



John G. Balch, CEO, MA, CPCM

John G. Balch, a Certified Professional Contract Manager, has over 40 years of business operational experience in contract administration, contract disputes, arbitration proceedings and settlements, alternative disputes resolution (ADR), “mini trials”, expert witness testimony, negotiations, and business development and strategy.

In addition to Contract Administration experience, Mr. Balch started and successfully ran a construction company for one of the largest Danish conglomerates in the world (Monberg-Thorsen).

Mr. Balch has been involved in guiding business strategy and Risk Management for a number of companies experiencing issues related to Federal Government contracts (including disputes) as well as providing consulting services related to contracts across the construction industry.

Mr. Balch is a unique, multifaceted individual and has extensive and diverse experience in the field of contracts. Prior to entering the private sector, Mr. Balch served as a Warranted Contracting Officer for the United States Air Force and was responsible for the preparation, solicitation, negotiation, contract award, and administration of hundreds of millions of dollars worth of major projects and critical system acquisitions, involving both domestic and international contracts.

EDUCATION:

*B.S., Biology, Virginia Military Institute, 1968
M.A. Procurement & Management, 1978*

REGISTRATIONS:

*CERTIFIED PROFESSIONAL CONTRACT MANAGER,
CPCM #3117 (MAY 1985)*

PROFESSIONAL MEMBERSHIPS:

*National Contract Management Association
American Bar Association, Associate Member
Society of American Military Engineers
Professional Services Council*

PROFESSIONAL PUBLICATIONS:

*“Project Problems and Early Detection - Early Cure,”
The Excell Report, (1996)*

NOTE: The Excell Report was a monthly publication with 10,000 plus monthly readers with tremendous specific Construction Claims and Quantification Analysis information e.g. Changes Management, guest speaker at the International Association of Cold Storage Contractors Annual Conference, Cabo San Lucas, Mexico. Practical Lessons in Project Management, Contract Administration, and Claims Avoidance, and International Association of Certified Public Accountants of America, San Diego, CA.

Oversees production of ‘The Excell Report’, which has published in excess of 100 blogs with approximately half being authored by Mr. Balch personally

SEMINARS:

Participated or conducted seminars within the United States to include Alaska and Hawaii.

Seminars were conducted for major contractors and at the request of the AGC, ABC and AICPA and in joint venture scenarios with Willis Corroon. Topics included: Claims Management, Change Order Management, Executive Level Claims Avoidance, Executive Level Contract Administration, Negotiation Techniques, Contract Administration Techniques, Risk Analysis, Cost Analysis and Scheduling.

Seminars presented in the following locations on behalf of:

Excell Sponsored Seminars (EX), Willis Corroon (WC), Assoc. General Contractors (AGC), Associated Builders and Contractors (ABC).

Alabama: (WC)

Alaska: (EX), (AGC), (WC)

Arizona: (AGC), (WC)

California: Los Angeles (WC), Irvine (EX), Fresno

(WC), Newport Beach (WC), San Francisco (WC),

Colorado: (AGC), Connecticut: (WC)

Florida: Gainesville (WC), Orlando (WC), Tampa (ABC)

Georgia: (AGC with Smith, Currie, Hancock and later with WC) Overton Currie & John Balch

Hawaii: (AGC)

Indiana: (WC)



Education & Military Career

Mr. Balch is a 1968 graduate of the Virginia Military Institute as a member of the Class of 1968. He went on to operate as an “Unlimited Warranted” Contracting Officer/PCO on one of the largest Air Force O&M contracts, the Distant Early Warning (DEW Line) System and as the alternate PCO on the Ballistic Missile Early Warning System (BMEWS) project. He was further responsible for implementing and overseeing the North American Air Defense Command (NORAD) 427M Program, which involved the extensive upgrade of the computing systems housed at the Cheyenne Mountain Complex in Colorado Springs, Colorado. This effort in particular was 18 months in length and was valued at over \$250 million. Mr. Balch worked directly with the contractors for the project, Honeywell/Aeroneutronic Ford and was personally responsible for extensive high-end negotiations.

