



Dar Al Riyadh Insight #63

What Drives Construction Claims?

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.

What Drives Construction Claims?

Construction claims in large part are driven by what happens or fails to happen before the contract is even executed. Among the drivers of claims in the pre-contract stage are:

- Poor owner readiness, including:
 - lack of clarity on the strategic business outcomes (SBOs) to be achieved through execution of the contract.
 - inadequate alignment within the owner's organization on these SBOs, resulting in contract ambiguity or conflicting owner's project requirements (OPR).
 - weak decision-making processes and inadequate clarity of roles and responsibilities.
- Inadequate engagement by the owner with the contracting community and bidders, resulting in incomplete information, lack of clarity, and a less than transparent disclosure and discussion on the nature of the work to be performed and its risks.
- Unrealistic owner's expectations related to project schedule.
- Excessive constraints on means and methods available to the contractor.
- Incomplete project scope and OPR; wants exceed needs and lack clarity and contractual intent.
- Poorly written contracts:
 - incomplete contract.
 - improper precedence of documents.
 - contract scope inconsistent with information provided to or available to bidders.
- Inadequate shortlisting process, which allows bidders less than qualified for the project at hand and in the designated timeframe to participate.
- General bidding climate drives overly aggressive bids, increasing the pressure on contractors to claim.
- Shortlisted contractors subject to profit pressures from other project portfolio performance issues.
- Inadequate tender phase due diligence.
- Incomplete responses to contractor questions during tender process, resulting in increased risk to contractor.
- Inadequate documentation and recordkeeping during the pre-contract phase.



Also contributing to construction claims are:

- Lack of timely contract execution and notice to proceed:
 - May lead to delay claims before project ever commences.
 - Indicative of future delays in executing agreed-to changes.
- Execution of an incomplete contract.
- Inadequate attention in contract development to typical sources of claims as outlined in the next section.