



Dar Al Riyadh Insight #62

Claims Avoidance

Dar Al Riyadh Insights reflect the knowledge and experience of our Board, executives and staff in leading and providing PMC, design and construction management services. Dar Al Riyadh believes in the importance of broadly sharing knowledge with our clients and staff to improve project outcomes for the benefit of the Kingdom of Saudi Arabia.

Introduction

This series of Insights will look at claims avoidance from an owner's perspective. This Insight, however, also serves as a guide for contractors to ensure completeness of bids, smooth execution of work, reasonableness of any claims brought forward, and the likelihood of success regarding those claims. Contractors may be subject to claims from clients as well. This Insight also provides guidance to protect the contractor. This series of Insights will look across the contracting cycle, defined here as including the following:

- Pre-tender
- Tender
- Contract
- Project execution
- Close out

Avoidance measures common to all phases include:

- Owner behaviors — one voice; timely
- Knowledge of the contract
- Recordkeeping

What Is a Claim?

A construction claim is a legitimate request for compensation or extension of time outside the provisions of the contract. It does not include changes requested in writing, negotiated, agreed to, or reflected in modifications to the contract.

Why Is Claims Avoidance Important?

Claims avoidance is important to project owners, not only because of the financial implications of claims, but also because of:

- Their likely impacts on project schedule.
- Increased likelihood of transitioning into formal disputes with attendant increases in management time and legal costs.
- Potentially corrosive effects on partnering relationships, often resulting in elevation of routine issues into formal claims or disputes.



- Impacts on contractor's financial position and capacities if not resolved in a timely manner. Uncertainty of resolution can be as bad as an unfavorable claim outcome in many instances.

The number of claims has been growing, driven by both increasing competitiveness in bids (win and claim) and weaknesses in many owner organization's capabilities.