Also assembled a “cradle to grave” construction package regarding the largest “lease back” construction program ever undertaken by the U.S. Navy (525 houses constructed under “lease back” in Sigonella, Sicily, Italy). Drafted and developed the proforma for Cogefar-Impresit, and successfully negotiated all contractual arrangements (including pricing) between the U.S. Navy and Cogefar-Impresit in less than 18 months from undertaking the effort. The project was advanced, built, completed, and utilized by the customer per the terms and conditions of that agreement (i.e. with a 40 year “lease back”). The negotiation instruments amounted to an approximate \$440 million dollar contract with a 2.9 CPI Index over 40 years.

Excell Consulting International, Inc.

In 1983, Mr. Balch started as the Founder and CEO of Excell Consulting International, Inc. Excell is a recognized leader in Contract Management/Disputes in the U.S.A. Excell specializes in Requests for Equitable Adjustment (REAs) and contract disputes resolution, and has been proudly and successfully serving its clients for nearly 40 years.

Excell's Past Clients include:

* Denotes multiple projects/efforts performed for client

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| ◇ AECOM* | ◇ Arctic Slope Regional Corporation* |
| ◇ Bechtel* | ◇ Cold Storage, Inc. |
| ◇ Fluor Daniels* | ◇ American Waterworks* |
| ◇ Turner* | ◇ McDermott Will Emery* |
| ◇ CBI* | ◇ NANA Corporation* |
| ◇ Trine Aerospace* | ◇ R&O Construction* |
| ◇ Johnson Controls* | ◇ KEAR Civil Corporation |
| ◇ Cogefar Impresit S.P.A. * | ◇ Bryan Construction* |
| ◇ Northrop Grumman | ◇ RCA* |
| ◇ Raytheon | ◇ Big-D Construction* |
| ◇ Wackenhut Services* | ◇ Zachary Construction* |
| ◇ California Dept. of Corrections* | ◇ Williams Brothers (TX)* |
| ◇ Kitchell Contractors* | |

Kansas: (WC)
 Kentucky: (WC)
 Massachusetts: (WC)
 Michigan: (WC)
 Minnesota: (WC)
 Missouri: (WC)
 Nebraska: (WC)
 Nevada: (EX), (WC)
 New Mexico: (WC)
 New York: (WC)
 North Carolina: (WC)
 Ohio: (WC)
 Oklahoma: (WC)
 Oregon: (WC)
 South Carolina: (WC)
 Tennessee: (WC)
 Texas: (WC), (ABC)
 Utah: (WC)
 Virginia: (EX)
 Washington: (WC)
 Washington D.C.: (AGC)
 Wisconsin: (WC)
 Wyoming: (AGC)

Edmonton, Alberta, Canada: (Excell / PCL
 Construction Enterprises)
 Calgary, Alberta Canada: (EX)

San Juan, Puerto Rico: (EX)



Excell specializes in disputes management efforts associated with complex problem solving and complex negotiations. The firm is well-versed in claims preparation, negotiations, arbitration, and/or litigation, which have included pre-trial investigative services, as well as discovery, presentation, expert witness efforts, and other activities necessary to protect the client's rights in any forum.

Through Excell, Mr. Balch has been responsible for Developing Program Management Documents/Contract Administration Procedures and educated some of the largest companies in the country on negotiation theory including ICF Kaiser (Fairfax, VA) and Bechtel (San Francisco, CA).

Experience

As Chairman of the Board/Chief Executive Officer of Excell Consulting International, Inc. (Colorado Springs, Colorado), Mr. Balch has been responsible for the overall management and fiscal profit and loss of this disputes-oriented organization.

Mr. Balch has personally functioned as a key participant in legal proceedings (including as an Expert Witness) on numerous occasions regarding contractual disputes.

Notable cases include: *CG Williams vs. Air Force; Tempo Construction vs. Air Force, C&K vs. Colorado, R&O Construction vs. California, Linpro vs. GSA Foley Square, T. Frederick Jackson vs. Marriott Hotel, S&E Contractors vs. Dade County, Florida; West Electronics vs. U.S. Navy; Bill Strong Enterprises, Inc. vs. Shannon; and Intelligent Investments vs USACE.*

He has also been a guest speaker at multiple American Bar Association (ABA) conventions, as well as the Certified Public Accountants National Convention in San Diego, CA. Mr. Balch has lectured and/or presented at 100+ seminars for the Association of General Contractors (AGC) and Associated Builders and Contractors (ABC) concerning various topics of Contract Administration and Claims for the construction industry.

