of the claims management process. Therefore, in order to improve construction claim management practices, project parties are admonished to examine the extant practices of managing claims so they can identify issues with the process and develop strategies for improvement (Seo & Kang, 2020). As noted earlier, the COVID-19 pandemic presents a unique challenge to construction claims management. Due to its novelty, a conceptual framework for managing claims under the pandemic situation is developed taking into account the weaknesses of previous claim management processes as highlighted by the study respondents.

The findings of the study show that failure to recognise claim events is a key deficiency of the extant claim management process. Claim identification helps to resolve claims quickly and efficiently once they arise (Bakhary et al., 2017). It involves the timely and accurate detection of construction claim, and is considered as a critical ingredient in the claim management process (Kululanga et al., 2001). In order to easily recognise claim events and causes, it is important to have a profound understanding and clear interpretations of construction contract terms and conditions. A contractor in the COVID-19 pandemic situation must consider the contractual provision or terms governing the contract, as noted by Tusingwire (2020). In other words, effective management of construction claims requires a sound understanding of their causes in relation to the contractual terms underpinning such claims. In this particular case of the COVID-19 pandemic, the contractor must establish the fact that damage suffered is as a result of the restriction in movement imposed by government to curtail the spread of the pandemic. It is advisable for contractors to undertake an early review of contract documents such as drawings, specifications and bills of quantities in order to identify complexities or ambiguities that may lead to claims during execution of works (Hadi, 2018; Shaughnessy et al., 2020).

Several authors (e.g. Bakhary et al., 2017; Hadi, 2018; Kululanga et al., 2001; Tochaiwat & Chovichien, 2004; Tusingwire, 2020) have also emphasized the need for contractors to issue precise, factual, unambiguous, appropriately-timed and non-confrontational notifications to clients or consultant whenever claim events arise or are likely to arise in the course of project execution. Notifications and communications should be made with the intention to inform and seek cooperation for a mutually satisfying solution, and not to agitate (FIDIC, 2020; Shaughnessy et al., 2020). The contractors are also required to examine the claim by establishing the legal and factual grounds on which the claims are based (Kululanga et al., 2001), highlight the impacts of claims, and keep all supporting documents, records and evidences that may be useful in authenticating the claims (Bakhary et al., 2015, 2017; Ren et al., 2001; Shaughnessy et al., 2020; Tochaiwat & Chovichien, 2004). In other words, contractors are admonished to prepare claims that are just and accurate, and to keep proper records and evidences which show how the COVID-19 pandemic has caused additional expenses, loss or damage (Tusingwire, 2020). This is because the significance of documentation in claims management process cannot be over-emphasized. Where the contract administrator is in doubt about any aspect of the claims, the contractor is expected to provide additional support information, documents and evidences. The claim should also be presented in a well-organised manner and should be convincing (Kululanga et al., 2001).

One notable area of weakness in claim management is the ability to adequately and correctly quantify the claims. Most claims are discredited due to inability of the contractor to relate the loss or expense incurred with their associated causal events (Demachkieh et al., 2020; Vidogah & Ndekugri, 1998). Therefore, construction contractors seeking to claim are admonished to pay attention to proper and painstaking quantification of claims. Claims quantification or the determination of the time and cost impact of claims often generate problems during claims presentation, justification and negotiation, and can be subject to manipulation (Stojadinović, 2018). Therefore, quantification of claims should be carried out with such simple formula and procedure acceptable to all. The successful quantification of

claims will entail a correct cause-effect analysis to prove that the adverse event caused delays and additional costs, and a proper calculation of the damages suffered or expenses incurred. Adequate description and details of calculation of the extra cost incurred or to be incurred should be provided to the other party as such detail is useful for understanding, justification of extra cost and negotiation (Tochawat & Chovichien, 2004). Negotiation of claims should also be undertaken with openness, with parties considering mutually satisfactory solutions, as suggested by FIDIC (2020).

Wherever the contract administrator disagrees with the contractors claim submission, the contractor is required to re-quantify the claims, attach more evidences and possibly enter into negotiation. In negotiating, the contractor should identify area of weakness in his claims submission and be willing to concede (Kululanga et al., 2001). If an agreement is reached, the claim is referred to the client for payment. However, in some cases, the claims are disputed by the contract administrator or client, and this could make parties to resort to arbitration. According to Demachkieh et al. (2020), disputes are considered endemic in the construction industry due to the poor resolution of contractual claims. Where parties are unable to resolve dispute through arbitration and other alternative dispute resolution mechanisms stipulated by the contract, there may be recourse to the time-consuming and more expensive option of litigation. In view of the foregoing, a construction claim management framework (refer Appendix) is suggested for use by contracting parties in the face of the COVID-19 pandemic impacting construction projects.

6.0 CONCLUSION

The COVID-19 pandemic is exerting a significant but unprecedented impact on the delivery of construction projects, resulting in delays and additional costs for contractors, suspension of works and a disruption of the construction supply chain. This study therefore examined the deficiencies of existing construction claims process, and provide a framework for management of construction claims in the face of the COVID-19 pandemic in Nigeria. The outcome shows that failure to interpret contract terms and conditions is the most significant deficiency in contractual claims management process. Other important deficiencies in the claim management process include contractors' inability to recognise claim events, failure to establish legal and factual grounds for claims and poor records or documentation to support claims. One practical implication of the result of this study is that conditions of contract for construction works should be expressed in clear, concise unambiguous terms in order to forestall the possibility of misinterpretation by parties. In addition, construction contractors should engage the services of experience professionals who can easily identify claim events, and guide the firm through the rigorous process of claims identification, notification, examination, documentation presentation and negotiation.

The study contributes to knowledge by providing information on the deficiencies inherent in existing construction claims management practices of contractors in Nigeria. In addition to developing a conceptual framework for effective management of contractual claims, the study is also unique in that it highlights claim management practice under the disruptive COVID-19 pandemic situation. The outcome can be used by contractors to improve their chances of obtaining compensations from clients on claim events. The study examined only a limited number of deficiencies of construction claim management process. This may not be exhaustive as some location may experience more situations beyond the ones listed in this study. Future studies should include location-specific factors that may constitute a deficiency to the claim management practice. Moreover, the study is descriptive in nature, and as such, the results should be interpreted with caution and conceptual framework should be applied bearing in mind this limitation. The study provides useful insight into the claim management practice of construction contractors in Nigeria using sample drawn from a state in the southernmost region of the country. While this provide an indication of the likely practices in other states in the same region, the same cannot be said of other states in other regions of the country where cultural practices are divergent. This study therefore forms a basis for further empirical research. It is therefore recommended that a similar study be replicated in other states of the nation to reflect the divergence in practices and cultures.

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APPENDIX

Framework for Construction Claims Management in the Face of COVID-19 Pandemic