Construction Background:

Prior to the founding of Excell, Mr. Balch (along with three others) cofounded and operated their own construction division (Danac, Inc.) in 1980. Mr. Balch held the title of Executive Vice President of US Operations. He was responsible for overall management including the profit and loss profile of the Western Division of this international firm dealing directly with Federal government contracts in the United States, Bermuda, Cuba, the Azores, and the Virgin Islands. The company grew and operations averaged \$30 million annually with a staff of 300+ personnel. Projects located in: Newport, RI; Cherry Point, NC; Brooks AFB, TX; Randolph AFB, TX; the US Air Force Academy, Colorado Springs, CO; Loring AFB, Maine; Ft. Bragg, NC; Pope AFB, NC; Kelly AFB, Lackland AFB; the U.S. Virgin Islands, and Guantanamo Naval Station, Cuba.



Significant Claims Related Experience

Renovation of Army Barracks, Fort Wainwright, Alaska – For the US Army Corps of Engineers, and governed by the Federal Acquisition Regulation (FAR), Mr. Balch (Excell, Inc.) assisted with the development of a comprehensive Request for Equitable Adjustment (REA). Excell directed the actual costs reconstruction and reclassification effort and subsequent identification/ quantification of the damages incurred. Also assisted with the research and development of individual entitlement issues; the matter was successfully concluded.

Foley Square, New York City, New York – Solely responsible (on behalf of Linpro & Associates, New York City) for the renegotiation of the largest high-rise built in Manhattan in the previous 20 years. This immense structure started as a design build effort until an Indian Burial Ground was encountered at the job site. This Differing Site Condition matter caused the project to approach \$400 million in cost with a substantial overrun. Mr. Balch, with the assistance of CPA Norman Lorch and in concert with Linpro-Turner Construction, successfully negotiated a 100% recovery of costs and all profits on behalf of the client, with all consulting and Excell fees reimbursed by GSA.

Consolidated Space Operations Center, Peterson Air Force Base, Colorado – On behalf of Bechtel, Mr. Balch was responsible for the resubmission and renegotiation of a previously formally declined REA related to a \$10 million cost overrun associated with a Defective Design problem and the attenuate costs associated with same (total job value: \$80 million+). This single REA resulted in the first “mini-trial” conducted by the U.S. Army Corps of Engineers. Bechtel recovered all costs and profits, as well as Excell fees in the matter, and the world of mini-trials was born.

UTOPIA, Salt Lake City, Utah – In May 2008, Excell was 100% instrumental in the strategic development and ultimate resolution of a multi-million-dollar Contract Dispute matter on behalf of UTOPIA (Utah Telecommunication Open Infrastructure Agency) in Salt Lake City, Utah. Case: *State of Utah vs. U.S. Department of Agriculture*. This matter (approx. \$100 million) was orchestrated and positioned by Mr. Balch and Excell and settled in September 2008 for a non-disclosable amount allowing for total recovery of all involved costs to include additional funds in excess of \$10 million.

Value Engineering Change Proposals – Designed, structured, implemented and conducted a VECP program for ITT Federal Services. The program was the first of its kind and 100% under the control and direction of Excell. The program was hugely successful and responsible for **millions of dollars** worth of unanticipated profits dropping to the bottom line of ITT. Excell’s latest VECP effort: \$2.5 million added to client profitability, Federal Courthouse, San Francisco, CA.



Termination for Convenience vs. Deductive Change Order – On behalf of a Corpus Christi, TX construction firm, challenged the United States Government on a matter where a partial termination was the correct methodology to make the contract change, but the government had elected to make a unilateral deductive change instead. The Government's decision was ultimately reversed and all efforts to include the formulation of the REA, its contents, cost analysis, impact and areas of recoverable costs were asserted and recovered by Excell on behalf of the client.

Other Claims Related Matters

In his time as CEO of Excell, Mr. Balch has had interactions and dealings with numerous agencies of the United States Federal Government and has developed experience relative to the following types of efforts:

- Implementation of complex program management/contract administration procedures.
- Preparation, negotiation, and evaluation of Request for Equitable Adjustment proposals.
- Preparation, negotiation, and evaluation of Claims.
- Termination for Convenience Settlement Proposal development and negotiations.
- Change order/modification development and negotiations.
- Development and negotiation of entitlement/recovery positions for issues related to:
 - Differing Site Conditions
 - Delays
 - Directed and Constructive Changes
 - Directed and Constructive Acceleration
 - Defective/Deficient Contract Design Documents
 - Owner Interference
 - Site Access Denial
 - Abnormally Severe Weather
 - Overzealous Inspection
 - Impossibility and Impracticality of Performance
 - Liquidated Damages
 - Variations in Estimated Quantity Issues

Mr. Balch has also provided clients of Excell with support during audits by the Defense Contract Audit Agency (DCAA), as well as support of litigation team(s) in various government litigation and alternative dispute resolution forums.

As the CEO of Excell, Mr. Balch has been involved in all ranges of negotiated disputes ultimately resolving in positive profitability ranges from as small as \$10,000 to as large as \$100 million (*i.e.*, *Contel vs. U.S. Air Force*).



Other Accomplishments

Excell received the Engineering News Record (ENR) award for business development when Excell joined forces in a formal venture to proffer Contract Negotiations and Alternate Dispute Resolution scenarios to the construction industry by coupling Excell with Willis Corroon (London, England) which has its U.S. headquarters in Nashville, TN. This arrangement placed Claims Avoidance and Contract Management education at the executive level within the construction arena. Mr. Balch taught negotiation techniques, contract administration methods, risk analysis, risk avoidance, and the like to enhance management's understanding of contract awareness issues designed to keep contractors out of the courts. The program was so successful that a quarterly outstanding meritorious award was received for the development of the concept and the placement of it within the construction industry.

Mr. Balch has been involved in numerous mock negotiation scenarios and Red Team reviews for some of the largest corporations in the United States, including RCA and ITT. The matters at hand were both domestic and international in nature and were in the millions of dollars range.

Successfully implemented a pioneering ADR method on behalf of Contel by coordinating three different sets of attorneys to produce what came to be known as the "Omnibus" claim. This package involved 39 separate but linked REA's impacting a \$69 million Firm-Fixed Price contract that, after numerous Changes, had escalated to \$370 million in value. The Omnibus package effort was successful and resulted in an award to Contel just short of \$100 million.

Other Personal Victories

During May of 1997, as the CEO and Owner of Injection Research Specialists, Inc. (IRS, Inc.), Mr. Balch received what was, at the time, the largest jury verdict in the 100-year history of the State of Colorado. The award was made for damages resulting from the theft of Trade Secrets from IRS, Inc., including software programs and an electronic control unit design. The result was the misappropriation and outright theft of a proprietary product that was conceived and designed by IRS, Inc., but stolen, built, and sold (both domestically and

Internationally) by another company. The Electronic Fuel Injection system at the center of the case was the first of its kind related to two stroke engine technology. The jury verdict came in at \$57 million dollars against Polaris Industries and FUJI Heavy Industries and, on appeal, nearly doubled that figure, with the final settlement approaching \$80 million. The verdict took 9 years and the related efforts included all aspects associated with the start up of the business through Research and Development and production.



False Claims Act Experience

In December 2019, Mr. Balch participated in the litigation of a False Claims Act assertion by the Federal Government against an Excell client. The client faced the threat of 30+ years confinement and millions of dollars in fines related to the FCA accusations. The resulting trial was spread over a period of 10 days, during which the Government presented approximately 15 witnesses, all testifying negatively against the client. Finally, as the sole witness on behalf of the defense, Mr. Balch gave his formal testimony. The verdict came back at 12-0 in favor of Excell's client and the case was dismissed. As a result, the client is now exonerated of the charges and a \$10 million Termination for Convenience case that the client had previously been pursuing has now been reopened.